

Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO)
Disadvantaged Business Enterprise (DBE) Program For FFY2023-2025
(Public Transportation)



TITLE VI NONDISCRIMINATION STATEMENT

The Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) ensures compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, part 26; related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance from the U.S. Department of Transportation on the grounds of race, color, sex, or national origin.

NOTICE

This report was funded in part through grants from the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), U.S. Department of Transportation. The view and opinions of the authors (or agencies) expressed herein do not necessarily state or reflect those of the US Department of Transportation.

SUMMARY

LAMTPO DBE Program for FFY2023-2025 (FTA)

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used.

Next DBE Program (FFY2026-2028) will be due in Summer 2025

Assuming that 58% of the overall goal of 2.2% would be achieved through race-neutral means, the race-neutral goal is 1.3% and the race-conscious goal is 0.9%.

LIST OF ABBREVIATIONS

Abbreviation	Full Name Description
3-C	Continuing, Cooperative, and Comprehensive planning process
ACS	American Community Survey
ADA	Americans with Disabilities Act
ADHS	Appalachian Development Highway System
AQ	Air Quality
CAA	Clean Air Act
CFR	Code of Federal Regulations
CMAQ	Congestion Mitigation and Air Quality Improvement Program
CTPP	Census Transportation Planning Products
DBE	Disadvantaged Business Enterprise
EPA	Environmental Protection Agency
ETDD	East Tennessee Development District
ETHRA	East Tennessee Human Resources Agency
FAF	Freight Analysis Framework
FAST Act	Fixing America's Surface Transportation Act
FFY	Federal Fiscal Year (from October 1 to September 30)
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
FTA Section 5303	FTA Section 5303 Metropolitan Transportation Planning (5303)
FTA Section 5307	FTA Section 5307 Urbanized Area Formula Grants (5307)
FTA Section 5309	FTA Section 5309 Capital Investments Grant
FTA Section 5310	FTA Section 5310 Enhanced Mobility of Seniors & Individuals with Disabilities
FTA Section 5311	FTA Section 5311 Rural Areas Formula Grant
FTA Section 5312	FTA Section 5312 Public Transportation Innovation

Abbreviation	Full Name Description
FTA Section 5324	FTA Section 5324 Emergency Relief
FTA Section 5337	FTA Section 5337 State of Good Repair
FTA Section 5339	FTA Section 5339 Bus and Bus Facilities
FRA	Federal Railroad Administration
FY	Fiscal Year
GIS	Geographic Information Systems
GPS	Geographical Positioning System
HPP	High Priority Project
HSIP	Highway Safety Improvement Program
HSTCP	Human Services Transportation Coordination Plan
HUD	Housing and Urban Development
IAC	Inter-Agency Consultation
IJA	Infrastructure Investment and Jobs Act
IM	Interstate Maintenance
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
ITS	Intelligent Transportation Systems
LAMTPO	Lakeway Area Metropolitan Transportation Planning Organization
LED	Light Emitting Diode
LEP	Limited English Proficiency
LRTP	Long Range Transportation Plan
MAP-21	Moving Ahead for Progress in the 21st Century
MOBILE 6.2	Mobile Source Emission Factor Model
MOVES	Motor Vehicle Emission Simulator
MPA	Metropolitan Planning Area
MPO	Metropolitan Planning Organization
MTPO	Metropolitan Transportation Planning Organization

Abbreviation	Full Name Description
NAAQS	National Ambient Air Quality Standards
NHFP	National Highway Freight Program
NHPP	National Highway Performance Program
NHS	National Highway System
PC 1101	Public Chapter 1101
PEAs	Planning Emphasis Areas
PL 112	FHWA Section 112 Planning Funds
PPP	Public Participation Plan
RPO	Rural Transportation Planning Organization (North and South)
SAFETEA-LU	Safe, Accountable, Flexible and Efficient Transportation: A Legacy for Users
SHSP	Strategic Highway Safety Plan
SIP	State Implementation Plan
SPR	State Planning and Research Funds
SRTS	Safe Routes To School
SSCP	Social Services Coordination Plan
STBG	Surface Transportation Block Grant
STIP	State Transportation Improvement Program
TAP	Transportation Alternatives Program
TAC	Technical Advisory Committee
TCA	Tennessee Code Annotated
TCM	Transportation Control Measures
TDEC	Tennessee Department Of Environment and Conservation
TDM	Travel Demand Model
TDOT	Tennessee Department of Transportation
TDOT-LRPD	TDOT Long Range Planning Division
TDOT-DMTR	TDOT Division of Multimodal Transportation Resources

Abbreviation	Full Name Description
TDOT-OCT	TDOT Office of Community Transportation
TIFIA	Transportation Infrastructure Finance and Innovation Act
TIGER	Transportation Invest Generating Economic Recovery Program
TIP	Transportation Improvement Program
TPO	Transportation Planning Organization
TRANSCAD	Transportation Computer Aided Design
TRIMS	Tennessee Roadway Information Management System
UPWP	Unified Planning Work Program
UROP	State Operating Assistance Program
USDOT	United States Department of Transportation
UZA	Urbanized Area

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DBE Contact Personnel Information

Local Agencies	
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TDOT	
Vince Malone, TDOT Director of Civil Rights Division 505 Deaderick St, Suite 1800 James K Polk Building Nashville, TN 37243 615-741-3681 1-888-370-3647 Vince.malone@tn.gov	David Neese, TDOT Small Business Development Program Director 505 Deaderick St, Suite 1800 James K Polk Building Nashville, TN 37243 615-253-1075 David.Neese@tn.gov
Cynthia Howard, TDOT Title VI Director 505 Deaderick St, Suite 1800 James K Polk Building Nashville, TN 37243 615-253-1066 Cynthia.Howard@tn.gov	Pamela Sharp, Title VI Specialist, Regions 1 and 2 615-253-1074 pamela.sharp@tn.gov
FHWA	
Joi Hamilton-Jones Civil Rights Program Specialist FHWA Tennessee Division Office 404 BNA Dr, Building 200, Suite 508 Nashville, TN 37217 615-7815790	David Pinckney Program Analyst 202-366-1583 David.Pinckney@dot.gov
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LAMTPO DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

FFY 2023-2025 (FTA Projects)

Policy Statement

Section 26.1, 26.23 Objectives / Policy Statement

The Lakeway Area Metropolitan Transportation Organization (LAMTPO) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. LAMTPO has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the LAMTPO has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of LAMTPO 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.

Rich DesGroseilliers, MTPO Coordinator, has been delegated as the DBE Liaison Officer for LAMTPO. In that capacity, Rich DesGroseilliers 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 LAMTPO in its financial assistance agreements with the Department of Transportation.

LAMTPO has disseminated this policy statement to the LAMTPO Executive Board and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The Policy statement and DBE Program is available to download from the www.lamtpo.com website, and the information was sent to various agencies (federal, state, local) as described in the agency contact list (Attachment 9). Information can be sent by request by contacting Rich DesGroseilliers at richd@mymorristown.com, or at 423-581-6277.

Chair, LAMTPO Executive Board

Date

SUBPART A - General Requirements

Section 26.1 Objectives

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

Section 26.3 Applicability

The City of Morristown is the recipient of federal airport funds authorized by 49 U.S.C. 47101, et seq., thus the requirements and guidelines will be followed under the City of Morristown's DBE Program.

LAMTPO is the recipient of federal -aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

LAMTPO, in conjunction with East Tennessee Human Resource Agency (ETHRA), 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.

Section 26.5 Definitions

LAMTPO will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

LAMTPO 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, LAMTPO will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.9 DOT Guidance and Interpretations

(a) Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this part 26 and issued after March 4, 1999 express the official positions and views of the Department of Transportation or any of its operating administrations.

(b) The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA, and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid, and express the official positions and views of the Department of Transportation or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

“The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.”

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b), we will report DBE participation to DOT as follows:

[FAA Recipients] - We will submit annually DOT Form 4630, as modified for use by FAA recipients.

[FTA Recipients] - We 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.

[FHWA Recipients] - We will report DBE participation on a quarterly basis, using DOT form 4630.

Bidders List: 26.11(c)

LAMTPO will create 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 bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

[Note-Program should indicate the methods the recipient will use to obtain this information. The regulation does not mandate a particular method. Options include, but are not limited to, a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts; a recipient-directed survey of a statistically sound sample of firms on a name/address list to get age/size information; a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to the recipient, etc.]

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

LAMTPO 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 LAMTPO 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.

[Note: This language is to be used verbatim, as it is stated in 26.13(a).]

Contract Assurance: 26.13b

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

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

[Note: This language is to be used verbatim, as it is stated in 26.13(b)]

Section 26.15 How Can Recipients Apply for Exemptions or Waivers?

(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that—

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in §26.49;

(ii) Your level of DBE participation continues to be consistent with the objectives of this part;

(iii) There is a reasonable limitation on the duration of your modified program; and

(iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the LAMTPO has received a grant of [For FTA recipients: \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year,] [For FHWA recipients: authorized by the statute for which this part applies,] we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Rich DesGroseilliers
MTPO Coordinator
100 W 1st N St
PO Box 1499
Morristown, TN 37816-1499
richd@mymorristown.com
423-581-6277

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that LAMTPO complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the LAMTPO Executive Board 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 one (1) 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 [Name Recipient]'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. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in [name of State].
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the [Recipient]'s updated directory on certified DBEs.

[Note: List responsibilities of other personnel responsible for DBE Program implementation].

Section 26.27 DBE Financial Institutions

It is the policy of LAMTPO 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. We have made the following efforts to identify and use such institutions, using the TDOT Certified DBE Directory, <https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>, as well as the TDOT Small Business Development Program www.tn.gov/tdot/civil-rights/small-business-development-program. To date we have identified the following such institutions: (see TDOT Certified DBE Directory <https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>).

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

LAMTPO 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 [specify number] days from the receipt of each payment the prime contract receives from [Recipient]. The prime contractor agrees further to return retainage payments to each subcontractor within [specify same number as above] 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 LAMTPO. This clause applies to both DBE and non-DBE subcontracts.

[Note - This is sample language, and recipients can use existing prompt payment clause or draft their own, as long as they meet the substantive requirements of 26.29. This portion of the

program must also state what sanctions/consequences the recipient attaches to noncompliance with the prompt payment clause and the procedures through which they are enforced. In addition, this portion of the program may also include other prompt payment - related provisions, such as an alternative dispute resolution mechanism that the recipient chooses to use.]

Section 26.31 Directory

The LAMTPO uses the TDOT Certified DBE Directory, which can be found at <https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>, identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. LAMTPO reviews the Directory at least annually. The Certified DBE Directory can be found at <https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>. The Directory information may be found in **Attachment __2__** to this program document.

[Note: All recipients are required to participate in a combined statewide directory when the Uniform Certification Program becomes operational. At that time, this portion of the program will state how interested persons can obtain access to this combined directory.]

