



Administrative Services Committee Commission Chamber- 3/12/2012- 1:05 PM
Meeting

ADMINISTRATIVE SERVICES

1. Approve an update of Augusta, Georgia's DBE Program for ☐ [Attachments](#)
federally assisted contracts in order to comply with the
Department of Transportation's program and update of the DBE
rules. 49 CFR Part 23.

2. Discuss approval to hire three (3) temporary employees to ☐ [Attachments](#)
handle relocation activities for Hyde Park residents, and transfer
½ salary and benefits of HCD Housing Manager to Hyde Park
budget (this person will supervise relocation employees).

www.augustaga.gov



**Administrative Services Committee Meeting
3/12/2012 1:05 PM
DBE Program**

Department: Law

Caption: Approve an update of Augusta, Georgia's DBE Program for federally assisted contracts in order to comply with the Department of Transportation's program and update of the DBE rules. 49 CFR Part 23.

Background: None

Analysis: None

Financial Impact: None

Alternatives: Deny the Motion to Amend.

Recommendation: Approve the Motion to Amend.

**Funds are Available
in the Following
Accounts:** None

REVIEWED AND APPROVED BY:

**Finance.
Law.
Administrator.
Clerk of Commission**

SAMPLE DBE PROGRAM

POLICY STATEMENT

Sec. 1-10-112. Objectives/Policy statement (49 CFR Part 26.1 – 26.23).

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

Augusta, Georgia is committed to ensuring that all DBE requirements of Federal and state funded contracts will be implemented by Augusta, Georgia. The Director of minority and small business opportunities shall serve as the DBE Liaison Officer and is responsible for accomplishing the objectives of this program.

It is the policy of Augusta, Georgia to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also Augusta, Georgia's policy to:

- (a) To ensure nondiscrimination in the award and administration of DOT and other contracts covered by this program;
- (b) To create a level playing field on which DBEs can compete fairly for DOT and other contracts covered by this program;
- (c) To ensure that the this DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT and other contracts covered by this program;
- (f) To assist in the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (g) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Yvonne Gentry is currently acting as the DBE Liaison Officer. In that capacity, Ms. Gentry is responsible for implementing all aspects of the DBE Program. Ms. Gentry can be reached at 530 Greene Street, Suite 305, Augusta, Georgia 30901, by phone at (706) 821-2406, or via email at ygentry@augustaga.gov. Implementation of the DBE Program is accorded the same priority as

compliance with all other legal obligations incurred by Augusta, Georgia in its financial assistance agreements with the Department of Transportation.

Augusta, Georgia has disseminated this policy statement to the Board of Commissioners and all of the components of its organization. It has distributed this statement to DBE and non-DBE business communities that perform work for Augusta, Georgia on DOT assisted contracts, and has implemented the DBE Program with the same priority with which it complies with other legal obligations imposed by DOT. Augusta, Georgia has communicated with DBE and non-DBE businesses via its website to let them know that a copy of this document is available for viewing. Additionally, this document is available to anyone at the DBE Program office located at 530 Greene Street, Suite 305, Augusta, Georgia 30901 during normal business hours of 8:30am - 5:00pm.

[Signature of Recipients Chief Executive Officer]

Date

SUBPART A – GENERAL REQUIREMENTS

Sec. 1-10-113. Objectives (49 CFR Part 26.1).

The objectives are found in the Policy Statement on page one, hereinabove.

Sec. 1-10-114. Applicability (49 CFR Part 26.3).

The purpose of this Disadvantaged Business Enterprises program is to comply with U.S. Department of Transportation (DOT) and other federal and state mandated DBE requirements for certain DOT and other federal and state assisted contracts as required by 49 C.F.R. Part 26, *et. seq.* and/or 49 C.F.R. Part 23, *et. seq.*

Sec. 1-10-115. Definitions (49 CFR Part 26.5).

(a) *Generally.* The other definitions set forth in this Chapter shall also apply to this Article, except as provided in this section.

(b) *Specifically.*

- (1) Department of Transportation (DOT) means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) and the Federal Aviation Administration (FAA).
- (2) Airport Concessionaire Disadvantaged Business Enterprises (ACDBEs) means a concession that is a for-profit small business concern that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more such individual; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (3) Disadvantaged Business Enterprise (DBE) means a for-profit small business concern that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged, or in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (4) DOT assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letter of credit or loan guarantees, except a contract solely for the purchase of land.
- (5) Good faith efforts means efforts to achieve a DBE goal or other requirement which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Sec. 1-10-116 Limitations.

