

CITY OF STAMFORD DBE PROGRAM (DRAFT)

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

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

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

The Grants Officer has been designated as the DBE Liaison Officer and is responsible for implementing the DBE program. Execution of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Stamford in its financial assistance agreements with the Department of Transportation.

The City of Stamford has disseminated this policy statement to the Board of Finance and Board of Representatives and all the components of our organization. We have distributed this statement to DBE and non-DBE communities that perform work for us on DOT-assisted contracts via the Stamford Purchasing Department website at <https://www.stamfordct.gov/purchasing> and the ProcureWare bidding system. This statement will be included in all DOT-assisted procurement packages.

Caroline Simmons, Mayor
City of Stamford

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.5 Definitions

The City of Stamford will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The City of Stamford will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Stamford will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

The City of Stamford will report DBE participation to the FTA containing all of the information described in the Uniform Report at intervals required by and in the format acceptable to the FTA.

Bidders' List: 26.11(c)

The City of Stamford will create and maintain 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 compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on federally assisted contracts for use in helping to set overall goals, and to provide the Department with data for evaluating the extent to which the objectives of §26.1 are being achieved. The bidders' list will include the name, address, DBE/non-DBE status, race and gender of the majority owner, NAICS code(s) applicable to scope of work sought, age, and annual gross receipts of firms.

The City of Stamford will collect this data for its federally assisted contracts by requiring the information to be submitted with bids or initial responses to negotiated procurements. The data will be entered into the Department's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded.

Section 26.13 Federal Financial Assistance Agreement

The City of Stamford shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The City of Stamford shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The City of Stamford's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in all federal financial assistance agreements. 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 City of Stamford of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: 26.13b

The City of Stamford will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The City of Stamford will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this Program.

Section 26.25 DBE Liaison Officer (DBELO)

The following individual is designated as the Stamford DBE Liaison Officer:

Anita Carpenter, Grants Officer
City of Stamford
888 Washington Boulevard
Stamford, CT 06904-2152
(203) 977-4911 acarpenter@stamfordct.gov

In that capacity, Grants Officer is responsible for implementing all aspects of the DBE program and ensuring that the City of Stamford complies with all provisions of 49 CFR Part 26. This position has direct, independent access to the Mayor of Stamford concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program. The duties and responsibilities include the following:

1. Works with Stamford's Purchasing Department to insure that bid notices and requests for proposals are available to DBEs in a timely manner.
2. Works with the Purchasing and Legal Affairs departments to ensure bid documents and third-party contracts comply with this program.
3. Works with the Engineering Division to identify DOT-assisted contracts and procurements so that DBE goals (both race-conscious and contract specific goals attainment) are included in solicitations.
4. Works with Legal Affairs Department and Project Manager to determine and monitor contractor compliance.
5. Analyzes the City's progress towards goal attainment and identifies ways to improve progress.
6. Refers DBE certification applicants to the Connecticut Department of Transportation as part of the Uniform Certification Process.
7. Gathers and reports statistical data and other information as required by DOT.
8. Assists with outreach to DBEs and community organizations to advise them of opportunities.

9. Works with municipal departments to set overall annual goals.
10. Participates in DBE training sessions with appropriate Stamford personnel.
11. Advises the Mayor and other City officials on DBE matters.

Support personnel that share responsibility for effective implementation include Stamford's Purchasing, Legal Affairs, Engineering and Economic Development Departments.

Purchasing Agent:

- Compiles and maintains bidders' list.

Project Manager

- Ensures that DBE goals are included in DOT-assisted procurements and contracts.
- Monitors payments to DBEs.

Legal Affairs Department:

- Develops contract clauses required by this program for inclusion in third party contracts and bid documents.
- Works with the DBELO to develop and execute appropriate enforcement mechanisms for in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

Economic Development Office:

- In conjunction with the Diversity, Equity and Inclusion (DEI) Officer, assists with outreach and liaises with small and minority businesses to address issues that may impede success in government contracting.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Stamford to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. The City has not identified any such institutions in Connecticut.