Section 26.33 Overconcentration

LAMTPO has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

LAMTPO has not established a business development program. LAMTPO encourages interested parties to contact the TDOT Small Business Development Program www.tn.gov/tdot/civil-rights/small-business-development-program.

Section 26.37 Monitoring and Enforcement Mechanisms

LAMTPO 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. **Attachments __3__ and __7__** lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
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 [describe the mechanism].

4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Currently, there has not been any DBE firms that had bid on any LAMTPO project, for FTA or FHWA funded program, thus no DBE firms had been paid.

Section 26.39 Small Business Participation

LAMTPO has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses).

When choosing vendors and suppliers to work with us, LAMTPO/ City of Morristown strives to establish a level playing field for the various businesses that compete for the taxpayer dollars we spend. To achieve this goal, we participate in two programs that help level the playing field: the Disadvantaged Business Enterprise Program (DBE) and a small business program (SBP). A single business might qualify for both programs. Still, keep in mind that these two programs are separate. They use separate forms, application processes, and certification standards. The agencies that award the certifications are also different.

The Small Business Enterprise (SBE) Program is open to all business owners regardless of race, ethnicity or gender. To be an eligible Small Business Enterprise a business must have a least 51% ownership by a person who is economically disadvantaged. To be considered economically disadvantaged the individual's Personal Net Worth, not including their primary place of residence or ownership in the business cannot exceed \$1.32 million in compliance with state and/or federal requirements. An SBE business owner must be a U.S. Citizen or lawfully permanent resident of the U.S.

Additionally, the independent business must be for-profit and must meet the size criteria, as defined by the Small Business Administration. SBE size standards can be accessed at <https://www.sba.gov/document/support--table-size-standards>.

The TDOT Small Business Development Program can be found at <https://www.tn.gov/tdot/civil-rights/small-business-development-program.html>.

LAMTPO may require one of the following (depending on the nature of the project(s)):

- a) Bidders on large contracts (for projects that are \$500,000 or greater) to identify and/or provide specific sub-contracts that would be appropriate for a small business participation.
- b) For a project that is under \$500,000, it may be broken down into several projects in order to allow for small businesses to bid and/or compete on a portion of the overall project; (this will be reviewed on a contract by contract basis);

- c) For construction type projects, 10% of the overall estimated cost of the projects shall be set-aside for race-neutral small business participation (see below)

Currently, there are no projects underway that a DBE (certified or non-certified) can participate in, as there are no localized DBE agencies that handle mass transit operations. However, LAMTPO will seek DBE participation if the local governing agencies wish to build a mass transit facility, in which case a DBE participant could go after the entire construction project or a portion of it. A Mass Transit facility is in the LAMTPO long range transportation plan, but currently there is not enough local match for the federal funds to come up with the development of a facility, thus this is on hold for the time being.

If there ever is enough local match to do other types of projects within the LAMTPO region, LAMTPO will:

1. Require Prime Contractors to identify Small Business subcontracts on large procurement projects.
2. Check to see if a project can be broken out into two(2) or more projects in order to help promote small business and/or DBE participation
3. Check to see if various business development opportunities for small businesses can arise from a contracted project
4. Check for other possible strategies, if approved by TDOT and/or FTA and/or FHWA.

LAMTPO currently will work with any interested party that wishes to become a DBE. LAMTPO will direct them to the State of Tennessee Civil Rights Office for apply for DBE status.

Additional information from TN.gov Civil Rights Office – Small Business Development Program

Below is information from the TN.gov Civil Rights Office – Small Business Development Program, which can be accessed by <https://www.tn.gov/tdot/civil-rights/small-business-development-program/small-business-development-program-staff.html>, David Neese, Small Business Development Program Director, at 615-253-1075, or by email David.Neese@tn.gov. The TDOT Civil Rights Division Director is Vince Malone. His email address is vince.malone@tn.gov.

State Contracting Opportunities and Assistance

TDOT's Civil Rights Office (CRO) Small Business Development Program (SBDP), while primarily charged with the responsibility of administrating the Disadvantaged Business Enterprise (DBE) Program, is also committed to providing opportunities for non-DBEs and other small businesses wanting to do business with TDOT and other state agencies. While many small businesses may not have the resources to bid on contracts as a prime contractor, they may often overlook the smaller procurement and supplying contracts available with the state of Tennessee. As a result, the SBDP created this page to provide a centralized location for information concerning state bidder registration and contracting opportunities, as well as to find agencies that

provide certification and specialized assistance to small businesses. The SBDP hopes this information will increase small business participation across the state, and will ease any barriers and concerns small businesses may have associated with dealing with state government bidding and contracting.

Bid and Procurement Opportunities

TDOT Letting Page - Detailed resource for bidders interested in upcoming TDOT road construction projects, including information on specific contract specifications and plans, quantities and bidding instructions. You can also find award information and records concerning past lettings dating back to 1987.

TDOT Consultant Advertisements - Current advertisements requesting letters of interest for consulting services with TDOT.

Current Procurement Opportunities - Statewide procurement opportunities from the Governor's Office of Diversity Business (GoDBE).

General Services Purchasing Division – Find information concerning purchasing procedures and statutes which govern procurement for the state of TN.

Registering to work with the state of TN

Edison Suppliers and Vendor Overview – This provides an overview of Edison, the State of Tennessee's web-based solution to streamline state procurement functions including contracts, solicitations, bid responses, awards and payments. *Anyone wanting to contract with the State of TN must be registered through Edison.*

Register as an Edison e-Supplier - Edison registration links, bidder and eSupplier registrations tutorials, training videos, and bid opportunities are provided on this page

Prequalification - all contractors and subcontractors wanting to work on state *construction contracts* must be prequalified through TDOT. TDOT's Prequalification form and other construction-related forms are available at this link.

Assistance for Small Businesses

GoDBE - **(for small business certification)** The Governor's Office of Diversity Business Enterprise (Go-DBE) is the central point of contact to attract and assist minority owned, women owned, service-disabled veteran owned and small business enterprises. The goal of this office is to increase the number of certified minority, women owned, small business and service-disabled veteran owned businesses desiring to compete successfully in state procurement activity.

BERO - Procurement assistance and development opportunities are available to small and minority- and women-owned businesses through the Tennessee Department of Economic and Community Development's (ECD) Business Enterprise Resource Office (BERO).

Tennessee Small Business Development Centers The TSBDC is a network of professional business consultants who are experts in assisting small businesses with expansion and growth, from starting a small business to expanding existing efforts.

SBA - The U.S. Small Business Administration has delivered millions of loans, loan guarantees, contracts, counseling sessions and other forms of assistance to small businesses since 1953. For additional information, please check out the website <https://www.sba.gov> or <https://www.osdbu.dot.gov/about/customers.cfm>.

SCORE - SCORE is a nonprofit association dedicated to educating entrepreneurs and helping small businesses start, grow, and succeed nationwide. SCORE is a resource partner with the U.S. Small Business Administration (SBA), and has been mentoring small business owners for more than forty years.

Office of Small Business Advocate, Tennessee Comptroller of the Treasury - The small business advocate will provide information and answer questions for owners of businesses with 50 or fewer employees. The small business advocate may also act as a mediator to help resolve issues involving small businesses and state departments and agencies.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.41 Statutory ten percent (10%) Goal

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment __4__** to this program. This section of the program will be updated annually. In accordance with Section 26.45(f) the LAMTPO will submit its overall goal to DOT on August 1 of each year. [If you are a FAA or FTA recipient, or you are submitting a contract goal, the date of submission will be determined by the operating administration.] Before establishing the overall goal each year, LAMTPO will consult with the [Note-Program should identify the persons or groups with whom this consultation normally occurs, without limiting consultation to these persons or groups.] to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the LAMTPO efforts to establish a level playing field for the participation of DBEs.

[Note: The consultation should include, but not necessarily be limited to, minority, women's and general contractor groups, community organizations, and other officials or organizations.]

Following this consultation, we 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 your principal office for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 45 days from the date of the notice.** [Program should state the media in which this notice was issued: e.g. newspapers, available minority- focus media, trade publications, websites.] Normally, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

The Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) will be having public comment meetings concerning the Title VI program and the DBE Program and Goals. Information concerning these items can be obtained from Rich DesGroseilliers at 423-581-6277, or can be seen on the www.lamtpo.com website. The meeting dates are as follows:

1. Thursday February 24, 2022 at 9am to 10 am at the White Pine Town Hall, 1548 Main St., White Pine.
2. Thursday February 24, 2022 at 10:30 am to 11:30 am at the Jefferson City Municipal Building, 112 City Center Dr, Jefferson City.
3. Thursday, February 24, 2022 from 1 pm to 2 pm in the planning conference room, 100 W. 1st. North St., Morristown.

All interested parties are invited to attend the meeting. It is the policy of LAMTPO not to discriminate on the basis of race, color, national origin, age, sex, or disability in operation of its programs, services, and activities.

La Organización de Planificación de Transporte Metropolitano del Área de Lakeway (LAMTPO) tendrá reuniones de comentarios públicos sobre el programa título VI y el programa y objetivos de DBE. La información sobre estos artículos se puede obtener de Rich DesGroseilliers al 423-581-6277, o se puede ver en el sitio web de www.lamtpo.com. Las fechas de las reuniones son las siguientes:

Las fechas de las reuniones son las siguientes:

1. Jueves 24 de febrero de 2022 de 9am a 10 am en el Ayuntamiento de White Pine, 1548 Main St., White Pine.
2. Jueves 24 de febrero de 2022 de 10:30 am a 11:30 am en el Edificio Municipal de Jefferson City, 112 City Center Dr, Jefferson City.
3. Jueves, 24 de febrero de 2022 de 1 pm a 2 pm en la sala de conferencias de planificación, 100 W. 1st. North St., Morristown.

Todas las partes interesadas están invitadas a asistir a la reunión. Es política de LAMTPO no discriminar por motivos de raza, color, origen nacional, edad, sexo o discapacidad en la operación de sus programas, servicios y actividades.

There were no public comments made on the DBE program, or on the proposed goals of it.

Section 26.47 Fail to Meet Overall Goals

(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.

(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.

(c) If the awards and commitments shown on your 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, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;

(3) (i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval. If the operating administration approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

(5) You may be regarded as being in noncompliance with this Part, and therefore subject to the remedies in §26.103 or §26.105 of this part and other applicable regulations, for failing to implement your DBE program in good faith if any of the following things occur:

(i) You do not submit your analysis and corrective actions to FHWA, FTA, or FAA in a timely manner as required under paragraph (c)(3) of this section;

- (ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or
- (iii) You do not fully implement the corrective actions to which you have committed or conditions that FHWA, FTA, or FAA has imposed following review of your analysis and corrective actions.

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

Section 26.49 Transit Vehicle Manufacturers Goals

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

LAMTPO, in conjunction with ETHRA, 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, LAMTPO and/or ETHRA, 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.

