

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

POLICY STATEMENT

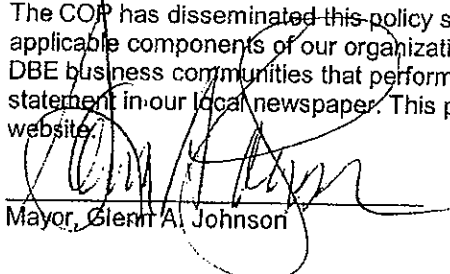
The City of Pullman (hereinafter referred to as "COP"), recipient of federal financial assistance from the U.S. Department of Transportation, Federal Transit Administration (hereinafter referred to as "FTA"), has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

It is the policy of the COP to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in FTA-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of 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.

The Public Works Director (hereinafter referred to as PWD) has been delegated as the DBE Liaison Officer. In that capacity, the PWD is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the COP in its financial assistance agreements with the Federal Transit Administration.

The COP has disseminated this policy statement to the City Council of the COP, and the applicable components of our organization. We will distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by publishing this statement in our local newspaper. This policy statement will also be posted on the COP's website.


Mayor, Glenn A. Johnson

10-22-09
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 COP 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

The terms used in this program have their meanings defined in 49 CFR 26.5, some of which are shown below:

Disadvantaged Business Enterprise (DBE) - A for profit small business concern: (a) of which at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. (*Note: individuals and firms are limited by the personal net worth threshold and business size caps.*)

Personal Net Worth - The net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include the individual's ownership interest in an applicant or participating DBE firm or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse. To ensure that only genuinely disadvantaged individuals participate, there is a \$750,000 personal net worth cap.

SBA – Small Business Administration

Set Aside – Means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Concern – Is defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations (13 CFR part 121) and does not exceed the cap on average annual gross receipts of \$16.6 million over a three fiscal year period.

Socially and Economically Disadvantaged – a citizen or lawfully admitted permanent resident of the United States who is a member of the following groups which are rebuttably presumed to be socially and economically disadvantaged (for detailed explanation of group membership see 49 CFR Part 26 para 26.5): Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, derived directly from SBA regulations (13 CFR part 124), and subject to size limits established in 49 CFR, Part 26, and applicable precedents. COP will make a rebuttable presumption that individuals in the above groups are socially and economically disadvantaged and may also determine on a case-by-case basis, through approval from the Washington State Office of Minority and Women's Business Enterprises, that individuals who are not members of the above groups are socially and economically disadvantaged.

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation to FTA as follows:

We will report DBE participation on a semi-annual basis, using the Uniform Report of DBE Commitments/Awards and Payments. These reports will reflect awards/commitments made and payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

The COP will create a bidders list, consisting of information about 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:

Prime bidders will be required to report prior to contract closeout, the following information on both themselves and all subcontractors:

1. Firm's address;
2. Firm's status as a DBE or non-DBE;
3. The age of the firm; and
4. The annual gross receipts of the firm.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

COP 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 FTA, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the COP of its failure to carry

out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13b

COP will ensure that the following clause is placed in every DOT-assisted contract and the Contractor will ensure that the following clause is placed in every contract with their subcontractors:

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.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the COP has received a grant of \$250,000 or more in FTA planning, capital, and or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from FTA financial assistance have been expended. We will provide to FTA 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:

1. Public Works Director (position currently held by Mark D. Workman, P.E.)
City of Pullman
325 SE Paradise St.
Pullman WA 99163
509-338-3222

In that capacity, the DBELO, through subordinate personnel, is responsible for implementing all aspects of the DBE program and ensuring that the COP complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Supervisor concerning DBE program matters.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FTA.
2. Reviews third party contracts and purchase requisitions for compliance with this program.

3. Oversees the Public Works Department's setting of overall annual goals.
4. Identifies contracts and procurements so that DBE goals are included in solicitations and monitors results.
5. Analyzes COP's progress toward attainment and identifies ways to improve progress if needed.
6. Work with other interested agencies, public and private, to further the outreach objectives of COP's DBE program.
7. Participates in pre-bid meetings for major or complex projects/procurements to explain DBE program and respond to questions.
8. Advises the city supervisor/city council as needed on DBE matters.
9. Review the updated DBE directory from the Washington State Office of Minority and Women Business Enterprises (OMWBE).

Section 26.27 DBE Financial Institutions

It is the policy of the COP 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 consider these institutions.

Section 26.29 Prompt Payment Mechanisms

The COP 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 thirty (30) days from the receipt of each payment the prime contract receives from COP. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed and they have submitted any required state L&I paperwork. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the COP. This clause applies to both DBE and non-DBE subcontracts.

