



City of Gardena | GTrans

**Disadvantaged Business Enterprise (DBE)
Program**

April 2020



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**City of Gardena’s GTrans
Disadvantaged Business Enterprise (DBE) Plan**

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**City of Gardena's GTrans
Disadvantaged Business Enterprise Program
Statement of Policy**

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

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

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Transit Administrative Officer (TAO) has been designated as the DBE Liaison Officer. In that capacity, the TAO 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 GTrans in its financial assistance agreements with the Department of Transportation.

In addition, GTrans will distribute this statement to DBE and non-DBE communities and business organizations through posting on GTrans' website and solicitations.



Ernie Crespo
Transportation Director

5/12/2020
Date

Background

The City of Gardena is located in the South Bay sub region of Los Angeles County, approximately 12 miles from the downtown Central Business District (CBD) of Los Angeles. Gardena is bounded on the north and west by unincorporated areas of Los Angeles County, as well as the city of Hawthorne and on the south and east by the cities of Los Angeles and Torrance. The City of Gardena was incorporated in 1930 and is governed by a five-member City Council, one of whom is the Mayor and presiding officer. The City Manager, appointed by the Council, administers the day-to-day business of the City.

The City's Transportation Department (GTrans) inaugurated service in 1940 and for 80 years has been one of three municipal transit operators serving the South Bay subregion of Los Angeles County. Boarding over three million customers annually on the system, GTrans provides fixed route bus service using a fleet of 54 buses deployed over five routes.

Service is deployed to the City of Gardena and throughout the adjacent communities of Torrance, Redondo Beach, Carson, Compton, City of Los Angeles, Hawthorne Lawndale and certain unincorporated areas of Los Angeles County. GTrans also serves downtown Los Angeles and interfaces at several points with Los Angeles County Metropolitan Transportation Authority's (Metro) Blue and Green Line light rail services, Silver Line at Harbor Gateway Transit Center, and Metro bus service. GTrans also connects with Torrance Transit, Beach Cities Transit, Lawndale Beat, the Los Angeles Department of Transportation (LADOT) and the City of Compton's Renaissance Transit. More than two-thirds of the GTrans service area lies outside the City of Gardena boundaries.

GTrans also operates a demand response transit service for its elderly and disabled residents. GTrans provides this service on a consolidated basis to the elderly and disabled residents of Hawthorne and the Los Angeles County unincorporated areas of Del Aire and Alondra Park, as well as to the residents of Gardena. This service is provided in addition to that which is provided by Access Services, Inc., the Los Angeles County complementary paratransit service mandated by the Americans with Disabilities Act of 1990 (ADA).

General Requirements

Applicability

The applicability of this Program is as follows:

Pursuant to 49 CFR Parts 26.3 and 26.21, GTrans, as a recipient of federal financial assistance from the Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT), is required to implement a DBE Program in accordance with 49 CFR Part 26. The Program outlined herein applies to all GTrans contracts that are funded, in whole or in part, by DOT federal financial assistance.

Definitions

Any terms used in this Program that are defined in 49 CFR Sec. 26.5, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations. Some of the more commonly used terms are defined below:

Disadvantaged Business Enterprise (DBE)

A DBE is a for-profit, small business concern -

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Small Business Concern

A small business concern is an existing small business, as defined by Section 3 of the Small Business Act and the Small Business Administration regulations which implemented the Act (13 CFR Part 121), that also does not exceed the cap on average gross receipts specified in 49 CFR Sec. 26.65(b).

Socially and Economically Disadvantaged Individuals

Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identify as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.
2. Any individual in the following groups, member of which are rebuttably presumed to be socially and economically disadvantaged:
 - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

- b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
 - d. "Asian-Pacific Americans," which includes including persons whose origins are from Brunel, Burma (Myanmar), Cambodia (Kampuchea), China, the Commonwealth of the Northern Marianas Islands, the Federated States of Micronesia, Fiji,Guam, Hong Kong, Indonesia, Japan, Juvalu, Kirbati, Korea, Laos, Macao, Malaysia, Nauru, the Philippines, Samoa, Taiwan, Thailand, Tonga, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), or Vietnam;
 - e. "Subcontinent Asian Americans," which includes persons whose origins are from Bangladesh, Bhutan, India, the Maldives Islands, Nepal, Pakistan, or Sri Lanka;
 - f. Women; or
 - g. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration.
3. Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Additionally, any individual can demonstrate, by a preponderance of evidence, that he/she is socially and economically disadvantaged on a case-by-case basis. GTrans will follow the guidelines in 49 CFR Part 26, Appendix E (see page 19) for determining social and economic disadvantage.

An individual cannot be presumed or determined on a case-by-case basis to be economically disadvantaged if he/she has a personal net worth exceeding \$750,000 (excluding the individual's ownership interests in the small business concern and his or her primary residence).

Race-Neutral

A procedure or program that is used to assist all small businesses. For the purpose of this Program, race-neutral includes gender neutrality.

Race-Conscious

A measure or program that is specifically focused on assisting only DBEs, including women-owned DBEs.

Personal Net Worth

The value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: the individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of

residence. An individual's personal net worth includes only his or her own share of community property with the individual's spouse.

Non Discrimination Requirements

It is the policy of GTrans that no person will ever be excluded from participation in, denied the benefits of, or otherwise be discriminated against, 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 the administration of the DBE Program, GTrans will not directly, nor 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 this DBE Program with respect to individuals of a particular race, color, sex, or national origin.

Quotas will not be used in any way in the administration of this DBE Program.

Record Keeping Requirements

GTrans will record and report DBE participation to the FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

GTrans will also create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid on GTrans' DOT-assisted contracts. The purpose of this list is to allow use of the bidders' list approach to calculating overall annual gross receipts of firms. The bidders' list will include the name, address, DBE/non-DBE status, age and annual gross receipts of firms.

Assurances

Financial Assistance Agreement

As part of the DOT financial assistance agreements that are signed by GTrans, the following language is included:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contracts or in administration of its DBE Program or the requirements 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-administered 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 recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Contract Assurance

GTrans will also include the following language in all DOT-assisted contracts:

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

Administrative Requirements

DBE Program Updates

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

DBE Liaison Officer (DBELO)

The City of Gardena's Transit Administrative Officer (TAO) has been designated as the DBE Liaison Officer (DBELO) for GTrans (Attachment A). In that capacity, the TAO is responsible for implementing all aspects of the DBE Program and ensuring that GTrans complies with all provisions of 49 CFR Part 26. The TAO has direct, independent access to the Director of Transportation concerning DBE Program matters. An organization chart displaying the DBELO's position in the organization can be found in Appendix A.

The DBELO has a professional administrative staff of one individual who acts as support personnel devoting a portion of their time to implementation of the DBE Program. The DBELO is responsible for developing, implementing and monitoring the DBE program in coordination with other appropriate City of Gardena staff, such as the Purchasing Officer, Finance Director and City Attorney. The duties and responsibilities of the DBELO and his/her professional support staff include the following:

1. Gathers and reports statistical data and other information as required by the US DOT
2. Reviews third party contracts and purchase requisitions for compliance with the Program
3. Sets overall annual goals
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results

6. Analyzes GTrans' progress toward goal attainment and identifies ways to improve progress
7. Participates in pre-bid meetings
8. Advises the Transportation Director, City Manager and the City Council on DBE matters and achievement
9. Participates with other appropriate City staff to determine contractor compliance with good faith efforts. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance
10. Provides outreach to DBEs and community organizations to advise them of opportunities
11. Maintains and updates GTrans' directory of certified DBEs
12. Coordinates project management staff in arranging bid information, solicitation and schedules to assure maximum opportunities for DBE participation
13. Maintains the DBE Program including revisions and updates required by operational changes, the US DOT or amendments to 49 CFR Part 26

DBE Financial Institutions

It is the policy of GTrans to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT- assisted contracts to make use of these institutions.

In an effort to identify and use such institutions, using the Unified Certification Program's database, GTrans was unable to find any financial institutions in the Los Angeles and Orange County areas. The following NAICS codes were used: 522110 – Commercial Banking, 522130 - Credit Unions, 521110 – Monetary Authorities Central Banks, 522120 – Savings Institutions, 522220 – Sales Financing, 525190 – Other Insurance Funds and 522291 – Consumer Lending.

GTrans will continue to investigate financial establishments which are established within the community, and owned by socially and economically disadvantaged individuals on a regular basis.

Prompt Payment

GTrans shall include the following provision in each DOT-assisted contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the recipient. This clause applies to both DBE and non-DBE subcontracts.

DBE Directory

GTrans is part of the State of California, Department of Transportation, DBE Unified Certification Program. This program provides a comprehensive DBE Directory listing that we are able to query by location and NAICS category and make available to contractors and the public upon request. The Directory is provided in Appendix B. The directory includes the firm's name, address, telephone number, and types of work for which the firm is certified as a DBE. The DBE directory does not in any way pre-qualify the identified DBE firms with respect to licensing, bond ability, competence, or financial responsibility. The directory is currently maintained online and available upon request.

Overconcentration

If the DBELO determines that DBE participation is so over-concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBELO will develop appropriate measures to address the over-concentration. The DBELO will seek approval from the FTA, and at that time, the measures will become part of this Program. Currently, GTrans is unaware of any types of work that have a burdensome over-concentration of DBE participation.

Business Development Programs

GTrans will not operate a business development or mentor- protégé program at the present time. If GTrans implements such a program in the future, GTrans will describe the rationale for having the program element, the specific provisions of the program, (i.e. who is eligible to participate, how the program element works, and how interested persons would obtain information about the program). At the time of a decision to implement a business development or mentorship protégé program, the DBELO will seek approval of such program from FTA and, at that time, the program will become part of the overall DBE program.

Monitoring and Enforcement Mechanisms

GTrans will implement appropriate mechanisms to ensure compliance with the DBE Program by all participants under Federal, State and local law, and 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 of Program Fraud and Civil Penalties rules) provided in 26.109. GTrans will also consider similar action under its own legal authorities, including responsibility determinations in future contracts.

GTrans will also implement some of the following techniques:

1. When a DBE goal is set on a contract, the DBELO will attend the pre-bid meeting and will provide DBE information to all prime contractors prior to bid opening.
2. Once the contract is awarded, the DBELO will monitor the amount actually paid by the prime to DBE subcontractors and will require reports of payments to DBEs. A letter will be sent to DBE subcontractors to verify the dollar amount.

3. The amount awarded the DBE, the amount paid to the DBE as stated by the prime, and the amount paid to the DBE as verified by the DBE, will be tracked; and the actual amount paid to DBEs will be reported by the DBELO to the FTA.
4. The DBELO will be notified when a contract change or amendment is made. Subsequently, the prime contractor will submit a statement to the DBELO regarding how the change may affect DBE subcontracting.
5. The DBELO will ensure that work is actually being done by DBEs, as evidenced by written certification that the DBELO has reviewed contracting records and monitored work sites.
6. GTrans and the DBELO will use the Procurement History Form, the Procurement Index Form and the GTrans Record of DBE Compliance Monitoring Form to further assist in the monitoring and compliance of DBEs for DOT-assisted contracts. Forms can be found in Appendix C (1).
7. GTrans will incorporate regulations, provisions and contract remedies within its DOT-assisted contracts that are available to GTrans in the event of non-compliance with the DBE regulations by a contractor in its procurement activities. Specific provisions are included in Appendix C (2).

Small Business Participation

GTrans will implement a Small Business Element to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation. These steps may include:

1. Removal of unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors;
2. Requirement of bidders on large contracts to identify and/or provide specific contracts appropriate for small business participation;
3. Structuring of procurements and acquisition strategies to facilitate bids by and awards to small business consortia or joint ventures;
4. Issuing a reasonable number of prime contracts of a size that small businesses, including DBEs can perform;

GTrans will continue to conduct regular reviews of procurements to assess opportunities for unbundling (breaking out scopes of work/services to facilitate small business prime contracting opportunities.) GTrans will also recommend, as part of its pre-proposal and pre-bid meetings process prior to submission of bids and proposals, that prime contractors shall create subcontract opportunities when no DBE goal has been set for that procurement. The DBELO, or designee, shall participate in all pre-bid and pre-proposal meetings to assure this information is made part of the procurement process to encourage and establish small business concerns.

Goals, Good Faith Efforts and Counting

Set-Asides or Quotas

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

Overall Goals

GTrans will develop an overall goal for DBE participation in DOT-assisted contracts. GTrans will submit its triennial overall DBE goal to the Federal Transit Administration on August 1 of the year specified by the FTA. GTrans will be using our goal on October 1 of each year, unless we have received other instructions from DOT.

The goal will be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on DOT-assisted contracts and will reflect GTrans' determination of the level of DBE participation expected absent the effects of discrimination. The overall goal will be developed using the procedures outlined in 49CFR Sec. 26.45 which includes:

- 1) Determining a base figure for the relative availability of DBEs using one of the following methodologies:
 - a. Using DBE Directories and Census Bureau data
 - b. Using GTrans' bidders list
 - c. Using data derived from a disparity study, if applicable
 - d. Using the goal of another recipient as a base figure

Any of these methods may be used, but the methodology must be based on the demonstrable data of the relevant market conditions and be designed to reach a goal that GTrans would expect DBEs to achieve in the absence of discrimination

- 2) Adjusting the base figure based on evidence available to determine what adjustment, if any, is warranted through measures that may include:
 - a. Capacity of DBEs to perform work in GTrans' DOT-assisted contracts as measure by the volume of work DBEs have performed in recent years;
 - b. Evidence from applicable disparity studies, if not already included in the base figure;
 - c. Adjustments to base figures used from other recipients, based on GTrans' local conditions and contracting program;
 - d. Available feedback or projections from DBE professional organizations, the Small Business Administration or others.

Using the data collected regarding over-concentration, DBE available of firms ready, willing and able and other necessary information (such as how long a project will span) a goal will be set at the level of DBE participation anticipate, absent the effects of discrimination.

GTrans may make adjustments to the three-year overall goal during the three-year period, in order to reflect changed circumstances. The adjusted goal will be submitted to the FTA for

review and approval. The most recent triennial DBE goal and calculation methodology can be found in Appendix D.

- 3) Consultation and Publishing of the Overall DBE Goal will include:
 - a. Consultation with minority, women's and general contractor groups, community organizations (i.e. Gardena Economic Business Advisory Council) and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and efforts to establish a level playing field for the participation of DBEs.
 - b. Publication of proposed overall annual goal, which shall include a statement that the methodology and proposed goal are available for inspection by the public at GTrans' facility or online for 30 days from the date of publication. The notice will also include address to which comments may be sent during a 45-day comment period.
 - c. The proposed goal and methodology will be posted on GTrans' website, The City of Gardena's website, GTrans Social Media, and local newspapers (i.e. Daily Breeze.)

Transit Vehicle Manufacturer Goals

All Transit Vehicle Manufacturers (TVMs) as a condition of being authorized to bid or propose on GTrans FTA-assisted transit vehicle procurements, shall certify that it is on the FTA's certified TVM list and has complied with the requirements of 49CFR Section 26.49. Alternatively, GTrans may establish, at its discretion and with FTA approval, project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this section.

Breakout of Estimated Race-Neutral and Race Conscious Participation

GTrans intends to meet this goal to the maximum extent feasible through the race-neutral measures described below. Where race-neutral measures are inadequate to meet the annual overall goal, GTrans will establish specific contract goals for particular projects with subcontracting opportunities. Race-neutral measures may include:

- Encouraging participation of DBEs in pre-bid conferences;
- Outreaching to DBE trade associations to provide information on GTrans contracting opportunities;
- Soliciting support of DBE trade associations to distribute bid announcements including bid specifications;
- Encouraging DBEs to discuss their capabilities with prime contractors at pre-bid conferences;
- Using an eProcurement system, which will allow targeted distribution to registered DBEs
- Using online advertising of solicitations such as DBEGoodFaith.com to increase outreach to small, minority, veteran and disabled business communities.

As a transit agency operating in California and covered by the decision of the U.S. Court of Appeals for the Ninth Circuit in the case of Western States Paving Co., Inc. v. Washington State DOT, GTrans will not adopt race-conscious measures of DBE participation prior to the implementation of a disparity study.

Contract Goals

GTrans will use contract goals to meet any portion of the overall goal that GTrans 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 these of race-neutral means.

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

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Good Faith Efforts

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 46 CFR Part 26, and may include, but are not limited to the following:

- Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capacity to perform the work of the contract
- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that DBE goals will be achieved
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract

GTrans treats bidder/offeror's compliance with good faith efforts' requirements as a matter of responsiveness.

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

1. 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 DBE that it is participating in the contract as provided in the prime contractors commitment;
6. If the contract goal is not met, evidence of good faith efforts

Administrative Reconsideration

Within two business days of being informed by GTrans that the successful bidder has not met the contract-specific goal and has not demonstrated good faith efforts, the bidder may request administrative reconsideration. The bidder/offeror should make this request in writing to the following reconsideration official:

Ernie Crespo
13999 S. Western Avenue
Gardena, CA 90249
310-965-8888

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issues of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. GTrans will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding the bidder did or did not meet the goal or make adequate efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination/Replacement of DBE

GTrans 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 DBELO 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 GTrans' prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documents of good faith efforts.

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

If the contractor fails or refuses to comply in the time specified, GTrans' Purchasing Office will issue an order stopping all or part of the 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.

Counting DBE Participation

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

DBE Certification Standards and Procedures

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

GTrans is a non-certifying member of the Unified Certification program (UCP) administered by Caltrans, California Department of Transportation. The UCP will meet all of the requirements of this section. The following is a description of the UCP:

The California Unified Certification Program (CUCP) provides "one-stop shopping" certification services to small, minority and women businesses seeking to participate in the United States Department of Transportation (USDOT) Disadvantaged Business Enterprise (DBE) Program. Certification services are offered to businesses seeking to obtain either DBE or airport concessionaire disadvantaged business enterprise (ACDBE) status.

As mandated by USDOT in the DBE Program, Final Rule 49 Code of Federal Regulations (CFR), Parts 23 and 26, all public agencies that receive USDOT federal financial assistance must participate in a statewide unified certification program. These public agencies, commonly referred to as "recipients" of USDOT funds, include municipalities, counties, special districts, airports, transit agencies, and the State Department of Transportation (Caltrans).

The California Unified Certification Program (CUCP) went into effect on January 1, 2002. It is a "One-Stop Shopping" certification program that eliminates the need for a DBE or ACDBE firm to obtain certifications from multiple agencies within the State. A business certified as a DBE or ACDBE through the CUCP is automatically accepted by all USDOT recipients in California. The CUCP is charged with the responsibility of overseeing the certification activities performed by various certifying agencies, and compiling and maintaining a single Statewide database of certified DBEs.

The Database is intended to expand the use of DBE and ACDBE firms by maintaining complete and current information on those businesses and the products and services they can provide to all USDOT recipients in California. Select the "Database" link on the top to access the Statewide database. The CUCP certifying agencies are responsible for certifying DBE firms.

You only need to apply for DBE certification at one agency. If your firm meets the General Criteria for DBE certification as provided on the Application Package, submit your completed application, along with the requested documentation, to one of the Certifying Agencies serving the geographical area where your firm has its principal place of business.

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

Office of Civil Rights
Attn: Certification Unit
PO Box 942874, MS 79
Sacramento, CA 95814
(916) 324-1700

Or, firms can visit <https://dot.ca.gov/programs/civil-rights/dbe-certification-information> to obtain downloadable California Unified Certification Program (CUCP) DBE Application Forms.

Any firm of complainant may appeal a Caltrans UCP decision in a certification matter to the U.S. Department of Transportation (DOT).

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

We will promptly implement any DOT certification appeal decision affecting the eligibility of DBEs for our DOT-assisted contracts.

Compliance and Enforcement

Information, Confidentiality and Cooperation

GTrans will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information, consistent with Federal, State and local law as applicable in the State of California.

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

GTrans includes the following provision in its contracts:

Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 et seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

Monitoring Payments to DBEs

GTrans 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 GTrans or DOT. This reporting requirement also extends to any certified DBE contractor.

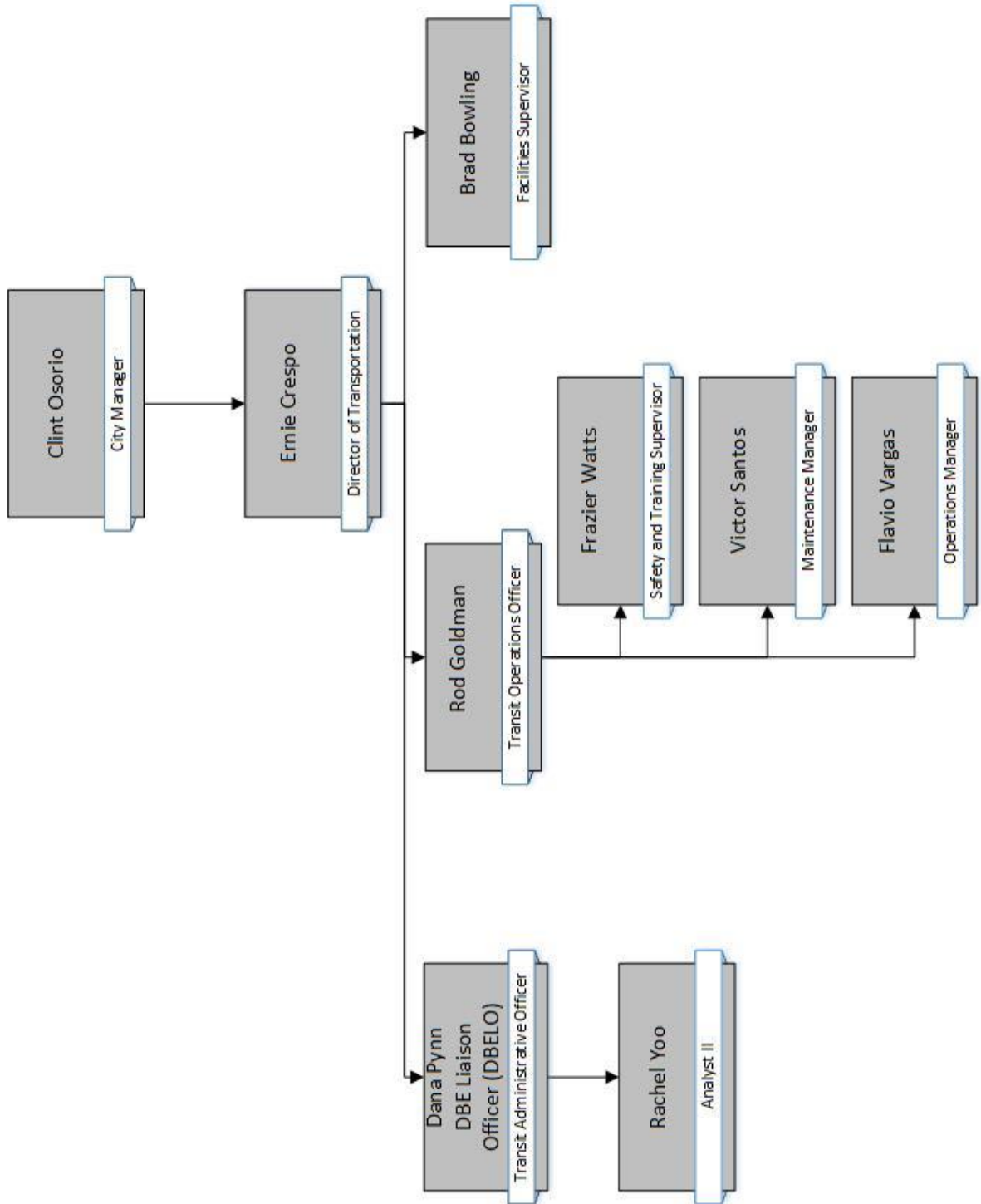
GTrans will perform interim audits of contract payments to DBEs. The audits will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.



Appendix A

City of Gardena's GTrans
DBELO Organization Chart

City of Gardena GTrans DBE Organization Chart





Appendix B

DBE Directory

DBE Directory

The following is a link to the directory: <https://dot.ca.gov/programs/civil-rights/dbe-search>.



Appendix C

Monitoring and Enforcement Mechanisms

1. Forms/Checklists
2. Enforcement/Contract Remedies

Contract File Index

SOLICITATION #:
SOLICITATION NAME:
PROJECT MANAGER:



1	<input type="checkbox"/> Procurement History
2	<input type="checkbox"/> Council Report
3	<input type="checkbox"/> Change Orders / Amendments (Options)
4	<input type="checkbox"/> Contract
5	<input type="checkbox"/> Price or Cost Analysis <input type="checkbox"/> Independent Cost Estimate
6	<input type="checkbox"/> Awarded Bid or Proposal
7	<input type="checkbox"/> Solicitation Package (RFP / IFB / RFQ) / Addendum
8	<input type="checkbox"/> Sole Source Justification <input type="checkbox"/> Single Bid / Proposal Justification
9	<input type="checkbox"/> RFP Evaluation Documents <input type="checkbox"/> Summary Score <input type="checkbox"/> Individual Evaluation Score Sheets <input type="checkbox"/> Best and Final Offer (BAFO) <input type="checkbox"/> Evaluation of Options
10	<input type="checkbox"/> Required Forms Prior to Award <input type="checkbox"/> Responsiveness Checklist <input type="checkbox"/> Responsibility Determination <input type="checkbox"/> Signed Forms and Certifications <input type="checkbox"/> Sam.gov Verification
11	<input type="checkbox"/> Disadvantage Business Enterprise (DBE) <input type="checkbox"/> Record of DBE Compliance Monitoring <input type="checkbox"/> DBE Other
12	<input type="checkbox"/> Bid Opening Sign-In Sheet <input type="checkbox"/> Bid Tabulation
13	<input type="checkbox"/> Pre-Proposal Meeting Documents <input type="checkbox"/> Sign-In Sheet / Record of Attendance <input type="checkbox"/> Meeting Materials
14	<input type="checkbox"/> Bidder's List
15	<input type="checkbox"/> Public Advertisement Record
16	<input type="checkbox"/> Award Letter <input type="checkbox"/> Notice to Proceed <input type="checkbox"/> Rejection Notifications
17	<input type="checkbox"/> Insurance Certificate
18	<input type="checkbox"/> Protest Documents
19	<input type="checkbox"/> Correspondence / E-Mails
20	<input type="checkbox"/> Supplemental Information
21	<input type="checkbox"/> Contract Close-Out Documents <input type="checkbox"/> Contractor Performance Evaluation
22	<input type="checkbox"/> Reference Checks



PROCUREMENT HISTORY

TOTAL DOLLAR VALUE THIS ACTION	\$0.00	BID NUMBER	C/O NUMBER
PREVIOUS COMMITMENTS (ORIGINAL P.O. PLUS ANY CHANGES)	\$0.00	REQUESTOR / DEPARTMENT:	
TOTAL CURRENT COMMITMENT INCLUDING THIS ACTION	\$0.00		
ESTIMATED FINAL COMMITMENT (IF DIFFERENT FROM ABOVE)	\$0.00	SUPPLIER NAME:	

PURCHASE DESCRIPTION:

<p>1. FUNDING TYPE</p> <p><input type="checkbox"/> FTA Funded <input type="checkbox"/> Non-FTA Funded <input type="checkbox"/> Both</p> <p>2. METHOD OF PROCUREMENT</p> <p>A. <input type="checkbox"/> SMALL PURCHASE, RFQ (REQUEST FOR QUOTATION)</p> <p><input type="checkbox"/> AMOUNT \$2,000.01 TO \$50,000</p> <p><input type="checkbox"/> THREE OR MORE WRITTEN QUOTES</p> <p>B. <input type="checkbox"/> COMPETITIVE PROCUREMENT</p> <p><input type="checkbox"/> AMOUNT > \$2,000, REQUIRED FOR OVER \$50,000</p> <p><input type="checkbox"/> MULTIPLE SOURCES AVAILABLE</p> <p><input type="checkbox"/> NOT AN EMERGENCY PROCUREMENT</p> <p>1. <input type="checkbox"/> INVITATION FOR BID (IFB) - SEALED BID</p> <p><input type="checkbox"/> Complete & adequate specifications or description</p> <p><input type="checkbox"/> Two or more responsible bidders willing to compete</p> <p><input type="checkbox"/> Selection can be made on basis of price alone</p> <p><input type="checkbox"/> Firm fixed price contract is used</p> <p><input type="checkbox"/> No discussion with bidders required after receipt of bids</p> <p>2. <input type="checkbox"/> REQUEST FOR PROPOSAL (RFP) - COMPETITIVE PROPOSALS</p> <p><input type="checkbox"/> Complete specification not feasible</p> <p><input type="checkbox"/> Bidder input needed for specification</p> <p><input type="checkbox"/> Two or more reasonable bidders willing to compete</p> <p><input type="checkbox"/> Discussion needed with bidders after proposals received</p> <p><input type="checkbox"/> Fixed price can be set after discussion or a cost reimbursement contract is determined</p> <p>3. <input type="checkbox"/> REQUEST FOR QUALIFICATIONS (RFQ)</p> <p><input type="checkbox"/> Brooks Act applies if FTA funded</p> <p>C. <input type="checkbox"/> SOLE SOURCE (JUSTIFICATION ATTACHED)</p> <p><input type="checkbox"/> UNIQUE OR INNOVATIVE CONCEPT (only available from one source)</p> <p><input type="checkbox"/> PATENTED, COPYRIGHTED, OR RESTRICTED DATA RIGHTS</p> <p><input type="checkbox"/> EMERGENCY PROCUREMENT (health & safety issue)</p> <p>D. <input type="checkbox"/> SINGLE BID (EXPLANATION ATTACHED)</p> <p>E. <input type="checkbox"/> REQUEST FOR CHANGE ORDER (DOCUMENTATION ATTACHED)</p> <p>AMOUNT > \$3,000, REQUIRED FOR OVER \$100,000</p>	<p>F. <input type="checkbox"/> EXERCISE OF OPTION</p> <p>G. <input type="checkbox"/> RENEWAL PER CONTRACT</p> <p>H. <input type="checkbox"/> FUNDING ONLY</p> <p>3. <u>CONTRACT TYPE</u></p> <p><input type="checkbox"/> FIRM FIXED</p> <p><input type="checkbox"/> COST REIMBURSEMENT</p> <p><input type="checkbox"/> COST PLUS FIXED FEE</p> <p><input type="checkbox"/> BLANKET PURCHASE ORDER</p> <p><input type="checkbox"/> TIME & MATERIALS</p> <p><input type="checkbox"/> INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ)</p> <p><small>*COST-PLUS-PERCENTAGE OF COST IS PROHIBITED BY FTA</small></p> <p>4. <u>BASIS FOR CONTRACTOR SELECTION</u></p> <p><input type="checkbox"/> LOWEST OFFER SUBMITTED BY RESPONSIVE & RESPONSIBLE BIDDER</p> <p><input type="checkbox"/> RFP, BASED ON EVALUATION FACTORS</p> <p><input type="checkbox"/> BEST QUALIFIED</p> <p><input type="checkbox"/> OTHER, WRITTEN JUSTIFICATION ATTACHED</p> <p>5. <input type="checkbox"/> <u>BASIS FOR CONTRACT PRICE ATTACHED</u></p> <p><input type="checkbox"/> PRICE ANALYSIS</p> <p><input type="checkbox"/> COST ANALYSIS</p> <p>6. <input type="checkbox"/> <u>OTHER REQUIREMENTS</u></p> <p><input type="checkbox"/> RESPONSIBILITY DETERMINATION FORM ATTACHED (REQUIRED FOR CONTRACTS \$50K OR GREATER)</p> <p><input type="checkbox"/> FEDERAL CLAUSES & COMPLETED CERTIFICATIONS ATTACHED</p> <p><input type="checkbox"/> SAM.GOV EXCLUDED PARTIES LIST SCREENSHOT ATTACHED (REQUIRED FOR CONTRACTS \$25K OR GREATER)</p> <p><input type="checkbox"/> DISADVANTAGED BUSINESS ENTERPRISE MONITORING ATTACHED</p>
---	--

	APPROVAL	SIGNATURE	DATE		APPROVAL	SIGNATURE	DATE
<input type="checkbox"/>	BUYER			<input type="checkbox"/>	TRANSIT ADMINISTRATIVE OFFICER		
<input type="checkbox"/>	PROJECT MANAGER			<input type="checkbox"/>	DIRECTOR OF TRANSPORTATION		

Each person whose signature appears hereon, certifies that he/she is neither directly nor indirectly engaged in outside activity with, nor has personal interest in, any of the suppliers considered for this procurement.

GTrans Enforcement/Contract Remedies

DBE

- A. Disadvantaged Business Enterprise (DBE) Policy: GTrans is a recipient of financial assistance from the US Department of Transportation through the Federal Transit Administration (FTA). All those proposing to provide these services are advised that, as required by federal law, GTrans has established an overall program goal.

GTrans is required to report to the FTA on DBE participation for all FTA-assisted contracts each year so that attainment efforts may be evaluated. In order to ascertain whether GTrans' overall goal is being achieved it is tracking DBE participation on all federally assisted contracts.

This project is subject to Title 49, Part 26 of the Cod of Federal Regulations (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In order to ensure GTrans achieves its federally mandated overall DBE goal, GTrans encourages participation of DBEs, as defined in 49 CFR 26, in the performance of contracts financed in whole or in part with federal funds. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The Contractor shall carry out the applicable requirements of 49 CFR 26 in the award and administration of the DOT-assisted contracts.

Failure by the Contractor to carry out these requirements is a material breach of agreement, which may result in the termination of agreement or other such remedy as GTrans may deem appropriate.

- B. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of Map21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding

\$250,000 in a Federal fiscal year must: 1) Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2) Implement a DBE program approved by FTA, and 3) Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT- assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. 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 Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. 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., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under Map21and previous legislation.

- C. Disadvantaged Business Enterprise (DBE) – Applicability – Contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs
 - 1. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient’s overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
 - 2. The contractor 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 this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

3. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
4. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race neutral means throughout the period of performance.
5. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
6. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

Term of Agreement/Termination.

- A. This Agreement shall be effective as of the date of execution by the City and shall remain in effect until all Services are completed or until terminated as provided for herein.
- B. City may terminate this Agreement without cause by providing written notice to Consultant not less than three days prior to an effective termination date. City's only obligation in the event of termination will be payment of fees and allowed expenses incurred up to and including the effective date of termination.
- C. Unless for cause, Consultant may not terminate this Agreement.
- D. Upon receipt of a termination notice, Consultant shall: (1) promptly discontinue all Services, unless the notice directs otherwise; and (2) within ten (10) days, deliver to City all files, data, reports, estimates, summaries, and such other information and materials as may have been accumulated or prepared to date by Consultant in performing the Services under this Agreement, whether completed or in progress. Consultant shall provide these documents by both hard copy and

in electronic format if available. In the event of termination for other than cause attributable to Consultant, Consultant shall be entitled to reasonable compensation for the services it performs up to the date of termination and shall be deemed released from liability for any work assigned but not completed as of the effective date of termination.

Legal Requirements

- A. Consultant shall secure and maintain all licenses or permits required by law, including a City business license, and shall comply with all ordinances, laws, orders, rules, and regulations pertaining to the work.
- B. Consultant warrants it fully complies with all laws regarding employment of aliens and others, and that all of its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations.
- C. Consultant covenants that there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, or any other category forbidden by law in performance of this Agreement.

Indemnity

- A. Consultant assumes all risk of injury to its employees, agents, and contractors, including loss or damage to property.
- B. Consultant shall defend, indemnify, and hold harmless the City, including its officials, officers, employees, and agents from and against all claims, suits, or causes of action for injury to any person or damage to any property arising out of any intentional or negligent acts or errors or omissions to act by Consultant or its agents, officers, employees, subcontractors, or independent contractor, in the performance of its obligations pursuant to this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant. This indemnity shall not apply if the claim arises out of the sole negligence or willful misconduct of City, its officers, agents, employees or volunteers.
- C. No official, employee, agent or volunteer of City shall be personally liable for any default or liability under this Agreement.

Prompt Payment

Prompt Payment – Applicability – All contracts except micropurchases (\$3,500 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt

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



Appendix D

City of Gardena Disadvantaged Business Enterprise (DBE)

Overall Goal and Methodology

for Federal Fiscal Years (FFY) 2019 – 2021



CITY OF GARDENA
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
OVERALL GOAL AND METHODOLOGY
FOR
FEDERAL FISCAL YEARS (FFY) 2019 – 2021
(Covering the period of October 1, 2018 – September 30, 2021)

I. INTRODUCTION

The City of Gardena's - GTrans is required to develop and submit a Disadvantaged Business Enterprise (DBE) Overall Goal for DBE participation as a condition of receiving federal assistance, pursuant to 49 CFR Part 26 "Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs" and the Federal Transportation Administration (FTA) Master Funding Agreement.

II. PROPOSED OVERALL GOAL FOR FFY 2019 – 2021

Effective March 3, 2010, the United States Department of Transportation ("DOT") issued a final rule affecting the implementation and management of the Department's Disadvantaged Business Enterprise ("DBE") program. The final rule, requires submission of a goal-setting methodology on a three-year cycle. Pursuant to this final rule, GTrans is still required to conduct an annual review to account for changes that may warrant an adjustment to the overall goal or make an adjustment based on changed circumstances (i.e. significant change in the legal standards governing the DBE program, new contracting opportunities presented by the availability of new or different grant opportunities, etc.) to ensure the goal and program as a whole are narrowly tailored throughout the goal period. Under the three-year schedule, the GTrans's DBE goal and methodology submission is due to FTA on August 1, 2018 for proposed FTA funded contracting activities for Federal Fiscal Years (FFY) 2019-21. **GTrans overall goal for the FFYs 2019, 2020, and 2021 is 7.0%.** The overall goal is expressed as a percentage of all FTA-assisted funds that GTrans will expend to applicable FTA-assisted contracts in the triennial goal period.

III. LOCAL MARKET AREA

GTrans has defined its local market area as Los Angeles, Orange, Riverside, and San Diego Counties. This is the area in which the substantial majority of the contractors and subcontractors with which GTrans does business are located; and the area in which GTrans spends the substantial majority of its contracting dollars.

IV. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2019 – 2021

Table 1 represents all FTA-assisted projects that have possible contracting and subcontracting opportunities considered in the overall goal setting for fiscal years 2019, 2020, and 2021. The projects are anticipated to be awarded during the triennial period. GTrans does not pass any FTA funds to any sub-recipients. The following projects are anticipated to be completed during the FFY 2019-2021 period:

Bus Service Equipment – GTrans has programmed expenses for ongoing bus service equipment including but not limited to: engines, couplings, inverters, driver motors, etc.

Bus Stop – Solar Lighting Project – GTrans will use funds to install solar lighting at select number of bus stops where lighting is not sufficient in the early morning or at night.

Bus Stop – Solar Trash Receptacles – GTrans will use funds to procure Solar-Powered Trash Receptacles that will provide a clean and safe streetscape while reducing the number of collections by refuse trucks.

Energy Storage System for Charging Facility – GTrans will use funds to purchase and install solar generation equipment and an energy system. GTrans will use electricity generated during the day by expanding its existing solar generation system onto its maintenance building to power the buses and store excess electricity in the energy storage system.

Compressed Natural Gas (CNG) Fueling Equipment – GTrans will use funds for the purchase and installation of fueling system, including dispensers, compressors, storage vessels, and equipment that will also include maintenance garage safety detection equipment.

Scheduling, Operations Management, and Payroll Integration Software – GTrans will use funds to purchase a fixed-route bus scheduling and an operations management system, including payroll integration with the City's current financial software system.

Computer Aided Dispatch/Automatic Vehicle Location System – GTrans will use funds to purchase a real-time bus monitoring system that allows for seamless communications with GTrans' Dispatch and Supervisory personnel.

Asset Management/Maintenance Software – GTrans will use funds to purchase asset management software to centrally manage GTrans' assets. The Asset Management/Maintenance Software will help GTrans meet regulatory requirements, optimize parts management and reduce road calls.

Facility Maintenance Equipment (Bus Lifts) – GTrans will use funds to replace existing bus lifts in GTrans' Maintenance Facility.

Tire Lease Services – GTrans will use funds to contract with a vendor to provide bus tire lease services on GTrans' heavy-duty buses.

V. **OVERALL GOAL-SETTING METHODOLOGY**

The two-step goal-setting process required by the regulations was used to determine the recommended overall goal for FFY 2019 – 2021. The two steps for setting an overall goal are to:

1. Establish a base figure for the relative availability of DBEs; and
2. Determine the base figure adjustment, if necessary

The base figure is intended to be a measurement of the current ready, willing and able DBEs as a percentage of all businesses ready, willing, and able to perform the recipient's anticipated FTA-assisted contracts.

VI. **STEP ONE – BASE FIGURE CALCULATION**

The annual goal methodology used is in accordance with the U.S. Department of Transportation (DOT) DBE Program Final Rule, 49 Code of Federal Regulation (CFR), Part 26. The two-step goalsetting process has been used to determine the recommended overall goal for FFY 2019 – 2021. Calculations were performed to establish the GTrans Base Figure for the relative availability of Disadvantaged Business Enterprise (DBEs) in relation to all comparable firms available for GTrans contracting and subcontracting opportunities identified for the next three years. The DBEs are those who by definition in local databases are ready, willing and able to compete for contracts.

Base Figure Calculation Steps

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

Step 2 - Determine the relative availability of DBEs by NAICS Code(s)

Step 3 – Multiply the (Work Type Weight) by (DBE Relative Availability) = Weighted Base Figure

The DBE database used to identify available DBE firms was the California Unified Certification Program (CUCP) Statewide DBE Directory, which is available on the CUCP website. Los Angeles, Orange, Riverside, and San Diego Counties were the areas used to identify the number of DBEs. The United States Census Bureau (2016 Economic Census – Business Patterns) dataset for Los Angeles, Orange, Riverside, and San Diego Counties was used to identify all available firms in the local market area. The majority of the contractors who do business in the City of Gardena are drawn from these nearby areas.

The availability data for each contracting opportunity by NAICS code (North American Industry Classification System) from the California Unified Certification Program (CUCP) database (DBEs available) and from the Census Bureau database (all listed available) are shown in Table 1.

TABLE 1 - CONTRACTING OPPORTUNITIES

Project	NAICS Code	NAICS Description	Available DBEs	All Available Firms	Relative Availability of DBE Firms	Project Federal Funding	Weighted by Budget Expense	% of Project (Weight) X % Relative Availability of DBE Firms
Bus Components	423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	9	1,354	0.7%	\$167,855.00	2.7%	0.02%
Bus Stop - Solar Lighting Equipment	335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing	2	78	2.6%	\$23,500.00	0.4%	0.01%
Bus Stop - Solar Lighting Installation Services	238210	Electrical Contractors and Other Wiring Installation Contractors	152	4,037	3.8%	\$500.00	0.0%	0.00%
Bus Stop - Solar Trash Cans Equipment	326199	All Other Plastics Product Manufacturing	3	386	0.8%	\$96,000.00	1.6%	0.01%
Energy Storage System for Charging Facility	335911	Storage Battery Manufacturing	1	15	6.7%	\$583,117.00	9.5%	0.64%
Solar Panels for Maintenance Building - Equipment	335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing	2	78	2.6%	\$510,000.00	8.3%	0.21%
Solar Panels for Maintenance Building - Installation	238210	Electrical Contractors and Other Wiring Installation Contractors	152	4,037	3.8%	\$90,000.00	1.5%	0.06%
CNG Fueling Equipment - Prevailing Wage Consultant	541618	Other Management Consulting Services	437	535	81.7%	\$27,800.00	0.5%	0.37%
CNG Fueling Equipment - Equipment	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing	7	85	8.2%	\$1,109,000.00	18.1%	1.49%
CNG Fueling Equipment - Maintenance Bay Safety Upgrades	238220	Plumbing, Heating, and Air-Conditioning Contractors	56	4,751	1.2%	\$800,000.00	13.1%	0.15%
CNG Fueling Equipment - Design Engineering	541330	Engineering Services	405	4,146	9.8%	\$200,000.00	3.3%	0.32%
CNG Fueling Equipment - Construction	237120	Oil and Gas Pipeline and Related Structures Construction	22	46	47.8%	\$200,000.00	3.3%	1.56%

Project	NAICS Code	NAICS Description	Available DBEs	All Available Firms	Relative Availability of DBE Firms	Project Federal Funding	Weighted by Budget Expense	% of Project (Weight) X % Relative Availability of DBE Firms
CNG Fueling Equipment - Electrical	237130	Power and Communication Line and Related Structures Construction	42	173	24.3%	\$170,000.00	2.8%	0.67%
CNG Fueling Equipment - Construction Management Services	541611	Administrative Management and General Management Consulting Services	703	5,493	12.8%	\$110,000.00	1.8%	0.23%
Scheduling, Operations Management, & Payroll Integration Software	541512	Computer Systems Design Services	265	3,392	7.8%	\$50,000.00	0.8%	0.06%
Asset Management/Maintenance System	511210	Software Publishers	16	738	2.2%	\$300,000.00	4.9%	0.11%
CAD/AVL System	423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	32	873	3.7%	\$900,000.00	14.7%	0.54%
Shop Equipment - Bus Lifts	811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	12	795	1.5%	\$380,142.00	6.2%	0.09%
Tire Lease	423130	Tire and Tube Merchant Wholesalers	2	145	1.4%	\$400,000.00	6.5%	0.09%
TOTAL			2,320	31,157	7.45%	\$ 6,117,914.00	100%	6.6%¹

¹ Rounded to 7% per FTA guidelines and regulations.

VII. **STEP TWO – BASE FIGURE ADJUSTMENT**

Adjusting the Base Figure

Upon establishing the Base Figure, GTrans reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within GTrans’ market area, in accordance with provisions set forth under 49CFR Part 26.45 Step 2: DBE Goal Adjustment Guidelines. Evidence considered in determining whether or not to adjust the Base Figure included GTrans’ past DBE goal attainments, market area disparity studies, and a review of the DBE goal methodology of other transit agencies in GTrans’ area with comparable Federal funding and project types. The final determination resulted in no adjustment to the base figure. Determining factors are detailed as follows:

A. Past DBE Goal Attainments

GTrans has experienced challenges in attaining its DBE goal using race-neutral measures for the past three Federal Fiscal Years. GTrans’ capital program and associated procurements were delayed due to funding constraints; thus DBE contracting opportunities were limited during this period. Out of the \$8.2M in federal funds spent during Federal Fiscal Years 16, 17 and 18, over 94% were spent on Preventative Maintenance activities which are not considered as part of the available DBE contracting opportunities. Together these factors constrained GTrans’ ability to proceed with Federally-funded projects and limited its ability to obtain its overall DBE goal.

Table 3 – Past DBE Goal Attainments

FFY16	FFY17	FFY18
0.0%	0.0%	0.0%
Median DBE Participation: 0.0%		

GTrans considered an adjustment to the Base Figure on historical DBE goal attainments on similar contracts to those contracting opportunities identified and considered in the Overall DBE Goal Analysis for Federal Fiscal Years 2016-2018.