[Note: this element applies only to FTA recipients' programs. If an FAA or FHWA recipient uses this approach to purchases of equipment, it would add a similar element to its program.]

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

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

The breakout of estimated race-neutral and race-conscious participation can be found in [Attachment _5_](#) to this program. This section of the program will be updated annually when the goal calculation is updated. **Next DBE Goal/ Methodology submission will be due August 1, 2025, for FFY2026-2028.**

[Note: If the recipient intends to use any race-conscious means of obtaining DBE participation other than contract goals it should describe them here.]

Section 26.51(d-g) Contract Goals

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

Section 26.53 Good Faith Efforts Procedures**Demonstration of good faith efforts (26.53(a) & (c))**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as [responsive or responsible] [Note: Recipients can choose either approach].

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

Information to be submitted (26.53(b))

LAMTPO treats bidder/offers' compliance with good faith efforts' requirements as a matter of *responsibility*.

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

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

Administrative reconsideration (26.53(d))

Within 7 days of being informed by LAMTPO that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Rich DesGroseilliers
MTPO Coordinator
100 W 1st N St
PO Box 1499
Morristown, TN 37816-1499
richd@mymorristown.com
423-581-6277

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. [Note - If there are more detailed reconsideration procedures, the recipient can include them here or in an attachment reference here.]

Good Faith Efforts when a DBE is replace on a contract (26.53(f))

LAMTPO will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We 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, 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. [Note: Include the administrate remedies you will use for noncompliance (see 26.53(f)(3)). The following two sentences are examples of such remedies]

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.

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 [Name of Recipient] 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 **ten percent (10%)** 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) [eCFR :: 49 CFR Part 26 -- Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs](#)**, 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 26.55 Counting DBE Participation

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

SUBPART D - CERTIFICATION STANDARDS

Section 26.61 - 26.73 Certification Process

LAMTPO will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

TDOT Civil Rights Office – Small Business Development Program, which can be accessed by <https://www.tn.gov/tdot/civil-rights/small-business-development-program/small-business-development-program-staff.html>, David Neese, Small Business Development Program Director, at 615-253-1075, or by email David.Neese@tn.gov

Our certification application forms and documentation requirements are found in Attachment 8 to this program.

SUBPART E - CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

- LAMTPO is not a member of a Unified Certification Program (UCP) at this time. However, subrecipients of state DOTs do not have to be involved in the UCP formation process or sign the UCP agreement on their own. The state DOT is responsible for ensuring (e.g., through subgrant agreements) that its subrecipients comply with all provisions of the UCP (e.g., that they accept as DBEs firms that the UCP has certified). The rationale that LAMTPO is not a member of the UCP is a lack of man-power, thus LAMTPO staff will lean on Tennessee Department of Transportation (TDOT) Civil Rights office for help on this.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

LAMTPO will refer to TDOT Small Business Program to verify if a firm is a DBE or not. We will review the eligibility of DBEs under former part 23, to make sure that they will meet the standards of Subpart E of Part 26. The TDOT DBE Directory can be located here <https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>.

For firms that we have reviewed and found eligible under part 26, we will again review their eligibility after a 3 year time frame.

"No Change" Affidavits and Notices of Change (26.83(j))

LAMTPO will refer to TDOT Small Business Program to verify if a firm is a DBE or not.

TDOT require all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with LAMTPO application for certification.

TDOT also require all owners of all DBEs we have certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The test of this affidavit is the following: "I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the [Recipient] under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million."

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

TDOT will notify all currently certified DBE firms of these obligations [program should state how and when]. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Denials of Initial Requests for Certification

If TDOT were to deny a firm's application or decertify it, it may not reapply until 12 months have passed from our action.

Section 26.86 Rulings for Recipients Denials of Initial Requests For Certification

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) [Reserved]

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm. An applicant's appeal of your decision to the Department pursuant to §26.89 does not extend this period.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under §26.89.

Section 26.87 Removal of a DBE's Eligibility

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87. [Attachment_9__](#) to this program sets forth these procedures in detail. [Note - Recipients should create and append such a procedural attachment.] To ensure separation of functions in a de-certification, we have determined that **TDOT's Civil Rights Office** will serve as the decision-maker in de-certification proceedings. We have established an administrative "firewall" to ensure that **TDOT's Civil Rights Office** will not have participated in any way in the de-certification proceeding against the firm (including in the decision to initiate such a proceeding).

Section 26.88 Summary Suspension of Certification

(a) A recipient shall immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) of this part when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

(b) (1) A recipient may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

(2) In determining the adequacy of the evidence to issue a suspension under paragraph (b)(1) of this section, the recipient shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(c) The concerned operating administration may direct the recipient to take action pursuant to paragraph (a) or (b) this section if it determines that information available to it is sufficient to warrant immediate suspension.

(d) When a firm is suspended pursuant to paragraph (a) or (b) of this section, the recipient shall immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.

(e) Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under §26.87 of this part to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

(f) While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

(g) Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the recipient information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the recipient must either lift the suspension and reinstate the firm's certification or commence a decertification action under §26.87 of this part. If the recipient commences a decertification proceeding, the suspension remains in effect during the proceeding.

(h) The decision to immediately suspend a DBE under paragraph (a) or (b) of this section is not appealable to the US Department of Transportation. The failure of a recipient to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by paragraph (g) of this section, is appealable to the U.S. Department of Transportation under §26.89 of this part, as a constructive decertification.

Section 26.89 Certification Appeals

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

U.S. Department of Transportation Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (202) 366-4648
TTY: (202) 366-9696
Fax: (202) 366-5575

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

Section 26.91 Recipient Actions to Take Following DOT Certification Appeal Decisions

(a) If you are the recipient from whose action an appeal under §26.89 is taken, the decision is binding. It is not binding on other recipients.

(b) If you are a recipient to which a DOT determination under §26.89 is applicable, you must take the following action:

(1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in §26.87(i) take effect.

(2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.

(3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of Department's determination.

(4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.

(5) If the Department affirms your determination, no further action is necessary.

(c) Where DOT has upheld your denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under §26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has reversed your denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

SUBPART F - COMPLIANCE AND ENFORCEMENT

Section 26.101 What Compliance Procedures Apply to Recipients?

(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

LAMTPO will comply with the federal requirements for DBE participation.

Section 26.103 What Enforcement Actions Apply in FHWA and FTA Programs?

The provisions of this section apply to enforcement actions under FHWA and FTA programs:

(a) *Noncompliance complaints.* Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

(b) *Compliance reviews.* The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

(c) *Reasonable cause notice.* If it appears, from the investigation of a complaint or the results of a compliance review, that you, as a recipient, are in noncompliance with this part, the appropriate DOT office promptly sends you, return receipt requested, a written notice advising you that there is reasonable cause to find you in noncompliance. The notice states the reasons for this finding and directs you to reply within 30 days concerning whether you wish to begin conciliation.

(d) *Conciliation.* (1) If you request conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of your request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

(2) If you and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and you are regarded as being in compliance. The conciliation agreement sets forth the measures you have taken or will take to ensure compliance. While a conciliation agreement is in effect, you remain eligible for FHWA or FTA financial assistance.

(3) The concerned operating administration shall monitor your implementation of the conciliation agreement and ensure that its terms are complied with. If you fail to carry out the terms of a conciliation agreement, you are in noncompliance.

(4) If you do not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.

(e) *Enforcement actions.*

(1) Enforcement actions are taken as provided in this subpart.

(2) Applicable findings in enforcement proceedings are binding on all DOT offices.

Section 26.105 What Enforcement Actions Apply in FAA Programs?

(a) Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

(b) The provisions of §26.103(b) and this section apply to enforcement actions in FAA programs.

(c) Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

Section 26.107 What Enforcement Actions Apply to Firms Participating in the DBE Program?

(a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

(d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

(e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

Section 26.109 Information, Confidentiality, Cooperation

(a) Availability of records.

(1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

(2) Notwithstanding any provision of Federal or state law, you must not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other state to which the individual's firm has applied for certification under §26.85 of this part.

(b) Confidentiality of information on complainants. Notwithstanding the provisions of paragraph (a) 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. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

(c) *Cooperation.* 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 (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

(d) *Intimidation and retaliation.* If you are a recipient, contractor, or any other participant in the program, you must not 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. If you violate this prohibition, you are in noncompliance with this part.

We will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. [Program should summarize applicable state and local law, such as state FOIA laws and how they apply.] Notwithstanding any contrary provisions of state or local law, we 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 submitter.

Monitoring Payments to DBEs

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

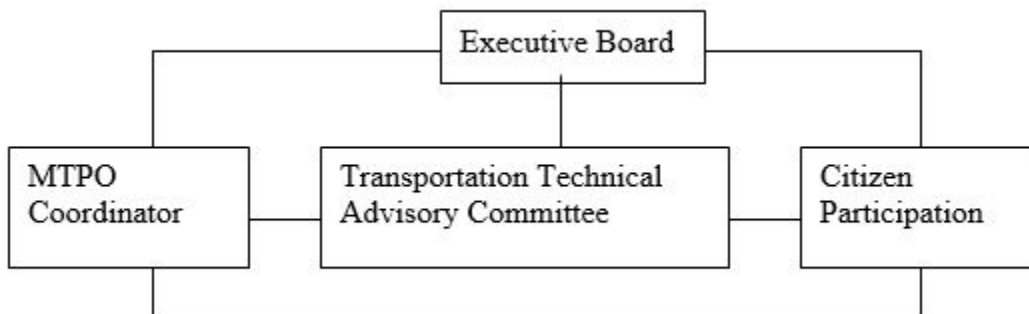
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Currently, there has not been any DBE firms that had bid on any LAMTPO project, for FTA or FHWA funded program.

Attachment 1 ORGANIZATION AND MANAGEMENT

ORGANIZATION AND MANAGEMENT

The LAMTPO transportation planning process will function under a committee structure, as outlined below:



EXECUTIVE BOARD

The Executive Board is the decision-making body of the LAMTPO, which is comprised of:

- Mayor of Morristown
- Mayor of Jefferson City
- Mayor of White Pine
- County Mayor of Jefferson County
- County Mayor of Hamblen County
- Governor of Tennessee (or his representative).
- Public Transportation (ETHRA) Representative
- Railroad Representative (Norfolk-Southern)

Final responsibility for transportation planning and programming is vested with the Executive Board, which may act without recommendation of the Transportation Technical Advisory Committee, provided a reasonable time has been afforded to the Transportation Technical Advisory Committee for a recommendation.

The Executive Board shall adopt By-Laws and Rules governing meeting processes and procedures for itself and any committees of the MTPO. **Appendix 1** contains the By-Laws for the Lakeway Area Metropolitan Transportation Planning Organization Executive Board.

TRANSPORTATION TECHNICAL ADVISORY COMMITTEE

The Transportation Technical Advisory Committee consists of administrative and technical leadership. Along with the MTPO Coordinator, it shall give recommendations to the Executive Board. The Transportation Technical Advisory Committee is comprised of:

1. City Administrator of Morristown (or designee)
2. City Manager of Jefferson City (or designee)
3. Public Works Director of White Pine (or designee)
4. Jefferson County Highway Superintendent (or designee)
5. Hamblen County Highway Superintendent (or designee)
6. ETHRA Director (or designee)
7. Railroad Administrator (or designee)
8. ETDD Executive Director (or designee)
9. TDOT Chief Engineer (or designee)
10. TDOT Office of Public Transportation, Waterways, and Rail Director (or designee)
11. FHWA: Division Administrator (or designee)
12. FTA: Regional Administrator (or designee)

The Transportation Technical Advisory Committee shall elect on a Committee Chair, and Vice-Chair. The MTPO Coordinator shall serve as the Secretary in a non-voting role. Such election shall be by a majority of that membership. The Chair of the Transportation Technical Advisory Committee shall be jointly responsible for insuring the coordination, direction, and supervision of the transportation process. The Chair, or in his/ her absence the Vice-Chair, shall preside at all meetings of the Transportation Technical Advisory Committee. In the event neither is present, the Secretary shall preside. The Transportation Technical Advisory Committee shall conduct business as prescribed in the latest edition of Robert's Rules of Order.

The Transportation Technical Advisory Committee shall take their direction from and be accountable to, the Executive Board and effectuate this direction through the MTPO staff, local planning staff(s), or study committees as applicable.

The Transportation Technical Advisory Committee, with policies and procedures as directed from the Executive Board, is responsible for daily implementation of all transportation planning activities. The members of this committee, by virtue of their position, disseminate transportation planning policy procedures and schedules to respective agency professionals for application. This committee shall receive plans, programs, and transportation documentations for prior review and shall make recommendations to the Executive Board for action. It may appoint ad-hoc subcommittees as needed to organize, coordinate, evaluate and document transportation planning, programming, and reporting requirements necessary for orderly program implementation and certification.

MTPO COORDINATOR

MTPO Coordinator is a staff member of the local and/or regional planning commission. The Coordinator conducts studies, develops plans and programs, and chairs all MTPO subcommittees. The MTPO Coordinator is the liaison between the MTPO and the FHWA, FTA, TDOT, local governments, and other groups or individuals interested in transportation issues. The MTPO Coordinator shall be responsible for preparing the meeting agendas, posting public notice of the meetings as required, calling the roll of the meetings, and the votes necessary, keeping minutes of the meetings and other duties as required in the function of transportation planning within the MTPO study area.

The MTPO Coordinator, or other planning staff, shall serve as the Secretary for the Executive Board, in a non-voting role.

Attachment 2 DBE DIRECTORY

LAMTPO uses the State of Tennessee's DBE directory, which can be found at the following website:

<https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>, or by contacting:

TDOT Small Business Development Program Staff

James K. Polk Building, Suite 1800
505 Deaderick Street
Nashville, TN 37243
Phone 615.741.3681
Fax 615.741.3169

If a hard copy is needed, please make a request to:

Rich DesGroseilliers
MTPO Coordinator
100 W 1st N St
PO Box 1499
Morristown, TN 37816-1499
richd@mymorristown.com
423-581-6277

Attachment 3 MONITORING AND ENFORCEMENT MECHANISMS

LAMTPO have available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to [*State Code Section X*];
3. [*List the other laws, statutes, regulations, etc. that are available to enforce the DBE requirements.*]

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.

Attachment 4 OVERALL GOAL CALCULATION

Section 26.45: Overall Goal Calculation

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

NOTE:

In Checking the TDOT DBE Vendor Search, there are no DBE's in public transportation.

LAMTPO DBE: 3 Year Goal (2023-2025)
FTA Recipient ID # 6498

LAMTPO has been designated as a 'Category A' DBE participant. This DBE Goal document is a 3-year goal for the fiscal years 2023 through 2025. It is anticipated that the Federal funding of Section 5307 operating expenses for each fiscal year 2023, 2024, 2025 will be higher than the \$250,000 threshold. The federal funding of Capital expenses for public transportation is expected to be less than the \$250,000 threshold for any given year, unless the governing entities wish to pursue a mass transit facility. ***The next DBE program will be due in Summer 2025.***

Amount of Goal:

LAMTPO overall DBE goal for FY2023 through FY2025 is 2.2%. This is the fifth (5th) DBE program for LAMTPO, and the basis for the 2.2% threshold illustrated in the pages that follow. The overall race-neutral goal is 1.3% and the race-conscious goal is 0.9%.

Revenue (operating)	2023	2024	2025	2026	TOTALS
Federal (FTA 5307)	\$819,545.25	\$844,131.61	\$869,455.56	\$895,539.22	\$3,428,671.64
state (UROP/ CRIT)	\$370,434.45	\$381,547.48	\$392,993.91	\$404,783.73	\$1,549,759.57
Local	\$449,110.80	\$462,584.12	\$476,461.65	\$490,755.50	\$1,878,912.07
total	\$1,639,090.50	\$1,688,263.22	\$1,738,911.11	\$1,791,078.44	\$6,857,343.27

revenue (capital)	2023	2024	2025	2026	TOTALS
Federal (FTA 5307)	\$131,127.24	\$135,061.06	\$139,112.89	\$143,286.28	\$548,587.46
state (UROP/ CRIT)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Local	\$32,781.81	\$33,765.26	\$34,778.22	\$35,821.57	\$137,146.87
total	\$163,909.05	\$168,826.32	\$173,891.11	\$179,107.84	\$685,734.33

METHOD

Step 1. Based from the previous years, public transportation within the LAMTPO region is expected to be above the \$250,000 threshold for DBE/ Small Business participation for operations expenses. However, LAMTPO will use the total projected revenues of operating costs to determine how many TN-based DBEs from TDOT’s directory would be “ready, willing, and able” to perform the different tasks in case additional local funds are added to receive the rest of the FTA section 5307 funds.

It is anticipated that capital revenues/ expenditures, will be below the \$250,000 threshold for each year between FFY2023 through FFY2025. Since the DOT mainly builds roads, bridges, and highways, there are many paving, bridge, and other road construction DBEs, but this is not the type of work that a transit system would typically utilize. Lakeway Transit, a fixed route public transportation service, operated by ETHRA, began operations on February 16, 2021. Because of this, there may be a need for funding for shelters, ADA sidewalk improvements, etc. It is anticipated that not all of the FTA Section 5307 capital funding will be needed for these capital improvements. However, to help determine the DBE race-conscious and race neutrality, all of the FTA Section 5307 capital funding will be used to determine the outcome.

Capital Opportunities

Potential Capital Expenses	Total FTA Section 5307 funding (FFY2020-2023)	Total costs (all funding sources)	# DBE Firms from TDOT DBE Listings	Total # of Firms within TN	Potential DBE Goal Participation Amount (10% of total costs)
Engineering Consultants (estimated 15% of total amount)	\$ 60,795.18	\$ 75,993.97	62	1,612	\$ 7,599.40
Construction	\$344,506.01	\$430,632.51	272	10,570	\$43,063.25
TOTALS	\$405,301.19	\$506,626.48	334	12,182	\$50,662.65

Table 7. Operating vs. Capital Opportunities

	Total FTA Section 5307 funding	total costs (all funding sources)	# DBE Firms from TDOT DBE Listings	Total # Firms within TN	Relative Availability	Percentage of Total Amount (weight)	Potential DBE Goal Participation Amount (10% of total costs)
Mass Transit Operations	\$2,533,132.41	\$5,066,264.83	0	317	0	52%	0
Potential Capital/ Mass transit Facilities	\$ 405,301.19	\$ 506,626.48	334	10,887	0.0274	48%	\$ 50,662.65
TOTALS	\$2,938,433.60	\$5,572,891.31	334	11,204		100%	\$557,289.13

The total numbers of firms within Tennessee are from the **Census Bureau 2017 Economic Census**.

Determine a Base Figure:

1). First Approach – Use the ratio of the combined totals

$$\frac{\text{Total\#ofDBEs}}{\text{Total\#ofFirms}} = 334 / 11204 = 0.0298 = 2.98\%$$

2) Second Approach – Use weighting to develop a base figure

$$\begin{aligned} & \sum (\text{Availability} * \text{Weight}) \\ & = (0 * 0.48) + (0.0274 * 0.52) = 0.014 = 1.40\% \end{aligned}$$

Step Two. Determine if Adjustments are Necessary

As shown in the information below, the potential participation level of DBEs is only 7.53% within the state of Tennessee, based on FFY2009 through FFY2013 data (from TDOT's Civil Rights website, TDOT FFY2015-2017 Overall Annual DBE Goal). **However, the overall TDOT DBE goal was 8.05% (information based on the TDOT DBE Access newsletter, 3rd Quarter 2018).**

TDOT first considered the capacity of DBEs to perform work based upon past performance. Contract dollars give a picture of the historical capacity of the DBEs to perform work in the TDOT contracting program. This data captures all awards to DBEs in the past five completed fiscal years. Table 8 shown below contains a summary of the expenditure data. Note that Table 8 includes contracts funded with federal funds including state and local matching funds.

Table 8. TDOT Contract Dollars to DBEs – DBE Capacity

<u>FISCAL YEAR</u>	<u>GOAL COMMITMENT</u>	<u>GOAL ATTAINMENT</u>	<u>\$ EXPENDED</u>	
<u>FFY 2013</u>				
Race Conscious	5.74%	5.18%	Prime:	\$544,424,450
Race Neutral	1.86%	2.60%	DBE:	\$42,342,089
	7.60%	7.78%		
<u>FFY 2012</u>				
Race Conscious	5.74%	7.89%	Prime:	\$721,040,580
Race Neutral	1.86%	0.24%	DBE:	\$58,605,400
	7.60%	8.13%		
<u>FFY 2011</u>				
Race Conscious	7.20%	5.54%	Prime:	\$614,375,112
Race Neutral	1.70%	1.12%	DBE:	\$40,910,246
	8.90%	6.66%		
<u>FFY 2010</u>				
Race Conscious	7.20%	6.26%	Prime:	\$537,393,638
Race Neutral	1.70%	1.86%	DBE:	\$43,625,970
	8.90%	8.12%		
<u>FFY 2009</u>				
Race Conscious	5.66%	5.62%	Prime:	\$889,777,388
Race Neutral	3.07%	1.51%	DBE:	\$63,404,674
	8.73%	7.13%		

Figures taken from FHWA Uniform Report of DBE Commitments/Awards and Payments to more accurately reflect DBE participation.

