



**MECKLENBURG COUNTY
BUSINESS DIVERSITY & INCLUSION (BDI)
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM GUIDE**

BUSINESS DIVERSITY & INCLUSION (BDI) PROGRAM OVERVIEW

Mecklenburg County has made great strides to ensure business is conducted fairly and with diverse populations in our community. Mecklenburg County’s Office of Economic Development engaged Griffin & Strong, P.C. (GSPC) to conduct a disparity study on the availability and utilization of minority and women-owned business enterprises by the County and to examine the relevant evidence of race – or gender – based discrimination in the County’s contracting process.

The [2020 Mecklenburg County Disparity Study](#) revealed areas for improvement, for which GSPC made recommendations to assist the County in remediating the disparities to ensure that all qualified firms within the relevant market are given equal chance to succeed in doing business with the County. The full report and recommendation list can be found on the Mecklenburg County website.

Because the implementation of the Disparity Study recommendations will impact internal and external stakeholders, the County has decided on a phased transitional approach to implement the objectives.

Mecklenburg County Government will provide Minority-owned, Women-owned, and Small Business Enterprises (collectively “MWSBE”) as well as other responsible vendors with fair and reasonable opportunity to participate in conducting business with Mecklenburg County.

The DBE Program Guide requires Contractors and Subcontractors to take all reasonably necessary steps to ensure maximum inclusion opportunity for the participation of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) certified as and/or eligible for certification as a Disadvantaged Business Enterprise (DBE) through North Carolina Department of Transportation (NCDOT), in its contracting activities with Mecklenburg County. Businesses that are not certified DBE as previously mentioned, will be herein referred to as non-certified. It is further the intent of the Program to broaden opportunities for the participation, increase competition, and to ensure the proper and diligent use of public funds.

1. Program Statement.

It is the practice of the Mecklenburg County’s Business Diversity and Inclusion Program (the “BDI Program”), in conjunction with the County Procurement Division, to foster greater competition, increase opportunities for participation by all segments of the business community, and maximize value for the taxpayers’ dollars through efficient use of public funds. The BDI Program accordingly is intended to promote full and equal business opportunities for all businesses contracting with Mecklenburg County by increasing the opportunity for purchase of goods and services from minority-owned and women-owned enterprises.

Consistent with the Mecklenburg County Solicitation Terms & Conditions, which encourage Bidders and Contractors to take all reasonably necessary and responsible steps to ensure that minority, women, and small business enterprises have the maximum opportunity to participate in County contracts, it is the practice of the BDI Program to encourage Contractors to actively seek MWBE participation to the greatest extent possible, and to monitor compliance.

2. Promotion of Equal Opportunity.

The BDI Program seeks to ensure that firms desiring to participate in contracting and procurement activities with the County are not prevented from doing so based on the race, color, national origin, or gender of their owners. It is the intent of the BDI program that no firm, business enterprise, or person shall be denied the benefit of, or otherwise be discriminated against, on the grounds of race, color, national origin, or gender in connection with the award or performance of any contract paid for, in whole or in part, with funding from Mecklenburg County.

3. Program Objectives.

The objectives of the Mecklenburg County BDI Program are to promote and encourage full and open competition in all County contracting and purchasing; to encourage all County personnel involved in procurement and contracting activities to utilize appropriate procedures to identify and remedy any participation by the County in unintended unlawful discrimination (active or passive).

Mecklenburg County engaged a consultant, Griffin & Strong P.C. (“GSPC” or the “consultant”), to conduct a Disparity Study assessing County purchasing, contracting and the MWSBE Program. The consultant produced its Study Report to the County in 2020, and the BDI Program has the objective of implementing recommendations included in the Study. For example, the consultant found that there is a factual predicate for the continuation of the MWSBE (now BDI) Program. Moreover, the results of the study confirmed that the race and gender-neutral policies and program elements thus far employed by the County have proven insufficient to remedy the present effects of past discrimination in purchasing/contracting in the relevant market. The consultant therefore recommended implementation of certain race conscious and gender conscious elements as part of the Program.

4. Commitment to Program Objectives.

In the 2020 Disparity Study, GSPC recommended that Mecklenburg County increase staffing to facilitate recommendations relating to supportive services, monitoring and compliance, forecasting, and goal-setting. The County is committed to achieving the BDI Program objectives and, accordingly, to providing the necessary budgetary, staffing, and support resources necessary for the success of the BDI Program.

For assistance, contact the Office of Economic Development’s BDI Team.

Mecklenburg County - Office of Economic Development
Business Diversity & Inclusion (BDI)
Charlotte-Mecklenburg Government Center
600 East 4th Street Charlotte, North Carolina 28202

Phone: 980.314.2945
Email: BDI@mecknc.gov
Website: oed.mecknc.gov/BDI

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BDI SOLICITATION COVERSHEET

The County maintains a strong commitment to the inclusion of DBEs in the County’s contracting and procurement process. Accordingly, BDI provides information and forms that Bidders will supply to be considered for the Program.

Bidders are expected to review the entire DBE Program Guide and this BDI Solicitation Coversheet as they are planning to submit the BDI form(s) with their Bid/Proposal. The Bid/Proposal should outline any supplies and/or services to be provided by Subcontractors, including each certified Disadvantaged Business Enterprise (DBE) for the Contract. Submittals (forms) and time frames can be referenced in Attachment 7.

Subcontractor

PROJECT NAME: _____

INDUSTRY CATEGORY

Architect & Engineering Construction Professional Services Other Services Goods

Review the established participation goal type selected with the below for this specific solicitation.

PARTICIPATION GOAL TYPES

A. CONTRACT-BY-CONTRACT GOALS

THE ESTABLISHED PARTICIPATION GOALS FOR THIS PROJECT ARE:

_____ **DBE**

Required Bid forms associated with this participation goal type are:

- [Form A] Listing of Good Faith Efforts (GFE)
- [Form B] Identification of Subcontractor Participation
- Joint Ventures Documentation (include when is selected)

B. ACHIEVEMENT GOALS

THE ESTABLISHED PARTICIPATION GOALS FOR THIS PROJECT ARE:

_____ **DBE**

Required Bid forms associated with this participation goal type are:

- [Form B] Identification of Subcontractor Participation
- [Form C] Statement of Intent to Perform Contract with Own Workforce
- [Form D] DBE Inclusion Plan

DBE PROGRAM STATEMENT

Section 26.1 & 26.23 Objectives / Program Statement

Mecklenburg County has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Mecklenburg County has been approved to receive Federal financial assistance as a direct recipient from the Department of Transportation and Federal Transit Authority (FTA), and as a condition of receiving this assistance, the County has signed an assurance that it will comply with 49 CFR Part 26. Mecklenburg County will herein be referred to as 'County'.

It is the policy of the County to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT/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/FTA-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 marketplace outside the DBE Program.

The Business Diversity & Inclusion Program Office has been delegated as the DBE Liaison Officer ("DBELO"). In that capacity, the Director (or designee) 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 Mecklenburg County in its financial assistance agreements with the Department of Transportation.

The BDI Office has disseminated this program guide to the participating departments (Office of Economic Development, Finance & Procurement Department, Department of Social Services, and the County Attorney's Office). We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT- assisted contracts. The statement is housed on the Business Diversity & Inclusion website: www.mecknc.gov/oed/BDI/Pages/faqs-policies-forms.aspx

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the program statement on page six (6) of this program.

Section 26.3 Applicability

The County is the direct recipient of Federal Transit Administration (FTA) 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 26.7 Non-discrimination Requirements

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

In administering its DBE program, the County 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 DOT as follows:

We will report DBE participation on a semi-annual or quarterly basis (whichever is required), using DOT Form 4630 (Uniform Report of DBE Awards or Commitments and Payments Form). These reports will reflect payments actually made to DBEs on DOT- assisted contracts.

Bidders List: 26.11(c)

The County will create a bidders list consisting of information about all DBE and non-DBE firms that bid, propose, or quote on DOT assisted contracts. The bidders list will include, to the extent available, the name, address, DBE/non-DBE status, age of firm, and annual gross receipts. The County will collect the information from bidders and all firms quoting on subcontracts at the time of submittal and/or commitment.

Section 26.13 Federal Financial Assistance Agreement

The County has agreed to the following assurances, applicable to all DOT/FTA-assisted contracts and their administration:

Assurance: 26.13(a)

The County shall not discriminate on the basis of race, color, national origin, or sex in the award 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/FTA-assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the County 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

We will ensure that the following clause is placed in every DOT/FTA-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 will be considered a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate.”

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the County receives 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 26.23 Program Statement

The Program Statement is elaborated on the sixth page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

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

Mecklenburg County

Office of Economic Development - Business Diversity & Inclusion
600 East Fourth Street
Charlotte, NC 28202

Jamila R. Davis

Business Diversity & Inclusion Director
980.314.2940

Jamila.Davis@MeckNC.gov

John L. Walton II

Business Diversity & Inclusion Compliance Officer
980.314.4337

John.WaltonII@MeckNC.Gov

Janelly Rosales

Business Diversity & Inclusion Program Officer
980.314.2859

Janelly.Rosales@MeckNC.gov

Each DBELO shall be responsible for implementing all aspects of the DBE Program and ensuring that the County complies with all provisions of 49 CFR Part 26 in their respective departments. Each DBELO has direct, independent access to his or her department head and the County Manager (or designee) concerning DBE Program matters. DBE administrative matters will be managed in-house by each DBELO with occasional support from industry consultants.