Section 26.29 Prompt Payment Mechanisms

The City of Stamford requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with relevant federal, state and local law. The following clause shall be included in each DOT-assisted prime contract:

Prompt Payment to Subcontractors

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City of Stamford. The prime contractor agrees further to return retainage payments to each subcontractor with thirty (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 City of Stamford. This clause applies to both DBE and non-DBE subcontracts.

The City of Stamford will require prime contractors to report dates and amounts of payments to all subcontractors on a monthly basis. If the City determines a prime contractor is not in compliance with prompt payment requirements, the City may, at its own discretion, impose the following sanctions:

- The prime contractor will not be reimbursed for work performed by the subcontractor unless and until the prime contractor issues payment for satisfactory work and ensures that all subcontractors will be promptly paid for work performed.

- The City may determine that the prime contractor does not constitute a responsible bidder, which may be a basis upon which to disqualify the Contractor from bidding upon future projects.

Any disputes between the Contractor and a subcontractor as to payment shall be resolved by submission of the dispute for binding arbitration before a local office of the American Arbitration Association. Each party shall bear its own costs of arbitration and the parties shall equally pay the fees of the neutral arbitrator.

Section 26.31 Directory

The City of Stamford utilizes the State of Connecticut's Unified Certification Program (UCP) Directory that identifies all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, e-mail address, and the type of work the firm has been certified to perform as a DBE. The Directory is updated daily.

The Directory may be accessed online at http://www.biznet.ct.gov/dot_dbe/dbesearch.aspx

Additional information is available at: <https://portal.ct.gov/DOT/Business/Office-of-Equity/Disadvantaged-Business-Enterprise>

Section 26.33 Overconcentration

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

The DBELO will consult with the Economic Development Office, Purchasing Department and/or Project Managers as appropriate to review DBE concentration on a triennial basis in conjunction with the goal setting process. Sources may include:

- Determining the number of DBE bidders on City procurements and the related areas of work
- Census Bureau NAICS data
- The CT DOT DBE business directory

When it is determined that DBE firms are so over-concentrated on USDOT-assisted contracts to an extent that non-DBE firms are being unduly excluded from particular types of work, the measures to address the overconcentration may include using technical assistance, incentives and other appropriate measures designed to assist DBEs in performing work outside of the specific field of over concentration. Stamford may also consider varying the use of contract goals in accordance with §26.51 to ensure that non-DBEs are not prevented from competing for subcontracts. FTA must review a determination of overconcentration and approve any measures designed to address the issue.

Section 26.35 Business Development Programs

The City of Stamford fosters mentoring and business development for DBEs and small businesses through several varied initiatives. The City's website contains a Small Business Resource Center which provides a range of technical assistance resources. Staff will continue to research opportunities to present and/or attend community events that include outreach and education to DBEs and small businesses. Stamford currently partners with local non-profits and the State of Connecticut to provide information and promote small business development.

Section 26.37 Monitoring and Enforcement Mechanisms

1. The City of Stamford will implement the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

- A. Verifying that work committed to DBEs at contract award is actually performed by DBEs by requiring Prime Contractors to submit lien waivers, copies of all subcontractors' certified payrolls (if applicable), and/or copies of paid invoices from DBE subcontractors with each application for payment. The Statement of Subcontractor Payment form captures payment information for all DBE and non-DBE subcontractors and is also required with each pay application.
 - B. On-Site interviews with DBE subcontractors periodically throughout the project to determine that the DBE is performing a commercially useful function as defined in 26.55. The City of Stamford also conducts Labor Compliance and EEO Contract Compliance Job-Site interviews regarding Davis Bacon/Prevailing Wage compliance.
2. The City of Stamford will keep a running tally of DBE awards/commitments and payments via the following mechanisms:
 - A. Performing frequent comparisons of cumulative DBE awards/commitments to DOT-assisted prime contract awards. Analysis of this data will help determine whether the current implementation of contract goals is sufficient to meet the annual goal and will inform decisions on implementing contract goals.
 - B. Performing frequent comparison of payments made to each listed DBE relative to the progress of work. This comparison will include payments for such work to the prime contractor to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to address to meet the contract goal.
 3. The City of Stamford will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, the file will contain verification of the DBE's certification, contract information, change notices, and written verification of each on-site visit. All records will be retained for a minimum of three (3) years following completion of the financial assistance agreement unless otherwise provided by the City's applicable record retention requirements, whichever is longer. The City of Stamford will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Stamford or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Section 26.39 Fostering Small Business Participation