If using TDOT's overall goal, which is 8.05%, then the base figure calculated will be:

- 1). Average the base figure calculated and the TDOT Goal of 8.05%.

$$\frac{(1.40 + 8.05)}{2} = 4.725 \approx 5\%$$

However, since this is more in line with roadway construction projects, it is not really accurate for public transportation uses in determining DBE goals. Thus LAMTPO will be using TDOT's Multimodal Division DBE Goal of 3% (information received in email dated December 5, 2018, from TDOT Multimodal Division) then we are looking at:

$(1.40 + 3)/2 = 4.4/2 = 2.2\%$ as a base figure for the public transportation DBE Goal.

Attachment 5 Race Neutral and Race Conscious Participation

Section 26.51: Breakout of Estimated

Race-Neutral & Race Conscious Participation

Since the East Tennessee Human Resource Agency (ETHRA) is the Recipient of FTA funds, ETHRA DBE goals will be used. LAMTPO does not have to submit DBE Goals as per conversation with Dee Foster, FTA Civil Rights.

Determine Race-Neutral and Race-Conscious Split

Assuming that 58% of the overall goal of 2.2% would be achieved through race-neutral means, the race-neutral goal is 1.3% and the race-conscious goal is 0.9%.

Attachment 6 2017 Economic Census Info

According to the following website: the Economic Census profiles American businesses every five years. The 2017 Economic Census information is what is shown below. Additional information can be found at [Explore Census Data](#).

All Sectors: Summary Statistics for the U.S., States, and Selected Geographies: 2017

Survey/Program: Economic Census

Year: 2017

Table ID: EC1700BASIC

Dataset: ECNBASIC2017

Release Date: 2020-08-20

Sector 51 Revision: June 2, 2020

Data shown in "All Sectors: Summary Statistics for the U.S., States, and Selected Geographies: 2017" and "Information: Summary Statistics for the U.S., States, and Selected Geographies: 2017" have been revised after conducting additional analytical review that revealed classification uncertainties within the Information sector (NAICS 51). As a result, some data are suppressed to ensure that confidentiality is adequately protected. The originally released data were publicly available from January 9, 2020 - June 2, 2020. The revised data were released June 2, 2020.

Release Schedule:

The data in this file come from the 2017 Economic Census data files released on a flow basis starting in September 2019. *As such, preliminary U.S. totals released in September 2019 will be superseded with final totals, by sector, once data for all states have been released.* Users should be aware that during the release of this consolidated file, data at more detailed North American Industry Classification System (NAICS) and geographic levels may not add to higher-level totals. However, at the completion of the economic census (once all the component files have been released), the detailed data in this file will add to the totals. For more information about economic census planned data product releases, see [Economic Census: About: 2017 Release Schedules](#).

Key Table Information:

U.S. totals released in September 2019 will be superseded with final totals, by sector, once data for all states have been released.

Includes only establishments and firms with payroll.

Data may be subject to employment- and/or sales-size minimums that vary by industry.

Data Items and Other Identifying Records:

Number of firms
Number of establishments
Sales, value of shipments, or revenue (\$1,000)
Annual payroll (\$1,000)
First-quarter payroll (\$1,000)
Number of employees
Range indicating percent of total sales, value of shipments, or revenue imputed
Range indicating percent of total annual payroll imputed
Range indicating percent of total employees imputed

For Wholesale Trade (42), data are published by Type of Operation (All establishments, Merchant Wholesalers, and Manufacturers' Sales Branches and Offices).

For selected Services sectors, data are published by Tax Status (All establishments, Establishments subject to federal income tax, and Establishments exempt from federal income tax).

Geography Coverage:

The data are shown for employer establishments and firms at the U.S., State, Combined Statistical Area, Metropolitan and Micropolitan Statistical Area, Metropolitan Division, Consolidated City, County (and equivalent), and Economic Place (and equivalent; incorporated and unincorporated) levels that vary by industry. For information about economic census geographies, including changes for 2017, see [Economic Census: Economic Geographies](#).

Industry Coverage:

The data are shown at the 2- through 6-digit 2017 NAICS code levels for all economic census sectors and at the 7- and 8-digit 2017 NAICS code levels for selected economic census sectors. For information about NAICS, see [Economic Census: Technical Documentation: Code Lists](#).

Footnotes:

Transportation and Warehousing (48-49): footnote 106- Railroad transportation and U.S. Postal Service are out of scope.

FTP Download:

Download the entire table at: <https://www2.census.gov/programs-surveys/economic-census/data/2017/sector00/EC1700BASIC.zip>

API Information:

Economic census data are housed in the Census Bureau API. For more information, see [Explore Data: Developers: Available APIs: Economic Census](#).

Methodology:

To maintain confidentiality, the U.S. Census Bureau suppresses data to protect the identity of any business or individual. The census results in this file contain sampling and/or non-sampling

error. Data users who create their own estimates using data from this file should cite the U.S. Census Bureau as the source of the original data only.

To comply with disclosure avoidance guidelines, data rows with fewer than three contributing establishments are not presented. Additionally, establishment counts are suppressed when other select statistics in the same row are suppressed. For detailed information about the methods used to collect and produce statistics, including sampling, eligibility, questions, data collection and processing, data quality, review, weighting, estimation, coding operations, confidentiality protection, sampling error, non-sampling error, and more, see [Economic Census: Technical Documentation: Methodology](#).

Symbols:

D - Withheld to avoid disclosing data for individual companies; data are included in higher level totals

N - Not available or not comparable

S - Estimate does not meet publication standards because of high sampling variability, poor response quality, or other concerns about the estimate quality. Unpublished estimates derived from this table by subtraction are subject to these same limitations and should not be attributed to the U.S. Census Bureau. For a description of publication standards and the total quantity response rate, see link to program methodology page.

X - Not applicable

A - Relative standard error of 100% or more

r - Revised

s - Relative standard error exceeds 40%

For a complete list of symbols, see [Economic Census: Technical Documentation: Data Dictionary](#).

Source:

U.S. Census Bureau, 2017 Economic Census

For information about the economic census, see [Business and Economy: Economic Census](#).

Contact Information:

U.S. Census Bureau

For general inquiries:

(800) 242-2184/ (301) 763-5154

ewd.outreach@census.gov

For specific data questions:

(800) 541-8345

For additional contacts, see [Economic Census: About: Contact Us](#).

NAICS 22: Utilities

The Utilities sector comprises establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal. Within

this sector, the specific activities associated with the utility services provided vary by utility: electric power includes generation, transmission, and distribution; natural gas includes distribution; steam supply includes provision and/or distribution; water supply includes treatment and distribution; and sewage removal includes collection, treatment, and disposal of waste through sewer systems and sewage treatment facilities.

Excluded from this sector are establishments primarily engaged in waste management services classified in Subsector 562, Waste Management and Remediation Services. These establishments also collect, treat, and dispose of waste materials; however, they do not use sewer systems or sewage treatment facilities.

NAICS 23: Construction

The Construction sector comprises establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). Establishments primarily engaged in the preparation of sites for new construction and establishments primarily engaged in subdividing land for sale as building sites also are included in this sector.

Construction work done may include new work, additions, alterations, or maintenance and repairs. Activities of these establishments generally are managed at a fixed place of business, but they usually perform construction activities at multiple project sites. Production responsibilities for establishments in this sector are usually specified in (1) contracts with the owners of construction projects (prime contracts) or (2) contracts with other construction establishments (subcontracts).

Establishments primarily engaged in contracts that include responsibility for all aspects of individual construction projects are commonly known as general contractors, but also may be known as design-builders, construction managers, turnkey contractors, or (in cases where two or more establishments jointly secure a general contract) joint-venture contractors. Construction managers that provide oversight and scheduling only (i.e., agency) as well as construction managers that are responsible for the entire project (i.e., at risk) are included as general contractor type establishments. Establishments of the "general contractor type" frequently arrange construction of separate parts of their projects through subcontracts with other construction establishments.

Establishments primarily engaged in activities to produce a specific component (e.g., masonry, painting, and electrical work) of a construction project are commonly known as specialty trade contractors. Activities of specialty trade contractors are usually subcontracted from other construction establishments, but especially in remodeling and repair construction, the work may be done directly for the owner of the property.

Establishments primarily engaged in activities to construct buildings to be sold on sites that they own are known as for-sale builders, but also may be known as speculative builders or merchant builders. For-sale builders produce buildings in a manner similar to general contractors, but their production processes also include site acquisition and securing of financial backing. For-sale

builders are most often associated with the construction of residential buildings. Like general contractors, they may subcontract all or part of the actual construction work on their buildings.

There are substantial differences in the types of equipment, work force skills, and other inputs required by establishments in this sector. To highlight these differences and variations in the underlying production functions, this sector is divided into three subsectors.

Subsector 236, Construction of Buildings, comprises establishments of the general contractor type and for-sale builders involved in the construction of buildings. Subsector 237, Heavy and Civil Engineering Construction, comprises establishments involved in the construction of engineering projects. Subsector 238, Specialty Trade Contractors, comprises establishments engaged in specialty trade activities generally needed in the construction of all types of buildings.

Force account construction is construction work performed by an enterprise primarily engaged in some business other than construction for its own account, using employees of the enterprise. This activity is not included in the construction sector unless the construction work performed is the primary activity of a separate establishment of the enterprise. The installation and the ongoing repair and maintenance of telecommunications and utility networks is excluded from construction when the establishments performing the work are not independent contractors. Although a growing proportion of this work is subcontracted to independent contractors in the Construction Sector, the operating units of telecommunications and utility companies performing this work are included with the telecommunications or utility activities.

NAICS 48-49 Transportation and warehousing

The Transportation and Warehousing sector includes industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation. Establishments in these industries use transportation equipment or transportation related facilities as a productive asset. The type of equipment depends on the mode of transportation. The modes of transportation are air, rail, water, road, and pipeline.

The Transportation and Warehousing sector distinguishes three basic types of activities: subsectors for each mode of transportation, a subsector for warehousing and storage, and a subsector for establishments providing support activities for transportation. In addition, there are subsectors for establishments that provide passenger transportation for scenic and sightseeing purposes, postal services, and courier services.

A separate subsector for support activities is established in the sector because, first, support activities for transportation are inherently multimodal, such as freight transportation arrangement, or have multimodal aspects. Secondly, there are production process similarities among the support activity industries.

One of the support activities identified in the support activity subsector is the routine repair and maintenance of transportation equipment (e.g., aircraft at an airport, railroad rolling stock at a railroad terminal, or ships at a harbor or port facility). Such establishments do not perform complete overhauling or rebuilding of transportation equipment (i.e., periodic restoration of transportation equipment to original design specifications) or transportation equipment conversion (i.e., major modification to systems). An establishment that primarily performs factory (or shipyard) overhauls, rebuilding, or conversions of aircraft, railroad rolling stock, or a ship is classified in Subsector 336, Transportation Equipment Manufacturing according to the type of equipment.

Many of the establishments in this sector often operate on networks, with physical facilities, labor forces, and equipment spread over an extensive geographic area.