Each DBELO will be responsible for developing, implementing, and monitoring the DBE Program, in coordination with his or her department head for federal requirements. The DBELO or designee will be responsible for the following as may be applicable to the respective departments:

- Gathers and reports statistical data and other information as required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with all departments to set overall annual goals.
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that DBE requirements are included in solicitations and monitors results.
- Analyzes the County's progress toward attainment and identifies ways to improve progress.
- Participates in pre-bid/pre-proposal meetings.
- Advises respective department heads/County Manager (or designees) on DBE matters and achievement.
- Provides DBEs with information about programs and resources to assist their business, or that may offer assistance in obtaining certification through NCDOT's DBE program, and preparing bids/proposals, including but not limited to, bonding and insurance.
- Plans and participates in DBE training seminars.
- Provides outreach to DBEs and community organizations to advise them of opportunities when applicable.
- Maintains access to the County's bidder list and the NCDOT DBE directory.

Section 26.27 DBE Financial Institutions

It is the policy of the County 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/FTA-assisted contract to make use of these institutions. Per the Federal Deposit Insurance Corporation, the Minority Depository Institutions (MDI) List can be found by visiting: www.fdic.gov/regulations/resources/minority/mdi.html.

Section 26.29 Prompt Payment Mechanisms

Prompt payment of Prime Contractors and Subcontractors.¹

The County shall pay the Prime Contractor in compliance with N.C.G.S. § 143 - 134.1(a), which mandates payment within forty-five (45) days of a complete and satisfactory invoice/demand.

Upon payment to the Prime Contractor by the County, the **Prime Contractors shall thereafter ensure the prompt and full payment of any Subcontractors working on the contract. Prime Contractors shall pay Subcontractors within seven (7) days of the Prime Contractor's receipt of payment, in compliance with N.C.G.S. § 143 - 134.1(b).**

Every contract with the County for the performance of work shall contain a provision requiring the Prime Contractor to certify in writing that all Subcontractors and suppliers have been paid promptly for work and materials from previous progress payments received (less any retainage) by the Prime Contractor prior to receipt of any further progress payments. A Prime Contractor is required to pay Subcontractors or suppliers funds due from progress payments within seven (7)

¹ Subcontractor payments are monitored and tracked by the BDI Program Office, as appropriate.

days of receipt of payment from the County (see § 143 - 134.1(b) above).

During the contract and upon completion of the contract, the County may request documentation to certify payment to Subcontractors or suppliers. This subsection in no way creates any contractual relationship between any Subcontractor and the County or any liability on the County for a Prime Contractor's failure to make timely payment to the Subcontractor.

A Prime Contractor who fails to ensure the prompt and full payment of Subcontractors for goods or services delivered and accepted shall be subject to the penalties set forth in (N.C.G.S. § 143 - 134.1(b)).

Section 26.31 Directory

The North Carolina Department of Transportation maintains a directory identifying all firms eligible to participate as DBEs and may be accessed on their website:
www.ebs.nc.gov/VendorDirectory/default.html

Section 26.33 Overconcentration

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

Section 26.35 Business Development Programs

The County has an Office of Economic Development that provides business development and supportive services. When applicable, the Office of Economic Development will direct businesses to partners within the business resource ecosystem.

Section 26.37 Monitoring and Enforcement Mechanisms

The County 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. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by self-monitoring and reporting by Subcontractors, monitoring and reporting by contractors and spot checks by the BDI office.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The County uses a two-step process to calculate its three-year DBE goal in accordance with the federal regulations on “Participation of DBEs in the Department of Transportation Financial Assistance Program”, as outlined in 49 CFR Part 26. A full description of the methodology used to calculate the overall goal can be found in Attachment 4, “Overall DBE Goal Submission & Methodology for FY2018-2020.”

In accordance with Section 26.45(f) the County will submit its overall goal to FTA upon request. Before establishing the overall triennial goal, the County will consult with DBE certified firms, Prime Contractors, minority, women and general contractor groups, and community organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the County will publish a notice of the proposed overall goal(s), informing the public that the proposed goal(s) and rationale are available for inspection at Mecklenburg County's Office of Economic Development for 30 days following the date of the notice, and informing the public that the County will accept comments on the goals for 45 days from the date of the notice.

The County will advertise the proposed DBE goal and its rationale in local newspapers and on the County's website. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The County's overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

Section 26.47 Goal Setting and Accountability

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

- Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
- Establish specific steps and milestones to correct the problems identified in the analysis; and
- Maintain information/records regarding the analysis and efforts made and the effectiveness of those measures for at least 90 days.

The County understands that we cannot be penalized or treated by the DOT/FTA as being in noncompliance because our DBE participation falls short of our overall goal, unless we have

failed to administer our program in good faith.

Section 26.49 Transit Vehicle Manufacturers Goals

County 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, County 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

The County will meet the maximum feasible portion of its overall goal using race-neutral means to facilitate DBE participation. In order to do so, the County will:

- Participate in local business opportunity workshops and/or events held in Mecklenburg County. The County will provide information on “How to Do Business with Mecklenburg County” and the types of opportunities available for contractors and vendors. DBE information will also be available for distribution.
- Work with the County’s Business Diversity & Inclusion (BDI) office and minority contractors’ associations in North Carolina to provide (potential) DBEs information regarding certification and business development programs to interested firms.
- The Procurement Division of the Finance Department may participate in pre-bid/pre-proposal meetings on projects where federal funds are utilized and the DBELO participates in every pre-bid/pre-proposal meeting for transit, regardless if there is a goal on a project. A detailed explanation is given to all attendees on the utilization of NCDOT’s DBE directories and what constitutes good faith effort. This on-going participation is anticipated to increase the Prime Contractors’ and consultants’ awareness of the DBE program and requirements. The DBE directories will be utilized by the Prime Contractors in their goal attainment efforts for our projects.
- Planning and participating in DBE training seminars and workshops
 - a) Create DBE presentations for speaking engagements among the DBE communities on “How to Do Business with Mecklenburg County” and post to the Office of Economic Development’s, OED.MeckNC.gov and Small Business Ecosystem Partners.
 - b) Conduct Outreach Events to encourage local general contractors, small businesses and potential DBE firms to learn about upcoming procurement opportunities.
 - c) The DBELO will conduct a technical assistance workshop with contractors working on Mecklenburg County federally assisted projects to discuss various topics including the Business Diversity & Inclusion Plan and other contracting opportunities.
 - d) The DBELO will partner with agencies including but not limited to NCDOT Office of Civil Rights Business Opportunity and Workforce Development Division and small business ecosystem partners seeking presentation opportunities and/or outreach efforts to the DBE community.
 - e) The DBELO will meet with the Procurement Division of the Finance Department to review federally assisted upcoming procurements, in advance, to target participation either through the DBE program or for the Business Diversity & Inclusion Plan.
 - f) The DBELO will work with the Procurement Division of the Finance Department to include contract goals to meet any portion of the overall goal the DBELO does not

- project being able to meet using race-neutral means, on federally assisted contracts that have (sub)contracting opportunities.
- Update the MeckNC website to ensure ease of use and user-friendly ways to learn “How to Do Business with Mecklenburg County” and include more DBE information.
 - Ensure the links from the NCDOT DBE site to the Mecklenburg County DBE information is correct and provides value add information.

The breakout of estimated race-neutral and race-conscious participation can be found in [Attachment 5](#) to this program. This section of the program will be updated when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

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

The County will establish contract goals only on those DOT/FTA-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/FTA-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/Participant 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 [Attachment 6](#).

The following personnel, or their designee, are responsible for determining whether a Bidder/Participant who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive and responsible:

John L. Walton II - Business Diversity & Inclusion Compliance Officer/DBELO or designee

The County will ensure that all information is complete and accurate and adequately documents the Bidder/Participant's good faith efforts before we commit to the performance of the contract by the Bidder/Participant. If the DBELO determines the bid/proposal to be in non-compliance, he/she will consult with the County's Attorney (if applicable) prior to making a recommendation to reject the bid/proposal.

Information to be submitted (26.53(b))

County treats Bidder/Participant's compliance with good faith efforts' requirements as a matter of responsiveness and responsibility.

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

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

Administrative reconsideration (26.53(d))

Within five (5) business days of being informed by the County that it is not responsive or responsible because it has not documented sufficient good faith efforts, a Bidder/Participant may request administrative reconsideration. Bidder/Participant should make this request in writing to the following reconsideration to the Originating Department. The reconsideration official will not have played any role in the original determination that the Bidder/Participant did not document sufficient good faith efforts.

As part of this reconsideration, the Bidder/Participant 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/Participant will have the opportunity to meet in person with our reconsideration official(s) to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the Bidder/Participant 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))

The County 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, our contracting office will issue

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

Substitution of Contractors must be in accordance with GS143-128.2(d). Failure to abide by this statutory provision will constitute a breach of the contract, giving rise to all contract and/or statutory remedies, including but not limited to cancellation of the contract.

[Note: Review [Attachment 3](#) Program Compliance and Grievance Procedures.]