The City of Stamford has implemented a resource center to provide information and tools for entrepreneurs looking to start or grow their small businesses: <https://www.choosestamford.com/business-services/small-business-resource-page>.

The following DBE Program Small Business Elements will be also implemented by the City of Stamford to promote achieving as large a portion of its overall goal as possible through race and gender-neutral means. These measures will include reasonable steps to eliminate obstacles to small business participation on City contracts, including but not limited to:

- Participating in bidders conferences, workshops and seminars to increase outreach to small businesses and discuss contracting opportunities and the City of Stamford's procurement process.
- Encouraging SBEs to become DBE certified.
- Promoting SBE/DBE participation on the City's website and in solicitation announcements.
- Advertising procurement solicitations and the DBE plan in non-English language media. Electronically communicating bid proposals to minority/small business community organizations, trade organizations, area Chambers of Commerce, and known DBE firms registered in our ProcureWare system.
- Analyzing and structuring procurements to facilitate the ability of SBE/DBEs to compete for prime contracts. Where feasible, will "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation.
- Coordinating with local partners to offer training in areas such as networking, finance and bonding, bidding and estimating and doing business with government entities.
- On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

- To meet the portion of the overall goal projected to be met through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

Businesses must meet the criteria established the Small Business Administration (SBA) and the most current cap on annual gross receipts established by the SBA to be verified as small business concerns. The DBE Liaison Officer shall work with project managers to ensure that the projects have, to the fullest extent feasible, been developed in a way that encourages DBE and SBE participation.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the calculations and methodology used to calculate the City's Disadvantaged Business Enterprise Overall Goal for federal fiscal years 2025-2027 can be found in **Attachment 2**.

In accordance with Section 26.45(f) the City of Stamford will submit its three-year overall goal to DOT in three year intervals on or before August 1. Before establishing the overall goal, the City's will conduct a consultation process to seek information regarding the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Stamford's efforts to establish a level playing field for DBE participation. Groups to be consulted will include staff involved in procurements, DBEs, contractors, trade associations and advisory groups. The City will conduct a scheduled, direct, interactive exchange with as many interested stakeholders as possible to obtain information relevant to the goal setting process, prior to submitting the goal methodology to the FTA for review. The goal submission will document the consultation process in which the City of Stamford engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

Following these consultations the City of Stamford will publish a notice of the proposed overall goal, informing the public that the goal and its rationale are available for review and comment for 30 days. The notice will be published in general circulation and minority-focused media and will be disseminated to area agencies advocating for DBEs. The notice will include information on where comments may be sent. The City will maintain a file with a summary of information and comments received during this public participation process and our responses.

Methodology

The City of Stamford will use the following methodology to calculate its overall DBE goal:

1. Determine projected number and dollar amount of DOT-assisted contracts to be awarded:
 - Review federal funds available
 - Consult with Engineering Department to review capital budget and potential projects.
 - Determine distribution of federal and local funds among projects.
2. Determination of the base figure for the relative availability of DBEs:
 - Use the most recent U.S. Census Bureau NAICS database to determine the number of all ready, willing and able businesses available in our market. Using past purchasing data and being cognizant of local traffic conditions and reasonable distances, the market is defined as the State of Connecticut.
 - Use the Connecticut Department of Transportation DBE Directory to determine the number of certified DBEs available to perform services or provide supplies under the same NAICS codes.
 - Using weighting relative to dollar amount to determine an adjustment to the base figure.

3. Make adjustments to this base figure using one or more of the following factors:
 - Review of the firms enrolled in the City of Stamford ProcureWare vendor database to determine the percentage of available DBEs.
 - Review of relevant disparity studies.
 - Review the City of Stamford's past DBE goal achievement in relevant NAICS codes.

The City of Stamford and its prime contractors will at a minimum, seek DBEs and SBEs in the same geographic area in which they generally seek contractors or subcontractors for a given solicitation. This routinely includes the entire state of Connecticut and may include neighboring states via use of the State procurement system and advertisements in regional and trade newspapers. If the City or contractor cannot meet the established goal using DBEs from this geographic area, the City or contractor, as part of its efforts to meet the goal will expand its search to a reasonable wider geographic area.

Contract specific goals will be set for each contract where there are subcontracting opportunities and will be discussed in the section entitled "contract goals".

The City of Stamford will begin using its overall goal on October 1st of each third year, unless we have received other instructions from DOT/FTA. If the City of Stamford established a project goal, we will begin using that goal by the time of the first solicitation for a DOT-assisted contract for that project. The goal will remain effective for the duration of the three-year period established and approved by the FTA.

Section 26.47 Failure to Meet Goals – Shortfall Analysis

If the awards and commitments reported to the FTA at the end of any fiscal year are less than the overall applicable to that fiscal year, the DBELO, in collaboration with project personnel, will:

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

The shortfall analysis and corrective action plan will be disseminated to appropriate personnel, retained in City records for a minimum of three years, and will be available for review by FTA. The DBELO will be responsible for monitoring the action plan.

Section 26.49 Transit Vehicle Manufacturers' Goals

The City of Stamford will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, the City of Stamford may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51 Meeting Overall Goals/Contract Goals

The City of Stamford will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation.

Race-neutral means include, but are not limited to, the following:

- (1) Conducting outreach to DBEs/SBEs to increase awareness of City of Stamford procurement opportunities and procedures.
- (2) Encouraging DBE participation in solicitation announcements and outreach materials.
- (3) Structuring solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and small businesses.
- (4) Providing technical assistance to DBEs and SBEs on procurement procedures and related services.
- (5) Referring DBEs and SBEs to the City of Stamford's business portal and its development partners for additional guidance on starting and growing businesses.

- (6) Referring potential prime contractors to the ConnDOT DBE directory and various networking opportunities to assist them in identifying and connecting with potential subcontractors.
- (7) Reviewing bonding requirements for opportunities to simplify the process and to set feasible minimum conditions.

If contract goals are used, the estimated breakout of race-neutral and race-conscious participation will be adjusted as needed to reflect actual DBE participation per 26.51(f). Race-neutral and race conscious participation will be tracked and reported separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures.
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal.
- DBE participation on a prime contract exceeding a contract goal.
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The City of Stamford will use contract goals to meet any portion of the overall goal the City does not project being able to meet using race-neutral means. Contract goals will be expressed as a percentage of the federal share of a DOT-assisted contract. The City need not establish a contract goal on every such contract, and the size of goals will be adapted to the circumstances of each such contract.

Section 26.53 Good Faith Efforts Procedures

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

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, the City of Stamford 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 within 5 days of the bid opening.

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

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 Part 26.

The DBE Liaison Officer will be responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible. We will ensure that all information is complete and accurate and adequately documents the bidder/offeror good faith efforts before we commit to the performance of the contract by the bidder/offers. Competitors who fail to meet the DBE goals and who fail to demonstrate sufficient reasonable efforts will not be eligible to be awarded the contract.

Information to be submitted (26.53(b))

The City of Stamford treats bidder/offeror compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation issued by the City of Stamford that contains a contract goal will require all bidders/proposers to submit a written assurance of meeting the goals in their bids or proposals. Within 5 days after the opening of bids, the City will require the apparent successful bidder/proposer to submit:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the work of each DBE firm will perform;

4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
6. If the contract goal is not met, evidence of good faith efforts. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Award of the contract will be conditioned upon the prime contractor meeting the requirement of this section.

Administrative reconsideration (26.53(d))

Within seven (7) business days of being informed by the City of Stamford that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Benjamin Barnes, Director of Administration
City of Stamford
888 Washington Boulevard
Stamford, CT 06904
(203) 977-4182 bbarnes@stamfordct.gov

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

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

Open Ended Performance Plan (26.53(e))

When the City of Stamford solicits proposals for a design-build project, i.e., with minimal-project details at time of letting, the City may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance Plan (OEPP) with the proposal. To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amount) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, the City of Stamford will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. Written revisions to the OEPP may be made throughout the life of the project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals;(26.53(f))

The City of Stamford will forbid prime contractors to terminate a DBE or reduce any portion of its work listed without prior written consent, unless the City causes the termination or reduction. This requirement applies to instances that include, but are not limited to, when a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

Each prime contract will include a provision stating that:

(A) The contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the City's written consent as provided in §26.53(f) and;

(B) Unless such consent is provided, the prime contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. Consent will only be provided if the City agrees that the prime contractor has good cause to terminate. The reasons for the consent will be stated in the concurrence document.

Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged, or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award. Good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR parts 180, 215, and 1200 or applicable State law;

(vi) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vii) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

(viii) The listed DBE is ineligible to receive DBE credit for the type of work required;

(ix) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract; and

(x) Other documented good cause that you determine compels the termination of the DBE subcontractor.

(4) Before transmitting to you its request to terminate a DBE subcontractor or any portion of its work, the prime contractor must give notice in writing to the DBE subcontractor, with a copy sent to the City concurrently, of its intent to request to terminate and the reason for the proposed request.

(5) The prime contractor's written notice must give the DBE 5 days to respond, stating the reasons, if any, why it objects to the proposed termination of its subcontract/or portion thereof and why you should not approve the prime contractor's request. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shorter than 5 days.

(6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions or changes to DBEs or their listed work put forward by offerors in negotiated procurements.

(g) When a DBE subcontractor or any portion of its work is terminated, or if work committed to a DBE is reduced due to overestimations made prior to award, the prime contractor must use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days, if necessary, at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) Each prime contract will contain a clause stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

(i) The requirements of this section will be applied to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

(j) Each contractor must make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Stamford to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____% percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 2), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4) and (6); if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

SUBPARTS D & E- CERTIFICATION

Section 26.81 Unified Certification Programs

The City of Stamford is a member of a Unified Certification Program (UCP) administered by the Connecticut Department of Transportation. A Memorandum of Understanding between the City of Stamford and ConnDOT was signed on September 5, 2002. The City of Stamford will make good faith efforts to identify possible DBEs and refer them to the UCP for certification.

For more information about the certification process or to apply for certification, please contact: Ms. Shari Pratt, CT Department of Transportation, Office of Contract Compliance, 2800 Berlin Turnpike, Newington, CT, 06131. Telephone: (860) 594-2171. The application form is also available at <https://portal.ct.gov/dot/business/office-of-equity/disadvantaged-business-enterprise>

Section 26.83- 26.91 Procedures for Certification Decisions

The City of Stamford will accept the decision of ConnDOT regarding eligibility certification. Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
Disadvantaged Business Enterprise Division (S-33)
S33AppealsManagementRecords@dot.gov

The City of Stamford will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracts.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The City of Stamford will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal (Federal Freedom of Information and Privacy Acts - 5 U.S.C. 552 and 552a), state and local law. Notwithstanding any contrary provisions of state or local law, the City will not release personal financial information submitted in response to the personal net worth requirement to a third party, other than DOT, without the written consent of the submitter.

Monitoring Payments to DBEs

The City of Stamford will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Stamford or DOT. This reporting requirement also extends to any certified DBE subcontractor.

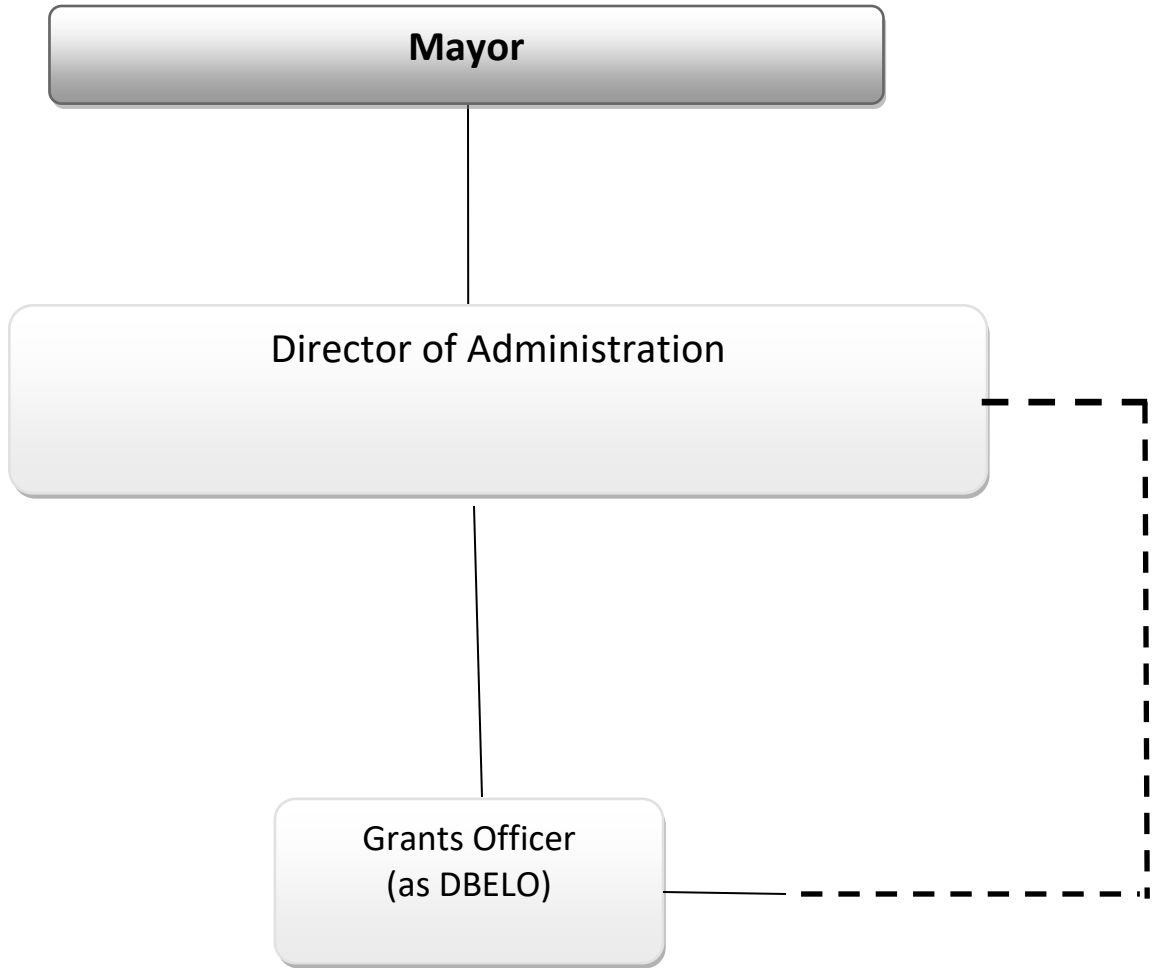
The City of Stamford will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

The regulations at 40 CFR Part 26 may be found here: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-regulations>

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1>

ATTACHMENT 1

City of Stamford
DBELO Organizational Chart



ATTACHMENT 2

Goal Methodology

The City of Stamford has established a proposed overall Disadvantaged Business Enterprise (DBE) goal of ___% for Federal Fiscal Years 2025-2027. The goal is applicable for FTA-assisted contracts to be solicited and awarded during the period October 1, 2024 - September 30, 2027. The following is a summary of the method used to calculate this goal:

Step One – Relative Ability of DBE Firms Base Figure

$$\frac{134 \text{ Ready, willing, and able DBEs}}{1951 \text{ All firms ready, willing, able}} = 7\% \text{ (6.8\% rounded up)}$$

1. Determination of the base figure for the relative availability of DBEs:

- a. The City of Stamford used the 2021 Census Bureau's County Business Pattern (CBP) database to determine the number of all ready, willing and able businesses available in our market. The market was defined as the State of Connecticut. One Thousand Nine Hundred Fifty-one (1,951) businesses in the relevant NAICS codes were identified statewide.
- b. Using the same NAICS codes, the City reviewed the Connecticut DBE Directory to identify businesses that matched the contracting opportunities. One hundred thirty-four businesses were identified.
- c. Weighting is recommended by the FTA as a means to ensure accuracy of the base figures. The weighted base figure for the relative availability of DBEs in our market is 19% percent. (See Table below)

	NAICS Code	Stamford Urban Transitway Project	Weight	x	Availability	Weighted Base Figure
1)	237310	Construction	0.50000	x	0.33684	0.1684
2)	238210	Electrical	0.35000	x	0.02466	0.0086
3)	238910	Site Prep	0.10000	x	0.07393	0.0074
4)	484220	Trucking	0.05000	x	0.21084	0.0105
					Total	0.1950
					Rounded, Weighted Base Figure:	19%

Step Two – Adjustments to the Base Figure. The weighted base figure calculation is significantly higher than anticipated and represents a significant discrepancy from the raw base percentage. City of Stamford staff determined that an adjustment is both necessary and reasonable to ensure accuracy in establishing its overall DBE goal. The following factors were considered:

Historical DBE participation for evidence of DBE availability and capacity.

- A total of 14,796 firms are active on ProcureWare, the City's purchasing, bidding and vendor management system. Of those, 185 or approximately 1.25% identify as DBEs.
- A review of solicitations released via ProcureWare in the last three years within the company categories most closely correlated to the relevant NAICS codes shows that DBEs accounted for an average of 4.5% of the respondents.
- Stamford's most recent contracting opportunity for FTA-funded work was in FFY 2019. At that time the DBE participation goal was 2.45%. A review of DBE reports from that time period reveals the median percentage of payments to DBE contractors was 2.415%.

As with the previous project, the project planned for FFY 2025 will rely on one bidding opportunity to achieve the goal, supporting a downward adjustment to the City's weighted base figure. In the past Stamford has found it a challenge to meet its DBE goals with only one or two contracting opportunities.

- Disparity Studies. The State of Connecticut is currently developing a disparity study, however results are not yet available. The City of Stamford will review the study when published to determine if the results warrant a revision to its DBE goal.
- After consideration of the factors stated above, adjusting the figure to a 7% goal was deemed a realistic achievement. It is the mean of all calculations described above and coincides with the original base figure. We believe this accurately reflects the number of DBEs ready, willing and able to compete for City contracting opportunities.

ATTACHMENT 3

CONTRACTOR'S DBE SUBCONTRACTOR VERIFICATION FORM

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)

ATTACHMENT 4

Public Notice and Meaningful Consultation

Public outreach activities were held to ensure meaningful consultation with applicable community organizations, minority, women's, and general contractor groups, and other entities in the local area for comments that could impact the established DBE goal.

The City of Stamford distributed a survey to over 200 minority and women-owned businesses registered in its vendor database to gain information on their experiences and suggestions regarding bidding on government contracts. A similar survey was also distributed to six small and minority business development entities within Connecticut.

Representatives of the City of Stamford's Purchasing, Engineering and Grants Departments have scheduled a direct, interactive consultation with stakeholders via Zoom on July 22, 2024.