Warehousing establishments in this sector are distinguished from merchant wholesaling in that the warehouse establishments do not sell the goods.

Excluded from this sector are establishments primarily engaged in providing travel agent services that support transportation and other establishments, such as hotels, businesses, and government agencies. These establishments are classified in Sector 56, Administrative and Support and Waste Management and Remediation Services. Also, establishments primarily engaged in providing rental and leasing of transportation equipment without operator are classified in Subsector 532, Rental and Leasing Services.

These data are final; they supersede data released in earlier data files. Includes only establishments of firms with payroll. See *Table Notes* for more information. Data based on the 2017 Economic Census.

NAICS 54: Professional, scientific, and technical services

The Professional, Scientific, and Technical Services sector comprises establishments that specialize in performing professional, scientific, and technical activities for others. These activities require a high degree of expertise and training. The establishments in this sector specialize according to expertise and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services; translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

This sector excludes establishments primarily engaged in providing a range of day-to-day office administrative services, such as financial planning, billing and recordkeeping, personnel, and physical distribution and logistics. These establishments are classified in Sector 56, Administrative and Support and Waste Management and Remediation Services.

Table 1. 2017 NAICS for Tennessee and Morristown MSA, by US Census 2017 Economic Census data.

2017 NAICS code	Meaning of NAICS code	Meaning of Type of operation code	Meaning of Tax status code	Year	Number of firms IN TN	Number of Firms in Morristown MSA
21	Mining, quarrying, and oil and gas extraction	All establishments	All establishments	2017	97	x
22	Utilities	All establishments	All establishments	2017	58	x
23	Construction	All establishments	All establishments	2017	9,847	x
31-33	Manufacturing	All establishments	All establishments	2017	5,247	118
42	Wholesale trade	All establishments	All establishments	2017	5,147	84
44-45	Retail trade	All establishments	All establishments	2017	13,524	307
48-49	Transportation and warehousing	All establishments	All establishments	2017	3,129	49
51	Information	All establishments	All establishments	2017	1,492	19
52	Finance and insurance	All establishments	All establishments	2017	4,510	94
53	Real estate and rental and leasing	All establishments	All establishments	2017	4,084	68
54	Professional, scientific, and technical services	All establishments	All establishments	2017	10,206	109
55	Management of companies and enterprises	All establishments	All establishments	2017	818	x
56	Administrative and support and waste management and remediation services	All establishments	All establishments	2017	5,836	x
61	Educational services	All establishments	All establishments	2017	922	8
62	Health care and social assistance	All establishments	All establishments	2017	10,503	200
71	Arts, entertainment, and recreation	All establishments	All establishments	2017	2,557	x
81	Other services (except public administration)	All establishments	All establishments	2017	7,326	117

Attachment 7 Demonstration of Good Faith Efforts

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

.....
.....
.....
.....

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Attachment 8 Certification Application Forms
Certification Application Forms

Tennessee Uniform Certification Program (TNUCP)

Disadvantaged Business Enterprise

(DBE)

Renewal Application

→This document and its attachment must be completed in their entirety for each DBE owner←

PRINT NAME AND TITLE OF MAJORITY DISADVANTAGED OWNER(S):

BUSINESS NAME:

MAILING ADDRESS:

BUSINESS PHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

→DBE FIRM'S GROSS RECEIPTS (attach a copy of the firm's most recent corporate tax return and all attachments, if applicable)

→DBE OWNER'S PERSONAL TAX RETURN (attach a copy of the most recent personal tax return and all attachments for each individual applying for disadvantaged status)

→PERSONAL FINANCIAL STATEMENT (This attached document must be filled out in its entirety, signed, dated and notarized by the applicant)

→HAS THERE BEEN A CHANGE IN OWNERSHIP/MANAGEMENT THIS PAST YEAR?
YES ___ NO ___

(If "YES," you must submit all pertinent information to show changes in ownership)

I agree that the TNUCP will be notified in writing within 30 days of any changes in ownership and/or control, personal net worth and/or size standard that would impact the firm's eligibility to remain in the program.

I, _____ (*name of DBE firm owner{s}*), swear (or affirm) that there have been no changes in _____ (*name of DBE firm*) circumstances affecting its ability to

meet the size, disadvantaged status, ownership or control requirements of 49 CFR Part 26 and 13 CFR Part 121. I swear (or affirm) there have been no material changes in the information provided with _____ (*name of DBE firm*) application for certification, except for any changes about which I have provided written notice to _____ (name of DOT recipient) pursuant to 49 CFR 26.83(i).

I swear (or affirm) that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified in 49 CFR 26.5, without regard to my individual qualities. I further swear (or affirm) that my personal net worth does not exceed \$750,000, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I specifically swear (or affirm) _____ (*name of DBE firm*) continues to meet the Small Business Administration (SBA) business size criteria and the overall gross receipts cap of 49 CFR Part 26 and _____ (*name of DBE firm*) average annual gross receipts (as defined by SBA rules) over the previous three fiscal years do not exceed _____ (dollar amount). I provide the attached size and gross receipts documentation to support this affidavit.

I certify that the above information is true and complete to the best of my knowledge and understand that knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. 1001 (False Statements) which could result in fines, imprisonment or both.

Signature _____ Date _____

NOTARY CERTIFICATE:

PERSONAL FINANCIAL STATEMENT

As of _____, _____

Name Business Phone
Residence Address Residence Phone
City, State, & Zip Code

		Business Name of Applicant ASSETS (Omit Cents)	LIABILITIES (Omit Cents)
Cash on hand & in Banks.....	\$ _____	Accounts Payable.....	\$ _____
Savings Accounts.....	\$ _____	Notes Payable to Banks and Others.....	\$ _____
IRA or Other Retirement Account...	\$ _____	(Describe in Section 2)	\$ _____
Accounts & Notes Receivable.....	\$ _____	Installment Account (Auto).....	\$ _____
Life Insurance-Cash Surrender Value Only	\$ _____	Mo. Payments \$ _____	
(Complete Section 8)	\$ _____	Installment Account (Other).....	
Stocks and Bonds.....	\$ _____	Mo. Payments \$ _____	
(Describe in Section 3)	\$ _____	Loan on Life Insurance.....	
Real Estate.....	\$ _____	Mortgages on Real Estate.....	
(Describe in Section 4)	\$ _____	(Describe in Section 4)	
Automobile-Present Value.....		Unpaid Taxes.....	
Personal Property.....		(Describe in Section 6)	
(Describe in Section 5)		Other Liabilities.....	
Other Assets.....		(Describe in Section 7)	
(Describe in Section 5)		Total Liabilities	
Total Assets		Total Assets – Total Liabilities=	
		Net Worth	

Section 1. Source of Income		Contingent Liabilities	
Salary.....	\$ _____	As Endorser or Co-Maker.....	\$ _____
Net Investment Income.....	_____	Legal Claims & Judgments.....	_____
Real Estate Income.....	\$ _____	Provision for Federal Income Tax.....	\$ _____
Other Income.....	_____	Other Special Debt.....	_____
(Describe in section 1 below)	\$ _____		\$ _____
	\$ _____		\$ _____

Description of Other Income in Section 1.

*Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.

Section 2. Notes Payable to Banks and Other. (Use attachments if necessary. Each attachment must be identified as part of this statement and signed.)

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

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

Procedures for Removal of DBE's Eligibility

LAMTPO/ City of Morristown will follow the same procedures as the State of Tennessee's guidelines, which are:

S T A T E O F T E N N E S S E E

(Rev. 12-01-06) March 1, 2006

(Rev. 11-10-08)

(Rev. 03-30-09)

SPECIAL PROVISION REGARDING DBE CONTRACT GOAL

All contractors shall pursue affirmative action requirements to encourage and increase participation of disadvantaged individuals in business enterprises as set forth in this specification which is imposed pursuant to 49 CFR Part 26 Subpart A through F. The bidder shall arrange for 10% percent of the work to be performed by Disadvantaged Business Enterprises (DBEs) or clearly demonstrate adequate good faith efforts as described herein.

A. Disadvantaged Business Enterprise Policy.

The Contractor shall accept as operating policy and include in all subcontract agreements the following statement, which is designed to promote full participation of DBEs as suppliers and subcontractors through a continuous, positive result-oriented program on contracts let by the Department:

“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 Department 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.

B. Counting DBE Participation Toward Meeting Goals.

The Contractor may count toward the goals only expenditures to DBEs that perform a commercially useful function of a contract, including those functions as a subcontractor. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself (26.55). Work performed by a DBE firm in a particular transaction may be counted toward the goal only if the Department determines that it involves a commercially useful function. The work performed by the DBE firm shall be necessary and useful to the completion of the contract, and consistent with normal highway construction industry practices in Tennessee. The bidder may count the following DBE expenditures towards the DBE commitment:

1. Projects where the DBE is the Prime Contractor - The portions of the contract to be completed by certified DBE firms will be counted toward meeting the goal. Items of the contract subcontracted to non-DBE firms will not be counted in the commitment.

2. Portions of a bid from a Joint Venture - A bid from a joint venture, between a DBE and non-DBE Contractor, shall include a "Statement of DBE Commitments" which must be approved by the Department prior to the Letting. Only the DBE's portion will be counted toward the goal. Joint venture agreements have to be approved separately from the bid documents, prior to awarding of contract.

3. DBE Subcontractors - The DBE subcontractor shall assume actual and contractual responsibility for provision of materials and supplies, subcontracted work, or other commercially useful functions of the items of work subcontracted to them. Cost of materials purchased from or the cost of equipment leased from the Contractor will not count toward the project DBE commitment. Prior written approval must be obtained from Small Business Development Program (SBDP) for any DBE use of prime contractor's personnel or equipment.

Manufacturers - The Contractor may count toward the DBE commitment 100% of its expenditures for materials and supplies required under a contract and obtained from a DBE manufacturer only if the DBE firm produces and supplies goods manufactured from raw materials or substantially alters them before resale.

4. Regular Dealers (e.g. Material Suppliers) - The Contractor may count toward the DBE goal 60% of its expenditures for materials and supplies required under a contract and obtained from a DBE regular dealer only if the DBE firm performs a commercially useful function in the supply process. For purposes of this section, a regular dealer is a firm that owns; operates; or maintains a store, warehouse, or other establishment in which materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm shall engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates the distribution equipment. If the DBE supplier does not own the distribution equipment, a lease containing the terms of the agreement shall be available and must be approved in writing by the SBDP.

5. Brokers and Packagers - Brokers and packagers will not be regarded as regular dealers within the meaning of this section. Only the cost of the service performed may be used towards meeting the DBE commitment.