This DBE program is only for DOT assisted contracts and other federal or state funded contracts having mandatory DBE requirements. All DOT funded projects are subject to the requirements of 49 CFR Part 26. These requirements are mandatory and non-negotiable. Augusta enforces DBE requirements and/or DBE goals set by Federal and/or State Agencies in accordance with State and Federal laws. The U.S. District Court for the Southern District of Georgia has entered an Order enjoining the Race-Based portion of Augusta, Georgia's DBE Program. (A copy of this Order may be obtained at:

<http://www.augustaga.gov/index.aspx?NID=1448>). Thus, Augusta, Georgia does not have or operate a Disadvantaged Business Enterprise (DBE), Minority Business Enterprise (MBE) or Women owned Business Enterprise (WBE) program for projects (or portions of projects) having Augusta, Georgia as the source of funding.

Sec.1-10-117. Non-discrimination Requirements (49 CFR Part 26.7).

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

In administering the DBE program, Augusta, Georgia 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.

Sec. 1-10-118. Record Keeping Requirements (49 CFR Part 26.11).

Reporting to DOT: 26.11(b)

Augusta, Georgia will submit the Uniform Report of DBE Awards or Commitments and Payment Form, as modified, for use by DOT recipients on an annual basis.

Bidders List: 26.11(c)

The DBE Liaison Officer will maintain a bidder's list, consisting of information about all DBE and non-DBE firms that bid or quote on federally assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder's list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms and the types of work each firm has been certified to perform as a DBE. The DBE Liaison Officer shall revise the bidder's list at least annually and make updated information available to contractors and the public.

The DBE Liaison Officer may collect this information in the following ways:

Including a contract clause in all DOT assisted contracts, and other contracts covered by this program, requiring prime bidders to report the name, address, DBE/non-DBE status and gross receipts of all firms who quote to them on subcontracts.

Submitting surveys of a statistically sound sample of firms in the Augusta, Georgia regional area.

Including a notice in solicitations and on the Augusta, Georgia website requesting that firms quoting on subcontracts submit their name, address, DBE/non-DBE status and gross receipts directly to the DBE Liaison Officer.

Sec. 1-10-119. Federal Financial Assistance Agreement (49 CFR Part 26.13).

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

(a) Assurance: **49 CFR Part 26.13(a)**

Augusta, Georgia shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract of 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 Augusta, Georgia of its failure to carry out its approved program, the Department may impose sanction as provided for under 49 CFR 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.*).

(b) Contract Assurance: **49 CFR Part 26.13(b)**

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

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

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Sec. 1-10-120. DBE Program Updates (49 CFR Part 26.21).

Since Augusta, Georgia has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, Augusta, Georgia will continue to carry out this program until all funds from DOT financial assistance have been expended. Augusta, Georgia will provide to DOT updates representing significant changes in the program.

Sec. 1-10-121. Policy Statement (49 CFR Part 26.23).

The Policy Statement is located on page one, hereinabove.

Sec. 1-10-122. DBE Liaison Officer (DBELO) (49CFR Part 26.25).

The Chief Executive Officer concerning DBE Program matters for Augusta, Georgia shall be the Mayor of Augusta, Georgia. Augusta shall have a DBE Liaison Officer who shall have direct, independent access to the Mayor concerning DBE Program matters. The DBE Liaison Officer shall have the following duties and responsibilities:

- (a) Gathering and reporting statistical data and other information as required by DOT and other contracts covered by this program.
- (a) Reviewing third party contracts and purchase requisitions for compliance with this program.
- (b) Working with all departments to set overall annual goals or as required by federal law.
- (c) Ensuring that bid notices and requests for proposals are available to DBEs in a timely manner.
- (d) Identifying contracts and procurements so that DBE goals are included in solicitations covered by this DBE Program.
- (e) Analyzing Augusta, Georgia's progress toward attainment and identifying ways to improve progress.
- (f) Participating in pre-bid meetings.
- (g) Advising the Commission on DBE matters and achievement.
- (h) Providing DBEs with information and assistance in preparing bids, obtaining bonding and insurance.

- (i) Planning and participating in DBE training seminars.
- (j) Certifying DBEs according to the criteria set by 49 C.F.R. Part 26, *et. seq.*, 49 C.F.R. Part 23, *et. seq.* and other applicable law.
- (k) Providing outreach to DBEs and community organizations to advise them of opportunities.
- (l) Maintaining the DBE bidder's list for DOT and other contracts covered by this program.
- (m) Ensuring that all aspects of this DBE Program are complied with by participants and using agencies.

Sec. 1-10-123. DBE Financial Institutions. (49 CFR Part 26.27).

For projects containing federal or state mandated DBE requirements, Augusta, Georgia must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in Augusta, Georgia and must make reasonable efforts to use these institutions and encourage prime contractors to use these institutions.

Sec. 1-10-124. Prompt Payment Mechanisms (49 CFR Part 26.29).

- (a) For projects containing federal or state mandated DBE requirements, Augusta, Georgia will include a contract clause requiring prime contractors to pay subcontractors for satisfactory performance for their contracts no later than thirty (30) days from receipt of each payment made by Augusta, Georgia to the prime contractor.
- (b) Augusta, Georgia will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed by using one or more of the following methods:
 - (1) Declining to hold retainage from prime contractors and prohibiting prime contractors from holding retainage from subcontractors.
 - (2) Declining to hold retainage from prime contractors and requiring a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed.
 - (3) Holding retainage from prime contractors and providing for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory

completion of the accepted work within thirty (30) days after Augusta, Georgia's payment to the prime contractor.

- (4) Requiring a contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.
 - (5) Requiring a contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
- (c) Augusta, Georgia shall have the power and authority to enforce all of the provisions of this subsection and may implement suspension and debarment for non-compliance as provided in Chapter 10 of the AUGUSTA, GEORGIA CODE.

Sec. 1-10-125. Directory. (49 CFR 26.31).

Augusta, Georgia through its participation in the state of Georgia's UCP, has access to a directory identifying all firms eligible to participate as DBE's. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory is updated at least monthly. Georgia Department of Transportation makes available via website the directory at:

http://tomcat2.dot.state.ga.us/ContractsAdministration/uploads/01201LetDBE_Directory_CA_New.pdf.

Sec. 1-10-126. Overconcentration. (49 CFR 26.33).

- (a) The DBE Liaison Officer shall annually review the availability of DBE and non-DBE firms in the different types of work which Augusta, Georgia utilizes and make a preliminary determination as to whether DBE firms may be so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in one or more types of work. Any preliminary determination by the DBE Liaison Officer shall be submitted to the concerned DOT operating administration for a final determination of overconcentration.
- (b) Subject to approval required in subsection (c) below, when an overconcentration of DBE firms in a certain type of work is determined to exist, the DBE Liaison Officer may provide: technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which there is an overconcentration of DBE firms.
- (c) Before implementing any of the measures provided in subsection (b) above, the DBE Liaison Officer shall obtain the approval of the concerned DOT operating administration.

Sec. 1-10-127. Compliance with DBE Program requirements.

- (a) All prime contractors and subcontractors choosing to participate in a project subject to this DBE Program must comply with all parts of this program as well as all federal, state and local law applicable to such projects.
- (b) The DBE Liaison Officer shall, for every project subject to this DBE Program, keep and maintain a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In reports of DBE participation to the Department, the DBE Liaison Officer shall display both commitments and attainments.
- (c) Augusta, Georgia shall not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any solicitation, bid or contract on the basis of race, color, sex, or national origin.
- (d) The DBE Liaison Officer is responsible for submitting DOT form 4630 on a quarterly basis and otherwise complying with the requirements of 49 C.F.R. Part 26 or 49 C.F.R. Part 23.

Sec. 1-10-128. Business Development Programs. (49 CFR 26.35)

Augusta, Georgia has not established a business development program.

Sec. 1-10-129. Monitoring and Enforcement Mechanisms. (49 CFR 26.37).

All bidders are hereby notified that failure to carry out the obligations of this DBE Program will constitute a breach of good faith in dealing with Augusta, Georgia, and that Augusta, Georgia will take any and all actions permitted by law to ensure compliance by all contractors engaged by it.

- (a) Augusta, Georgia will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the DBE program, so that Department of Transportation can take appropriate action as provided in 49 CFR Part 26, *et. seq.*
- (b) Augusta, Georgia will consider similar action to the extent permitted by applicable law, including responsibility determinations in future contracts and solicitations. The DBE Liaison Officer will make prompt compliance determinations regarding this DBE Program. Documentation of non-compliance will include the specific areas in which the contractor failed to comply. In these instances, appropriate action, consistent with DBE Program and contract provision will be taken.
- (c) Augusta, Georgia 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 written certification in conjunction with monitoring of contract performance (i.e., DBE pay application and certification). Augusta, Georgia will keep a running tally of actual payments to DBE's.

Sec. 1-10-130. Small Business Participation. (49 CFR Part 26.39).

Augusta, Georgia hereby implements a small business element into its current DBE policy in accordance with 49 CFR Part 26.39. Augusta, Georgia is including this element to facilitate competition by and expand opportunities for small businesses. Augusta, Georgia is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. Augusta, Georgia will meet its objectives using a combination of its Local Small Business Opportunity Program as well as the following methods and strategies:

- (a) Unbundling: Augusta, Georgia, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. Augusta, Georgia will conduct contract reviews on each DOT- assisted contract to determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific types of work and will consider any economic or administrative burdens which may be associated with unbundling.
- (b) Outreach and technical assistance: Augusta, Georgia sponsors and participates in outreach and training opportunities for small businesses through various outreach sessions conducted by local municipalities and non-profit agencies which are designed to introduce small businesses to the procurement processes and practices of the local government. Additionally, Augusta, Georgia advertises contracting opportunities through various outlets including local newspapers, local publications and trade magazines as well as on its website.

(1) Definitions

For the purposes of this section, Augusta, Georgia adopts the definitions specified in Section 3 of the Small Business Act and the Small Business Administration (SBA) regulations implementing it (13 CFR Part 121).

- (2) For the purposes of the small business element of Augusta Georgia's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE participation on DOT-assisted contracts.

(c) Certification and Verification Procedures

Augusta, Georgia will accept the following certifications for participation in the small business element of Augusta, Georgia's DBE Program:

- (1) Georgia Department of Transportation DBE Certification in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by Georgia Department of Transportation.
- (2) Small Business Enterprise (SBE) Certification with submission of three years of business tax returns.
- (3) Georgia Department of Administration HUB Certification with submission of three years of business tax returns.
- (4) SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) with submission of three years of business tax returns.

(d) Implementation Schedule

Augusta, Georgia will implement the Small Business Participation portion of this DBE Program within three months of DOT's approval of this element.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

A. Sec. 1-10-131. Set-asides or Quotas. (49 CFR Part 26.43)

Augusta, Georgia does not use quotas in any way in the administration of its DBE Program. Unless otherwise authorized by law, Augusta, Georgia will not use race or gender-conscious set-aside contracts for DBEs on DOT-assisted contracts and other contracts covered by this program. Augusta, Georgia may implement race and gender neutral set asides to facilitate the participation of Small Business Enterprises on federally assisted contracts covered by this program.

B. Sec. 1-10-132. Set-asides or Quotas. (49 CFR Part 26.45)

In accordance with 49 CFR 26.45(f) Augusta, Georgia will submit its overall goal to DOT on August 1 of each year. A description of the methodology used to calculate the overall goal and the most recent goal calculations can be found in Attachment 2, attached hereto and incorporated herein by reference. Before establishing the overall goal, Augusta, Georgia will consult with the members of the DBE and non-DBE business community, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and its efforts to establish a level playing field for the participation opportunities for DBEs.

Following any such consultation, Augusta, Georgia 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 the DBE Office for thirty (30) days following the date of the notice, and informing the public that the Augusta, Georgia and DOT will accept comments on the goals for forty-five (45) days from the date of the notice. Augusta, Georgia's overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses. Augusta, Georgia will begin using Augusta's overall goal on October 1 of each year, unless we have received other instructions from DOT and/or applicable law. If Augusta, Georgia establishes a goal for a DOT assisted contract on an individual project basis, it will apply that goal to the project.

C. Sec. 1-10-133. Transit Vehicle Manufacturers Goals. (49 CFR Part Section 26.49)

Augusta, Georgia 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, Augusta, Georgia 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 transit vehicle manufacturer complying with this element of the program.

D. Sec. 1-10-134. Contract Goals. (49 CFR Part 26.51(d-g))

Augusta, Georgia will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means. Augusta, Georgia will establish contract goals only on DOT assisted contracts that have subcontracting possibilities. Augusta, Georgia may not establish a goal on every such contract, and the size of any contract goals will be adapted to the scope and type of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

Individual contract goals will be established on a contract-by-contract basis by the DBE Liaison in conjunction with other staff. Contract goals will be determined by considering the total dollar value of potential subcontract awards to DBEs, the total estimated dollar value of the prime contract, the scope of work to be accomplished, the availability of certified DBEs to perform necessary work, and past experience on similar contracts.

E. Sec. 1-10-135. Good Faith Efforts Procedures. (49 CFR Part 26.53(a-f))

Demonstration of good faith efforts (CFR Part 26.53(a) & (c))

The obligation of the bidder is to make good faith efforts to meet the applicable DBE participation goal(s). The bidder can demonstrate that it has done so either by meeting the contract goal or documenting its good faith efforts.

All bidders will be required to agree, by the submission of a bid for work on a project for which a contract is to be awarded by the Commission, to ensure that they will not discriminate against DBEs in assembling bid responses, and that where there are contract goals, that they will either present a bid that meets the goals, or provide documentation of the good faith efforts made to meet the goals. Failure to make good faith efforts and to adequately document such efforts to Augusta, Georgia will be grounds for disqualifying a bid as non-responsive, pending the outcome of the administrative reconsideration process.

Bidders shall not discriminate on the basis of race, color, national origin or gender in the award and performance of contracts. Augusta, Georgia will ensure that all information is complete, accurate and adequately documents the bidder's good faith efforts before it commits to the award of the contract.

Information to be submitted (CFR Part 26.53(b))

Augusta, Georgia will treat a bidder's compliance with good faith efforts requirements as a matter of bid responsiveness. All DBE participation and good faith efforts must be identified during the bidding process. Any increase in DBE Participation which occurs after the bidding process will not be considered in determining the bidder's achievement of the verifiable goal or its good faith effort to achieve the goal. The DBE Liaison in collaboration with other staff shall make the initial determination as to whether or not a bidder has made sufficient good faith efforts. In making this determination, the DBE Liaison will only consider documentation provided during the bidding process.

Each solicitation for which a contract goal has been established will require the bidders 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;

4. Written and signed documentation of a commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. Evidence of good faith efforts if the contract goal is not met.

The following criteria will be considered and will be addressed point by point in assessing the bidder's good faith efforts submission:

1. Whether the bidder attended any pre-solicitation or pre-bid meetings that were scheduled by Augusta, Georgia to inform DBEs of contracting and subcontracting opportunities and informed DBEs of contracting and subcontracting opportunities;
2. Whether the bidder advertised in general circulation, trade association, and minority-focused media concerning subcontracting opportunities;
3. Whether the bidder provided timely written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited; such notice shall include sufficient information about the project and work to be subcontracted to allow the DBE to make an informed response;
4. Whether the bidder followed up initial solicitations of interest by personal or telephone contact to DBEs to determine with certainty whether or not the DBEs were interested;
5. Whether the bidder selected portions of the work to be performed by DBEs in order to increase the likelihood of DBE participation (including, where, appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
6. Whether the bidder provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
7. 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;
8. Whether the bidder made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by Augusta, Georgia or the bidder;
9. Whether the bidder effectively used the services of available minority community organizations; minority bidders' groups; local, state, and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and replacement of DBEs; and
10. The bidder's record for subcontracting with DBEs on prior contracts, as well as, its utilization in its bid of subcontractors and suppliers who would qualify as DBEs.

Sec. 1-10-136. Administrative reconsideration (CFR Part 26.53(d))

Within three (3) days of being informed by Augusta, Georgia that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative

reconsideration. Bidder should make this request in writing to the following Reconsideration Official:

Fred Russell

Administrator

530 Greene Street

Room 801

Augusta, Georgia

(706) 821-2400

The Reconsideration Official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts. As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with the Reconsideration Official to discuss whether it met the goal or made adequate good faith efforts to do. The Reconsideration Official will send the bidder a written decision on the reconsideration, explaining the basis for the decision. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Sec. 1-10-137. Good faith efforts when a DBE is replaced (CFR Part 26.53(f))

Augusta, Georgia will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor must notify the DBE Liaison immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor must obtain Augusta, Georgia's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, Augusta, Georgia may stop all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, Augusta, Georgia may terminate for default.

F. Sec. 1-10-138. Counting DBE Participation (49 CFR Part 26.55)

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

SUBPART D – CERTIFICATION STANDARDS

Sec. 1-10-139. Unified Certification Program and Certification Process. (49 CFR Part 26.61-26.83).

Augusta, Georgia is a member of a Unified Certification Program (UCP) administered by the Georgia Department of Transportation. The UCP must meet all of the requirements of this section.

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

Georgia Department of Transportation
No. 2 Capital Square, N.W.
Atlanta, Georgia 30334-1002
Phone: (404) 656-5323 Fax: (404) 656-5509

Unified Certification Program (UCP)

Augusta, Georgia is a member of a Unified Certification Program (UCP) administered by Georgia Department of Transportation (GDOT). GDOT in collaboration with Metropolitan Atlanta Rapid Transit Commission (MARTA) are the only agencies within the state which certifies DBE firms. GDOT may certify any firm doing business in the state of Georgia with the exception of any firm whose primary line of work falls under the concessionaire category. Firms whose primary place of business is outside the State of Georgia can be certified provided that the firm has previously obtained DBE certification from its home state UCP.

Sec. 1-10-140 Certification Appeals. (49 CFR Part 26.89).

Any firm or complainant may appeal GDOT's certification decision to the US 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) 366-4754 Fax: (202) 366-5575

SUBPART F – COMPLIANCE AND ENFORCEMENT

Sec. 1-10-141. Information, Confidentiality, Cooperation. (49 CFR 26.109).

Augusta, Georgia will safeguard from disclosure to third parties, information that meets the requirements of confidential business information, as established by applicable Federal, state, and local law. Notwithstanding any contrary provision of state or local law, financial information which is submitted by an applicant for DBE certification will be kept confidential by Augusta, Georgia and will not be released to any third party except upon written consent by the party whom the information pertains; or to transmit information to DOT in the event of an appeal. In accordance with applicable provisions of Federal, state or local law, Augusta, Georgia 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

Augusta, Georgia 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 Augusta, Georgia or DOT. This reporting requirement will also extend to any certified DBE subcontractor.

Augusta, Georgia will monitor contract payments to DBEs. Augusta, Georgia 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.

ATTACHMENTS

Attachment 1

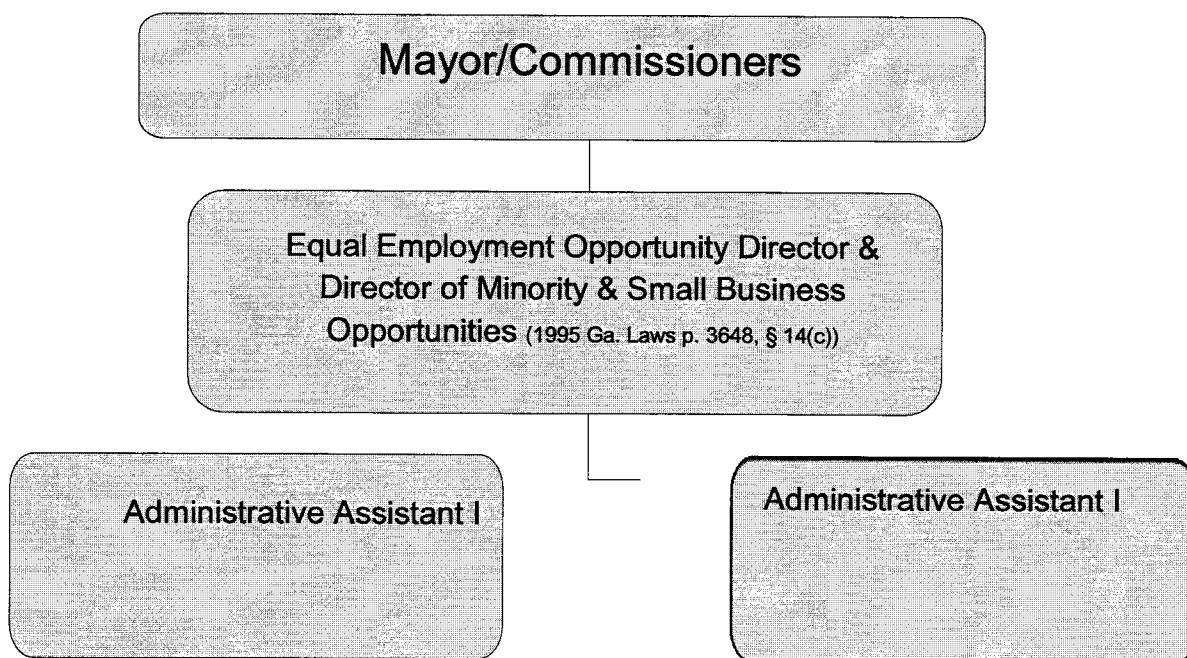
Organizational Chart

Attachment 2

Overall Goal Calculation

Attachment 1

Organizational Chart for Augusta, Georgia
(For DBE Program Matters)



Attachment 2

Section 26.45: Overall Goal Calculation

Amount of Goal

This report details the methodology used for establishing the three year (FY 2012-2014) Overall Disadvantaged Business Enterprise (DBE) Goal for Augusta, Georgia federally assisted contracts.

Augusta, Georgia has completed its DBE goal setting process for all construction and professional services projects anticipated for the next three fiscal years (FY 2012-2014). Pursuant to 49 CFR Part 26, the three year (FY 2012-2014) goal is based on the Augusta, Georgia's assessment of the availability of ready, willing and able DBEs in the local market area relative to all businesses (DBE and Non-DBE) in the local market area.

Augusta, Georgia is required to review its DBE goal achievement annually even though the US Department of Transportation recently changed its required reporting frequency from annually to once every three years. Augusta, Georgia's annual review determines whether or not the stated DBE goal is currently being met. If not, an adjustment may be necessary due to unanticipated conditions impacting the DBE goal's attainment.

Methodology used to Calculate Overall Goal

49 CFR 26.45 requires that the recipient of Department of Transportation (DOT) funds utilize a two-step process in the development of its overall DBE goal:

Step 1: Calculation of a base figure that represents the availability of DBEs ready, willing, and able to work on Augusta, Georgia contracts.

Step 2: Adjustment of the base figure so that the final overall goal represents the amount of participation Augusta, Georgia might expect in the absence of discrimination or its effects.

Based on this methodology, Augusta Georgia's Overall Goal for the next three fiscal years (FY 2012-2014) is for 4.83% of its Federal financial assistance to be expended in FTA - assisted contracts. Augusta, Georgia anticipates awarding these contracts between October 1, 2011 and September 30, 2014.

Step 1: Calculation of Base Figure

Determining a base figure for the Augusta, Georgia's three year goal, per 49 CFR 26.45(c) depends upon the relative availability of DBEs within the market area to perform work on Augusta, Georgia's Capital Improvement Program (CIP) Projects. A listing of Augusta, Georgia's CIP Projects for the next three fiscal years is shown in Table 1.

Augusta, Georgia's relevant market area includes Augusta Richmond County and surrounding counties.

The base figure for the relative availability of DBEs in Augusta, Georgia's relevant market area was calculated as follows:

Ready, willing, and able DBEs (construction and professional services);

Divided By

All firms ready, willing and able (construction and professional services).

The demonstrable evidence used to determine the numerator, as detailed in Table 2 is the Georgia Unified Certification Program (GUCP) DBE Directory.

The demonstrable evidence used to determine the denominator, as detailed in Table 2 is the Richmond County general vendor list, U.S. Census Bureau.

A list outlining the required types of services for the above stated projects and the related NAICS Codes is also included in Table 2.

TABLE 1
Augusta, Georgia's
3-Year (FY 2012-2014) Proposed Capital Improvement Program (CIP) Projects

Project Descriptions
1. Bus Shelters/Benches
2. South Augusta Transfer Facility
3. Administration and Maintenance Building
4. Downtown Transfer Facility

Source: Augusta, Georgia's Transportation Improvement Program

TABLE 2
Ready, Willing and Able DBEs and
All Firms in Market Area for FY 2012-2014 CIP Projects

NAICS CODE	DEFINITION	NUMBER OF DBE FIRMS IN THE MARKET AREA (numerator)	NUMBER OF TOTAL FIRMS IN THE MARKET AREA (denominator)
236220	Commercial Construction	31	1212
237310	Highway, Street, & Bridge Construction	44	131
237990	Civil Engineering Construction	9	95
238210	Electrical Contractors	26	122
238110	Concrete Foundation & Structure Contractors	16	316
238910	Site Preparation and Demolition	18	475
541320	Construction Planning	10	244
484110	Trucking Services	132	279
541330	Engineering Services	73	269
541990	Inspection Services	20	231
541360	Surveying and Mapping Services	5	161
541380	Testing Laboratories	9	62
541490	Pavement Design	5	142
562998	Excavation	5	568
541620	Environmental Consulting	31	89
541611	Administrative & General Construction Mgmt.	34	945
541614	Construction Scheduling	8	231
541690	Scientific & Technical Consulting Services	18	62
	TOTALS	273	3004

Augusta, Georgia determined the base figure as follows:

The total number of DBE firms in the market area that are “ready, willing, and able” to perform the required work in the applicable NAICS Codes for Augusta, Georgia’s CIP Projects for FY 2012-2014 is **509**.

The total number of all DBE and non-DBE firms in the market area that are “ready, willing, and able” to perform the required work, is **3,004** firms. Thus:

$$\text{DBE firms} \div (\text{DBE} + \text{non-DBE firms}) = \text{Base Figure}$$

$$223 \div 3004 = 7.42\% \text{ (rounded)}$$

Therefore, the base figure for the Augusta, Georgia’s anticipated DBE participation is **7.42%**.

Step 2: Adjustment of Base Figure

49 CFR 26.45(d) requires that additional evidence, if available in Augusta, Georgia's jurisdiction, be considered to determine if any base figure adjustment is necessary to arrive at the overall goal. However, the regulations do not indicate a specific base figure adjustment methodology, but they suggest consideration of the following factors: current capacity of DBEs measured by the volume of past work; evidence from a disparity study not included in the calculation of the base figure; data on employment, self-employment, education, training, and union apprenticeship; ability of DBEs to get bonding and financing; and, any other relevant data.

Augusta, Georgia evaluated the current capacity of DBEs to perform the required work in relation to the volume of work DBEs performed in recent years. Augusta, Georgia examined its overall DBE participation during the past four (4) fiscal years (FY 2006-2009). Table 3 below reflects the data used to determine the base figure adjustment.

TABLE 3
Augusta, Georgia's DBE Participation for FY 2006-2009

REPORT PERIOD	DBE GOAL %	TOTAL DBE% PARTICIPATION ON CLOSED PROJECTS (rounded)
FY 2006	4.20	4.11
FY 2007	1.46	4.20
FY 2008	1.90	2.83
FY 2009	1.90	0
Average per period	2.36	2.25

As detailed in Table 3, the average DBE participation rate for the periods during which there was reported DOT-funded activity is **20%**. To adjust the base figure, the 20% average percentage of historical DBE participation was averaged with the 15% base figure:

$$(\text{Base figure \%} + \text{average DBE \% participation}) \div 2 = \text{Overall DBE Goal}$$

$$(7.42 + 2.25) \div 2 = 4.83 \text{ (rounded)}$$

Augusta, Georgia believes that DBE capacity currently exists to perform work in our FTA - assisted contracting program at the adjusted percentage level. Therefore, Augusta, Georgia's overall DBE goal for Fiscal Years 2012-2014 is **4.83%**.

Public Participation

Augusta, Georgia published Augusta's goal information in the following publications: Augusta Chronicle and Metro Courier

We received comments from individuals or organizations: None

Summaries of these comments are as follows: None

Augusta's responses to these comments are: None



Administrative Services Committee Meeting
3/12/2012 1:05 PM
Hyde Park Drainage Improvement Project

Department: Housing & Community Development

Caption: Discuss approval to hire three (3) temporary employees to handle relocation activities for Hyde Park residents, and transfer ½ salary and benefits of HCD Housing Manager to Hyde Park budget (this person will supervise relocation employees).

Background:

On October 18, 2011, the Commission approved the transfer of SPLOST III and IV funds to the Hyde Park/Wilkerson Gardens Drainage Improvements Project to fully-fund the design and initial phases of land acquisition and resident relocations. The relocation process/services will be managed by staff of the Housing and Community Development Department. The relocation office will be located at 2024 Golden Rode Street which is in the Hyde Park Neighborhood. In order to fulfill the task required in the relocation process, it is necessary to hire three (3) temporary employees (no fringe benefits) to assist families in their relocation to other housing. It is estimated that the relocation process to move approximately 110 families will take 4 – 5 years.

SPLOST funds will be used to cover salaries and benefits of the relocation staff (3 ½ FTE's) as follows (and on the attached schedule):

	Year	1
\$ 95,650		
	Year	2
<u>114,350</u>		
	Subtotal	
210,000		
	Year	3
114,350		

Cover Memo

Item # 2

Year 4

114,350

Total

\$438,700

Analysis: The approval to hire the requested staff and transfer salaries of the existing HCD staff will allow the relocation effort to have full time staff assigned to this process.

Financial Impact: SPLOST funds will be used to cover the necessary payroll expenses of the identified staff.

Alternatives:

Recommendation: Approve the hiring of three (3) temporary employees and the allocation of certain HCD staff to manage the relocation of families from Hyde Park Neighborhood.

Funds are Available in the Following Accounts: Funds are available in the Hyde Park Drainage Project Account

REVIEWED AND APPROVED BY:

Finance.
Law.
Administrator.
Clerk of Commission

HYDE PARK
Salary & Wage Information

Year 1

Name	Pay grade	Rate	Hours*	Salary	FICA	MED	Health	LT Dis	Life	Pension	Total
Hattie Hogan	53	26,717.6	975	26,049.66	1,615.08	377.72	2,026.50	151.09	123.00	1,711.46	32,054.51

Temporary Full-time:

Brenda Halls	9001	12.87	1500	19,305.00	1,196.91	279.92					20,781.83
Tequetta Cody	9001	12.87	1500	19,305.00	1,196.91	279.92					20,781.83
Tammie Phillips	9001	12.87	1500	19,305.00	1,196.91	279.92					20,781.83

Temporary OT:

Brenda Halls		19,305	20	386.10	23.94	5.60					415.64
Tequetta Cody		19,305	20	386.10	23.94	5.60					415.64
Tammie Phillips		19,305	20	386.10	23.94	5.60					415.64

Total Temporary Full time				59,073.30	3,662.54	856.56					63,592.41
Total Full time				85,122.96	5,277.62	1,234.28	2,026.50	151.09	123.00	1,711.46	95,646.92

* Hattie Hogan estimated at 1/2 full time.

Temporary staff estimated to start April 1, 37.5 hours/week.

Overtime is anticipated at 20 hours to accommodate weekend interviews as needed.

Year 2

Name	Pay grade	Rate	Hours*	Salary	FICA	MED	Health	LT Dis	Life	Pension	Total
Hattie Hogan	53	26,717.6	975	26,049.66	1,615.08	377.72	2,026.50	151.09	123.00	1,711.46	32,054.51

Temporary Full-time:

Brenda Halls	9001	12.87	1950	25,096.50	1,555.98	363.90					27,016.38
Tequetta Cody	9001	12.87	1950	25,096.50	1,555.98	363.90					27,016.38
Tammie Phillips	9001	12.87	1950	25,096.50	1,555.98	363.90					27,016.38

Temporary OT:

Brenda Halls		19,305	20	386.10	23.94	5.60					415.64
Tequetta Cody		19,305	20	386.10	23.94	5.60					415.64
Tammie Phillips		19,305	20	386.10	23.94	5.60					415.64

Total Temporary Full time				76,447.80	4,739.76	1,108.49					82,296.06
Total Full time				102,497.46	6,354.84	1,486.21	2,026.50	151.09	123.00	1,711.46	114,350.57

Total Year 1 & 2

	187,620.42	11,632.47	2,720.50	4,053.00	302.18	246.00	3,422.93	209,997.48			
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Year 3

Full time				26,049.66	1,615.08	377.72	2,026.50	151.09	123.00	1,711.46	32,054.51
Temporary Full time				76,447.80	4,739.76	1,108.49					82,296.06

Year 4

Full time				26,049.66	1,615.08	377.72	2,026.50	151.09	123.00	1,711.46	32,054.51
Temporary Full time				76,447.80	4,739.76	1,108.49					82,296.06
				102,497.46	6,354.84	1,486.21	2,026.50	151.09	123.00	1,711.46	114,350.57