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the [Name of Recipient] to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all Bidders/Participants, including those who qualify as a DBE. A DBE contract goal of XX percent has been established for this contract. The Bidder/Participant shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 ([Attachment 8](#)), to meet the contract goal for DBE participation in the performance of this contract.

The Bidder/Participant will be required to submit the relevant BDI forms A through C found in [Attachment 7](#) which may include 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/Participant'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

The County 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

The County does not conduct a certification process. We refer all interested businesses to the North Carolina Department of Transportation, Office of Civil Rights which utilizes the standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT - assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

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

North Carolina Department of Transportation Office of Civil Rights
1511 Mail Service Center Raleigh, NC 27699-1511

Certification application forms and documentation requirements are found online at:
<https://connect.ncdot.gov/business/SmallBusiness/Pages/default.aspx>

SUBPART E - CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The County is a member of a Unified Certification Program (UCP) administered the State of North Carolina Department of Transportation (NCDOT). The UCP will meet all of the requirements of this section. The County will use and count for DBE credit only those DBE firms certified by the NCDOT UCP.

All certifications, certification appeals, re-certifications and annual affidavits are submitted to and managed by the Contractual Services Unit of NCDOT. North Carolina does not have reciprocity with any other certifying agency. Access to the necessary forms can be found at <https://connect.ncdot.gov/business/SmallBusiness> and submitted to the following:

NCDOT – Office of Civil Rights
ATTN: UCP
1511 Mail Service Center Raleigh, NC 27699-1511

Any firm or complainant may appeal the NCDOT UCP decision in a certification matter to DOT. Such appeals can be found at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-certification-appeals> and submitted to the following:

USDOT - Department of Civil Rights
ATTN: External Policy and Program Development Division
1200 New Jersey Ave, S.E
Room W76-401
Washington, DC 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT/FTA-assisted contracting

SUBPART F - COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

NCDOT and the County 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, NCDOT 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 County or DOT. This reporting requirement also extends to any certified DBE Subcontractor.

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

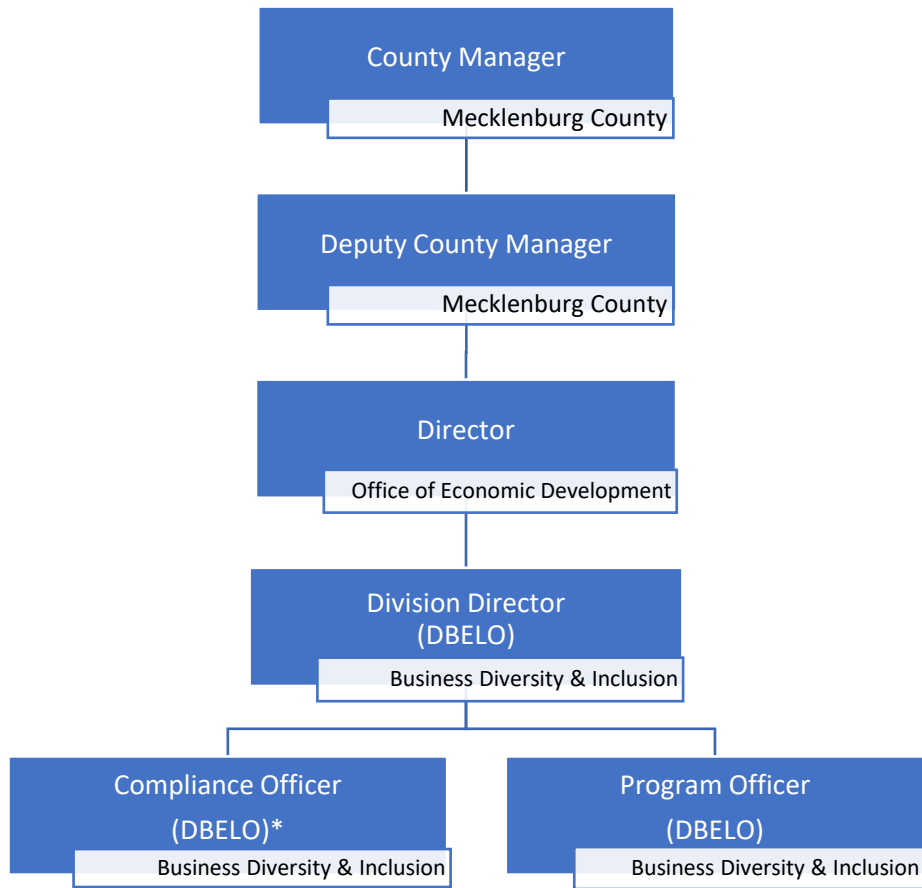
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE Subcontractors to ensure that the actual amount paid to DBE Subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

ATTACHMENTS

- Attachment 1: Organizational Chart
- Attachment 2: DBE Directory & Websites
- Attachment 3: Monitoring and Enforcement Mechanisms
- Attachment 4: Overall Goal Calculation
- Attachment 5: Race-Neutral & Race-Conscious Participation
- Attachment 6: Good Faith Efforts (GFE) Point system
- Attachment 7: Business Diversity & Inclusion Forms
- Attachment 8: Regulations: 49 CFR part 26
- Attachment 9: Public Participation

Attachment 1 – Organizational Chart

Organizational Chart



Key

DBELO means Disadvantaged Business Enterprise Liaison Officer

- *Main DBELO Point of Contact

Attachment 2 – DBE Directory & Websites

DBE Directory Unified Certification Program List of DBE Firms

Contact: North Carolina Department of Transportation Office of Civil Rights
1511 Mail Service Center Raleigh, NC 27699-1511
Phone: 919-508-1808

DBE Directory may be viewed at: <https://connect.ncdot.gov/business/SmallBusiness>

Websites

(Last updated per the revised date on this Document)

- **Mecklenburg County:** www.mecknc.gov
 - **Office of Economic Development:** oed.mecknc.gov
 - Business Diversity & Inclusion (BDI): oed.mecknc.gov/BDI
 - 2020 Disparity Study Full Report: oed.mecknc.gov/BDI
 - **Procurement Department:**
www.mecknc.gov/finance/procurement/Pages/default.aspx
 - Procurement Policies:
www.mecknc.gov/Finance/Procurement/Pages/policies.aspx
 - MeckProcure (Vendor Registration/Solicitation Search): meckprocure.com
- **State of North Carolina**
 - **NC Department of Administration:** ncadmin.nc.gov
 - NC Interactive Purchasing System (Vendor Registration/Solicitation Search):
www.ips.state.nc.us/vendor/VendorPubMain.aspx
 - **NC Historically Underutilized Businesses (NCHUB):**
ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub
 - NCHUB/NCSBE Certifications:
ncadmin.nc.gov/businesses/hub/hub-certification
 - Vendor Directory: www.ips.state.nc.us/vendor/searchvendor.aspx?t=h
 - **NC General Statutes:** ncleg.gov/Laws/GeneralStatutesTOC

Attachment 3 – Monitoring & Enforcement Mechanisms

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

PROGRAM COMPLIANCE & GRIEVANCE PROCEDURES

Prime Contractor and Subcontractor Non-Compliance

The BDI Director, along with contracting staff of each County user Department, shall monitor compliance with these BDI Program requirements by Prime Contractors and Subcontractors during the term of the contract. If it is determined there is cause to believe a Prime Contractor or Subcontractor has failed to comply with any of the requirements of this Program, or with the contract provisions pertaining to DBE utilization, the BDI Director (or designee) shall so notify the Director of the Originating Department, Procurement and the Contractor or Subcontractor in writing.

The BDI Director (or designee) may require such reports, information, and documentation from Prime Contractors, Subcontractors, and/or the Director of any County Department, division or office as are reasonably necessary to determine compliance with the Program requirements, within fifteen (15) business days after the notice of non-compliance. If the requested materials are not received within fifteen (15) business days, then a finding of non-compliance is determined and appropriate penalties and sanctions will apply as stated in Section-9(3) of this Provisions Guide, set forth below.

It is the joint responsibility of the BDI Director (or designee) and the Director of the Originating Department (or designee) to attempt to resolve the non-compliance with the requirements of this Program, or the contract provisions pertaining to DBE utilization, within thirty (30) business days.

If non-compliance cannot be resolved within the thirty (30) business days, the BDI Director (or designee) and the Director of the Originating Department (or designee) shall submit written recommendations to the County Manager (or designee) and/or the County Attorney (or designee) and if the County Manager and/or County Attorney (or respective designee) concurs with the finding, such sanctions as stated in Section-9(3) of this Provisions Guide shall be imposed.

Other Prime Contractor or Subcontractor Program Violations

It shall be a material violation of the BDI Program to:

- Fraudulently obtain, retain, or attempt to obtain/retain (or aid another in fraudulently obtaining, retaining, or attempting to obtain/retain) Certification status as a DBE for purposes of this Program;
- Willfully falsify, conceal, or cover up by a trick, scheme, or device, a material fact pertaining to the provisions of this Program;
- Knowingly make any false, fictitious, or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or representation pertaining to the provisions of this Program;
- Willfully obstruct, impede, or attempt to obstruct/impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as a DBE.