It is the responsibility of the subcontractors to notify the COP DBE Liaison Officer of prime contractor noncompliance with the above prompt payment provisions. This requirement will be conveyed to the contractor and subcontractors attending the pre-construction meeting. Upon receipt of such notification, COP will investigate and take appropriate action.

Section 26.31 Directory

The COP will utilize the Directory of Certified Minority, Women and Disadvantaged Business Enterprises produced by the Washington State Office of Minority and Women's Business Enterprises (OMWBE), as long as the certifications are performed in accordance with 49 CFR part 26, as amended. This information is also available by addressing the OMWBE website at www.omwbe.wa.gov/certification_directory.shtml

Section 26.33 Overconcentration

COP has not identified any overconcentration of DBE firms. If COP becomes aware of an overconcentration of DBE's in certain business areas to the extent that small non-DBE businesses can no longer effectively participate in COP's contracting opportunities, the agency may take measures to reduce the effect of overconcentration.

Section 26.35 Business Development Programs

COP has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The COP 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.
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 having COP's project managers and representatives at job sites monitor on an ongoing basis that work committed to being performed by DBEs is actually performed by the DBEs named in a contractor's bid or proposal and by keeping a running tally of actual payments made to DBE firms per this part. A clause will be included in all contracts requiring that the contractor can not substitute subcontractors without COP's concurrence.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The COP will not use DBE quotas or set-asides in any way in the administration of this DBE program.

Section 26.45 Overall Goals

The purpose of the overall goal is to achieve a "level playing field" for ready, willing, and able DBEs seeking to participate in DOT-assisted contracts at the COP. A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment A** to this program. This section of the program will be updated annually.

In accordance with Section 26.45(f) the COP will submit its overall goal to FTA by August 1st of each year prior to the federal fiscal year of the goal (i.e. August 1, 2009 for the FFY 2010 goal). Before establishing the overall goal each year, COP will consult with known minority and contractor groups, and community organizations within Pullman, which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the COPs efforts to establish a level playing field for the participation of DBEs.

The general methodology to be followed is broken down into steps. Step 1A is to determine the total amount of DOT-assisted work that is expected to be done for the year calculated, and then determine the relative weight of each type of work (e.g. design, electrical, concrete, etc.). Step 1B is to determine the relative availability of each DBE by NAICS code. Typically, most contractors for Pullman contracts come from eastern Washington counties with the following as being the most populated and generally where contractors for city projects come from: Whitman, Spokane, Asotin, Benton, Franklin and Walla Walla, Therefore, those are the counties that are used to determine available DBEs based on NAICS code. Step 1C is to multiply the weight figure per type of work times the relative availability to come up with a weighted base figure. The individual

weighted base figure by type of work are then added up and rounded to the nearest percent to come up with a rounded, weighted base figure, which in turn becomes the city's annual goal.

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 Pullman Public Works, 325 SE Paradise St., Pullman, WA 99163, for 30 days following the date of the notice, and informing the public that COP and FTA will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 of each year. The notice will 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 FTA 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 FTA. 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.

Section 26.49 Transit Vehicle Manufacturers Goals

COP will not use DBE goals in contracts for rolling stock. Transit vehicle manufacturers (TVM) are required to develop and submit their own program to FTA. COP will require TVMs, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurement, to provide proof in their bid package that said program has been approved or not disapproved. Alternatively, COP may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

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

COP will meet the maximum feasible portion of its overall annual goal by using race-neutral means for facilitating DBE participation.

Section 26.51(d-g) Contract Goals

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

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

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

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 CFR Part 26.

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

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

Information to be submitted (26.53(b))

COP treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

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

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 15 days of being informed by COP that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Finance Director, 325 SE Paradise Street, Pullman, WA, 509-338-3206. 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 so. 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.

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

COP 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.

If the contractor fails or refuses to comply in the time specified, the Public Works Director may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the Public Works Director 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 City of Pullman to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment A), 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.

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

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

COP will use the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E 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.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The State of Washington, Office of Minority and Women's Business Enterprises (OMWBE) has a unified certification program. This agency conducts certifications, re-certifications and desertification. COP uses the directory of certified DBEs published by the OMWBE, which is updated on a regular basis. COP is becoming a participant in OMWBE's Unified Certification Program.

