

**WARREN COUNTY BOARD OF COMMISSIONERS
WARREN COUNTY TRANSIT SERVICE**

**POLICY ON CONTRACTS WITH
DISADVANTAGED BUSINESS ENTERPRISES**

No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any contract awarded by the Warren County Board of Commissioners on the grounds of race, color, national origin, or sex.

The Warren County Board of Commissioners is committed to using disadvantaged business enterprises (DBEs) in all aspects of contracting to the maximum extent feasible. The Warren County Board of Commissioners is committed to complying with the applicable provisions of law, which support the use of DBEs, including Part 26 of the Regulations of the United States Department of Transportation (USDOT).

The Warren County Board of Commissioners has adopted a DBE program, which has the objectives of encouraging small business concerns which are owned and controlled by socially and economically disadvantaged individuals to submit proposals for contracting opportunities with the Warren County Board of Commissioners, and of awarding Federally-funded contracts to such businesses.

The County Administrator is ultimately responsible for seeing to it that the DBE Program is enforced and implemented. The DBE Liaison Officer is responsible for developing, managing, and implementing the DBE Program on a day-to-day basis; for carrying out technical assistance activities for DBEs; and for disseminating information on available business opportunities so that DBEs are provided an equal opportunity to bid on contracts. The DBE Liaison Officer, who may be assisted by support staff, works with those personnel involved with procurement and grant administration to ensure that contracting opportunities are identified and made available to DBEs.

This policy statement is to be circulated throughout the Warren County Board of Commissioners' organization and to minority, female and non-minority community and business organizations.

**WARREN COUNTY BOARD OF COMMISSIONERS
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

I. WARREN COUNTY DBE POLICY

A. General

The Warren County Transit Service, owned by the Warren County Board of Commissioners (WCTS) is an established public transit system serving Warren County, with limited service to the cities of Middletown and Dayton.

Warren County is located between the metropolitan areas of Cincinnati and Dayton in the southwest area of Ohio. WCTS is currently contracted to Winton Transportation Systems, Inc. dba Universal Transportation Systems (UTS), based in Fairfield, Ohio. UTS operates WCTS from a satellite facility in Monroe, Ohio.

WCTS operates a fleet of nineteen (19) vehicles.

The Warren County Board of Commissioners has a non-discrimination policy, with the transportation services available to all citizens in the transportation service area.

B. Objectives

The Warren County Board of Commissioners, on behalf of WCTS, has issued a policy statement, which expresses its commitment to use DBEs in all aspects of contracting, outlines the various levels of responsibility, and states the objectives of the program.

C. Prohibited Discriminatory Actions

It is the policy of the Warren County Transit Service that no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any contract covered by this program, on the grounds of race, color, national origin, or sex.

II. DBE PROGRAM DEFINITIONS

Affirmative Action – taking specific steps to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve disadvantaged business enterprises fully in contracts and programs funded by the Department.

Applicant – one who submits an application, request, or plan to be approved by a Departmental official or by a primary recipient as a condition to eligibility for DOT financial assistance; and “application” means such an application, request, or plan.

Compliance – a recipient has correctly implemented the requirements of this part.

Contract – a legally binding relationship obligating a seller to furnish supplies or services and the buyer to pay for them.

Contractor – one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit or airport program.

Department or DOT – the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged Business Enterprise or DBE – 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 such 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.

DOT-Assisted Contract – any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good Faith Efforts – efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Immediate Family Member – father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Joint Venture – an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly-defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Noncompliance – a recipient has not correctly implemented the requirements of this part.

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

worth includes only his or her own share of assets held jointly or as community property with the individual's spouses.

Primary Industry Classification – the four digit Standard Industrial Classification (SIC) code designation, which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA 22261). NTIS also makes materials available through its web site (www.ntis.gov/NAICS).

Primary Recipient –a recipient, which receives DOT financial assistance and passes some, or all of it on to another recipient.

Principal Place of Business – the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different location, the recipient will determine the principal place of business for DBE program purposes.

Program –any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-Conscious Measure or Program–one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-Neutral Measure or Program –one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

Recipient – any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of FAA, FHWA, or FTA, or who has applied for such assistance.

SBA – the U.S. Small Business Administration

Secretary –the Secretary of Transportation or his/her designee.

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

Socially and Economically Disadvantaged Individual –any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are 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 America, or other Spanish or Portuguese culture or origin, regardless of race;
 - (c) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (d) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (e) Subcontinent Asian Americans”, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
 - (f) Women;
 - (g) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-Owned Concern – any concern at least 51 percent owned by an Indian tribe as defined in this section.

WCTS – The Warren County Board of Commissioners as owners of the Warren County Transit Service

III. RESPONSIBILITY FOR DBE PROGRAM IMPLEMENTATION

- A. County Administrator.** The Warren County Administrator is ultimately responsible for seeing to it that this program is enforced and implemented.
- B. DBE Liaison Officer.** The County Administrator has designated the Warren County Grants Coordinator as Warren County Transit Service’s DBE Liaison Officer. The DBE Liaison Officer reports directly to the County Administrator. The DBE Liaison Officer is responsible for managing the DBE Program on a day-to-day basis, in coordination with the Warren County Board of Commissioners’ Office of Management and Budget, and under the supervision of the County Administrator.

The DBE Liaison Officer also:

1. Gathers and reports statistical data and other information as required by the FTA.
2. Ensures that bid notices and requests for proposal are available to DBEs in a timely manner.
3. Identifies contracts and procurement so that DBE goals are included in solicitations and monitors results.
4. Analyzes WCTS's progress toward goal attainment and identifies ways to improve progress.
5. Advises Board of County Commissioners on DBE matters and achievement.
6. Monitors contractor compliance with good faith efforts.
7. Provides DBEs with information and assistance in preparing bids, etc., as requested by the DBE.
8. Provides outreach to DBEs and community organizations to advise them of opportunities.
9. Ensures receipt of current Ohio Department of Transportation Office of Transit (ODOT) DBE Directory.

C. Other Staff. It is WCTS's intention to designate various support staff, as permitted by budgetary constraints, to assist the DBE Liaison Officer with the day-to-day management of WCTS's DBE Program.

IV. ADMINISTRATIVE REQUIREMENTS

A. DBE Financial Institutions

It is the policy of Warren 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-assisted contracts to make use of these institutions. We have made the following efforts to identify and use such institutions: explored the listing Federal Reserve Bank website. To date we have not identified any DBE financial institutions in the State of Ohio.

B. DBE Directory

Warren County utilizes the Ohio Department of Transportation Office of Transit (ODOT) DBE Directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. This Directory can be found at www.ohioucp.org . ODOT continually revises the Directory. We make the Directory available as follows: Warren County Office of Grants Administration, 406 Justice Drive, Room 159, Lebanon, Ohio 45036, (513) 695-1259.

V. DETERMINING, MEETING, AND COUNTING OVERALL DBE GOALS

A. Types of DBE Goals

Once WCTS has reviewed proposed contracting to identify those contracting activities which have the greatest potential for DBE participation, WCTS sets goals that are practical and related to potential availability of DBEs in desired areas of expertise. WCTS establishes overall goals for its DBE program for each fiscal year.

B. Determining, Meeting and Counting Overall Annual DBE Goals

1. **General.** The DBE Liaison Officer will set a triennial DBE goal to be submitted to FTA by the required submission date as determined by FTA for each fiscal year. A preliminary budget will be used to identify projects that are federally assisted.

Statistics will be utilized from the Census Bureau, the Department of Commerce, Bidder's lists, and Certified DBEs in each of the following categories: construction, professional services, and materials/supplies. Contact will be made with minority, women and general contractor groups as well as other community organizations in an effort to establish a level playing field.

2. **Process for Goal Determination.** The general goal methodology will include a five-step process. Step 1 will include a determination of a base figure for the relative availability of DBEs to participate on WCTS federally assisted contracts. Step 2 will include an examination of all of the evidence available in WCTS's jurisdiction to determine what adjustments, if any, are needed to the base figure in order to arrive at the overall annual DBE goal. Using the data collected regarding over-concentration, DBE availability of firms ready, willing and able, and other necessary adjustments such as how long each project will span, a goal will be set at the level of DBE participation expected absent the effects of discrimination. The actual process of determining the goal will be broken down into five specific steps, discussed in this document under "Goal Methodology."
3. **Goal Announcement and Comment.** The annual overall goal will be submitted to Board of County Commissioners for adoption. Notices will be published in available general circulation media and minority focused media announcing the proposed overall goal. The rationale for the goal will be made available for inspection during normal business hours for 30 days following the date of the notice, and comments will be accepted on the goal for 45 days from the date of the notice.

4. Using Race-Neutral and Race Conscious Measures to Establish DBE Annual and Contract Goals.

WCTS will establish an overall goal for DBE participation in DOT-assisted contracts. The overall 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 WCTS's DOT-assisted contracts.

Race-Neutral Methods:

WCTS will meet the maximum feasible portion of the overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation occurs when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE goal. Race-neutral DBE participation also occurs even if there is a DBE goal, but the DBE firm wins a subcontract from a prime contractor that did not consider its DBE status in making the award.

Race-Conscious Methods:

Each time WCTS establishes an annual DBE goal, the goal will include a projection of the portion of the goal that WCTS expects to meet through race-neutral means and the basis for the projection. Contract goals are established to meet a portion of the overall goal WCTS does not project being able to meet using race-neutral means. DBE race-conscious contract goals are used only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals are established so that they will cumulatively result in meeting any portion of WCTS's overall goal that is not projected as being able to be met through the use of race-neutral means.

C. Submission of Goals

WCTS submits its overall goals and a description of the methodology used in establishing them with their DBE program. When the overall goals expire, new overall goals shall be set and submitted to the Ohio Department of Transportation for approval.

WCTS and contractors shall seek DBEs in the same geographic area in which they seek contractors or subcontractors generally for a given solicitation. If WCTS cannot meet the goals using DBEs from this geographic area, WCTS or a

contractor, as part of its efforts to meet the goal, shall expand its search to a reasonable wider geographic area.

D. Goal Setting Methodology

WCTS has considered the following factors in setting overall goals:

Overall goals are based on projection of the number, types and dollar value of contracts to be awarded by WCTS, and a projection of the number and types of DBEs likely to be available to compete for contracts from WCTS over the period during which the goals will be in effect.

WCTS's DBE goals are established as follows:

- Step 1: Examine the budget and procurement plan to determine the types and dollar amounts of goods and services to be contracted during the fiscal year.
- Step 2. Name a market area and determine the associated NAICS codes related to the types of anticipated contracts within that market area.
- Step 3. Using the most recent US Census table for the geography that match WCTS's market area (Southwest Ohio Counties: Butler, Brown, Clark, Clermont, Clinton, Darke, Fayette, Greene, Hamilton, Highland, Madison, Miami, Montgomery, Preble, and Warren Counties), determine the total number of firms (DBE and others) for each NAICS code.
- Step 4. Determine number of DBE firms for each applicable NAICS code by using ODOT's Unified DBE Directory
- Step 5. Calculate the DBE goal by dividing number of DBEs by the number of total firms.

Attachment 1 of this document shows goal calculation.

The County may also consider using the Step Two Adjustment process. This step is intended to adjust our Step One Base Figure to make it as precise as possible. Under the rule, WCTS may consider all evidence available in the jurisdiction to determine whether such an adjustment is necessary. In this context, there are several factors that WCTS will consider in making Step Two adjustments if there are relevant and reliable data available. These factors include:

- Past participation (the volume of work DBEs have performed in recent years) or other measure of demonstrated capacity;

- Evidence from disparity studies conducted in your market area (including relevant studies commissioned by other contracting agencies in your market area);
- Statistical disparities in the ability of DBEs to get financing, bonding and insurance;
- Data on employment, self-employment, education and training, union apprenticeship programs; and
- Any other data that would help to better measure the percentage of work that DBEs would be likely to obtain in the absence of discrimination.

E. Good Faith Efforts

1. **Overall Goal Set.** Once WCTS has set an overall goal, each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information either under sealed bid procedures as a matter of responsiveness, or with initial proposals under contract negotiation procedures; or at any time before a commitment to the performance of the contract:
 - The names and addresses of DBE firms that will participate in the contract;
 - A description of the work that each DBE will perform;
 - The dollar amount of the participation of each DBE firm participation;
 - Written documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
 - Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor’s commitment; and
 - If the contract goal is not met, evidence of good faith efforts.
2. **Award If Failure to Meet Goal.** To award a contract to a bidder/proposer that has failed to meet the DBE goals, WCTS will decide whether the bidder/proposer made a good faith effort to actively and aggressively seek DBEs to meet these goals. A committee consisting of the County Administrator, Director of the Office of Management and Budget, and Grants Coordinator will make that determination by reviewing the documentation.
3. **Evidence of Good Faith Efforts.** The kinds of efforts that will be considered demonstrative of “Good Faith Efforts” include, but are not to, the following:
 - Whether the contractor solicited through all reasonable and available means the interest of all certified DBEs who have the capability to perform the work of the contract.

- Whether the contractor solicited interest within sufficient time to allow the DBEs to respond and if appropriate steps were taken to follow up with interested DBEs.
- Whether the contractor selected portions of the work to be performed by DBEs, and where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- Whether the contractor negotiated in good faith with interested DBEs. Evidence of such negotiation includes names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional could be reached.
- Whether the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Whether the contractor made efforts to assist interested DBEs on obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- Whether the contractor effectively used the services of available minority/women community organizations, contractors' groups and other organizations to provide assistance in the recruitment and placement of DBEs.
- Whether other bidders on the procurement met the DBE goal.

4. **Administrative Reconsideration.** If the Review Committee determines that the apparent successful bidder has failed to meet the requirements of the Review Committee, the bidder has an opportunity for administrative reconsideration.

The bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made an adequate effort to do so.

The Review Committee will send the bidder a written decision on reconsideration, explaining the basis its findings that the bidder did not meet the goal to make an adequate good faith effort. The result of the reconsideration process is not administratively applicable to the Department of Transportation.

A contractor must also make a good faith effort to replace a defaulting DBE with another certified DBE. The prime contractor must notify the DBE Liaison Officer immediately of the DBE's inability to perform and provide reasonable documentation. The contractor must receive prior approval on the substitute DBE from WCTS. The contractor must provide

copies of new or amended subcontracts and a completed certification form for each new DBE, or any applicable good faith efforts.

If the contractor fails or refuses to comply in the time specified, the Review Committee 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 Review Committee may issue a termination for default proceeding.

F. Participation Counting Toward Goals

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or its affiliate) may be counted.

Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Expenditures may only be counted if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own workforce. Decisions on commercially useful function are subject to review by the FTA, but are not administratively applicable to DOT.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted.

DBE achievement will not be counted toward the overall goal until the DBE has been paid.

Other details regarding DBE participation are handled by WCTS in a manner set forth in 49 CFR 26.55.

VI. REQUIRED CONTRACT PROVISIONS

A. Nondiscrimination Assurance

It is the policy of WCTS not to use quotas or set-asides in efforts to meet its DBE program goals. WCTS does not set contract goals, but overall goals for participation.

WCTS uses race neutral techniques to facilitate DBE participation in contracting activities. These include:

- Arranging solicitation, times of presentation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of DBEs.

- Each formal procurement is advertised in the local media. The advertisement indicates that DBEs are welcome to respond.

Invitation for bids and requests for proposals issued by WCTS include notification to all proposing contractors that DBEs will be given the full opportunity to submit bids/proposals and that WCTS will not discriminate on the grounds of sex, race, color, or national origin, in consideration of an award. The instructions to proposing contractors state that all proposing contractors must be in compliance with the requirements with regard to the participation of DBEs. Furthermore, all transit vehicle manufacturers as a condition to bid or propose on WCTS procurements must certify that it has complied with federal requirements. The general conditions of the contract will contain the following clauses:

1. *The contractor or sub-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 DOT regulations 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 WCTS deems appropriate.*
2. *The prime contractor shall make payments to any sub-contractors for satisfactory performance of their contracts no later than 10 calendar days from the receipt of payment from WCTS. The prime contractor shall also return any retainage payments to the sub-contractor within 10 calendar days after the subcontractor's work is satisfactorily completed.*

B. Legal and Contract Compliance Mechanisms and Remedies

All participants in the DBE program must comply with WCTS requirements and with the requirements of the regulations promulgated by the DOT. WCTS reserves the right to apply legal and contract remedies available under Federal, State, and local law, including, but not limited to, liquidated damages provisions, responsibility determinations and suspension and debarment rules.

C. Contract Reporting Requirements

A representative or agent of WCTS shall inspect the work performed by the contracting DBE-certified firm, at intervals appropriate to the state of the contractor's work, to verify that the work committed to the DBE firm is actually

performed by the DBE firm. WCCS shall keep a record of all payments made upon such certifications and shall credit DBE participation towards overall or contract goals only when payment is actually made.

VII. CERTIFICATION STANDARDS

WCTS shall utilize the ODOT DBE Directory and certification standards. Only contractors who meet ODOT's DBE eligibility requirements and are certified by ODOT may participate in WCTS's DBE program. ODOT's DBE Standards shall included by reference.

VIII. CERTIFICATION PROCEDURES

- A. **Unified Certification Program.** WCTS will utilize the Ohio Department of Transportation Office of Transit (ODOT) DBE certification procedures. All DBE contractors must be certified by ODOT. ODOT Certification Procedures shall be included by reference.

IX. COMPLAINTS

- A. **Filing.** Any person who believes himself or herself, another person, or any specific class of individuals to be subjected to a violation of 49 CFR Part 26 may file a complaint in writing, signed and dated, with the Department. The complaint shall be filed no later than 180 days after the date of an alleged violation or file dates on which a continuing course of conduct in violation of this part was disclosed. The Secretary may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.
- B. **Investigation.** The Secretary ensures that a prompt investigation is made pursuant to prescribed DOT investigation procedures under Title VI of the Civil Rights Act of 1964.
- C. **Cooperation in Investigation.** The respondent to the complaint shall cooperate fully with the investigation. Failure or refusal by the respondent to furnish requested information or other failure to cooperate is a violation of 49 CFR Part 26.
- D. **Determinations.** Upon completion of the investigation, the Secretary informs the recipient or contractor and complainant of the results of the investigation in writing. If the investigation indicates a failure to comply with this part, the conciliation procedures of Section 26.103 of the DOT Regulation, and if necessary, the enforcement procedures of Section 26.107 are followed.
- E. **Intimidation or Retaliation Acts Prohibited.** No recipient, contractor, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Part 26, or

because he or she made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Part 26. The identity of complainants shall be kept confidential at their election during the conduct of any investigation, proceeding, or hearing under Part 26. But when such confidentiality is likely to hinder the investigation, the complainant shall be advised for the purpose of waiving the privilege.

X. RECORDKEEPING, MONITORING, AND ENFORCEMENT

A. Bidders List

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

B. Monitoring Payments to DBEs

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

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

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

C. Reporting to DOT

WCTS will report DBE participation to DOT as follows:

WCTS will report DBE participation on a semi-annual basis, using ODOT's DBE Reporting Form. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

ATTACHMENT 1

Goal Calculation

Step 1: Examine the budget and procurement plan to determine the types and dollar amounts of goods and services to be contracted during the fiscal year.

2024 Budget:

Operating:	\$1,250,000
Fuel:	\$ 240,000
Capital:	\$ 640,000
Admin/Other:	\$ 66,200
Total	\$2,196,200

Anticipated operating contracts over next three years: 1 contract with renewal options
 Anticipated professional/technical contracts over next three years: 1
 Anticipated other contracts over next three years: 0

Total Anticipated contracts: 2

Step 2. Name a market area and determine the associated NAICS codes related to the types of anticipated contracts within that market area.

Market area: Southwest Ohio Counties: Butler, Brown, Clark, Clermont, Clinton, Darke, Fayette, Greene, Hamilton, Highland, Madison, Miami, Montgomery, Preble, and Warren Counties

Rationale: WCTS has chosen these counties because geographically, they comprise the southwest quadrant of Ohio, which is the most likely area that will produce bidders.

Using data from the US Census Bureau, at the following website <https://www.census.gov/NAICS/?input=transportation&year=2022&details=485991> , WCTS selected the following six-digit NAICS codes:

NAICS Code	Description	Total number of firms	# of DBEs
541614	Transportation Management Consulting Services		
485991	Nonemergency medical transportation, Disabled & elderly transport		
485310	Taxi and Ridesharing Services		

485111	Local transit systems, mixed mode (e.g. bus, commuter rail, etc)		
485113	Bus transit systems		
561599	Online ticket agencies		
485210	Inter urban and rural bus transportation		
511210	Software publishers		
	Total		

DBE Calculation:

Step 3. Using the most recent US Census table for the geography that match WCTS’s market area (Southwest Ohio Counties: Butler, Brown, Clark, Clermont, Clinton, Darke, Fayette, Greene, Hamilton, Highland, Madison, Miami, Montgomery, Preble, and Warren Counties), determine the total number of firms (DBE and others) for each NAICS code.

(Create a NAICS Table via following website, [CBP2021.CB2100CBP - Census Bureau Tables](https://www.census.gov/data/tables/2021/cb2100cbp) , filter by EMPSZES_LABEL for “All establishments,” then by NEAICS code. After filtering, top row shows aggregate number of firms)

NAICS Code	Description	Total number of firms	# of DBEs
541614	Transportation Management Consulting Services	68	
485991	Nonemergency medical transportation, Disabled & elderly transport	40	
485310	Taxi and Ridesharing Services	15	
485111	Local transit systems, mixed mode (e.g. bus, commuter rail, etc)	0	
485113	Bus transit systems	0	
561599	Online ticket agencies	15	
485210	Inter urban and rural bus transportation	12	
511210	Software publishers	350	
	Total	500	

DBE Calculation:

Step 4. Determine number of DBE firms for each applicable NAICS code by using ODOT's Unified DBE Directory at [Ohio Unified DBE Directory | Ohio Department of Transportation](#)

((Launch the Unified DBE Directory and search for (only) DBEs for the counties within our marketing area (Southwest Ohio) for each code))

NAICS Code	Description	Total number of firms	# of DBEs
541614	Transportation Management Consulting Services	68	3
485991	Nonemergency medical transportation, Disabled & elderly transport	40	0
485310	Taxi and Ridesharing Services	15	0
485111	Local transit systems, mixed mode (e.g. bus, commuter rail, etc)	0	0
485113	Bus transit systems	0	0
561599	Online ticket agencies	15	0
485210	Inter urban and rural bus transportation	12	0
511210	Software publishers	350	0
	Total	500	3

DBE Calculation:

Step 5. Calculate the DBE goal by dividing number of DBEs by the number of total firms.

NAICS Code	Description	Total number of firms	# of DBEs
541614	Transportation Management Consulting Services	68	3
485991	Nonemergency medical transportation, Disabled & elderly transport	40	0
485310	Taxi and Ridesharing Services	15	0
485111	Local transit systems, mixed mode (e.g. bus, commuter rail, etc)	0	0
485113	Bus transit systems	0	0
561599	Online ticket agencies	15	0
485210	Inter urban and rural bus transportation	12	0
511210	Software publishers	350	0
	Total	500	3

DBE Calculation: 0.60%

WCTS’s DBE goal for FY2024, 2025, and 2026 is 0.60%

NOTE regarding Step Two Adjustment Process:
 Because sufficient past DBE participation is unavailable due to the newness of WCTS’s DBE program, the Step Two Adjustment was not utilized.