



FY 2014-2017 DBE Program

Cape Girardeau County Transit Authority
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Cape Girardeau, Missouri 63701
Phone: (573) 335-5533 Fax: (573) 334-4872

www.cgcta.com

CGCTA DBE POLICY

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

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

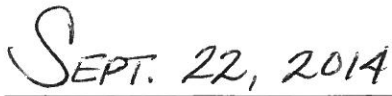
1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms 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.

The Accounting Manager has been delegated as the DBE Liaison Officer. In that capacity, the Accounting Manager 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 CGCTA in its financial assistance agreements with the Department of Transportation.

CGCTA has disseminated this policy statement to its Board of Directors and the administrative staff. We will distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts through the contract documents.



Tom Mogelnicki, Executive Director
Cape Girardeau County Transit Authority (CGCTA)



Date

SUBPART A – GENERAL REQUIREMENTS

Throughout this document, Section references are to 49 CFR Part 26 Disadvantaged Business Enterprise, as amended. This regulation is available online at:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

Section 26.1, 26.23 Objectives

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

Section 26.3 Applicability

CGCTA 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

CGCTA will adopt the definitions contained in Section 26.5 of Part 26 for this program.

Section 26.7 Non-discrimination Requirements

CGCTA 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, CGCTA 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

Uniform Report of DBE Awards or Commitments and Payments: 26.11(a)

CGCTA will report DBE participation to FTA on a semi-annual basis, using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

Bidders List: 26.11(c)

CGCTA 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 or non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

CGCTA will collect this information for prime contracts using a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

CGCTA will use the Missouri Regional Certification Committee (MRCC) DBE directory maintained by the Missouri Department of Transportation (MoDOT) External Civil Rights Division. This is a Unified Certification Program and provides a listing of certified DBE firms that are registered with the State of Missouri and is assumed to be the most complete and up-to-date list available. It may be accessed at:

http://www.modot.org/business/contractor_resources/External_Civil_Rights/mrcc.htm

This list will be reviewed whenever a project is up for bid or quote. Firms listed within our market area with qualifications appearing to meet the requirements of the project being bid or quoted will be invited to bid or quote.

Section 26.13 Assurances

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

Federal Financial Assistance Agreement Assurance: 26.13(a)

CGCTA 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 CGCTA 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: 26.13(b)

CGCTA 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.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since CGCTA 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 DOT financial assistance have been expended. We will provide to DOT, updates representing significant changes in the program.

Section 26.25 DBE Liaison Officer (DBELO)

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

Ms. Kelley Watson
Accounting Manager
Cape Girardeau County Transit Authority
937 Broadway
Suite 200
Cape Girardeau, MO 63701
Phone: (573)335-5533 X 12
Fax: (573) 334-4872
kwatson@cgcta.com

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

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 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 CGCTA's progress toward attainment and identifies ways to improve progress.
7. Advises the CEO/governing body on DBE matters and achievement.
8. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
9. Refers potential DBE firms to the Uniform Certification Process in Missouri.
10. Provides outreach to DBEs and community organizations to advise them of opportunities.
11. Reviews the MRCC DBE directory, maintained by MoDOT External Civil Rights Division, whenever bid or quote opportunities arise.

Section 26.27**DBE Financial Institutions**

It is the policy of CGCTA 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. CGCTA personnel queried the following sites in an effort to identify and use such institutions:

<https://www.fdic.gov/regulations/resources/minority/MDI.html>

https://www.fms.treas.gov/mbdp/current_list.html#MO

<http://www.federalreserve.gov/releases/mob/current/default.htm>

To date, CGCTA has not identified any such institutions within its service area. CGCTA will re-evaluate the availability of DBE financial institutions every three years.

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

Section 26.29**Prompt Payment Mechanisms**

Prompt Payment: 26.29(a)

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from CGCTA. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of CGCTA. This clause applies to both DBE and non-DBE subcontracts.

Retainage: 26.29(b)

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

Monitoring and Enforcement: 26.29(d)

The CGCTA will contact, either via telephone or email where available, each subcontractor following the first disbursement to confirm that these "prompt payment" requirements are being met. Additional random follow up contacts will be made if any questions arise. This applies to both initial payments and retainage.