- Fraudulently obtain, attempt to obtain (or aid another person fraudulently obtaining or attempting to obtain) public monies to which the person is not entitled under the provisions of this Program; or
Make a false statement to any business entity or government representative that another entity is or is not certified as a DBE for purposes of this Program;
- Any person who violates the provisions of this section shall be subject to the penalties and sanctions set forth in Section-9(3) of this Provisions Guide, as well as any other remedies available under law up to the maximum penalty provided by law.

Penalties and Sanctions for Non-Compliance

Upon determination and recommendation of sanctions by the County Manager and/or County Attorney (or their respective designee) regarding the failure of a contractor, vendor, or other business representative to comply with any portion of the BDI Program, the non-complying party shall be subject to any or all of the following penalties:

- withholding of up to ten percent (10%) of all future invoiced payments for the eligible project until the BDI Program Office determines that the contractor is in compliance with the Program;
- withholding of all future payments under the eligible project until the BDI Program Office determines that the contractor is in compliance with the Program;
- rescission of the contract based upon a material breach of contract pertaining to BDI Program compliance;
- refusal to accept a Bid, proposal or response; and
- disqualification of the contractor, vendor, or other business from eligibility for Bidding Construction projects, providing goods or services (Professional or otherwise) to the County for a period not to exceed two (2) years.

Mediation of Disputes between Prime Contractors and Subcontractors; Joint Venture Partners

If, after the award of a contract, pursuant to the BDI Program, a dispute arises between the Prime Contractor and a Subcontractor regarding performance of work or provision of services or supplies on the eligible project, then such Prime Contractor or Subcontractor may seek review and mediation of the issue before the BDI Director (or designee). The request for review must be made in writing.

Within twenty (20) business days of receipt of a request for review, if the dispute has not already been resolved informally among the parties, the BDI Director (or designee) shall set a mediation date and shall provide written notice of the mediation date to each of the interested parties. The BDI Director (or designee) shall have authority to make recommendations in an attempt to resolve the dispute.

In the event that the mediation with the BDI Director (or designee) does not resolve all disputes, the BDI Director (or designee) shall have the option of referring mediation proceedings to a qualified

BUSINESS DIVERSITY & INCLUSION (BDI) – DBE PROGRAM GUIDE

outside mediator, contingent upon the consent and at the expense of the interested parties.

However, any actions taken by the BDI Program Office to resolve contractor disputes or to ensure the fair and equitable treatment of Subcontractors (or joint venture partners) working on County contracts are done pursuant to the BDI Program Provisions Guide or general non-discrimination policy and shall not be construed as the County taking a position as to the merits of the dispute nor creating any privity of contract between the County and any contractor or Subcontractor. Further, no contractor working on a County contract shall have any claim against Mecklenburg County for any actions taken to ensure the fair and equitable treatment of Subcontractors (or joint venture partners) working on County contracts.

Attachment 4 – Overall Goal Calculation

Overall Goal Calculation

Amount of Goal

Annual Achievement Goals are intended to serve as a benchmark against which to measure the overall effectiveness of the DBE aspects of the BDI program on an annual basis, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and program elements being applied pursuant to the BDI program. They may be included in solicitation documents in order to both inform prime contractors of the County’s aspirations and to request their assistance in meeting the overall goal.

The County's overall triennial goal for FY2022- FY2024 is: 12%

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

In Step One, the County attempted to measure actual relative availability of DBE and potential DBEs to perform the types of contracts that it intends to let.

1. Method Selected

The County utilized the availability data file from the most recent disparity study as its method for determining the base availability figure. This method is permitted in accordance with 49 CFR §26.45(c)(3).

2. Data Files Utilized

Griffin & Strong, P.C. (“GSPC”) conducted the FY2022-2024 Mecklenburg County triennial goal setting following the Mecklenburg County, NC 2020 Disparity Study (“Study”) process. The Study included an availability analysis of firms within a determined geographical and product market.

Within the Study, GSPC determined, using payment data that the relevant geographical market for the services to be provided under FTA funding was the entire State of North Carolina.

GSPC then compiled a “Master Vendor File” which is a compilation of firms (each counted only once) made up of the following governmental data files:

- a) Mecklenburg County's Awarded Prime Vendors (Study Period)
- b) Mecklenburg County's Awarded Subcontractor Vendors (Study Period)
- c) Mecklenburg Payment System Vendors (Current)
- d) City of Charlotte Vendor System (Current)
- e) State of North Carolina HUB List (Current)
- f) Carolina-Virginia Supplier Diversity List (Current)
- g) North Carolina DOT Directory of Firms (Current)
- h) North Carolina DOT Certified List (Current)

GSPC then determined which of the firms in the Master Vendor File performed services in the following NAICS Codes:

Table 1
Anticipated Mecklenburg County FTA Contracts FY2022-2024

Year	NAICS	Description	Project	Estimated Amount
2022	485991	Special Needs Transportation	Transportation Services for the Elderly, Incapacitated...	\$ 400,000.00
2022	532420	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	Software, Computer, Rental or Lease	\$ 195,492.00
2022	811121	Automotive Body, Paint, and Interior Repair and Maintenance	Buses, School and Mass Transit, Maintenance and Repair	\$ 480,000.00
2023	485991	Special Needs Transportation	Transportation Services for the Elderly, Handicapped, Incapacitated	\$ 982,163.00
2024	485991	Special Needs Transportation	Transportation Services for the Elderly, Handicapped, Incapacitated	\$ 965,411.00
Total				\$ 3,023,066.00

Source: Mecklenburg County, NC

Refining and Matching Data

GSPC matched and cleaned each data file and then combined the files. GSPC then related all of the data files and attempted to match the files to pick up addresses (to identify firms within the relevant geographical market) and work types (to identify firms within the relevant product market). In most cases, GSPC was able to successfully cross reference and match the firms by one of the foregoing identifiers. In some cases, GSPC had to search for firms through Google in order to find certain information. GSPC used the following sources to determine the DBE status of firms:

- State of North Carolina HUB List (Current)
- Carolina-Virginia Supplier Diversity List (Current)
- North Carolina DOT Directory of Firms (Current)
- North Carolina DOT Certified List (Current)

The goal setting methodology that the County utilized in setting the FY2022-2024 triennial goal is based upon the requirements set forth in 49 CFR §26.45, along with the “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” which was published on the U.S. Department of Labor website (and approved by the General Counsel of the DOT). 49 CFR 26.45(b) requires Mecklenburg County to “set overall goals based on demonstrative evidence of availability of ready, willing and able DBEs relative to all businesses ready, willing, and able to participate in FTA-assisted contracts.” (“Relative Availability”).

Weighted Availability

According to *The Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program* issued by the US Department of Transportation, weighting should be used wherever possible to ensure accuracy.

The County determined a baseline availability figure using the process set forth in Table 2 below:

**Table 2
 MECKLENBURG COUNTY WEIGHTED AVAILABILITY
 BASELINE GOAL**

Scope of Work	NAICS Code	#DBEs	# ALL FIRMS	RELATIVE AVAILABILITY OF MBE FIRMS	EST. % OF Budget	WEIGHTED RELATIVE AVAILABILITY (MBE)	Estimated Budget
Special Needs Transportation	485991	11	49	22.45%	77.66%	17.43%	\$ 2,347,574.00
Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	532420	2	15	13.33%	6.47%	0.86%	\$ 195,492.00
Automotive Body, Paint, and Interior Repair and Maintenance	811111, 811113, 811119, 811121	10	106	9.43%	15.88%	1.50%	\$ 480,000.00
						Total Budget	\$ 3,023,066.00
	WEIGHTED GOAL					19.79%	

Griffin & Strong, P.C. 2022

(Equation: EST% of Budget * Relative Availability of DBE/Potential DBE = Weighted Relative Availability)

Resulting Baseline Availability 19.79%

Step 2: 26.45(d)

With the Baseline Availability figure calculated, the next step is to determine whether any adjustments are needed, based upon the uniqueness of the way Mecklenburg County does business. GSPC conducted a Total Utilization (prime contractors plus subcontractors) analysis of Other Services in the Relevant Market for the period 2016 through 2019. The Total Utilization in Other Services attainment over those four (4) years was **5.03%** for DBEs and potential DBEs as shown in Table 3 below.

Table 3
Total Utilization - Other Services
 In the Relevant Market – State of North Carolina
 Mecklenburg Disparity Study

Race/Ethnicity	2016		2017		2018		2019		Study Period	
	\$	%	\$	%	\$	%	\$	%	\$	%
Black	\$702,744.15	1.35%	\$505,099.86	0.92%	\$2,100,805.05	4.30%	\$556,130.78	1.21%	\$3,864,779.84	1.91%
Asian American	\$65,485.01	0.13%	\$111,730.68	0.20%	\$251,523.90	0.51%	\$306,225.88	0.66%	\$734,965.47	0.36%
Hispanic American	\$47,563.43	0.09%	\$85,455.88	0.16%	\$3,000.00	0.01%	\$36,680.40	0.08%	\$172,699.71	0.09%
American Indian	\$120,808.00	0.23%	\$175,560.00	0.32%	\$429,654.00	0.88%	\$1,056,219.00	2.29%	\$1,782,241.00	0.88%
Total MBE	\$936,600.59	1.79%	\$877,846.42	1.60%	\$2,784,982.95	5.70%	\$1,955,256.06	4.25%	\$6,554,686.02	3.25%
Female	\$398,298.10	0.76%	\$386,708.87	0.71%	\$1,273,053.67	2.60%	\$1,535,632.65	3.33%	\$3,593,693.29	1.78%
Total MWBE	\$1,334,898.69	2.56%	\$1,264,555.29	2.31%	\$4,058,036.62	8.30%	\$3,490,888.71	7.58%	\$10,148,379.31	5.03%
Non-Minority	\$50,898,776.77	97.44%	\$53,491,175.65	97.69%	\$44,841,166.35	91.70%	\$42,563,549.76	92.42%	\$191,794,668.53	94.97%
Total	\$52,233,675.46	100.00%	\$54,755,730.94	100.00%	\$48,899,202.97	100.00%	\$46,054,438.47	100.00%	\$201,943,047.84	100.00%

Griffin & Strong, P.C. 2020

The County adjusted the baseline availability by finding the average between the total DBE Total Utilization attainment of 5.03% and the Weighted Baseline Availability of 19.79%. The adjusted triennial goal would be 12.41% (Equation: $5.03\% + 19.79\% = 24.82/2 = 12.41\%$), rounded to 12%.

Attachment 5

Breakout of Estimated Race-Neutral & Race Conscious Participation

The County will meet the maximum feasible portion of its overall Annual Achievement Goal by using race-neutral means of facilitating DBE participation. The County uses the following race-neutral means to increase DBE participation:

1. Participate in local business opportunity workshops and/or events held in Mecklenburg County. The County will provide information on “How to Do Business with Mecklenburg County” and the types of opportunities available for contractors and vendors. DBE/MWBE information will also be available for distribution.
2. Work with the County’s Business Diversity & Inclusion (BDI) office and minority contractors’ associations in North Carolina to provide (potential) DBEs information regarding certification and business development programs to interested firms.
3. The Procurement Division of the Finance Department may participate in pre- bid/pre-proposal meetings on projects where federal funds are utilized and the DBELO participates in every pre-bid/pre-proposal meeting for transit, regardless if there is a goal on a project. A detailed explanation is given to all attendees on the utilization of NCDOT’s DBE directories and what constitutes good faith effort. This on- going participation is anticipated to increase the prime contractors’ and consultants’ awareness of the DBE program and requirements. The DBE directories will be utilized by the prime contractors in their goal attainment efforts for our projects.
4. Planning and participating in DBE training seminars and workshops
 - A. Create DBE presentations for speaking engagements among the DBE communities on “How to Do Business with Mecklenburg County” and post to the Office of Economic Development’s, OED.MeckNC.gov and Small Business Ecosystem Partners.
 - B. Conduct Outreach Events to encourage local general contractors, small businesses and potential DBE firms to learn about upcoming procurement opportunities.
 - C. The DBELO will conduct a technical assistance workshop with contractors working on Mecklenburg County federally assisted projects to discuss various topics including the Business Diversity & Inclusion Plan and other contracting opportunities.
 - D. The DBELO will partner with agencies including but not limited to NCDOT Office of Civil Rights Business Opportunity and Workforce Development Division and small business ecosystem partners seeking presentation opportunities and/or outreach efforts to the DBE community.
 - E. The DBELO will meet with the Procurement Division of the Finance Department to review federally assisted upcoming procurements, in advance, to target participation either through the DBE program or for the Business Diversity & Inclusion Plan.
 - F. The DBELO will work with the Procurement Division of the Finance Department to include contract goals to meet any portion of the overall goal the DBELO does not project being able to meet using race-neutral means, on federally assisted contracts that have (sub)contracting opportunities.
5. Update the MeckNC website to ensure ease of use and user-friendly ways to learn “How to Do Business with Mecklenburg County” and include more DBE information.
6. Ensure the links from the NCDOT DBE site to the Mecklenburg County DBE information is correct and provides value add information.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

Race/Gender- Neutral 0% | Race/Gender-Conscious 12%

Mecklenburg County previously administered these contracts in 2021 but since there was no subcontracting permitted by the County, there was no DBE participation as subcontractors. Further, there was no participation of DBEs as prime contractors. Therefore, the County has determined that it is appropriate to make the entire adjusted goal of 12% a race and gender-conscious goal.

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 6 – Good Faith Efforts (GFE) Points System

GOOD FAITH EFFORTS (GFE) POINTS SYSTEM

North Carolina law (N.C.G.S. § 143.128.2(f)) permits local governments some level of discretion in setting and applying the Good Faith Efforts (GFE) point system for DBE inclusion, but a local government cannot require a Bidder to earn more than fifty (50) points. “Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the Bid.” N.C.G.S. § 143-128.2(c) Id. Accordingly, the County has established the following GFE point system:

- The County will evaluate all efforts made by the Bidder/Participant to determine compliance with good faith efforts categories. The BDI Program Team will assess whether the efforts employed by the Bidder are those a Prime Contractor would reasonably be expected to take if they were actively and aggressively trying to meet each Goal established for the Contract. The assessment will be made on a case-by-case basis taking all available facts into account, including documentation provided by the Bidder/Participant.
 - The BDI Program Team (or designee) may take into account the performance of other Bidders/Participants in meeting the established Goals. Mere pro forma efforts will not be sufficient. The focus will be on the likely effectiveness of steps taken.
 - To avoid any impression of unfair Bid practices, all actions necessary to earn the GFE points must be undertaken prior to the Bid opening/Bid due date. For each subcontracting Goal that is unmet, the Bidder/Participant must earn at least fifty (50) GFE points (the “Minimum GFE Points”) from the GFE categories described below to be considered responsive and responsible.
- a) **Subcontractor Solicitation - (15 pts)** Bidder/Participant solicited Bids from DBEs that would meet the Goals stated for the respective Contract, that reasonably could have been expected to submit a quote, and that were known to the Bidder/Participant or available on State or local government-maintained lists, at least ten (10) Business Days before the Bid Opening/Bid due date and notified them of the nature and scope of the work to be performed.

Factors considered for these points may include, but are not limited to:

- Providing a contact log (telephone and/or email) of initial communication to, responses from, and follow-up communication to and from each firm solicited.
 - the Bidder’s/Participant’s solicitation of Bids from DBE Subcontractors, while also considering total number of available DBE firms that would meet the Goals stated in the respective Contract;
 - whether the Bidder/Participant solicited Bids from DBEs listed as performing scopes of work sufficient to meet each Goal;
 - whether the solicitations were made at least **ten (10) Business Days** before Bid opening/Bid due date;
 - how the solicitations occurred and whether they were documented in a verifiable way (and in compliance with any forms provided by the County);
 - whether the substance of the Bidder’s/Participant’s solicitation was

- reasonably sufficient to generate a response from DBEs;
 - whether the Bidder/Participant promptly and adequately responded to inquiries received from DBEs; and
 - whether the Bidder/Participant initiated follow-up communications to DBEs that did not respond to the Bidder's/Participant's initial solicitation.
- b) **Plan Availability – (10 pts)** The Bidder/Participant made the Project Documents (e.g., project descriptions, scopes of work, construction plans, specifications, and/or requirements) available for review by prospective DBE Subcontractors or provided these documents to them at least ten (10) Business Days before the Bids are due. **A Bidder/Participant may receive credit for this GFE only if the Bidder/Participant receives credit for the above Subcontractor Solicitation GFE (subsection (a)) and it responds promptly to any request(s) made for access to the project documents.**

The ways a Bidder/Participant made Project Documents available for these points include:

- providing a telephone number or email address for DBE firms to request copies of the Project Documents via email, fax, regular mail, or other means of document transfer, at no cost; and/or
 - providing an address within the Charlotte-Concord-Gastonia MSA where DBEs can physically access/review the Project Documents at no cost; and/or
 - posting the Project Documents on a website that DBEs can access at no cost.
- c) **Breaking Down Work – (10 pts)** The Bidder/Participant separated or combined elements of work into economically feasible units to facilitate DBE participation. A Bidder/Participant may receive credit for this GFE only if the Bidder/Participant receives credit for the above Subcontractor Solicitation GFE (subsection (a)).

In deciding whether to award points for this GFE, the BDI Program Team will consider:

- the number and dollar value of the scopes of work the Bidder/Participant listed in its written invitation to Bid for DBE participation,
- whether those scopes would be sufficient to meet the contract subcontracting Goals and how the Bidder/Participant notified DBEs of its willingness to break down the work into such units.

Simply restating the County's subcontracting scopes as listed in the solicitation documents may not be sufficient to earn this GFE; the Bidder/Participant should provide written documentation to demonstrate negotiations with DBEs after having proposed broken-down or combined elements of work.