Section 26.87 Removal of a DBE's Eligibility

Cop shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe the challenged party is in fact not socially and economically disadvantaged. If COP determines that there is reason to believe the challenged party is not socially and economically disadvantaged, COP shall notify the Washington State Office of Minority and Women's Business Enterprises (OMWBE) who will have the authority to investigate and resolve the challenge in accordance with the certification requirements of 49 CFR Part 26 and as amended. COP shall notify the challenged party in writing that his/her status as a socially and economically individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to COP and OMWBE, within a reasonable time, rebutting information sufficient to warrant an investigation of social and/or economic disadvantage. COP shall actively participate with the OMWBE, if needed, until the investigation is concluded and a determination has been finalized. The OMWBE is responsible for decertification if a DBE no longer qualifies for the program under 49 CFR Part 26. During the period of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.

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:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Avenue, SE
Washington DC 20590

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).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

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. 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 COP or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform 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 states in the schedule of DBE participation.

ATTACHMENTS

Attachment A	Overall Goal Calculation
Attachment B	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment C	Form 1 & 2 for Demonstration of Good Faith Efforts

Attachment A

Section 26.45: Overall Goal Calculation

Amount of Goal

1. COP's overall goal for FY 2010 is the following: 1.4% of the Federal Financial assistance we will expend in DOT-assisted contracts exclusive of FTA funds to be used for the purchase of transit vehicles.
2. \$500,000 is the dollar amount of DOT-assisted contracts that COP expects to award during FFY2010. This means that COP has set a goal of expending \$7,000 with DBEs during this fiscal year/project.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

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

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

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

Washington State Office of Minority, Women and Disadvantaged Business Enterprises (OMWBE) Directory and Certified Firms located at: http://www.omwbe.wa.gov/biznetwas/srch_firm.asp. COP counted only firms involved in building construction contracting and sorted them by Standard Industrial Classification (SIC) Code. COP, from past experience, made an assumption that typically contractors that work on COP projects were located in Whitman, Spokane, Asotin, Benton, Franklin and Walla Walla counties, therefore the number of DBE firms available was derived from those counties. For professional services, COP, looked at the entire state of Washington.

We converted SIC codes to NAICS codes using: <http://naicscode.com>

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

The number of total firms in the State of WA was determined by using:
<http://www.workforceexplorer.com>

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number is shown in the Table below:

FY 2011 - FY 2013
DBE Goal Calc

Step 1 - Determine the weight of each type of work by NAICS Code:

* Enter all the FTA-assisted projects below. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	541310	Architectural Design	100,000	0.1026
	236210	Commercial Bldg Construction	\$425,000.00	0.4359
2)		General Contractor		
3)	238220	Plumb/HVAC	\$50,000.00	0.0513
4)	238210	Electrical	\$100,000.00	0.1026
5)	238110	Concrete	\$50,000.00	0.0513
6)	332311	Prefabricated Metal Building	\$250,000.00	0.2564
7)				0.0000
8)				0.0000
9)				0.0000
10)				0.0000
Total FTA-Assisted Contract Funds			\$975,000.00	1

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	541310	Architectural Design	22	604	0.0364
	236210	Commercial Bldg Construction	1	145	0.0070
2)		General Contractor			
3)	238220	Plumb/HVAC	0	115	0.0000
4)	238210	Electrical	1	227	0.0044
5)	238110	Concrete	2	101	0.0198
6)	332311	Prefabricated Metal Building	0	17	0.0000
7)	0	0			
8)	0	0			
9)	0	0			
10)	0	0			
Combined Totals			26	1407	0.0185
					Overall availability of DBEs

Step 3 - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	541310	Architectural Design	0.10256	x	0.03642	0.0037
2)	236210	Commercial Bldg Const	0.43590	x	0.00699	0.0030
3)	238220	Plumb/HVAC	0.05128	x	0.00000	
4)	238210	Electrical	0.10256	x	0.00441	0.0005
5)	238110	Concrete	0.05128	x	0.01980	0.0010
6)	332311	Prefabricated Metal Bu	0.25641	x	0.00000	
7)	0	0	0.00000	x	0.00000	
8)	0	0	0.00000	x	0.00000	
9)	0	0	0.00000	x	0.00000	
10)	0	0	0.00000	x	0.00000	
Total						0.0083
Expressed as a % (*100)						0.83%
Rounded, Weighted Base Figure:						1%

Step 2: 26.45(d)

After the base goal has been established, we will examine any other available data and adjust the goal, if needed.

Attachment B

Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation

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

- A. Send Notice Inviting Bids to Urban League of Metropolitan Seattle's Contract Development and Competitiveness Center.
- B. Send Notice Inviting Bids to contractor associations, plans centers and DBEs with capabilities relevant to the contract.

We estimate that, in meeting our overall goal of 1.4%, we will obtain 100% from race-neutral participation.

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

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

Attachment C

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents. Form not required for 100% race neutral participation.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

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.)