Section 26.31**Directory**

The Missouri Uniform Certification Program maintains a directory identifying all firms eligible to participate as DBEs. The directory lists firm's name, address, phone number, current certification status, and type of work the firm has been certified to perform as a DBE. The directory is revised continually. The directory is available to interested persons as follows:

http://www.modot.org/business/contractor_resources/External_Civil_Rights/mrcc.htm

Section 26.33 **Overconcentration**

CGCTA has not identified that overconcentration exists in the types of work that DBEs could perform. We will re-evaluate for overconcentration every three years.

Section 26.35 **Business Development Programs**

CGCTA has not established a business development program. We will re-evaluate the need for such a program every three years.

Section 26.37 **Monitoring and Enforcement Mechanisms**

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

1. CGCTA 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. CGCTA will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment B 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. CGCTA 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 monitoring work through on-site interviews, and will occur for each contract/project on which DBEs are participating.
4. CGCTA will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 **Small Business Participation**

CGCTA has incorporated the following non-discriminatory elements 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):

1. CGCTA will structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors;
2. CGCTA will require bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation.
3. CGCTA will use the definition of small business concerns set out in Section 26.5.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

In accordance with Section 26.45, CGCTA will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA.

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

The process generally used by CGCTA to establish overall DBE goals is as follows: CGCTA reviews contracting opportunities we expect to award during the goal years. We then obtain information concerning the availability of disadvantaged and non-disadvantaged businesses through MoDOT's list of DBEs and the census information for our market areas. As a general matter, goals are based on the "Two-Step" process established in Section 26.45(c) - (d), whereby CGCTA establishes a base figure of the relative availability of DBEs to perform work on our DOT-assisted contracts, then adjust our goal as necessary based on additional market information in our area. CGCTA does not intend to use disparity studies as part of the goal setting process.

Before establishing the overall goal each year, CGCTA will consult with the Cape Girardeau Area Chamber of Commerce, the Jackson Chamber of Commerce, Southeast Missouri State University Center for Innovation & Entrepreneurship, the local Small Business Administration office, and other minority and women's business and community groups as available to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and CGCTA's efforts to establish a level playing field for the participation of DBEs.

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 our principal office for 30 days following the date of the notice, and informing the public that CGCTA and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will be published in the *Southeast Missourian* newspaper as well as on CGCTA's website. Normally, we will issue this notice by June 1st of each year in which it has to establish a new goal. 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 DOT will be in the form and format DOT requires and will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

We will begin using our overall goal on October 1 of the specified 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. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on CGCTA's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis;

Section 26.49 Transit Vehicle Manufacturers Goals

CGCTA 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.

Section 26.51 Meeting Overall Goals/Contract Goals

CGCTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, CGCTA will use the following race-neutral means to increase DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small businesses participation (e.g. unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g. ensuring the inclusion of DBEs and other small businesses on CGCTA's mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontracts). CGCTA will utilize the DBE directory maintained by MoDOT External Civil Rights Division and will contact all relevant DBEs listed whenever an Invitation for Bids, a Request for Proposals, or a Request for Qualifications is issued. Our goal is to ensure that 100% of all Invitations for Bids, Requests for Proposals, or Requests for Qualifications are offered to all identifiable DBE firms within our market area from the MRCC DBE directory maintained by the Missouri Department of Transportation (MoDOT) External Civil Rights Division.;
3. Ensuring distribution of the DBE Directory, through electronic means, to the widest feasible group of potential prime contractors.

CGCTA estimates that it will obtain 100 percent of its goal from race-neutral participation and zero percent through race-conscious measures. This section of the program will be updated when the goal calculation is updated.

CGCTA will use contract goals to meet any portion of the overall goal that we do 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.

CGCTA 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.)

CGCTA will express its contract goals as a percentage of the total amount of a DOT-assisted contract.