- d) **Working with an DBE Assistance Organization – (10 pts)** The Bidder/Participant must document it worked with DBE trade, community, or contractor organizations identified by the BDI Program Team, the NC Office of Historically Underutilized Businesses, and/or included in the Bid documents that provide assistance in recruitment of DBE businesses, at least **fifteen (15) Business Days before Bids are due**. **A Bidder/Participant may receive credit for this GFE only if the Bidder/Participant receives credit for the above Subcontractor Solicitation GFE (subsection (a)).**

The Bidder/Participant must document that it worked with an DBE assistance organization to provide assistance in recruiting DBEs for the Contract for which Bids are sought. In deciding whether to award points for this GFE, the BDI Program Team will consider:

- the timing and nature of how the Bidder/Participant worked with the DBE organization, and;
 - whether such efforts were reasonably likely to result in significant DBE participation for the Contract for which Bids are sought.
- e) **Attending Pre-Bid – (10 pts)** The Bidder/Participant attended any pre-Bid meetings scheduled by the public owner.
- f) **Bonding or Insurance Assistance – (10 pts)** After the Bidder/Participant received a Bid from an DBE Subcontractor, the Bidder/Participant committed to providing assistance to the DBE in obtaining required bonding or insurance or provided alternatives to bonding or insurance. Mere willingness to offer such assistance in the absence of some DBE Subcontractor participation will not result in credit for these points.

To document satisfaction of this GFE, the Bidder/Participant must submit:

- the name and contact information of the DBE;
- a description of the assistance the Bidder/Participant will provide;
- the date the Bidder/Participant will provide the assistance;
- the name of a contact person with the DBE who can verify that the Bidder/Participant committed to providing the assistance; and
- any additional information requested by the County.

No credit will be given for assistance provided to an Affiliate of the Bidder/Participant or assistance provided that is required by law.

In deciding whether to award points for this GFE, the BDI Program Team will consider how significant and meaningful the assistance was, how many DBEs the assistance was offered to, and what impact it likely had on the Bidder's/Participant's efforts to recruit DBEs for the project.

- g) **Negotiating in Good Faith with DBEs- (20 pts)** The Bidder/Participant must demonstrate that the Bidder/Participant negotiated in good faith with interested DBE businesses (which, at a minimum, means showing some back-and-forth negotiations between the Bidder/Participant and prospective DBEs), and did not reject any DBEs as unqualified without sound reasons based on their capabilities and shall document in writing the reasons for rejecting any DBEs for lack of qualifications.

The County will determine if the rejection is valid based on the following information to be provided by the Bidder/Participant:

- copies of all Subcontractor proposals/responses received from each DBE firm responding to the Bidder's/Participant's solicitation;
- letter from Bidder/Participant detailing reasons for rejecting DBEs due to lack of qualifications;

- for subcontracts where a DBE firm is not considered the lowest responsible Subcontractor, copies of proposals/responses received from all firms submitting proposals for that particular scope of work;
- if the rejection is due to self-performance of a specified work area, Bidder/Participant must submit Bidder's/Participant's own estimate for the scope of work.

The Bidder/Participant must not alter any dollar amounts and/or scopes of work. If a revision is required a revised proposal must be submitted. All telephone proposals must be followed up with a written proposal. All proposals must be received prior to Bid opening/Bid due date.

h) **Financial Assistance – (15 pts)** After the Bidder/Participant received a Bid from an DBE Subcontractor, the Bidder/Participant committed to providing one of the following types of assistance to an DBE in connection with the Contract, once awarded:

- assistance in obtaining equipment, a loan, capital, lines of credit, jo int pay agreements or guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required, or
- assistance in obtaining the same unit pricing with the Bidder's/Participant's suppliers as the Bidder/Participant.

To receive credit for this GFE, Bidders/Participants must provide:

- language in the Bidder's/Participant's solicitation letter and publication advertisement stating the Prime Contractor's Financial Assistance Policy;
- the name and contact information of the DBE;
- the description of the assistance to be provided by the Bidder/Participant;
- the date the Bidder/Participant will provide the assistance; and
- the name of a contact person with the DBE firm who can verify that the Bidder/Participant committed to providing the assistance.

In deciding whether to award points for this GFE, the BDI Program Team will consider how significant and meaningful the assistance was, how many DBEs assistance was offered to, and what impact the assistance likely had on the Bidder's/Participant's efforts to recruit DBEs for the project. **Mere willingness to offer such assistance in the absence of some DBE Subcontractor participation will not result in credit for these points.** No credit will be given for assistance provided to an Affiliate of the Bidder/Participants.

i) **Joint Venture Arrangement – (20 pts)** The Bidder/Participant must demonstrate that the Bidder/Participant negotiated joint venture/partnership/association arrangements with DBE in order to increase opportunities for DBE participation on this project.

To receive credit for this GFE, Bidders/Participants must provide:

- the name and contact information of the DBE;
- a copy of the Joint Venture agreement or other formal business arrangement;
- evidence of the date the DBE entered into the agreement; and
- the name of a contact person with the DBE firm who can verify the existence of the agreement.

No credit will be given for a Joint Venture with an Affiliate of the Bidder/Participant. **Mere willingness to offer such arrangement in the absence of some DBE Subcontractor participation will not result in credit for these points.**

j) Quick Payment Commitment – (10 pts) After the Bidder/Participant received a Bid/Proposal from an DBE Subcontractor, the Bidder/Participant committed to providing quick pay agreements and policies to enable such DBE Subcontractor(s) and/or supplier(s) to meet cash-flow demands. **Mere willingness to offer such agreement in the absence of some DBE Subcontractor participation will not result in credit for these points.**

- To receive credit for this GFE, Bidders must provide the BDI Program Team with:
 - language in the Bidder’s/Participant’s solicitation letter and publication advertisement stating the Prime Contractor’s Quick Pay Policy;
 - a copy of the Bidder’s Quick Pay Commitment related to the specific Contract;
 - documentation indicating that all DBEs notified under the above Subcontractor Solicitation GFE (subsection (a)) have received a written copy of the Bidder’s Quick Pay Commitment prior to the Bid opening/Bid due date.

GFE Documentation

To demonstrate GFE compliance, a Bidder/Participant must submit the GFE Supporting Documentation within the time specified by the BDI Program Office. If the BDI Program does not specify a time, the Bidder/Participant must submit GFE Supporting Documentation **within three (3) Business Days** after the BDI Program Team requests it. The BDI Program Office may request GFE Supporting Documentation from other Bidders in order to evaluate the DBE participation achievement and the GFEs of the apparent low/best value Bidder relative to others. Regardless of when the GFE Supporting Documentation is due, **all actions necessary to earn the GFE points must be undertaken and dated prior to Bid opening/Bid due date. Consistent with the NC general statute**, “Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the Bid.” N.C.G.S. § 143-128.2(c).

DBE Good Faith Efforts Appeal Process

If a Bid/Proposal is rejected because the BDI Program Office determined after reviewing all relevant information that the submitted documentation was inadequate to establish sufficient Good Faith Efforts, the Bidder/Participant may request a review of this determination in accordance with the following process: The Bidder/Participant who wishes to dispute the Good Faith Efforts decision of the BDI Program Office may have that decision reviewed by the Hearing Committee provided the Bidder/Participant submits a request for review in writing to the Originating Department within five (5) business days of the date of the decision to reject the proposal. The request shall contain specific reasons and any supporting documentation for why the Bidder/Participant believes that the Good Faith Efforts decision was in error.

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The Originating Department shall refer the matter to the Hearing Committee (send a copy to the BDI Program Office). A hearing shall be scheduled within fifteen (15) business days of the receipt of the review request. The Hearing Committee will be provided all relevant documents in possession of the BDI Program Team. The Hearing Committee, upon its discretion, may seek review of the Good Faith Efforts decision with the Bidder and/or its representative and the BDI Director (or designee). The Hearing Committee shall make a decision and notify the Bidder in writing within five (5) business days following the hearing. The Hearing Committee may affirm, reverse, or modify the Good Faith Efforts decision of the BDI Program Office. The decision of the Hearing Committee shall be final.

Attachment 7 – BDI Forms

Submittals and Time Frame

The specific forms to be utilized are noted on the Bid Solicitation Coversheet per the Participation Goal Type. “Failure to file a required affidavit or documentation that demonstrates that the contractor

Form Name/Description	Submission Requirements	Required Form #
<p>Listing of Good Faith Efforts (GFE) Completed by Bidder(S). Identifies the statutory Good Faith Efforts undertaken to recruit and solicit DBEs to meet or exceed the participation goal for this Contract.</p>	<p>Due with Bid/Proposal when noted on Bid Solicitation Information <i>(if subcontracting)</i></p>	Form A
<p>Identification of Subcontractor Participation Completed by Bidder(s). Identifies DBEs and non-certified firms (their scope of work and dollar value) that are anticipated to receive a subcontract for this Contract.</p>	<p>Due with Bid/Proposal <i>(if subcontracting)</i></p>	Form B
<p>Statement of Intent to Perform Contract with Own Workforce Completed by Bidder(s). Indicates that the Bidder does not customarily subcontract elements of this type of project, normally performs, has the capability to perform, and will perform ALL elements of the work on this Contract with its own current workforce AND will not purchase any material or supplies for the project in the performance of this Contract.</p>	<p>Due with Bid/Proposal <i>(if self-performing)</i></p>	Form C
<p>DBE Inclusion Plan Completed by Bidder(s). A detailed description of the strategies and actions the Bidder will take to outreach fairly and equitably, support, and contract with DBEs.</p>	<p>Due with Bid/Proposal when noted on Bid Solicitation Information Coversheet <i>(if subcontracting)</i></p>	Form D
<p>Subcontractor Commitment Completed by Prime Contractor(s) and ALL of the Subcontractors (Suppliers/Subconsultants). This document shall not serve in a manner as an actual subcontract between the two parties. A separate binding agreement will describe in detail the contractual obligation of the Prime Contractor and the Subcontractor conditioned upon the execution of a contract with Mecklenburg County.</p>	<p>Due within three (3) business days after receiving a request from the County <i>(if subcontracting)</i></p>	Form E
<p>Certificate of DBE Unavailability Completed by Bidder(s)/Participant(s). This document identifies the DBE firms that were originally committed to Subcontract in good faith but became unavailable prior to signing a formal Agreement/Contract.</p>	<p>Due with the Subcontractor Commitment Form (Forms E/E1)</p>	Form F
<p>Prime Contractor / Project Identification Completed by Prime Contractor(s). Identifies the Prime Contractor and Project information.</p>	<p>Due within three (3) business days after receipt of fully executed County Contract</p>	Form G
<p>Statement of Payments to Subcontractors/Suppliers Completed by Prime Contractor(s) (and Tier 1 Subcontractors when applicable). Prime Contractors must submit this form with each request for payment showing work that has been approved and completed for all Subcontractors (suppliers, manufacturers, brokers, and/or members of a joint venture) in connection with the Contract.</p>	<p>Due with Pay Applications</p>	Form H
<p>Good Faith Efforts (GFE) Documentation Completed by Bidder. If the established DBE goal is not achieved at the time of Bid, the Bidder shall provide the backup documentation using the GFE Points System as a guide for documentation submission to support the Good Faith Efforts selected on Form A.</p>	<p>Due upon the time specified by the County, if not specified then within three (3) business days after the bid due date</p>	Backup Documentation using the GFE Points System
<p>Joint Venture Documentation Completed by Prime Contractor. Documentation that acknowledges a joint venture, the terms, and percentage breakdown.</p>	<p>Due with Bid/Proposal when noted on Bid Solicitation Information Coversheet <i>(if subcontracting)</i></p>	Backup Documentation

made the required good faith effort is grounds for rejection of the Bid.” NCGS 143-128.2(c)

Form A – Listing of Good Faith Efforts (GFE)
[Submit with Bid – DBE Program]

Name of Bidder: _____
(Company Name)

Project Name: _____ **Solicitation #:** _____
Prior to submission, review your documents for accuracy and ensure all items are complete

I have reviewed and made a good faith effort to comply with Attachment 6 Good Faith Efforts (GFE) Points System and have marked the following by selecting the checkbox(es) below and totaling the final points attained.

Bidders must earn at least fifty (50) points from the good faith efforts listed for their Bid to be considered responsive. (1 NC Administrative Code 30 I.0101). **The Bidder agrees to provide any additional information and/or documentation per Attachment 6 Good Faith Efforts (GFE) Points System requested by the Owner in support of the Bidder’s good faith efforts.**

NOTE: All actions necessary to earn GFE Points must be undertaken prior to Bid opening/Bid due date.

- (a) – 15 pts** **Subcontractor Solicitation:** Bidder/Participant solicited Bids from DBEs that would meet the Goals stated for the respective project, that reasonably could have been expected to submit a quote, and that were known to the Bidder/Participant or available on State or local government-maintained lists, at least **ten (10) Business Days** before the Bid date and notified them of the nature and scope of the work to be performed.

- (b) – 10 pts** **Plan Availability:** The Bidder/Participant made the Project Documents (e.g., project descriptions, construction plans, specifications, and/or requirements) available for review by prospective DBE Subcontractors or provided these documents to them at least **ten (10) Business Days** before the Bids are due. **A Bidder/Participant may receive credit for this GFE only if the Bidder/Participant receives credit for the above Subcontractor Solicitation GFE (subsection (a)) and it responds promptly to any request(s) made for access to the project documents.**

- (c) – 10 pts** **Breaking Down Work:** The Bidder/Participant separated or combined elements of work into economically feasible units to facilitate DBE participation. **A Bidder/Participant may receive credit for this GFE only if the Bidder/Participant receives credit for the above Subcontractor Solicitation GFE (subsection (a)).**

- (d) – (10 pts) Working with an DBE Assistance Organization:** The Bidder/Participant must document it worked with DBE trade, community, or contractor organizations identified by the BDI Program Team, the state Office of Historically Underutilized Businesses, and/or included in the Bid documents that provide assistance in recruitment of DBE businesses, at least **fifteen (15) Business Days** before Bids are due. **A Bidder/Participant may receive credit for this GFE only if the Bidder/Participant receives credit for the above Subcontractor Solicitation GFE (subsection (a)).**

- (e) – (10 pts) Attending Pre-Bid:** The Bidder/Participant attended any pre-Bid meetings scheduled by the Owner.

- (f) – (10 pts) Bonding or Insurance Assistance:** After the Bidder/Participant received a Bid/Proposal from an DBE Subcontractor, the Bidder/Participant committed to providing assistance to the DBE in obtaining required bonding or insurance or provided alternatives to bonding or insurance. **Mere willingness to offer such assistance in the absence of some DBE Subcontractor participation will not result in credit for these points.**

- (g) – (20 pts) Negotiating in Good Faith with DBEs:** The Bidder/Participant must demonstrate that the Bidder/Participant negotiated in good faith with interested DBE businesses (which, at a minimum, means showing some back-and-forth negotiations between the Bidder/Participant and prospective DBEs), and did not reject any DBEs as unqualified without sound reasons based on their capabilities and shall document in writing the reasons for rejecting any DBEs for lack of qualifications.

- (h) – (15 pts) Financial Assistance: After the Bidder/Participant received a Bid/Proposal from an DBE Subcontractor**, the Bidder/Participant committed to providing one of the following types of assistance to an DBE in connection with the Contract, once awarded:
 - assistance in obtaining equipment, a loan, capital, lines of credit, joint pay agreements or guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required, or
 - assistance in obtaining the same unit pricing with the Bidder's/Participant's suppliers as the Bidder/Participant.

- (i) – (20 pts) Joint Venture Arrangement:** The Bidder/Participant must demonstrate that the Bidder/Participant negotiated joint venture/partnership/association arrangements with DBE in order to increase opportunities for DBE participation on this project.

- (j) - (10 pts) Quick Payment Commitment: After the Bidder/Participant received a Bid / proposal from an DBE Subcontractor**, the Bidder/Participant committed to providing quick pay agreements and policies to enable such DBE Subcontractor(s) and/or Supplier(s) to meet cash-flow demands. **Mere willingness to offer such agreement in the absence of some DBE Subcontractor participation will not result in credit for these points.**

The undersigned will enter into a formal agreement with the firms listed on the Identification of Subcontractor Participation Form (Form B), conditional upon the scope of contract to be executed with the Owner. Substitution of Contractors must be in accordance with GS143-128.2(d). Failure to abide by this statutory provision will constitute a breach of the contract, giving rise to all contract and/or statutory remedies, including but not limited to cancellation of the contract.

The undersigned hereby certifies that he or she has read the terms of the BDI Program Provisions Guide and the formal agreement with the firms listed on Form B and is authorized to bind the Bidder/Participant to the commitment herein set forth.

Total GFE Points _____ (Calculate the total GFE points selected with above)
 For the DBE Goal that is unmet, the Bidder must earn at least fifty (50) GFE points (the "Minimum GFE Points") to be considered responsive. Be prepared to submit the documentation following the Bid opening/Bid Due date.

Date: _____ Name of Authorized Person: _____
 Signature: _____
 Title: _____



State of _____, County of _____
 Subscribed and sworn to before me _____ day _____ 20____
 this _____ of _____
 Notary Public
 Name/Signature _____
 My commission expires _____

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Form B – Identification of Subcontractor Participation

[Submit with Bid – DBE Program]

The County maintains a strong commitment to the inclusion of DBEs in the County’s contracting and procurement process when there are viable subcontracting opportunities. Bidders must submit this form with their Bid/Proposal outlining any supplies and/or services to be provided by all Subcontractors, including each DBE, and non-certified firms for the Contract.

Prior to submission, review your documents for accuracy and ensure all items are complete

Name of Bidder: _____ **Certification Status** _____
(Company Name) *(check all that apply):* NCDOT-DBE

Project Name: _____ **Solicitation #:** _____ **Total Bid Amount:** _____

Authorized Person: _____ **Telephone:** _____ **Email:** _____

I, the Authorized Person, do hereby certify that on this Contract, we intend to use the following certified **DBEs** and other firms as Subcontractors (subconsultants, vendors, suppliers, and/or providers of professional and/or other services). We intend to expend the amounts/percentages below of the total dollar amount of the contract with the businesses listed

DBE with the NCDOT Office is required to be counted toward participation goals

Total Utilization Amount	Total Utilization Percentage	Total DBE Amount	Total DBE Percentage	Total Non-Certified Amount	Total Non-Certified Percentage

#	Firm Name / Contact Person	Telephone / Email	County / State	Scope of Work	DBE Amount	Non-Certified Amount
1						
2						
3						

(add additional sheets if needed)

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with the firms listed on this form, conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract, giving rise to all contract and/or statutory remedies, including but not limited to cancellation of the contract. The undersigned hereby certifies that he or she has read the BDI DBE Program Guide and the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Signature of Authorized Person
Title
Date

Form C – Statement of Intent to Perform Contract with OWN Workforce
[Submit with Bid – DBE Program]

*****Prior to submission, review your documents for accuracy and ensure all items are complete*****

Name of Bidder: (Company Name) _____ Telephone: _____	Certification Status: <input type="checkbox"/> NCDOT-DBE Emails: _____
Project Name: _____	Solicitation #: _____
Total Bid Amount: _____	

I hereby certify that it is our intent to perform 100% of the contract required for this Contract.

1. In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type of project, normally performs, has the capability to perform, and will perform **all elements of the work** (labor) on this project with his/her own current workforces – **including any aggregation of material, equipment or supplies required for the project provided by the Bidder’s company for utilization on a County Project, with the total value of which is ten percent (10%) or more of the value of the contract or \$2,000, whichever is less; and**

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

2. If it should become necessary to subcontract some portion of the work at a later date, the Bidder will comply with all "Good Faith Efforts" requirements in providing equal opportunity to DBE and DBE firms to Subcontract the Work.

The undersigned hereby certifies that he or she has read the BDI DBE Program Guide and this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Person: _____
 Signature: _____
 Title: _____



State of _____, County of _____
 Subscribed and sworn to before me _____ day _____ 20____
 this _____ of _____
 Notary Public
 Name/Signature _____
 My commission expires _____

Form D – DBE Inclusion Plan
[Submit with Bid, when selected in the BDI Solicitation Information]

Create a detailed description of the strategies and actions the Bidder will take to outreach fairly and equitably, support, and contract with DBEs.

*****Prior to submission, review your documents for accuracy and ensure all items are complete*****

The following are elements to incorporate into the DBE Inclusion Plan to help collaborate **with** DBEs by addressing the following, but not be limited to:

- the firms you contacted, when, and how you made contact, and their contact information
- the outreach strategy used to meet this Contract’s DBE achievement goals;
- the specific resources and resource contacts utilized to locate DBE firms for this Contract;
- the plan for building a connection with DBEs and developing a project team;
- the plan to strengthen business relationships;
- the methods that will be used to improve lines of communication;
- the approach(es) that will be taken to resolve disputes;
- detailed description of the supportive services and activities that will be established for business development and how the plan will be executed;
- the mentorship opportunities that will be made available and how those opportunities will be executed; and
- the efforts that will be made available for capacity building and how those efforts will be executed.

(add additional sheets if needed)

Form E – Subcontractor Commitment

[Do not submit with Bid – Due within three (3) business days after receiving a request from the County – DBE Program]

This document shall not serve in a manner as an actual subcontract between the two parties. A separate binding agreement will describe in detail the contractual obligation of the Prime Contractor and the Subcontractor. The undersigned will enter into a formal agreement for the scope of work mentioned, conditioned upon the execution of a contract with Mecklenburg County. Breach of this commitment constitutes breach of Bidder's/Participant's contract if awarded. **If subcontracting with DBE Firms, any changes in this commitment must be approved in advance by the BDI Office.**

To be completed by the Prime Contractor			
Project Name:		Solicitation Number:	
Company Name:			
Authorized Person:		Title:	
Email:		Telephone:	
Reason for Out-of-State Sub Selection (if applicable):			

If the Prime Contractor has entered into a Quick Pay Agreement, in association with this Commitment, attach a copy of the executed Agreement with the undersigned business.

Upon execution of a Prime Contract with the County for the above referenced project, the Bidder/Participant certifies that it intends to utilize the business listed below, and that the description, cost of work to be performed by the business as described below is accurate. Both parties have or will enter into a formal agreement conditioned upon the execution of a Contract with Mecklenburg County.

Signature of Authorized Person (Prime Contractor) Date

To be completed by the Subcontractor (Supplier/Subconsultant)			
Company Name:			
Authorized Person:		Title:	
Telephone:		Email:	
Address, City, St, Zip:			
County:		Ownership is Minority Female:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Source of Ownership Category:	** Please Select **	Ownership Category:	** Please Select **
Contract Date:		Attended the Pre-Bid:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Identify in complete detail the scope of work to be performed and/or item(s) to be supplied with projected start and end timeframe. The undersigned intends to and is prepared to perform the work and/or provide the supplies (described below) in connection with the above project at the following Price (\$): _____

NIGP Code	Scope of Work	Projected Start Date	Projected End Date

The Subcontracting firm certifies that it has read the BDI DBE Program Guide and agreed to provide such work/supplies for the amount stated above. Both parties have or will enter into a formal agreement conditioned upon the execution of a Contract with Mecklenburg County.

Signature of Authorized Person (Subcontractor/Supplier) Date

Form F – Certificate of DBE Unavailability

[Do not submit with Bid – Due within three (3) business days after receiving a request from the County – DBE Program]

This document identifies the DBE firm that was originally committed to Subcontract in good faith but became unavailable prior to providing the work/supplies, originally agreed upon for this project.

To be completed by the Prime Contractor			
Project Name:		Solicitation Number:	
Company Name:			
Authorized Person:		Title:	
Email:		Telephone:	
Reason for Out-of-State Sub Selection (if applicable):			

The undersigned certifies that the below DBE was contacted in **“Good Faith”** and agreed to participate on the Project mentioned above with the stated price and scope of work but is now unavailable per the reason they have stated below.

Signature of Authorized Person (Prime Contractor) Date

To be completed by the Subcontractor (Supplier/Subconsultant)			
Company Name:			
Authorized Person:		Title:	
Telephone:		Email:	
Address, City, St, Zip:			
County:		Ownership is Minority Female:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Source of Ownership Category:	** Please Select **	Ownership Category:	** Please Select **
Contract Date:		Attended the Pre-Bid:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Price (\$)	Scope of Work	Reason for Unavailability

The firm certifies that it is no longer available to provide such work/supplies for the amount stated above, per the reason stated.

Signature of Authorized Person (Subcontractor/Supplier) Date

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Form G – Prime Contractor / Project Identification Form

[Do not submit with Bid – Due within three (3) business days after receipt of fully executed County contract – DBE Program]

To be completed by the Prime Contractor			
Project Name:		Solicitation #:	
Company Name:			
Owner Name:		Owner Email/Telephone:	
Authorized Person:		Title:	
Email		Telephone:	
Address, City, County, State, Zip:			
Bid Opening Date:		Self-Performing:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Contract Date:		Contract #:	
Original Contract Value:		Current Certification(s):	
Primary Type of Work for this Contract <i>(Construction)</i>	**Please Select**	Primary Discipline for this Contract <i>(Construction)</i>	**Please Select**
Construction Method <i>(Construction)</i>	**Please Select**	Type of Service <i>(Construction)</i>	**Please Select**
Scope of Work <i>(Services/Goods)</i>			
Ownership Category	** Please Select **	Ownership is Minority Female	<input type="checkbox"/> Yes <input type="checkbox"/> No
Source of Ownership Category	** Please Select **		

Signature of Authorized Person

Date

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Form H – Statement of Payments to Subcontractors (Suppliers/Subconsultants)

[Do not submit with Bid – Due with pay applications – DBE Program]

Prime Contractors must submit this form or when applicable, input this information into the Contract Compliance Solution System with each request for payment showing work that has been approved and completed for all Subcontractors to Mecklenburg County showing work that has been approved and completed for all Subcontractors (suppliers, manufacturers, brokers, and/or members of a joint venture) in connection with the Contract.

Copy this form as needed.

Project Name:		Contract Number:	
Company Name:			
Authorized Person:		Title:	
Email:		Telephone:	
Address, City, County, State, Zip:			
Payment Period (dates – from/to):		Payment/Invoice #:	
Invoice Amount:		County Project Manager Name:	
Notes:			

FINAL PAYMENT: Check this box only when submitting with the Final Pay Request

Final Contract Total Value: _____

No Payments: Certify that no Subcontractors (suppliers/subconsultants) were used in performing the Contract for the payment period indicated above.

PAYMENTS TO ALL SUBCONTRACTORS

Complete the fields below for all Subcontractors (suppliers/subconsultants) on the contract for the above-mentioned period regardless of dollar amount.

Firm's Name	Cert.	Scope of Work	NIGP	Amount to be Paid from this pay request	Total Payments to Date	Total Amount Committed
	Select					
	Select					
	Select					
	Select					
	Select					
Total Amount Paid on this Statement						
Total Amount paid to DBE firms on this Statement						
Total Amount paid to Non-Certified firms on this Statement						

The undersigned certifies the preceding chart is a true and accurate statement of all payments that have been made to Subcontractors (suppliers/subconsultants) on the above referenced Contract, and that all Suppliers providing goods under this contract include sales tax. If no Subcontractors or Suppliers are listed on the preceding chart, the undersigned certifies that no Subcontractors or Suppliers were used in performing the Contract for the payment period indicated. Failure to provide accurate and truthful information is a violation of Mecklenburg County's BDI Provisions Guide (Section-9) and may result in the sanctions prescribed therein.

Signature and title of the authorized person of the company and the date must be properly executed or this document will be deemed nonresponsive.

Signature of Authorized Person

Date

Attachment 8 – Regulations: 49 CFR Part 26

Regulations: 49 CFR Part 26

eCFR :: 49 CFR Part 26 -- Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs or visit:
<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

Attachment 9 – Public Participation

Public Participation

- We published our goal information in these publications:
- We received comments from these individuals or organizations:
- Summaries of these comments are as follows:
- Our responses to these comments are:

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