However, GTrans did not adjust the Base Figure due to the aforementioned factors affecting DBE participation. For Federal Fiscal Years 2019-2021 GTrans now has funding in approved FTA grants ready for obligation for the aforementioned projects. Because of this, there will be more

contracting and subcontracting opportunities available for DBE participation and GTrans' DBE goal attainment.

B. Evidence from Disparity Studies

GTrans determined that it was not feasible to conduct its own independent availability/disparity study. Therefore, GTrans identified two recent Disparity Studies from two agencies, Los Angeles County Metropolitan Transportation Authority and the California Department of Transportation.

Los Angeles County Metropolitan Transportation Authority's (Metro) 2017 Disparity Study

The 2017 Los Angeles County Metropolitan Transportation Authority (Metro) Disparity Study was reviewed and considered during the evaluation of adjustment of the Base Figure.

LA Metro's analyses of marketplace conditions determined that minorities, women, minority-owned businesses, and woman-owned businesses encounter substantial barriers in Los Angeles County as well as throughout the nation. The study also discovered that race-based and gender-based disparities exist in terms of obtaining human capital, accruing financial capital, owning businesses, and operating successful businesses. According to the study, there is evidence that those disparities exist even after accounting for various race-neutral and gender-neutral factors such as age, income, education, and familial status. There is also evidence that many disparities are due to race-based and gender-based discrimination.

Metro's study had a substantial emphasis on very large and complex prime and subcontractor construction and engineering contracts which were not similar in scope to the types of projects that GTrans would conduct in the upcoming triennial period.

California Department of Transportation (Caltrans) 2016 Disparity Study

GTrans reviewed and considered the State of California Department of Transportation's (Caltrans) 2016 Disparity Study in its DBE Goal setting analysis. GTrans determined that the study was not applicable to GTrans due to geographic coverage as Caltrans examined opportunities throughout the entire State instead of focusing on a market area similar to the City of Gardena.

The Study's Disparity analysis results indicated that several racial/ethnic and gender groups show disparities on the contracts that Caltrans and subrecipient local agencies awarded during the study period, despite the fact that Caltrans applied DBE contract goals to many of those contracts.

GTrans reviewed the results and determined that the Caltrans Study is not applicable due to the difference in location, specifically Caltrans' study examined opportunities in the entire state of California rather than focusing on a market area similar to the City of Gardena. Additionally, there was a difference in the types of contracting opportunities, specifically by contract type.

Summary

GTrans reviewed the Disparity Study results from LA Metro and Caltrans in the process of determining its overall DBE goal.

GTrans determined that at this time, it will not use any race- or gender-conscious measures as part of the implementation of its DBE program. GTrans is currently managing several procurements that have opportunities for DBE's to propose/bid as a Prime Contractor or Subcontractor and anticipates that the program measures mentioned in this methodology will

significantly assist GTrans in achieving its DBE goal. However, GTrans will continue to review applicable Disparity Studies and consider modifying its DBE Program if it is unable to obtain sufficient DBE participation.

C. **DBE Goals of Other Local Agencies**

GTrans surveyed the goals of other FTA recipients within our local market area that have similar available Federal funding, contracting programs and transit projects to assess whether an adjustment to our goal could be warranted. GTrans reviewed the following agencies' DBE goals: Torrance Transit, Culver CityBus, and Norwalk Transit. However, after a review of these DBE goals, GTrans has determined that the goals are comparable and an adjustment based on this factor is not warranted.

D. **Other Evidence**

GTrans did not receive any evidence to the contrary, nor are we aware of any other factors which would have a material effect on the ability of DBEs within our market area to participate (i.e. meet bonding, insurance and financial requirements) in GTrans' FTA-assisted contracting programs. **Thus, no goal adjustment was made in consideration of this factor.** However, GTrans continues to explore and consider all available evidence that would materially affect the opportunities for DBEs to participate in our FTA-assisted contracting programs by expanding our network of communication with DBEs in our region.

VIII. **RACE- AND GENDER-NEUTRAL MEASURES**

GTrans will use race- and gender-neutral measures to meet the established overall DBE goal for FFY 2019-2021, in conformance with Title 49 CFR Part 26; "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs".

GTrans will implement Race-Neutral measures to meet its Overall DBE Goal objectives in accordance with 49 CFR Part 26.51, including but not limited to:

- Conduct business outreach and communication efforts across the region to encourage the participation and growth of small businesses and minority- and woman-owned businesses.
- Providing technical assistance and other services to small businesses, including DBE firms.
- Distribute DBE directories to prime contractors in procurement solicitation documents for larger scale projects that have potential subcontracting opportunities
- Arranging timely solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs and other small business firms' participation.
- Unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own work forces.
- Providing information and communications programs on contracting procedures and specific contract opportunities.
- Facilitate or host outreach efforts including meetings, website communications, advertisements, certification workshops, procurement fairs, other outreach events and workshops.
- Simplify or reduce bonding requirements based on contract type
- Providing assistance to small businesses in overcoming limitations in obtaining bonding, lines of credit and building financing capital.

IX. PUBLIC PARTICIPATION AND FACILITATION

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26, minority, women, local business chambers, and community organizations within the City of Gardena's market area were consulted and provided an opportunity to review the goal analysis and provide input. The City of Gardena prepared Outreach Consultation Letters advising the aforementioned business community of the proposed DBE goal analysis and its availability for review and comment.

Additionally, GTrans held consultation sessions with interested organizations and stakeholders who could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and efforts to establish a level playing field for the participation of DBEs. GTrans staff held public consultation meeting on Tuesday, July 17th, 2018 at GTrans Administration – Operations & Maintenance Facility. GTrans staff presented to two attendees, and no comments were received. GTrans also presented to the City of Gardena's Economic Business Advisory Council on Wednesday, July 18th, 2018. GTrans received the following comments and provided discussion regarding the proposed DBE Goal and Methodology:

- *"What occurs if GTrans does not meet its DBE goal"?*
- *"What were the obstacles to achieving the DBE goal"?*
- *"Does GTrans define the subcomponents of a project or does the prime define that"?*
- *"Would it be prudent for primes to show some type of efforts to get DBE participation"?*
- *"Does GTrans add scoring if a firm is able to get a DBE firm?"*

GTrans' mailed Outreach Consultation Letters to 120 organizations and stakeholders with pertinent logistical information regarding the City's consultation sessions.

GTrans posted the Public Notices at the Ken Nakaoka Community Center, Gardena Mayme Dear Library, and at Gardena City Hall. GTrans also posted the proposed Overall Goal for the FFY 2019-2021 FTA-assisted contracts on its website. The Public Notice informed the public that the proposed goal and rationale were available for inspection at the GTrans' Administrative Office during normal business hours for 30 days following the date of the Public Notice and that GTrans accepted comments on the goal analysis for 45 days from the date of the Public Notice. GTrans gave full consideration to all comments and input and assess its impact on the proposed Overall DBE Goal.