6. Transportation or Hauling of Materials - As allowed by 49 CFR Part 26 as interpreted by Small Business Development Program (SBDP). TDOT will continue to utilize the trucking regulations, under 49 CFR Part 26.55, as revised in 1999. Essentially, this regulation allows for DBE goal hauling-credit in either DBE trucks or in trucks leased to DBE firms. Leases cannot be TDOT contract-specific and must be approved by the SBDP Staff. The verification of truck drivers employed by DBE firms will continue to be by submission of payrolls independent from any Davis-Bacon regulations.

a) The DBE must be responsible for the management and supervision of the entire

trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

b) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

c) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

d) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

e) The DBE may also lease trucks from a non-DBE firm, including an owner/ operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

f) For purposes of this paragraph a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

7. Other Commercially Useful Functions - The fees paid to certified DBE firms, which are necessary for the completion of the contract and commonplace outside of the DBE program, may be counted towards the commitment.

8. Interpretations by the Department regarding participation of DBEs will be in accordance with applicable federal law.

C. Contract Award Procedures

The established DBE goal will be shown on the proposal as a percent of the total amount bid. If the total proposed DBE work submitted with the bid is less than the percentage of participation goals set by the Department, the bidder shall, within three (3) business days from the bid openings, propose sufficient additional DBE participation to meet the goal or shall clearly demonstrate by documentation that good faith efforts were made to meet the goal.

1. Bidder' Responsibility.

It is the bidder's responsibility to determine the level of professional competence and financial responsibility of any proposed DBE subcontractor. The bidder shall ascertain that the proposed DBE subcontractor has suitable experience and equipment to perform a commercially useful function for work that is common industry practice in the Tennessee highway construction industry.

Contractor shall develop and maintain records of negotiations with DBEs to reach agreeable prices, quotations and work schedules, including but not limited to a record of dates when the Contractor first contacted each DBE.

2. Proposals With Established Project DBE Goals.

For proposals with established project goals, the bidder will be required to complete

computer generated Form 1247A. The bidder shall list the following information on Form 1247A that is submitted:

- a. All DBE firms being used or being considered for use as part of the bidder's DBE commitment. Only those DBEs listed may be utilized to meet the DBE goal.
- b. The type of work items on the contract for which the DBE will be used.
- c. The "Amount to DBE" which has been committed to each DBE firm which will be used on the contract.

The completed 1247A form shall be submitted within three (3) business days of the Letting. Failure to provide a completed form or a Good Faith Effort within three (3) business days of the Letting will cause the bid to be rejected as irregular. Only certified DBE firms may be used. Contractor may access this information on the DBE list by viewing the TDOT website or the certified DBE listing.

3. Bidder Selection and Good Faith Efforts

- a. Bidders shall submit proposals that meet the DBE goal or shall submit documentation clearly evidencing that they made good faith effort to meet the DBE goal. Contractors who meet or exceed the contract goal will be assumed to have made good faith efforts to utilize DBE firms. DBE firms who bid as prime contractors will be considered to have met the goal.
- b. The following are illustrative of factors which will be considered in judging whether the bidder has made adequate good faith efforts:
 - 1) Whether the bidder selected portions of the work likely to attract DBE participation. The total dollar value of the portions selected should meet or exceed the contract DBE goal. If it is necessary, the bidder should break down subcontracts into economically feasible units in order to facilitate participation.
 - 2) Whether the bidder provided notice to a reasonable number of specific DBEs that their participation in the contract is being solicited in sufficient time to allow them to participate effectively.
 - 3) Whether the bidder followed up initial solicitations of interest by contacting DBEs to determine with certainty if they were interested.
 - 4) Whether the bidder provided interested DBEs with adequate information about the plans, specifications and requirements of the contract.
 - 5) Whether the bidder attended any pre-bid meetings that were scheduled, at least in part, for the purpose of the Department informing DBEs of participation opportunities.
 - 6) Whether the bidder advertised in general circulation, trade association, or minority-focus media concerning participation opportunities.
 - 7) Whether the bidder contacted a variety of DBEs or only DBEs regularly used by bidder.
 - 8) Whether the bidder negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
 - 9) Whether the bidder made efforts to assist interested DBEs in obtaining bonding or insurance required by the bidder.

10) Whether the bidder effectively used the services of available minority community organizations, minority contractors groups, local, state or federal minority business assistance offices, or other organizations that provide assistance in the recruitment and placement of DBEs.

11) Whether the bidder submitted all quotations received from DBEs, and for those quotations not accepted, an explanation of why the DBE was not accepted including price comparisons. Receipt of a lower quotation from a non-DBE will not in itself excuse a bidder's failure to meet contract goal.

12) Whether the bidder has adequate records of its contacts and negotiations with DBEs

c) If the Contractor has not met the DBE goal or submitted documentation clearly evidencing good faith efforts within three (3) business days after the bid opening, the Contractor's bid will be considered non-responsive and the Department may consider the next lowest responsive bid for award.

d) Failure of the bidder to meet the DBE goal in its bid or failure to provide documentation clearly evidencing good faith efforts to meet the goal, may be cause for the forfeiture of the Proposal Guaranty which shall become the property of the Department, not as penalty, but in liquidation of damages sustained.

As soon as practical after award of the contract, the contractor shall submit copies of all binding subcontracts and purchase orders with DBEs to the Project Supervisor and the SBDP Director. No progress estimate shall be processed until this information is received.

4. Joint Checking Allowance for DBE

A DBE must receive pre-approval by the Department before using a joint check. Joint check requests shall be submitted, by the DBE, to the Department's SBDP prior to the contract agreement.

The following are some general conditions that must be met regarding joint check use:

- a. The second party (typically the prime contractor) acts solely as a guarantor.
- b. The DBE must release the check to the supplier.
- c. The use of joint checks must be a commonly recognized business practice in the industry.
- d. The DBE remains responsible for all other elements of 49 CFR 26.55(c)(1)
- e. The DBE is not required to use a specific supplier nor the prime contractor's negotiated unit price.
- f. The DBE shall submit receipt/copy of cancelled checks to the Department's Small Business Development program.

D. Construction Period Requirements.

1. After adequate notice by the Contractor, if any DBE is unable to perform work committed toward the goal, the DBE shall provide to the SBDO a signed statement saying why they are unable to complete the work. The Contractor shall document their efforts to have another DBE perform the item or to have a DBE perform other items to replace the original DBE commitment amounts. In the event the Contractor

is not able to find replacement DBE work, the Contractor must provide the SBDO documentation clearly evidencing good faith efforts. Any request for substitution of a DBE subcontractor shall be made to the Department and approved by the SBDO.

2. Brokering of work by DBEs is not allowed and is a contract violation. A DBE firm involved in brokering of work may have their certification removed or suspended.

Any firm involved in brokering of work that engages in willful falsification distortion, or misrepresentation with respect to any facts related to the project shall be referred to the U. S. Department of Transportation's Office of the Inspector General for prosecution under Title 18, U. S. Code, Section 100.20. Contractor shall place this provision in all subcontracts with DBEs.

3. A TDOT Project Supervisor/Inspector shall complete a DBE Questionnaire (CC-1) to document the first date of work, work items, equipment, and forces of each DBE. This information shall conform to the Project Diary and the Monthly Compliance Reports completed by the SBD Compliance Officers.

4. The Contractor shall provide monthly payment certification to the Department entitled "Prompt Payment Certification Form." The Department shall provide Contractor with the Prompt Payment Certification Form. An officer of the contractor shall sign the Prompt Payment Certification Form. TDOT will hold estimate payments if information is not submitted. Reasons for non payment to a DBE could include the following:

a) Whether the DBE is performing satisfactorily;

b) Whether Contractor has reason to believe the DBE is not performing a commercially useful function, and if so, why and what steps Contractor is taking to rectify the situation. In the event the Contractor promptly reports questions on the Prompt Payment Certification Form regarding whether a DBE is independent and performing a commercially useful function and takes appropriate steps promptly to address the issue, then the Department will take this effort into account when considering contractor compliance measures as described below.

E. Post Construction Requirements.

Prior to receiving final payment, the Contractor shall provide to the Engineer certification of the dollars paid to each DBE firm, using Form CC3, Certification Of DBE Accomplishment. The certification shall be dated and signed by a responsible officer of the contractor and by the DBE. Falsification of this certification will result in suspension of bidder qualifications. If the contract contained a DBE commitment, the Contract Compliance Officer with the SBDO will verify that the Contractor has attained the DBE commitment specified on Form CC3 or has provided documentation explaining a lesser amount. The final estimate will not be paid to the Contractor until proper certifications have been made.

F. Required Records.

The Prime Contractor and all subcontractors shall retain, for a period of not less than 3 years after final acceptance of a project, copies of canceled checks or other documentation that substantiates payments to DBE firms. These records shall be available at reasonable times and places for inspection by authorized representatives of the Department and Federal Agencies.

G. Contractor Compliance

1. It is the intent of this Special Provision to require the Contractor to take full responsibility for the performance of a commercially useful function by all DBE subcontractors, manufacturers and materials suppliers who work on the project and are counted by the Contractor toward the project DBE goal. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved (See 49 CFR Part 26).
2. If the Contractor fails to comply with this Special Provision 1247, which includes but is not limited to:
 - a) Failure to promptly notify the Department if a DBE subcontractor is not performing a commercially useful function and promptly remedy the DBE noncompliance; and/or
 - b) Failure to replace or to provide adequate documentation of good faith efforts to replace any DBE who is unable to perform, then the Commissioner, at his discretion, takes **one or a combination** of the following steps:
 - 1) Contractor shall have its entire management staff attend DBE training arranged by the Department and paid by Contractor;
 - 2) Contractor shall pay for training DBEs in topics selected by the Department;
 - 3) The next bid when Contractor is the low bidder on a DBE goal project that Contractor shall achieve a DBE participation that is twice the stated goals;
 - 4) Withhold from Contractor an amount not to exceed the amount of money originally committed to the non-complying DBE subcontractor as liquidated damages;
 - 5) Suspend the Contractor from participation in Department bid lettings for up to four (4) lettings;
 - 6) For repeated failures to comply with these specifications, debar the Contractor pursuant to rules promulgated by the Department;
 - 7) Invoke other remedy available by law and/or in the contract; and/or
 - 8) Invoke remedy agreed upon by the Commissioner and Contractor in writing.

H) DBE SUBCONTRACTOR COMPLIANCE.

All subcontracts with DBEs shall contain the following provision:

If the contractor complies with D(4) and the Department agrees that the subcontractor is not performing a commercially useful function as defined under 49 CFR Part 26, then Contractor is entitled to withhold from the DBE subcontractor a portion of any damages incurred by Contractor arising from the DBE's failure to perform a commercially useful function, including but not limited to amounts due the Department and additional costs incurred due to obtaining a replacement DBE subcontractor

Attachment 10 Agency Contact Listing
Agency Contact Listing

Name	Agency	Address_1	Address_2	City_St_Zip
President	Carson Newman University	1646 S. Russell Ave		Jefferson City, TN 37760
President	Walters State Community College	500 S. Davy Crockett Pkwy		Morristown, TN 37813
Director	Hamblen Co. Dept. of Education	210 E. Morris Blvd		Morristown, TN 37814
Director	Jefferson County Schools	114 Gay St	PO Box 190	Dandridge, TN 37725
Director	Social Security	3112 Millers Point Dr		Morristown, TN 37813
Director	Central Services	2450 Old Hwy 25E		Morristown, TN 37813
Director	Morristown-Hamblen Healthcare System	908 W. 4th North St		Morristown, TN 37814
Director	Jefferson County Chamber of Commerce	532 Patriot Dr		Jefferson City, TN 37760
Director	Jefferson County Chamber of Commerce	PO Box 890		Dandridge, TN 37725
Director	Morristown Area Chamber of Commerce	825 W. 1st North St		Morristown, Tn 37814
Director	Jefferson City Library	1336 N hwy 92		Jefferson City, TN 37760
Director	Morristown-Hamblen Library	417 W. Main St		Morristown, TN 37814
Director	White Pine Library	1708 Main St		White Pine, TN 37890
Director	MATS	324 N. Hill St		Morristown, TN 37814
Director	Healthstar Physicians	420 W. Morris Blvd		Morristown, TN 37813
Director	Hamblen County EMS	511 W. 2nd North St		Morristown, TN 37814

Name	Agency	Address_1	Address_2	City_St_Zip
Director	Hamblen County Health Dept.	331 W. Main St.		Morristown, TN 37814
Director	Veterans Service Center	511 W. 2nd North St		Morristown, TN 37814
Director	Hamblen County Human Services	2416 W. Andrew Johnson Hwy		Morristown, TN 37814
Director	TN Senior Benefits	2351 E. Morris Blvd		Morristown, TN 37813
Director	Childrens Services	1108 Gateway Service Park		Morristown, TN 37813
Director	Tennessee Technology Center	821 W. Louise Ave		Morristown, TN 37813
Director	Tennessee Community Assistance Corporation	740 E. Main St		Morristown, Tn 37814
Director	Jefferson County EMS	581 W Old AJ Hwy		New Market, TN 37820
Director	Jefferson County Health Dept.	931 Industrial Park Rd		Dandridge, TN 37725
Director	Jefferson City Senior Citizens Center	807 W. Jefferson St		Jefferson City, TN 37760
Director	Jefferson City Community Center	1247 N Hwy 92		Jefferson City, TN 37760
Director	Jefferson County Family Resource Center	341 W. Broadway		Jefferson City, TN 37760
Director	St. Mary's Hospital	110 Hospital Dr		Jefferson City, TN 37760
Director	Jefferson City Housing Authority	942 E. Ellis St		Jefferson City, Tn 37760
Director	Morristown Housing Authority	600 Sulphur Springs Rd		Morristown, TN 37813
Director	Morristown Senior Citizens Center	841 Lincoln Ave		Morristown, TN 37813

Name	Agency	Address_1	Address_2	City_St_Zip
Director	Douglas Cherokee Economic Authority	534 E. 1st North St		Morristown, Tn 37814
Mike Patterson	ETHRA	9111 Cross Park Dr, Suite D-100		Knoxville, TN 37923
Don Brown	RPO N and S East Tennessee District		P. O. Box 249	Alcoa, TN 37701
Director	ETDD		P. O. Box 249	Alcoa, TN 37701
Director	Human Services Dept.	Hwy 92		Dandridge, TN 37725
Director	Darby House	249 E. Broadway		Jefferson City, TN 37760
Director	Regency Retirement Village	739 E. 2nd North St		Morristown, TN 37814
Pamela Sharp	TDOT - Title VI Program	Region One	7345 Region Lane	Knoxville, TN 37914
Deborah Fleming	TDOT	James K Polk Bldg-Suite 900		Nashville, TN 37243
Director	TDOT	James K Polk Bldg- Suite 1800		Nashville, TN 37243
Bill Hayes	TDOT	James K Polk Bldg- Suite 1800		Nashville, TN 37243
Troy Ebbert	TDOT, OCT	Region One	7345 Region Lane	Knoxville, TN 37914
Michelle Christian	TDOT, OCT	Region One	7345 Region Lane	Knoxville, TN 37914
Tony Cox	City of Morristown	100 W. 1st North St		Morristown, TN 37814
John Johnson	City of Jefferson City	P.O. Box 530		Jefferson City, TN 37760-0530
Nathaniel Allsup	Town of White Pine	1548 Main St,	PO Box 66	White Pine, TN 37890-0066
Mike Conger	Knoxville TPO	400 Main St, Suite 403		Knoxville, TN 37902
Jeff Welch	Knoxville TPO	400 Main St, Suite 403		Knoxville, TN 37902
Jake Greear	Bike/ pedestrian enthusiast	2240 Sutherland Ave	Suit 2	Knoxville TN 37919

Name	Agency	Address_1	Address_2	City_St_Zip
Commander	Corps of Engineers, Memphis District	167 North Main Street		Memphis, TN 38002
Field Supervisor	US Fish and Wildlife Service	446 Neal Street		Cookeville, TN 38501
Regional Administrator	US EPA, Region 4		61 Forsyths Street	Atlanta, Georgia 30303
EPA Director	US EPA, Region 4		61 Forsyths Street	Atlanta, Georgia 30303
NEPA Coordinator	Regional NEPA Coordinator	Sam Nunn Atlanta Federal Center	61 Forsyth Street, SW	Atlanta, GA 30303-8960
Director	Tennessee Valley Authority	400 West Summit Hill Drive		Knoxville, TN 37902-1499
Ms. Pat Hooks, Regional Director	National Park Service	100 Alabama Street SW	1924 Building	Atlanta, GA 30303
Philip Campbell, Unit Manager	National Park Service	PO Box 429	208 N. Maiden Street	Wartburg, TN 37887
Superintendent	National Park Service	Big South Fork National Recreation Area	4564 Leatherwood Road	Oneida TN 37841
Superintendent	National Park Service	Stones River National Battlefield	3501 Old Nashville Hwy	Murfreesboro, TN 37129
Asst. Superintendent	National Park Service	Great Smoky Mountains National Park	107 Park Headquarters Road	Gatlinburg, TN 37738
Asst. Superintendent	National Park Service	Natchez Trace Parkway	2680 Natchez Trace Parkway	Tupelo, MS 38804
Regional Forester	USDA Forest Service	Region 8 (Southern Region)	1720 Peachtree Road NW	Atlanta, GA 30309
Director	USDA Forest Service	Cherokee National Forest	2800 N. Ocoee St	Cleveland, TN 37312
Director	USDA Forest Service	100 Van Morgan Drive		Golden Pond, KY 42211
Rear Admiral	US Coast Guard	Hale Boggs Federal Building	500 Poydras Street	New Orleans, LA 70130

Name	Agency	Address_1	Address_2	City_St_Zip
Bridge Administrator	US Coast Guard	1222 Spruce Street		St. Louis, MO 63103-2398
Manager	Tennessee Department of Environment and Conservation	711 RS Gass Blvd		Nashville, TN 37243
Deputy Commissioner	Tennessee Department of Environment and Conservation	711 RS Gass Blvd		Nashville, TN 37243
Director	USDA	420 W. Morris Blvd		Morristown, TN 37814
Director/ Planner	FHWA	404 BNA Dr, Bldg 200, Suite 508		Nashville, TN 37217
Andres Ramirez	FTA	230 Peachtree Street NW Suite 800		Atlanta, GA 30303
Carlos Gonzales/ Dee Foster	FTA, Civil Rights	230 Peachtree Street NW Suite 800		Atlanta, GA 30303
Susan Terpay	Norfolk-Southern Railroad	Three Commercial Place		Norfolk, VA 23510-9217
Senior Director	TDEC Environmental Field Offices	3711 Middlebrook Pike		Knoxville, TN 37921
Assistant Commissioner	TDEC Parks and Conservation Operations	711 RS Gass Blvd		Nashville, TN 37243
Executive Director	Tennessee Wildlife Resources Agency	Ellington Agricultural Center	440 Hogan Road	Nashville, TN 37204
Director	Tennessee Wildlife Resources Agency	3030 Wildlife Way		Morristown, TN 37814
Executive Director	Tennessee State Historic Preservation Office	Clover Bottom Mansion	2941 Lebanon Road	Nashville, TN 37243-0442
Senior Director	TDEC Air Resources	711 RS Gass Blvd		Nashville, TN 37243
Senior Director	TDEC Land Resources	711 RS Gass Blvd		Nashville, TN 37243
Senior Director	TDEC Water Resources	711 RS Gass Blvd		Nashville, TN 37243
President	TN NAACP	PO Box 14096		Knoxville, TN 37914
President	TN NAACP	PO Box 1878		Johnson City, TN 37601

Attachment 11 Public Participation

We published our goal information in these publications:

We received comments from these individuals or organizations:

Summaries of these comments are as follows:

Our responses to these comments are:

The Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) will be having public comment meetings concerning the Title VI program and the DBE Program and Goals. Information concerning these items can be obtained from Rich DesGroseilliers at 423-581-6277, or can be seen on the www.lamtpo.com website. The meeting dates are as follows:

The meeting dates are as follows:

1. Thursday February 24, 2022 at 9am to 10 am at the White Pine Town Hall, 1548 Main St., White Pine.
2. Thursday February 24, 2022 at 10:30 am to 11:30 am at the Jefferson City Municipal Building, 112 City Center Dr, Jefferson City.
3. Thursday, February 24, 2022 from 1 pm to 2 pm in the planning conference room, 100 W. 1st. North St., Morristown.

All interested parties are invited to attend the meeting. It is the policy of LAMTPO not to discriminate on the basis of race, color, national origin, age, sex, or disability in operation of its programs, services, and activities.

La Organización de Planificación de Transporte Metropolitano del Área de Lakeway (LAMTPO) tendrá reuniones de comentarios públicos sobre el programa título VI y el programa y objetivos de DBE. La información sobre estos artículos se puede obtener de Rich DesGroseilliers al 423-581-6277, o se puede ver en el sitio web de www.lamtpo.com. Las fechas de las reuniones son las siguientes:

Las fechas de las reuniones son las siguientes:

1. Jueves 24 de febrero de 2022 de 9am a 10 am en el Ayuntamiento de White Pine, 1548 Main St., White Pine.
2. Jueves 24 de febrero de 2022 de 10:30 am a 11:30 am en el Edificio Municipal de Jefferson City, 112 City Center Dr, Jefferson City.
3. Jueves, 24 de febrero de 2022 de 1 pm a 2 pm en la sala de conferencias de planificación, 100 W. 1st. North St., Morristown.

Todas las partes interesadas están invitadas a asistir a la reunión. Es política de LAMTPO no discriminar por motivos de raza, color, origen nacional, edad, sexo o discapacidad en la operación de sus programas, servicios y actividades.