Section 26.53

Good Faith Efforts Procedures

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

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

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

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

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

1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
3. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. (a) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. (b) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
5. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
6. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

CGCTA 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)

CGCTA treats bidder/offerors' 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:

1. The names and addresses of any 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 seven (7) days of being informed by CGCTA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidders/offerors should make this request in writing to the following reconsideration official:

Mr. Tom Mogelnicki
Executive Director
Cape Girardeau County Transit Authority
937 Broadway
Suite 200
Cape Girardeau, MO 63701
Phone: (573)335-5533 X 16
Fax: (573) 334-4872
tmogelnicki@cgcta.com

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. CGCTA 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 Terminated/Replaced on a Contract with Contract Goals: 26.53(f)

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

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

In those instances where "good cause" exists to terminate a DBE's contract, CGCTA will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. 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, CGCTA will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer will issue a termination for default proceeding.

Sample Bid Specification:

Note: When a contract goal is established pursuant to CGCTA's DBE program, the following bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found in Attachment D will 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 non-construction 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.

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 CGCTA 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. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract, if any; (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

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

SUBPARTS D & E– CERTIFICATION

Section 26.81 Unified Certification Programs

CGCTA is a member of Unified Certification Program (UCP) administered by the Missouri Department of Transportation. The UCP meets all of the requirements of this section. CGCTA will use and count for DBE credit only those DBE firms certified by the Missouri Regional Certification Committee (MRCC).

The Missouri UCP is charged with the responsibility of certifying firms for the purpose of maintaining a database of certified DBEs for the United States Department of Transportation (USDOT) grantees in the State of Missouri. This is pursuant to the Final Rule 49 Code of Federal Regulations (CFR) Part 26 that requires USDOT recipients to take part in a statewide uniform certification process.

For information about the certification process or to apply for certification, firms should see the MoDOT web site listed below or contact the MoDOT External Civil Rights at (573) 526-2978.

http://contribute.modot.mo.gov/business/contractor_resources/External_Civil_Rights/UFC.htm

Section 26.83-26.91 Procedures for Certification Decisions

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

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

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

CGCTA 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.

ATTACHMENTS

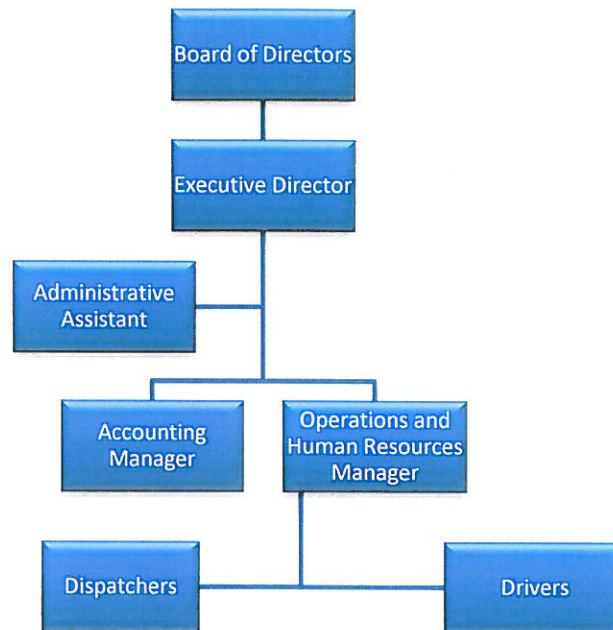
Attachment A: Organizational Chart

Attachment B: Monitoring and Enforcement Mechanisms/Legal Remedies

Attachment C: Good Faith Efforts Forms

Attachment D: DBE Regulation, 49 CFR Part 26

Attachment A Organizational Chart



Attachment B

Monitoring and Enforcement Mechanisms/Legal Remedies

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

Breach of contract action, pursuant to the terms of the contract under Chapter 400 Revised Statutes of the State of Missouri.

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:

Suspension or debarment proceedings pursuant to 49 CFR part 26

Enforcement action pursuant to 49 CFR part 31

Prosecution pursuant to 18 USC 1001.

Attachment C

Forms for Demonstration of Good Faith Efforts

Forms will be provided as part of the solicitation documents.

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration Number: _____

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 D

Regulations: 49 CFR Part 26

The full text of 49 CFR Part 26 may be reviewed at:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl