



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

ANANTH PRASAD
SECRETARY

POLICY

Effective: July 1, 2011
Office: Equal Opportunity
Topic No: 001-275-015-k

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION

References: Sections 20.23(4)(a), 334.048(3), Florida Statutes
Sections 337.125, 337.137, 339.0805, Florida Statutes
Rule Chapter 14-78, Florida Administrative Code
49 Code of Federal Regulation Part 26
Disadvantaged Business Enterprise Program Plan

It is the policy of the Florida Department of Transportation that disadvantaged business enterprises, as defined by **49 Code of Federal Regulations Part 26**, shall have an opportunity to participate in the performance of Department contracts in a nondiscriminatory environment.

The objectives of the Disadvantaged Business Enterprise Program are to ensure nondiscrimination in the award and administration of contracts, ensure firms fully meet eligibility standards, help remove barriers to participation, create a level playing field, and assist in the development of a firm so it can compete successfully outside of the program.

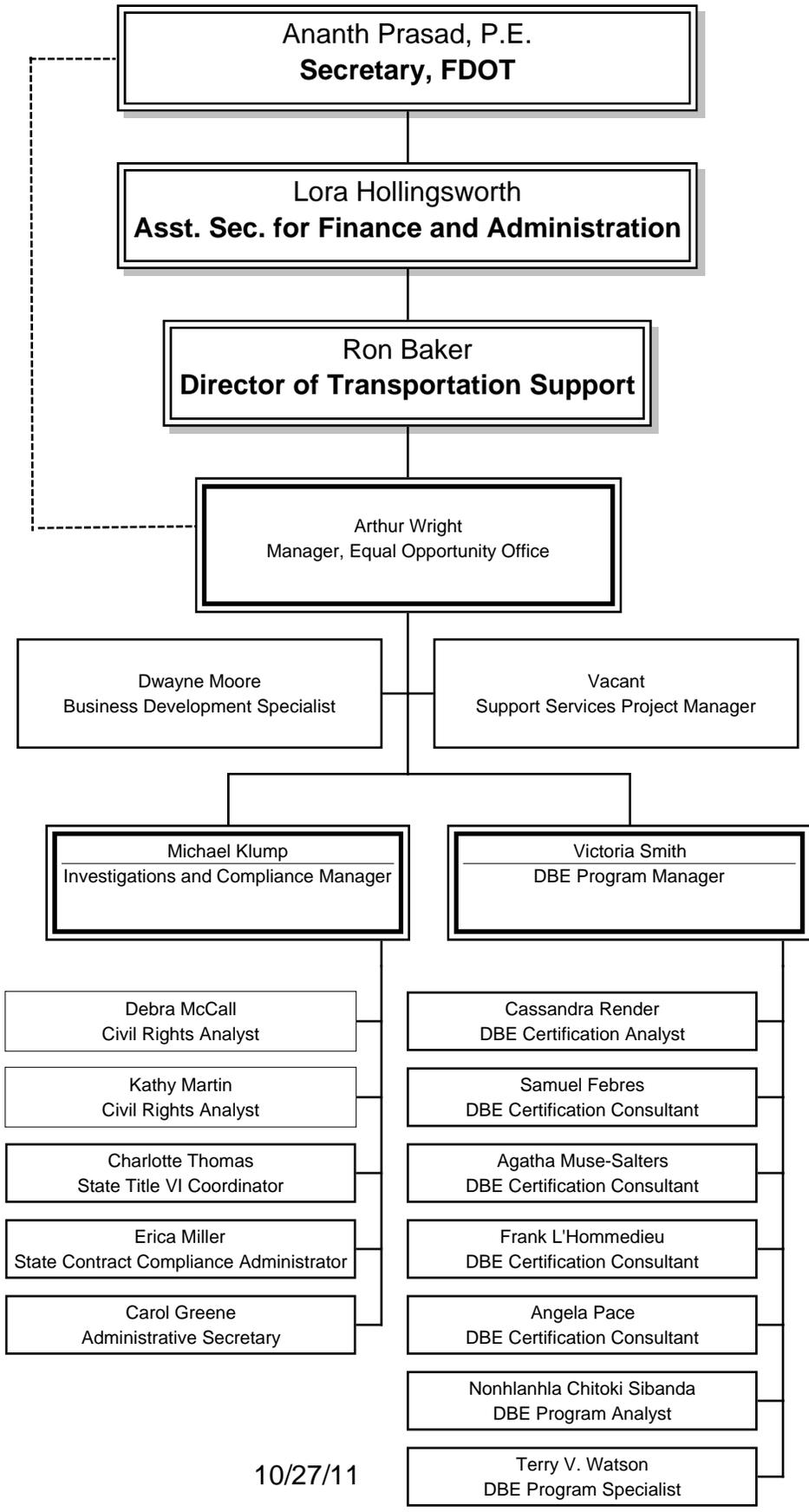
The Department, its grant recipients, contractors, consultants, and suppliers shall take all necessary and reasonable steps to ensure that disadvantaged business enterprises have an opportunity to compete for and perform the contract work of the Department in a nondiscriminatory environment.

No grant recipient, contractor, consultant, or supplier shall discriminate on the basis of race, color, sex, or national origin in the award and performance of its contracts.

A handwritten signature in black ink, appearing to read "Ananth Prasad".

Ananth Prasad, P.E.
Secretary

EQUAL OPPORTUNITY OFFICE



10/27/11

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
County No: _____	Contract No: _____	Vendor No: _____

Data Universal Number System (DUNS) No: 80-939-7102

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS AGREEMENT, made and entered into this ____ day of _____, ____ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and _____ hereinafter called the Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 339.12, Florida Statutes, to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is to provide for the Department's participation in _____ and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

1.01 Attachments: Exhibit(s) _____ are attached and made a part hereof.

2.01 General Requirements: The Agency shall complete the project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

Removal of Any Unbilled Funds

If Agency fails to timely perform its obligations in submitting invoices and documents necessary for the close out of the project, and said failure results in a loss of the remaining unbilled funding either by Federal withdrawal of funds or loss of State appropriation authority (which may include both federal funds and state funds, if any state funds are on the project), Agency will be responsible for the remaining unbilled funds on the project. No other funds will be provided by the Department. Agency waives the right to contest such removal of funds by the Department, if said removal is directly related to Federal (FHWA) withdrawal of funds or loss of State appropriation authority due to Local Agency's failure or nonperformance. In addition to loss of funding, the Department will consider de-certification of said Agency for future LAP projects.

Removal of All Funds

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If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

2.02 Expiration of Agreement: The Agency agrees to complete the project on or before _____. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

2.03 Pursuant to Federal, State, and Local Laws: In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.04 Agency Funds: The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

2.05 Submission of Proceedings, Contracts, and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the project as the Department and the Federal Highway Administration (FHWA) may require.

3.00 Project Cost:

3.01 Total Cost: The total cost of the project is \$ _____. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

3.02 Department Participation: The Department agrees to participate, including contingencies, in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

3.03 Limits on Department Funds: Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

- a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;
- c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- d) Department approval of the project scope and budget at the time appropriation authority becomes available.

3.04 Appropriation of Funds: The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

3.05 Multi-Year Commitment: In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this

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subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

3.06 Notice-to-Proceed: No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed from the Department.

3.07 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

4.00 Project Estimate and Disbursement Schedule: Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project, and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

5.00 Records:

5.01 Establishment and Maintenance of Accounting Records: Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the project records, together with supporting documents and records of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

5.02 Costs Incurred for Project: The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

5.03 Documentation of Project Costs: All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

5.04 Audit Reports: Recipients of federal and state funds are to have audits done annually using the following criteria:

The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

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Monitoring: In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the FDOT's Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I - Federally Funded: Recipients of federal funds (i.e., state, local government or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "1" of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

Part II - State Funded: Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of

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the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

Part III - Other Audit Requirements: The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

Part IV - Report Submission:

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

- a) The Department at each of the following address(es):

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

- b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised), at the following address:

Federal Audit Clearinghouse
 Bureau of the Census
 1201 East 10th Street
 Jeffersonville, IN 47132

- c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards directly to each of the following:

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any Management Letters issued by the auditor, to the Department at each of the following addresses:

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

- a) The Department at each of the following address(es):

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(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

- b) The Auditor General's Office at the following address:

Auditor General's Office
 Room 401, Pepper Building
 111 West Madison Street
 Tallahassee, Florida 32399-1450

4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

- a) The Department at each of the following address(es):

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

Part V - Record Retention: The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

5.05 Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, sub-contractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1)(c), Florida Statutes).

5.06 Uniform Relocation Assistance and Real Property Statistical Report: For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

6.00 Requisitions and Payments: Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-"Travel" of the Department's Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

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If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

7.00 Department Obligations: Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

7.01 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof or in or with respect to any document of data furnished therewith or pursuant hereto;

7.02 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement or payments to the project;

7.03 Approval by Department: The Agency shall have taken any action pertaining to the project which, under this Agreement, requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

7.04 Conflict of Interests: There has been any violation of the conflict of interest provisions contained here in paragraph 12.07.

7.05 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

7.06 Federal Participation: The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

7.07 Disallowed Costs: In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit "B" for the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7.08 Final Invoices: The Agency must submit the final invoice on the project to the Department within 120 days after the completion of the project. Invoices submitted after the 120-day time period may not be paid.

8.00 Termination or Suspension of Project:

8.01 Termination or Suspension Generally: The Department may, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing,

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with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

8.02 Action Subsequent to Notice-of-Termination or Suspension: Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the project activities and contracts and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.00 Contracts of Agency:

9.01 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

9.02 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the consultant selection process for all projects. In all cases, the Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation: It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

"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 Department, 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,

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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.).”

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

“The contractor, subrecipient 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 C.F.R. 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.”

11.00 Compliance with Conditions and Laws: The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” in 49 C.F.R. Part 29, when applicable.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the project, except contracts for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

12.02 Title VI – Civil Rights Act of 1964: The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

12.03 Americans with Disabilities Act of 1990 (ADA): The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

12.04 Public Entity Crime: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

12.05 Discrimination: In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any

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public entity; and may not transact business with any public entity.

12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

12.07 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer or employee of the Agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

12.08 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

13.02 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

13.03 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

13.04 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

13.05 Bonus or Commission: By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

13.06 State Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

13.07 Plans and Specifications: In the event that this Agreement involves constructing and equipping of facilities on the

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State Highway System, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency a written approval with any approved portions of the project and comments or recommendations covering any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

13.08 Right-of-Way Certification: Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

13.09 Agency Certification: The Agency will certify in writing, prior to project closeout that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

13.10 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

13.11 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

13.12 Restrictions on Lobbying:

Federal: The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

State: No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

13.13 Maintenance: The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency will will not maintain the improvements made for their useful life.

13.14 Vendors Rights: Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 5 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and the receipt, inspection, and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), Florida Statutes, will be due and payable in addition to the invoice amount to the Agency. Interest penalties of less than one \$1 will not be enforced unless

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the Agency requests payment. Invoices which have to be returned to the Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at 850-413-5516.

13.15 Reimbursement of Federal Funds:

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement. Federal Economic Stimulus awards do not exempt the Agency from adherence to federal guidelines, procedures, and regulations.

13.16 E- VERIFY

The Agency:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and
2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

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IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name:
Title:

By: _____
Name:
Title:

Attest: _____
Title:

Attest: _____
Title:

As to form:

Legal Review:

Attorney

Office of the General Counsel

See attached Encumbrance Form for date of funding approval by Comptroller.

CHAPTER 14 - DISADVANTAGED BUSINESS ENTERPRISES

14.1 GENERAL

14.1.1 It is the policy of the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprises (DBEs) have an equal opportunity to participate in the performance of federally financed contracts or subcontracts. (DBEs are defined in 49 Code of Federal Regulation, Part 23). To achieve this goal, all Local Agencies and their contractors must take steps to make sure that DBEs are encouraged to compete for construction contracts, procurement contracts, grants, services, financial aid or other benefits. DBEs must have full access to these opportunities.

14.1.2 In accordance with guidance provided by the Federal Highway Administration (FHWA), contracts issued by Local Agencies that have FHWA funds must be in compliance with the FDOT DBE Program. The FDOT DBE Program is race-neutral and has a goal for the 2007-2008 Federal Fiscal Year to spend at least 8.1% of the highway dollars received from the Federal Government on projects with Certified DBEs as prime contractors/subcontractors and prime consultants/sub consultants. Race-neutral means that the Department will not be assigning individual goals on each project. Instead, the Department believes that the 8.1% overall goal can be achieved through the normal competitive procurement process. According to 49 CFR Part 26, if the 8.1% goal is not achieved, the Department may be required to return to a race-conscious program. In this program, goals are imposed on individual contracts. The Department encourages all of their contractors to obtain bids and quotes from Certified DBEs. The Department's DBE Program Plan goal methodology can be found at: www.dot.state.fl.us/equalopportunityoffice/.

14.1.3 The District Administrator will arrange for the Department's Equal Opportunity Office (EOO) to provide training to Local Agencies, as necessary.

14.2 ESTABLISHMENT OF PROJECT DBE AVAILABILITY GOAL PERCENTAGES

The Local Agency will review each project to determine if the work allows for DBE participation. The Local Agency must also set up a DBE availability goal percentage. This DBE availability goal percentage is not a fixed contract requirement. It is a guide to inform the contractor of the work that could reasonably be contracted to a DBE. The Local Agency considers the following criteria when making a goal: (1) the dollar amount of the contract to make sure that it is large enough to allow efficient subcontracting, (2) the work

of the project that can be subcontracted, and (3) the availability of DBE firms in the project area able to do the required work.

14.3 ANTICIPATED DBE PARTICIPATION STATEMENT

The contractor must complete and submit the "Anticipated DBE Participation Statement," (shown in Appendices 14.7.1) at the pre-construction or pre-work conference. The Statement must only include companies certified as a DBE. The contractor can and should update the Statement when additions or deletions are made through the life of the contract.

This will not become a binding part of the contract. It will assist the Department in tracking planned or estimated DBE use. The contractor must mail or fax the Statement to the Department's Equal Opportunity Office at the following address within 3 days of the pre-construction or pre-work conference:

Florida Department of Transportation
Equal Opportunity Office, MS-65
605 Suwannee Street
Tallahassee, Florida 32399-0450
Fax Number: (850) 414-4879

14.4 EQUAL OPPORTUNITY REPORTING (EOR) SYSTEM

To comply with federal changes in the DBE Program Plan, the Department is also collecting actual payments made to subcontractors in addition to the planned use. The Local Agency reports data on actual payments, minority status, and the type of work of all subcontractors and major suppliers. Reports can be made through the Equal Opportunity Reporting System (EOR) on the Internet at www.dot.state.fl.us/equalopportunityoffice/. Each month the Local Agency must report actual payments to all DBE subcontractors and suppliers. Payments to all non-DBE subcontractors can be reported either monthly or at the end of the project. The EOR is working to revise the reporting system so contractors can enter this information instead of the Local Agency.

14.5 DBE CERTIFICATION

The DBE firm(s) named by the contractor in the "Anticipated DBE Participation Statement" and the EOR System must be certified as a DBE firm in order to be counted as a DBE. To verify whether a firm is certified as a DBE for the work being performed, the contractor must refer to the Business Directory published by the Department's Equal Opportunity Office on the Internet at: www.dot.state.fl.us/equalopportunityoffice/. If the Internet is not available, the contractor can call the Equal Opportunity Office for verification at (850) 414-4747.

14.6 BIDDERS LIST

Federal regulations require States to maintain a database of all firms that are participating or attempting to participate in FDOT-assisted contracts. The list must include all firms that bid on prime contracts or bid or quote subcontracts on FDOT-assisted projects, including both DBEs and non-DBEs. The Bid Opportunity List is used to record bidders' information for all subcontractors or sub consultants who submitted bids to primes. This information should be returned with the bid package or proposal package on the Bidders Opportunity List form. The local agency should mail or fax the form to the Equal Opportunity Office.

14.7 MONITORING DBE REPORTING

The Local Agency must monitor the contractor to ensure that it submits the "Anticipated DBE Participation Statement" at the pre-construction or pre-work conference and then forwards it to the Equal Opportunity Office. The Equal Opportunity Office will monitor the EOR System to ensure that the Local Agency is providing the necessary information.

14.8 APPENDICES

Anticipated DBE Participation Statement (275-030-11A) and Bidders Opportunity List (275-030-11) – Contact District LAP Administrator for the form.

paid for in succeeding fiscal years. The Department will incorporate this paragraph verbatim in all Contracts in excess of \$25,000 or having a term for more than one year.

7-23 Contractor's Motor Vehicle Registration.

The Contractor shall provide the Department with proof that all motor vehicles operated or caused to be operated by such Contractor are registered in compliance with Chapter 320 of the Florida Statutes. Submit such proof of registration in the form of a notarized affidavit to the Department.

The Department will not make payment to the Contractor until the required proof of registration is on file with the Department.

If the Contractor fails to register any motor vehicle that he operates in Florida, pursuant to Chapter 320 of the Florida Statutes, the Department may disqualify the Contractor from bidding, or the Department may suspend and revoke the Contractor's certificates of qualification.

7-24 Disadvantaged Business Enterprise Program.

7-24.1 General: Prior to award of the Contract, have an approved Disadvantaged Business Enterprise (DBE) Affirmative Action Program Plan filed with the Equal Opportunity Office. Update and resubmit the plan every three years. No Contract will be awarded until the Department approves the Plan. The DBE Affirmative Action Program Plan and commitment to carry out the Plan must be incorporated into and become a part of the awarded Contract.

7-24.2 Required Contract and Subcontract DBE Assurance Language: Per 49 CFR 26.13 (b) each Contract FDOT signs with a Contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: "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."

7-24.3 Plan Requirements: Include the following in the DBE Affirmative Action Program Plan:

(a) A policy statement, expressing a commitment to use DBEs in all aspects of contracting to the maximum extent feasible. The policy making body must issue a policy statement signed by the chairperson, which expresses its commitment to utilize DBEs, outlines the various levels of responsibility, and states the objectives of the program. Circulate the policy statement throughout the Contractor's organization.

(b) The designation of a Liaison Officer within the Contractor's organization, as well as support staff, necessary and proper to administer the program, and a description of the authority, responsibility, and duties of the Liaison Officer and support staff. The Liaison Officer and staff are responsible for developing, managing, and implementing the 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 equitable opportunity to participate in Contracts let by the Department.

Use techniques to facilitate DBE participation in contracting activities which include, but are not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations.

2. Providing assistance to DBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.

3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

4. Encouraging eligible DBEs to apply for certification with the Department.

5. Contacting Minority Contractor Associations and city and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible DBE contractors to apply for certification with the Department.

7-24.4 DBE Records and Reports: Submit the Anticipated DBE Participation Statement at or before the Pre-Construction Conference. Report monthly, through the Equal Opportunity Reporting System on the Department's Website, actual payments, retainage, of all DBE and Minority Business Enterprise (MBE) subcontractors and DBE and MBE construction material and major suppliers. The Equal Opportunity Office will provide instructions on accessing this system. Develop a record keeping system to monitor DBE affirmative action efforts which include the following:

(a) the procedures adopted to comply with these Specifications;

(b) the number of subordinated Contracts on Department projects awarded to DBEs;

(c) the dollar value of the Contracts awarded to DBEs;

(d) the percentage of the dollar value of all subordinated Contracts awarded to DBEs as a percentage of the total Contract amount;

(e) a description of the general categories of Contracts awarded to DBEs; and

(f) the specific efforts employed to identify and award Contracts to DBEs.

Upon request, provide the records to the Department for review.

All such records are required to be maintained for a period of five years following acceptance of final payment and have them available for inspection by the Department and the Federal Highway Administration.

7-25 On-The-Job Training Requirements.

As part of the Contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The Contractor shall provide on-the-job training aimed at developing full journeymen in the type(s) of trade or job classification(s) involved in the work. In the event the Contractor subcontracts a portion of the contract work, he/she shall determine how many, if any, of the trainees are to be trained by the subcontractor provided, that the Contractor shall retain the primary responsibility for meeting the training requirements imposed by this Section. The Contractor shall apply the requirements of this Section to such subcontract. Where feasible, 25% of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The number of trainees will be estimated on the number of calendar days of the contract, the dollar value, and the scope of work to be performed. The trainee goal will be

CERTIFICATION
DISBURSEMENT OF PREVIOUS PERIODIC PAYMENT TO SUBCONTRACTORS
(As required by Florida Transportation Code, Section 337.11, Subsection (11), F.S.)

FIN PROJ. I.D. _____

DATE _____
CONTRACT NO. _____
TO RELEASE MONTHLY PAYMENT FOR _____

_____, prime contractor for the above referenced contract, hereby certifies that all subcontractors, except for those noted below, having interest in this contract have received their pro rata share of all previous periodic payments made to date by the Department for all work, materials and equipment furnished under the contract. The term "subcontractor", as used herein, shall also include persons or firms furnishing materials, services or equipment incorporated into the work or stockpiled in the vicinity of the project for which partial payment has been made by the Department and work done under equipment-rental agreements.

EXCEPTION:

The following subcontractors have not been paid and a copy of the notification sent to each, explaining the good cause why payment has not been made, is attached to this form:

Subcontractor name

Street Address

City State Zip

Subcontractor name

Street Address

City State Zip

State of Florida
County of _____
Sworn to and subscribed before me this _____ day
of _____, _____, by _____
(Print name of person signing Certification)

A false statement or omission made in connection with this certification is sufficient cause for suspension, revocation, or denial of qualification to bid, and a determination of non-responsibility, and may subject the person and/or entity making the false statement to any and all civil and criminal penalties available pursuant to applicable Federal and State Law.

Notary Public

Commission Expires
Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Contractor

By

Title

Instructions:

- 1. Attach copy of the notification good cause sent to each applicable subcontractor.
- 2. List the subcontractors which have not been paid the proportionate share of payments received by the contractor and the date listed as exception.
- 3. A separate certification is required for each contract.
- 4. To be signed by an officer or director of the Contractor with the authority to bind the Contractor and notarized.
- 5. To avoid delay in payment, certification must be submitted to the Project Engineer no later than the Friday before the monthly estimate cutoff date (generally the 3rd Sunday of the month).

(3) The total quantity for which partial payment is made shall not exceed the estimated total quantity required to complete the project.

(4) The Contractor shall furnish the Engineer with copies of certified invoices to document the value of the materials received. The amount of the partial payment will be determined from invoices for the material up to the unit price in the Contract.

(5) Delivery charges for materials delivered to the jobsite will be included in partial payments if properly documented.

(6) Partial payments will not be made for materials which were stockpiled prior to award of the Contract for a project.

9-5.5.2 Partial Payment Amounts: The following partial payment restrictions apply:

(1) Partial payments less than \$5,000 for any one month will not be processed.

(2) Partial payments for structural steel and precast prestressed items will not exceed 85% of the bid price for the item. Partial payments for all other items will not exceed 75% of the bid price of the item in which the material is to be used.

(3) Partial payment will not be made for aggregate and base course material received after paving or base construction operations begin except when a construction sequence designated by the Department requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

9-5.5.3 Off Site Storage: If the conditions of 9-5.5.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of 9-5.5.1 and the following conditions are met:

(1) Furnish the Department a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and Department. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Florida Department of Transportation. The bond shall be in the full dollar amount of the bid price for the materials described in the contract.

(2) The following clauses must be added to the construction Contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Florida Department of Transportation should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Florida Department of Transportation.”

(3) The agreement between the Contractor and the supplier of the stockpiled materials must include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

9-5.6 Certification of Payment to Subcontractors: The term “subcontractor,” as used herein, includes persons or firms furnishing materials or equipment incorporated into the work or stockpiled for which the Department has made partial payment and firms

working under equipment-rental agreements. The Contractor is required to pay all subcontractors for satisfactory performance of their Contracts before the Department will make a further progress (partial) payment. The Contractor shall also return all retainage withheld to the subcontractors within 30 days after the subcontractor's work is satisfactorily complete, as determined by the Department. Prior to receipt of any progress (partial) payment, the prime contractor shall certify that all subcontractors having an interest in the Contract were paid for satisfactory performance of their Contracts and that the retainage is returned to subcontractors within 30 days after satisfactory completion of the subcontractor's work. Provide this certification in the form designated by the Department.

Within 30 days of the Contractor's receipt of the final progress payment or any other payments thereafter, except the final payment, the Contractor shall pay all subcontractors and suppliers having an interest in the Contract for all work completed and materials furnished. The Department will honor an exception to the above when the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both the Department and the affected subcontractors or suppliers within said 30 day period.

9-6 Record of Construction Materials.

9-6.1 General: For all construction materials used in the construction of the project, (except materials exempted by 9-6.2), preserve for the Department's inspection the invoices and records of the materials for a period of three years from the date of completion of the project. Apply this requirement when subcontractors purchase materials, and obtain the invoices and other materials records from the subcontractors. By providing the materials, the Contractor certifies that all invoices will be maintained for the required period.

9-6.2 Non-Commercial Materials: The provisions of 9-6.1 do not apply to materials generally classed as non-commercial, such as fill materials, local sand, sand-clay, or local materials used as stabilizer.

9-7 Disputed Amounts Due the Contractor.

The Department reserves the right to withhold from the final estimate any disputed amounts between the Contractor and the Department. The Department will release all other amounts due, as provided in 9-8.

9-8 Acceptance and Final Payment.

9-8.1 Acceptance and Final Payment Documents: Whenever the Contractor has completely performed the work provided for under the Contract and the Engineer has performed a final inspection and made final acceptance (as provided in 5-10 and 5-11), and subject to the terms of 8-11, the Engineer will prepare a final estimate showing the value of the work as soon as the Engineer makes the necessary measurements and computations. The Engineer will correct all prior estimates and payments in the final estimate and payment. The Department will pay the estimate, less any sums that the Department may have deducted or retained under the provisions of the Contract, as soon as practicable after final acceptance of the work, along with all executed supplemental agreements received after final acceptance.

**LEGAL REQUIREMENTS AND RESPONSIBILITIES TO THE PUBLIC -
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.**

(REV 5-18-10)

ARTICLE 7-24 (Pages 74 – 76) is deleted and the following substituted:

7-24 Disadvantaged Business Enterprise Program.

7-24.1 General: Prior to award of the Contract, have an approved Disadvantaged Business Enterprise (DBE) Affirmative Action Program Plan on file with the Equal Opportunity Office. Update and resubmit the plan every three years. No Contract will be awarded until the Department approves the Plan. The DBE Affirmative Action Program Plan is incorporated into and made a part of the the Contract.

7-24.2 Required Contract and Subcontract DBE Assurance Language: In accordance with 49 CFR 26.13 (b) the Contract FDOT signs with the Contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: “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.”

7-24.3 Plan Requirements: Include the following in the DBE Affirmative Action Program Plan:

- (a) A policy statement, signed by an authorized representative of the contractor, expressing a commitment to use DBEs in all aspects of contracting to the maximum extent feasible, outlining the various levels of responsibility, and stating the objectives of the program. Require circulation of the policy statement throughout the Contractor’s organization.
- (b) The designation of a Liaison Officer within the Contractor’s organization, as well as support staff, necessary and proper to administer the program, and a description of the authority, responsibility, and duties of the Liaison Officer and support staff. The Liaison Officer and staff are responsible for developing, managing, and implementing the 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 equitable opportunity to participate in Contracts let by the Department.
- (c) Utilization of techniques to facilitate DBE participation in contracting activities which include, but are not limited to:
 - 1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations.
 - 2. Providing assistance to DBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.
 - 3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

4. Encouraging eligible DBEs to apply for certification with the Department.
5. Contacting Minority Contractor Associations and city and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible DBE contractors to apply for certification with the Department.

7-24.4 DBE Records and Reports: Submit the Anticipated DBE Participation Statement at or before the Pre-Construction Conference. Report monthly, through the Equal Opportunity Reporting System on the Department's Website, actual payments (including retainage) made to DBEs for work performed with their own workforce and equipment in the area in which they are certified. Report payments made to all DBE and Minority Business Enterprise (MBE) subcontractors and DBE and MBE construction material and major suppliers. The Equal Opportunity Office will provide instructions on accessing this system. Develop a record keeping system to monitor DBE affirmative action efforts, including but not limited to the following:

- (a) the procedures adopted to comply with these Specifications;
- (b) the number of subordinated Contracts on Department projects awarded to DBEs;
- (c) the dollar value of the Contracts awarded to DBEs;
- (d) the percentage of the dollar value of all subordinated Contracts awarded to DBEs as a percentage of the total Contract amount;
- (e) a description of the general categories of Contracts awarded to DBEs; and
- (f) the specific efforts employed to identify and award Contracts to DBEs.

Upon request, timely provide the records to the Department for review.

Maintain all such records for a period of five years following acceptance of final payment and have them available, upon reasonable notice, for inspection by the Department and the Federal Highway Administration.

7-24.5 Counting DBE Participation and Commercially Useful Functions: 49 CFR Part 26.55 specifies when DBE credit may be awarded for work performed by a DBE and contractors must familiarize themselves with its provisions and timely comply with them. DBE credit can only be awarded for work actually performed by DBEs themselves for the types of work for which they are certified. Therefore, on the Anticipated DBE Participation Statement, prime contractors shall only include the dollars that a DBE is expected to earn for work they perform with their own workforce and equipment. Prime contractors shall submit a revised Anticipated DBE Participation Statement to reflect changes to the initial Anticipated DBE Participation Statement.

When a DBE participates in a contract, the value of the work is determined in accordance with 49 CFR Part 26.55, for example:

- (a) Department will count only the value of the work performed by the DBE toward DBE goals. The entire amount of the contract that is performed by the DBE's own forces (including the cost of supplies, equipment and materials obtained by the DBE for the contract work) will be counted as DBE credit
- (b) The Department will count the entire amount of fees or commissions charged by the DBE firm for providing a bona fide service, such as professional, technical,

consultant, or managerial services or for providing bonds or insurance specifically required for the performance of a Department-assisted contract, toward DBE goals, provided that the Department determines the fees to be reasonable and not excessive as compared with fees customarily followed for similar services.

(c) When the DBE subcontracts part of the work of its contract to another firm, the Department will count the value of the subcontracted work only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(d) When a DBE performs as a participant in a joint venture, the Department will count the portion of the dollar value of the contract equal to the distinct, clearly defined portion of the work the DBE performs with its own forces toward DBE goals.

(e) Prime contractors shall ensure that only expenditures to DBEs that perform a commercially useful function in the work of a contract may be counted toward the voluntary DBE goal.

(f) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

(g) To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(h) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

(i) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE has not performed a commercially useful function.

7-24.6 Prompt Payments: Meet the requirements of Section 9-5, Standard Specifications for Road and Bridge Construction (2010), as amended, for payments to all subcontractors. The Department may withhold progress payments from the contractor if it fails to 'comply with the requirement to provide all necessary information, including actual payments to DBEs' within 60 days after beginning work. (Section 9-5.3.2 [2010], as amended).

DBE Utilization

The Department began its DBE race neutral program January 1, 2000. **Contract specific goals are not placed on Federal/State contracts**; however, the Department has an overall 8.18% DBE goal it must achieve. In order to assist contractors in determining their DBE commitment level, the Department has reviewed the estimates for this letting.

As you prepare your bid, please monitor potential or anticipated DBE utilization for contracts. When the low bidder executes the contract with the Department, information will be requested of the contractor's anticipated DBE participation for the project. While the utilization is not mandatory in order to be awarded the project, continuing utilization of DBE firms on contracts supports the success of Florida's Voluntary DBE Program, and supports contractors' Equal Employment Opportunity and DBE Affirmative Action Programs.

NOTE: Any project listed as 0% DBE availability does not mean that a DBE may not be used on that project. A 0% DBE availability may have been established due to any of the following reasons: limited identified subcontracting opportunities, minimal contract days, and/or small contract dollar amount. Contractors are encouraged to identify any opportunities to subcontract to DBEs.

If you have any questions regarding this information, please contact the Equal Opportunity Office at (850) 414-4747.

DBE Reporting

If you are the prime contractor on a project, complete the attached Anticipated DBE Participation Statement and submit the information at the pre-construction or pre-work conference for all federal and state funded projects. This **will not** become a mandatory part of the contract. It will assist the Department in tracking and reporting planned or estimated DBE utilization. During the contract, the prime contractor is required to report actual payments to **all** subcontractors through the web-based Equal Opportunity Reporting System (EORS), BizWeb.

All DBE payments must be reported whether or not you initially planned to utilize the company. In order for our race neutral DBE Program to be successful, your cooperation is imperative. If you have any questions concerning the completion or submission of this information, contact the FDOT EOO at (850) 414-4747.

Bid Opportunity List

The Federal DBE Program requires States to maintain a database of all firms that are participating or attempting to participate on FDOT-assisted contracts. The list must include all firms that bid on prime contracts or bid or quote subcontracts on FDOT-assisted projects, including **both DBEs and non-DBEs**.

A form is included to record bidders' information for **ALL** subcontractors or sub-consultants who quoted to you for specific projects for this letting.

If a contractor quoted to you for more than one project you only need list that contractor once. If you have submitted a bidder's list to the Department previously, you need only list new companies who have quoted to you or requested to be on specific projects. If you do not know the answers to numbers 2, 3, 4, or 5 you may leave them blank and the Department will complete them. This information should be returned with your bid package or proposal package or submitted to the Equal Opportunity Office within three days of your submission. It can be mailed or faxed.

Please reply to: Florida Department of Transportation
Equal Opportunity Office
605 Suwannee Street, MS 65
Tallahassee, FL 32399-0450
(850) 414-4747
(850) 414-4879

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION STATEMENT

1. FINANCIAL PROJECT NO.	2. FAP NO.	3. CONTRACT NO.	4. COUNTY(IES)	5. DISTRICT
6. PRIME CONTRACTOR NAME			7. FEID NUMBER	
8. CONTRACT DOLLAR AMOUNT			9. REVISION? _____ IF YES, REVISION NUMBER: _____	
10. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED "DBE"? (DISADVANTAGED BUSINESS ENTERPRISE)		11. IS THE WORK OF THIS CONTRACT CONSTRUCTION <input type="checkbox"/> OR MAINTENANCE <input type="checkbox"/> ?		
		<input type="checkbox"/> NO <input type="checkbox"/> YES		

12. ANTICIPATED DBE SUBCONTRACTS:				
	DBE SUBCONTRACTOR or SUPPLIER	TYPE OF WORK/SPECIALTY	DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
A				
B				
C				
D				
E				
F			11A TOTAL DOLLARS TO DBE'S	11B TOTAL PERCENT OF CONTRACT
			\$0.00	0.00%

13. SUBMITTED BY		12. DATE	13. TITLE OF SUBMITTER	
14. EMAIL ADDRESS OF SUBMITTER		15. FAX NUMBER	16. PHONE NUMBER	

NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL STATE AND FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION OR PRE WORK CONFERENCE. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.

THE FOLLOWING SECTIONS ARE FOR FDOT USE

DIS T	17. PROCESSED BY	18. DATE TO EO OFFICE	19. LETTING DATE	20. EXECUTED DATE	21. PRECON CONF DATE
	22. SUBMITTED TO EO BY		<input type="checkbox"/> FAX <input type="checkbox"/> EMAIL <input type="checkbox"/> SHARED FOLDER		
EO OFC	23. INCLUDED IN DBE PARTICIPATION REPORT OF (M/D/Y)				

Equal Opportunity Reporting System Information

To comply with changes in the Disadvantaged Business Enterprise (DBE) Program, the Department is collecting both actual payments made to subcontractors and sub-consultants, and DBE commitment amounts. Actual payments will be collected through the web-based Equal Opportunity Reporting System (EORS) and commitments will be collected through the Anticipated DBE Participation Statements.

It is extremely important that you continue to submit the Anticipated DBE Participation Statement at the pre-construction conference for all federal and state funded projects. This primary information is used by the State and Federal Government to evaluate our performance in the DBE Program.

In addition, for federal and state funded projects, you must also report actual payments in the Equal Opportunity Reporting System. Revisions were made to the specifications beginning with the October 2000 letting that states in section 9-6.7:

The Contractor is required to report monthly, through the Department's Equal Opportunity Reporting System on the Internet at www.dot.state.fl.us, actual payments, retainage, minority status, and the work type of all subcontractors and suppliers.

Since the specifications were revised, we have made some additional modifications to ease the burden on the contractor. We will pursue making the permanent modifications to the specifications. In the interim, each month you must report actual payments to all DBE subcontractors, sub-consultants and suppliers. Payments to all non-DBE subcontractors and sub-consultants will need to be reported either monthly or at the end of the project. Payments to non-DBE suppliers need not be reported at all. This information can be submitted in hard copy form, if necessary.

Instructions for accessing the EORS are included. If you have any questions, please contact the Equal Opportunity Office at (850) 414-4747.

INSTRUCTIONS FOR ACCESSING THE EQUAL OPPORTUNITY REPORTING SYSTEM

Purpose

The Florida Department of Transportation, Equal Opportunity Office has been charged with requirements of reporting Disadvantaged Business Enterprise Information to the U.S. Department of Transportation, Federal Highway Administration (FHWA) according to the new 49 Code of Federal Regulations Part 26. The Equal Opportunity Reporting system was developed as a solution to collect this information.

Objective

The Equal Opportunity Reporting system will collect information of actual payments and retainage paid to the Prime Consultant/Contractor by the Department of Transportation and the Prime Consultant/Contractor's actual payments and retainage paid to their subs and suppliers, by the type of work they performed. The reporting of this information will be performed by the Prime on a monthly basis for an invoice or estimate number per contract.

To establish access to the new Equal Opportunity Reporting System (BizWeb), contact Business Innovations Plus toll-free at 1-877-249-8725. The site location is <http://www.bipincwebapps.com/bizwebflorida/>

INSTRUCTIONS FOR COMPLETING DBE/AA PLAN

NOTE: THE DBE/AA PLAN MUST BE APPROVED BY THE EQUAL OPPORTUNITY OFFICE AND COMPLETED IN ACCORDANCE WITH CHAPTER 14-78, FLORIDA ADMINISTRATIVE CODE

DBE/AA PLANS

DBE/AA Plans must be submitted by the prime contractor, be submitted on company letterhead (first page only), signed by a company official, dated and contain all elements of an effective DBE/AA Plan (sample enclosed).

Plans that do not meet these mandatory requirements may not be approved. Approvals are for a (3) three year period and should be updated at anytime there is a change in the company's DBE Liaison Officer and/or President.

DBE/AA Plans must be received with the contractors bid or received by the Equal Opportunity Office prior to the award of the contract.

MAIL PLANS TO:

Florida Department of Transportation
Equal Opportunity Office
605 Suwannee Street, MS 65
Tallahassee, Florida 32399-0450

Questions concerning the DBE/AA Plan may be directed to the Contract Compliance Section by calling (850) 414-4747.

DBE AFFIRMATIVE ACTION PLAN

POLICY STATEMENT

It is the policy of _____ that disadvantaged businesses, as defined by 49 CFR **Part 26, Subpart D** and implemented under Rule Chapter 14-78, F.A.C., shall have the **opportunity** to participate as subcontractors and suppliers on all contracts awarded by the Florida Department of Transportation.

The requirements of Rule Chapter 14-78, F.A.C., shall apply to all contracts entered into between the Florida Department of Transportation and _____ Subcontractors and/or suppliers to _____ will also be bound by the requirements of Rule Chapter 14-78 F.A.C.

_____, and its subcontractors shall take all necessary and reasonable steps in accordance with Chapter 14-78, F.A.C., to ensure that disadvantaged businesses have the **opportunity** to compete and perform work contracted with the Florida Department of Transportation.

_____, and its subcontractors shall not discriminate on the basis of race, color, religion, national origin, disability, sex, or age in the administration of contracts with the Department of Transportation.

_____, has designated and appointed a Liaison Officer to develop, maintain, and monitor the DBE Affirmative Action Plan implementation. The Liaison Officer will be responsible for disseminating this policy statement throughout _____ and to disadvantaged controlled businesses. The statement is posted on notice boards of the Company.

X _____, President

X _____
Date

I. DESIGNATION OF LIAISON OFFICER

_____ will aggressively recruit disadvantaged businesses as subcontractors and suppliers for all contracts with the Florida Department of Transportation. The Company has appointed a Liaison Officer to develop and maintain this Affirmative Action Plan in accordance with the requirements of Rule Chapter 14-78, F.A.C.

The Liaison Officer will have primary responsibility for developing, maintaining, and monitoring the Company's utilization of disadvantaged subcontractors in addition to the following specific duties:

- (1) The Liaison Officer shall aggressively solicit bids from disadvantaged business subcontractors for all Florida Department of Transportation contracts;
- (2) The Liaison Officer will submit all records, reports, and documents required by the Florida Department of Transportation, and shall maintain such records for a period of not less than three years, or as directed by any specific contractual requirements of the Florida Department of Transportation.

The following individual has been designated Liaison Officer with responsibility for implementing the Company's affirmative action program in accordance with the requirements of the Florida Department Transportation.

(Liaison Officer's Name)
(Your Company's Name)
(Your Company's Address)
(Phone Number for Liaison Officer)
(Enter FEIN or Tax Id Number)

II. AFFIRMATIVE ACTION METHODS

In order to formulate a realistic Affirmative Action Plan, _____ has identified the following known barriers to participation by disadvantaged subcontractors, before describing its proposed affirmative action methods:

1. Lack of qualified disadvantaged subcontractors in our specific geographical areas of work;
2. Lack of certified disadvantaged subcontractors who seek to perform Florida Department of Transportation work;
3. Lack of interest in performing on Florida Department of Transportation contracts;
4. Lack of response when requested to bid;
5. Limited knowledge of Florida Department of Transportation plans and specifications to prepare a responsible bid.

In view of the barriers to disadvantaged businesses stated above, it shall be the policy of _____ to provide opportunity by utilizing the following affirmative action methods to ensure participation on the contracts with the Florida Department of Transportation. _____ will:

1. Provide written notice to all certified DBE subcontractors in the geographical area where the work is to be subcontracted by the Company;
2. Advertise in minority focused media concerning subcontract opportunities with the Company;
3. Select portions of work to be performed by DBEs in order to increase the likelihood of meeting contract goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);

4. Provide adequate information about the plans, specifications, and requirements of the contract, not rejecting subcontractors without sound reasons based on a thorough investigation of their capabilities;
5. Waive requirements of performance bonds where it is practical to do so;
6. Attend pre-bid meetings held by the Florida Department of Transportation to apprise disadvantaged subcontractors of opportunities with the Company;
7. Follow up on initial solicitations of interest to DBE subcontractors to determine with certainty whether the DBE company is interested in the subcontract opportunity.

_____ understands that this list of affirmative action methods is not exhaustive and will include additional approaches after having established familiarity with the disadvantaged subcontracting community and/or determined the stated approaches to be ineffective.

III. IMPLEMENTATION

On contracts with specific DBE goals, _____ will make every effort to meet contract goals as stated by utilizing its affirmative action methods. On projects with no specific goals, the Company will, as an expression of good faith, seek to utilize DBE subcontractors where work is to be subcontracted.

IV. REPORTING

_____ shall keep and maintain such records as are necessary to determine the Company's compliance with its DBE Affirmative Action Plan.

The Company will design its record keeping system to indicate:

1. The number of DBE subcontractors and suppliers used by the Company, identifying the items of work, materials and services provided;
2. The efforts and progress being made in obtaining DBE subcontractors through local and community sources;
3. Documentation of all contracts, to include correspondence, telephone calls, newspaper advertisements, etc., to obtain DBE participation on all Florida Department of Transportation projects;
4. **The Company shall comply with Florida Department of Transportation's requirements regarding payments to subcontractors including DBEs for each month (estimate period) in which the companies have worked.**

V. DBE DIRECTORY

_____ will utilize the DBE Directory published by the Florida Department of Transportation.

The Company will distribute Form Number 275-030-01, Schedule A Certification Form Number 1, to potential DBE contractors and assist in their completion.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**CONSTRUCTION CONTRACTORS
BID OPPORTUNITY LIST**

Please complete and mail or fax to:
Equal Opportunity Office
605 Suwannee St., MS 65
Tallahassee, FL 32399-0450
TELEPHONE: (850) 414-4747
FAX: (850) 414-4879

This information may also be included in your bid or proposal package.

Prime Contractor/Consultant: _____

Address/Telephone Number: _____

Bid/Proposal Number: _____

Quote Submitted MM/YR: _____

49 CFR Part 26.11 requires the Florida Department of Transportation to develop and maintain a "bid opportunity list." The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and materials supplies on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT assisted project. Prime contractors and consultants must provide information for Nos. 1, 2, 3 and 4 and should provide any information they have available on Numbers 5, 6, 7, and 8 for themselves, and their subcontractors and subconsultants.

- 1. Federal Tax ID Number: _____
- 2. Firm Name: _____
- 3. Phone: _____
- 4. Address: _____

- 5. Year Firm Established: _____

- 6. DBE
 Non-DBE
- 7. Subcontractor
 Subconsultant

- 8. Annual Gross Receipts
- Less than \$1 million
- Between \$1 - \$5 million
- Between \$5 - \$10 million
- Between \$10 - \$15 million
- More than \$15 million

- 1. Federal Tax ID Number: _____
- 2. Firm Name: _____
- 3. Phone: _____
- 4. Address: _____

- 5. Year Firm Established: _____

- 6. DBE
 Non-DBE
- 7. Subcontractor
 Subconsultant

- 8. Annual Gross Receipts
- Less than \$1 million
- Between \$1 - \$5 million
- Between \$5 - \$10 million
- Between \$10 - \$15 million
- More than \$15 million

- 1. Federal Tax ID Number: _____
- 2. Firm Name: _____
- 3. Phone: _____
- 4. Address: _____

- 5. Year Firm Established: _____

- 6. DBE
 Non-DBE
- 7. Subcontractor
 Subconsultant

- 8. Annual Gross Receipts
- Less than \$1 million
- Between \$1 - \$5 million
- Between \$5 - \$10 million
- Between \$10 - \$15 million
- More than \$15 million

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION ('ADBEPS') STATEMENT

275-030-11A
 EQUAL OPPORTUNITY OFFICE
 01/11

1. FINANCIAL PROJECT NO.	2. FAP NO.	3. CONTRACT NO.	4. COUNTY(IES)	5. DISTRICT	
6. PRIME CONTRACTOR NAME			7. PRIME'S FEID NUMBER		
8. CONTRACT DOLLAR AMOUNT			9. ADBEPS REVISION? <input type="checkbox"/> NO <input type="checkbox"/> YES IF YES, REVISION NUMBER: _____		
10. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED "DBE"? (Disadvantaged Business Enterprise)		<input type="checkbox"/> NO <input type="checkbox"/> YES	11. IS THE WORK OF THIS CONTRACT <input type="checkbox"/> CONSTRUCTION <input type="checkbox"/> MAINTENANCE <input type="checkbox"/> OTHER		
12. ANTICIPATED DBE SUBCONTRACTS:					
DBE SUBCONTRACTOR or SUPPLIER COMPANY NAME AND FEID NUMBER		TYPE OF WORK AND FDOT SPECIALTY CODE(S)		DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
A	NAME: FEID:	WORK: SPEC CODE:			
B	NAME: FEID:	WORK: SPEC CODE:			
C	NAME: FEID:	WORK: SPEC CODE:			
D	NAME: FEID:	WORK: SPEC CODE:			
E	NAME: FEID:	WORK: SPEC CODE:			
F				11A TOTAL DOLLARS TO DBE'S \$0.00	11B TOTAL PERCENT OF CONTRACT 0.00%
13. SUBMITTED BY		12. DATE	13. TITLE OF SUBMITTER		
14. EMAIL ADDRESS OF SUBMITTER			15. FAX NUMBER	16. PHONE NUMBER	
NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL STATE AND FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION OR PRE WORK CONFERENCE. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.					
THE FOLLOWING SECTIONS ARE FOR FDOT USE					
DIST	17. PROCESSED BY	18. DATE TO EO OFFICE	19. LETTING DATE	20. EXECUTED DATE	21. PRECON CONF DATE
	22. SUBMITTED TO EO BY		<input type="checkbox"/> FAX <input type="checkbox"/> EMAIL <input type="checkbox"/> SHARED FOLDER		
EO OFFICE	23. INCLUDED IN DBE PARTICIPATION REPORT OF (M/D/Y)				

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION STATEMENT ('ADBEPS')
LOCAL AGENCY PROGRAM

275-030-12
 EQUAL OPPORTUNITY OFFICE
 01/11

1. FDOT LAP AGREEMENT#	2. FDOT LAP AGREEMENT AMT (\$)	3. LOCAL AGENCY'S CONTRACT # WITH PRIME	4. LOCAL AGENCY NAME
5. PRIME CONTRACTOR'S NAME		6. FEID NUMBER OF PRIME CONTRACTOR	
7. CONTRACT DOLLAR AMOUNT WITH PRIME		8. FEID NUMBER OF LOCAL AGENCY	
9. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED DISADVANTAGED BUSINESS ENTERPRISE (DBE)? <input type="checkbox"/> YES <input type="checkbox"/> NO		10. IS THE WORK OF THIS CONTRACT CONSTRUCTION <input type="checkbox"/> MAINTENANCE <input type="checkbox"/> OTHER? _____	
11. IS THIS AN ADBEPS REVISION? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, revision number _____			

12. ANTICIPATED DBE SUBCONTRACTS

	DBE SUBCONTRACTOR OR SUPPLIER COMPANY NAME AND FEID NUMBER	TYPE OF WORK AND FDOT SPECIALTY CODE(S)	DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
A	NAME: FEID:	WORK: SPEC CODE:		
B	NAME: FEID:	WORK: SPEC CODE:		
C	NAME: FEID:	WORK: SPEC CODE:		
D	NAME: FEID:	WORK: SPEC CODE:		
E	NAME: FEID:	WORK: SPEC CODE:		
F			11A TOTAL DOLLARS TO DBE'S \$0.00	11B TOTAL PERCENT OF CONTRACT 0.00%

SECTION TO BE FILLED BY PRIME CONTRACTOR

13. NAME OF SUBMITTER	14. DATE	15. TITLE OF SUBMITTER
16. EMAIL ADDRESS OF PRIME CONTRACTOR SUBMITTER		17. FAX NUMBER
		18. PHONE NUMBER

SECTION TO BE FILLED BY LOCAL AGENCY

19. SUBMITTED BY	20. DATE	21. TITLE OF SUBMITTER
22. EMAIL ADDRESS OF SUBMITTER		23. FAX NUMBER
		24. PHONE NUMBER

NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.

THE FOLLOWING SECTIONS ARE FOR FDOT LAP USE

DISTRICT	LAP NAME	DATE TO EO OFFICE (ELECTRONICALLY)	EXECUTED DATE (LAP AGREEMENT)	EXECUTED DATE (BETWEEN LOCAL AGENCY AND PRIME)	PRE-CONSTRUCTION CONFERENCE DATE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION STATEMENT
FOR
DESIGN-BUILD CONTRACTS

DRAFT
 EQUAL OPPORTUNITY OFFICE
 02/10

BUILD PORTION

(Page 1 of 2)

1. FINANCIAL PROJECT NO.	2. FAP NO.	3. CONTRACT NO.	4. COUNTY(IES)	5. DISTRICT
6. PRIME CONTRACTOR NAME			7. FEID NUMBER	
8. TOTAL CONSTRUCTION DOLLAR AMOUNT (Excluding Design)			9. REVISION? ____ IF YES, REVISION NUMBER: 	
10. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED "DBE"? (DISADVANTAGED BUSINESS ENTERPRISE)			11. TOTAL FDOT CONTRACT DOLLAR AMOUNT (DESIGN + CONSTRUCTION)	
<input type="checkbox"/> NO <input type="checkbox"/> YES				
12. ANTICIPATED DBE SUBCONTRACTS FOR DESIGN PORTION:				
	DBE SUBCONTRACTOR or SUPPLIER	TYPE OF WORK/SPECIALTY	DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
A				
B				
D				
E				
F				
G				
H				
I				
J				
K				
			11A TOTAL DOLLARS TO DBE'S	11B TOTAL PERCENT OF CONTRACT
			\$0.00	0.00%

PLEASE COMPLETE DESIGN PORTION ON NEXT PAGE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION STATEMENT
FOR
DESIGN-BUILD CONTRACTS

DRAFT
 EQUAL OPPORTUNITY OFFICE
 02/10

DESIGN PORTION

(Page 2 of 2)

1. FINANCIAL PROJECT NO.	2. FAP NO.	3. CONTRACT NO.	4. COUNTY(IES)	5. DISTRICT
6. LEAD DESIGN CONSULTANT NAME			7. FEID NUMBER	
8. TOTAL DESIGN DOLLAR AMOUNT			9. REVISION? ____ IF YES, REVISION NUMBER: _____	
10. IS THE LEAD DESIGN CONSULTANT A FLORIDA CERTIFIED "DBE"? (DISADVANTAGED BUSINESS ENTERPRISE)		<input type="checkbox"/> NO <input type="checkbox"/> YES		
11. ANTICIPATED DBE SUBCONTRACTS FOR DESIGN PORTION:				
DBE SUBCONSULTANT		TYPE OF WORK/SPECIALTY	DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
A				
B				
C				
D				
E				
			11A TOTAL DOLLARS TO DBE'S	11B TOTAL PERCENT OF CONTRACT
			\$0.00	0.00%

THE FOLLOWING SECTIONS ARE TO BE COMPLETED BY
PRIME CONSTRUCTION CONTRACTOR

12. SUBMITTED BY		13. DATE	14. TITLE OF SUBMITTER	
15. EMAIL ADDRESS OF SUBMITTER		16. FAX NUMBER	17. PHONE NUMBER	

NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL STATE AND FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION OR PRE WORK CONFERENCE. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.

THE FOLLOWING SECTIONS ARE FOR FDOT USE

DIST	18. PROCESSED BY	19. DATE TO EO OFFICE	20. LETTING DATE	21. EXECUTED DATE	22. PRECON CONF DATE
	23. SUBMITTED TO EO BY		<input type="checkbox"/> FAX <input type="checkbox"/> EMAIL <input type="checkbox"/> SHARED FOLDER		

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION STATEMENT
FOR
DESIGN-BUILD CONTRACTS

DRAFT
EQUAL OPPORTUNITY OFFICE
02/10

DRAFT

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**CONSTRUCTION CONTRACTORS
 BID OPPORTUNITY LIST**

275-030-10
 EQUAL OPPORTUNITY OFFICE
 02/08

Please complete and mail or fax to:
 Equal Opportunity Office
 605 Suwannee St., MS 65
 Tallahassee, FL 32399-0450
 TELEPHONE: (850) 414-4747
 FAX: (850) 414-4879

This information may also be included in your bid or proposal package.

Prime Contractor/Consultant: _____

Address/Telephone Number: _____

Bid/Proposal Number: _____

Quote Submitted MM/YR: _____

49 CFR Part 26.11 requires the Florida Department of Transportation to develop and maintain a "bid opportunity list." The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and materials supplies on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT assisted project. Prime contractors and consultants must provide information for Nos. 1, 2, 3 and 4 and should provide any information they have available on Numbers 5, 6, 7, and 8 for themselves, and their subcontractors and subconsultants.

1. Federal Tax ID Number: _____
 2. Firm Name: _____
 3. Phone: _____
 4. Address: _____

 5. Year Firm Established: _____

6. DBE
 Non-DBE
 7. Subcontractor
 Subconsultant

8. Annual Gross Receipts
 Less than \$1 million
 Between \$1 - \$5 million
 Between \$5 - \$10 million
 Between \$10 - \$15 million
 More than \$15 million

1. Federal Tax ID Number: _____
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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
CONSTRUCTION CONTRACTORS
BID OPPORTUNITY LIST

275-030-10
 EQUAL OPPORTUNITY OFFICE
 02/08

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 Subconsultant

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 Between \$10 - \$15 million
 More than \$15 million

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**CONSTRUCTION CONTRACTORS
BID OPPORTUNITY LIST**

275-030-10
EQUAL OPPORTUNITY OFFICE
02/08

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 - 5. Year Firm Established: _____

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 Subconsultant

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CHAPTER 2

DISADVANTAGED BUSINESS ENTERPRISES

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Section 2.1

OVERVIEW

2.1.1 Purpose

The Department's Disadvantaged Business Enterprise (DBE) Program is designed to assist small businesses owned and controlled by socially and economically disadvantaged individuals to participate on Department contracts. The objectives of the DBE Program are:

- (a) To ensure equal opportunity in the award and administration of DOT contracts in the Department's highway, transit, and airport construction programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet the eligibility standards are certified as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT contracts;
- (f) To assist in the development of firms that can compete successfully in the marketplace outside of the DBE program; and
- (g) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

2.1.2 Scope

The Department's Disadvantaged Business Enterprise (DBE) Program encompasses both our federal and state funded highway and bridge program and all projects and contracts associated with this program. The scope of this section includes all the requirements associated with how the Florida Department of Transportation implements these federal regulations. In general, the state DBE Program mirrors the requirements of the federal program, but is analyzed and reported separately.

Section 2.2

CERTIFICATION OF DBE's

2.2.1 General

The U.S. Department of Transportation (USDOT) now requires all recipients of FAA, FTA, and FHWA Federal funds to participate in a Unified Certification Program (UCP) within their respective states. The UCP provides "one stop shopping" for all firms seeking certification as a DBE in Florida. Therefore, the DBE certification of a firm will be accepted by all USDOT recipients in Florida. Responsible Certifying Members certify DBEs in accordance with 49 CFR Parts 23 and 26.

When a contractor uses a DBE on a Federal Aid project, only a single DBE certification letter or certificate from a Responsible Certifying Member is needed.

The Department can only report the participation of DBE's that are certified in the Department's DBE Directory. See section 2.5 and 2.6 for additional information on reporting requirements. If there are questions about a firm's certification status, contact the Responsible Certifying Member. A list of Responsible Certifying Members is listed on the FDOT Equal Opportunity Office web site.

2.2.2 DBE Directory

A single DBE Directory allows for the identification and location of a certified firm authorized to participate in Florida's DBE program. The DBE directory can be found on the FDOT Equal Opportunity Website.

Section 2.3

DBE AFFIRMATIVE ACTION PLAN

2.3.1 General

Contractors are required to submit a DBE Affirmative Action Plan to ensure that all contractors doing business with the Department and their subcontractors are not discriminating on the basis of race, color, religion, national origin, disability, sex or age in the administration of contracts with the Department.

2.3.2 Disadvantaged Business Enterprise Affirmative Action Policy and Plan (DBE AA Plan)

A sample DBE AA Policy and Plan is available on the FDOT Equal Opportunity Office website. The contractor's DBE AA Plan must include, at a minimum, the information contained in this sample. Plans that do not meet these mandatory requirements may not be approved.

A DBE Policy statement is included in the DBE AA Plan and it expresses the contractor's commitment to use Disadvantaged Business Enterprises in all aspects of contracting, outlines various levels of responsibility, and states the objectives of the program. The contractor's DBE Plan is to be circulated throughout the contractor's organization and to minority, female, and non minority community and business organizations.

The first page of the DBE AA Plan is printed on company letterhead. The president, chief executive officer or chairperson must sign and date the DBE Affirmative Action Policy and Plan. The Plan must include designation of an appointed DBE Liaison Officer.

2.3.3 DBE Liaison Officer

The DBE Affirmative Action Plan includes identification of an appointed DBE Liaison Officer who is responsible for maintaining and monitoring the implementation of the Plan. This person will be the main contact for the Department for all issues related to the DBE Program and must be available to obtain any documents requested by the Department. The duties of the DBE Liaison Officer are included in the DBE AA Plan.

2.3.4 Submission, Expiration and Renewal of DBE AA Plan

Contractors bidding on FDOT contracts are to have an approved DBE Affirmative Action Plan on file with the FDOT Equal Opportunity Office before execution of a contract. DBE AA plans must be received with the contractor's bid or received by the FDOT Equal Opportunity office prior to the award of a contract.

Plans should be mailed to: FDOT Equal Opportunity Office, Mail Station 65, 605 Suwannee St., Tallahassee, FL 32399-0450

DBE AA Plans are approved for a three (3) year period and should be updated prior to expiration or when there is a change in the DBE Liaison Officer and/or the Company official who signs the Plan.

2.3.5 Review and Compliance with DBE AA Plan

The Department will monitor contractor compliance with the DBE specifications of the contract and the implementation of the contractor's DBE Affirmative Action Plan through formal Contract Compliance Reviews.

Contractors with low DBE participation will be subject to a Title VI assessment to ensure that discrimination is not the factor for the lack of DBE utilization on Department projects. The contractor will make all records available to the Department upon request.

Section 2.4

BID OPPORTUNITY LIST

2.4.1 General Information

Federal regulations require the Department to create and maintain a bidders list. The purpose of the Bidder's List is to provide 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 establish an annual DBE goal each year that would reflect the level of DBE participation expected absent the effects of discrimination. The Department uses a Bid Opportunity List to determine the number of ready, willing and able DBE's relative to all ready, willing and able businesses as the method to help determine the Department's annual DBE goal.

2.4.2 Submission of Bid Opportunity List

The Bid Opportunity List, FDOT form 275-03-10 must be submitted to the Department in the bid or proposal package.

Section 2.5

ANTICIPATED DBE PARTICIPATION

2.5.1 Purpose

Prime Contractors report to the Department the names of DBEs, type(s) of work or Specialty Code(s), and the dollars awarded to DBE's as a subcontractor on specific contracts. This information has many uses including reporting of FDOT's performance against it's DBE Utilization goal and the grading of prime contractor DBE Utilization.

This information will be reported to the Federal Highway Administration and is the primary tracking mechanism used to measure the progress in achieving the Department's annual DBE goal. This information is also used to determine a contractor's annual letter grade based on DBE participation.

2.5.2 Anticipated DBE Participation Statement: Initial Submission and Revisions

FDOT Form 275-030-11A, Anticipated DBE Participation Statement (ADBEPs) is used by the prime contractor to report planned DBE utilization and utilization updates. The Anticipated DBE Participation Statement for Local Agency projects is FDOT Form 275- 030-12.

The form must be submitted to the Resident Compliance Specialist at the Preconstruction Conference. District Compliance offices will ensure prompt submission of the ADBEPs to the Equal Opportunity Office within three (3) working days of that Conference.

As DBEs are added or removed from projects, or as dollars to DBE Subcontractors change, contractors are encouraged to submit revised ADBEP Statements to the Resident Compliance Specialist as soon as changes occur to ensure reporting accuracy. Changes and updates to the ADBEPs should not be held for end-of contract submittals.

Prime contractors who are certified DBEs must submit an ADBEP Statement and specify that portion of the contract which will be performed directly by them with their own workforces. Other DBE subcontractors that the prime DBE anticipates using are also listed.

2.5.3 Counting a DBE's Participation

DBE Certification does not guarantee that the firm's work on a project will be counted as utilization towards' FDOT's DBE goal. For services performed by a DBE firm to count toward the goal, the firm must perform a 'commercially useful function' and their work must be in the specialty area(s) for which the DBE firm is certified.

Some of the considerations used in determining what portion of a DBE's work on a project may be counted toward the DBE goal are listed in Table 2.5.1. The Table is not an exhaustive list. FDOT may request additional information from the prime contractor and or DBE firm in order to determine which portions of work may be included as DBE participation.

Table 2.5.1	
Determining What Portion of a DBE's Work May be Counted Toward the Goal	
1.	The DBE firm is performing a 'commercially useful function'
2.	The work is in the specialty area(s) for which DBE is certified
3.	The work is actually performed by the DBE's own workforces
4.	Supplies and equipment purchased or leased by the DBE are not affiliated with the prime
5.	The cost of supplies and materials obtained by the DBE for the work is counted including purchases and leased equipment
6.	Reasonable fees or commissions charged by a DBE firm for providing a bona fide service, or for providing bonds or insurance required for performance of a DOT contract may be counted. Examples of bona fide services includes professional, technical, consultant, or managerial services,
7.	The value of work the DBE Subcontracts to others is counted only if the work is subcontracted to another DBE. Work subcontracted to non DBE's is not counted.

2.5.4 Newly Certified, Graduated and de-Certified DBE's

During the term of a contract, prime contractors may report the utilization of firms that become certified.

DBE firms that graduate from the DBE program during the term of contract may be reported as DBE utilization throughout the term of the contract. On subsequent projects, the graduated DBE does not count as utilization.

None of the work performed by a de-certified DBE may be counted as utilization.

Section 2.6

REPORTING ACTUAL PAYMENTS

2.6.1 General

CFR 49 part 26 requires the Department to track actual payments as well as commitments to DBEs. Additionally, the Department's Standard Specifications requires the reporting of actual payments to DBE and MBE subcontractors in the Equal Opportunity Reporting ('EOR') System.

2.6.2 Payment Reporting

Prime contractors are required to report in the EOR System monies paid to DBE's for work performed in the area(s) they are certified from each monthly progress estimate. Payment reporting is an element in determining the prime Contractors Past Performance Rating.

Resident Compliance Specialists ('RCS') monitor the EOR System to confirm the reporting of required data.

2.6.3 EOR System Access

Prime contractors having no access to the EOR System should contact The FDOT Computer Service Desk at 1-866-955-4357 or by e-mail (at FDOT.Servicedesk@dot.state.fl.us).

Once Prime contractors are established in the EOR System, information on subsequent contract awards will automatically be added.

RCS' having no access to the EOR System should contact their District Compliance Office for access authorization. Once an RCS is established in the EOR system, the District will assign RCS' access to specific contracts.

Section 2.7

MONITORING

2.7.1 General

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted as DBE participation.

A DBE firm performs a commercially useful function when it is responsible for execution of a distinct element of the work with its own workforce and it carries out its responsibilities by actually performing, managing and supervising the work involved .

Monthly checks will be done during a DBE's first three active months, at a minimum, to determine if DBE's are performing a CUF. This is done on FDOT Form 275-021-18 'Commercially Useful Function DBE Monitoring Report'.

2.7.2 Counting the Value of Work

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted as DBE participation.

Count the entire amount of that portion of a construction contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

Count toward the DBE goal, the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided they are reasonable and not excessive when compared with fees customarily allowed for similar services.

2.7.3 Considerations in Determining Commercially Useful Function

Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. Considerations in determining commercially useful function include the following;

1. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by

actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBE's do not participate.

3. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

4. When a DBE is presumed not to be performing a commercially useful function as provided in paragraphs 2 and 3, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

2.7.4 DBE's Subcontracting work to others & Joint Ventures

When a DBE subcontracts part of its work to another firm, the value of the subcontracted work is counted only if the work is subcontracted to another DBE. Work that a DBE subcontracts to a non DBE firm does not count toward DBE goals.

When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE participation.

2.7.5 Commercially Useful Function of DBE Trucking Companies

Considerations in determining whether a DBE trucking company is performing a commercially useful function include the following:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and

there cannot be a contrived arrangement for the purpose of reporting DBE participation.

2. The DBE must own and operate at least one fully licensed, insured, and operational truck used on the contract.

3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

5. The DBE may also lease trucks from a non DBE firm, including an owner-operator. The DBE who leases trucks from a non DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

6. A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

While a DBE Trucking company must own and operate one fully licensed, insured, and operational truck on a contract, that alone does not fulfill the commercially useful function requirements which include, among other considerations, the requirement to self perform a minimum of 30% of the total contract costs with its own employees and trucks.

2.7.6 DBE Manufacturers and Suppliers

Considerations in determining if expenditures with DBE's for materials or supplies may be counted for DBE Utilization include the following:

1. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE participation. For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(a) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(c) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.

2. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE participation.

3. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE participation, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE participation.

2.7.7 Contractor Records for Commercially Useful Function Verification

Contractors are to maintain and make available to the Department when so requested, records substantiating the performance of commercially useful functions by DBE contractors and suppliers as part of their compliance with FDOT Specification 3-8, "Audit of Contractor's Records". Records which may be reviewed to substantiate commercially useful function include, but are not limited to:

- Contracts, subcontracts, rental agreements
- Delivery Tickets
- Invoices
- Lease Agreements
- Hauling Tickets
- Canceled checks
- Bank Records
- Equipment Titles of Ownership
- Material/Supply Agreements
- Payroll Records

Section 2.8

PRIME CONTRACTOR GRADING SYSTEM

2.8.1 General

The Department's Annual DBE goal is posted on the EEO Website. The Department tracks DBE participation monthly to monitor achievement. A Prime Contractor Grading System was implemented to reflect and highlight a contractor's commitment to using DBEs on Department projects. The grading scale is applied to all prime contractors with contract awards totaling \$1 million or more. Prime contractors awarded \$1 million or more are graded based on their DBE participation during the federal fiscal year (October 1 to September 30).

Additionally, routine Title VI Assessments on prime contractors are conducted where the Department determines that an unacceptable level (less than 2%) of DBE participation is noted on contracts. The purpose is to ensure that discrimination is not the factor for the lack of DBE utilization on Department projects.

2.8.2 Grading Scale

Based on the ADBEPS reported to the Equal Opportunity Office, prime contractors receive a letter grade, A+ thru F. The letter grade is based on the prime contractor's total contracts awarded, total anticipated DBE participation, and DBE percentage during the reporting period. The grading scale is applied to all prime contractors with contract awards totaling \$1 million or more. Prime contractors with total contract awards below the \$1 million threshold do not receive a letter grade.

A+	8.51% and Above
A	8.5% to 6.76%
B	6.75% to 5.01%
C	5.0% to 3.51%
D	3.5% to 1.51%
F	1.5% and Below

2.8.3 Sample Correspondence Issued to Primes

Following is a sample of the letter sent by the Secretary of Transportation to Prime contractors' advising them of the DBE Utilization Grade earned during the federal Fiscal Year.

Date
Prime Company Business Name Company President/CEO Address City, State Zip Code
Dear Company President/CEO:
Thank you for your conscientious efforts during the 20XX-20XY federal fiscal year to use Disadvantaged Business Enterprises (DBEs) on Department of Transportation funded projects. The State of Florida achieved X.xx% exceeding the X.X% DBE goal established for the 20XX-20XY federal fiscal year. Your company has been instrumental in the achievement of the state's goal. The actual percentage reported for your company is XX.XX on X project(s). This results in a DBE utilization grade of XX. Your efforts are commendable and have shown us that you are truly interested in being a partner with the Governor, the Federal Highway Administration and the Department in our efforts to ensure that minority and female owned firms obtain work on transportation projects in Florida.
I encourage you to continue with these efforts that will not only strengthen the overall economy of the State, but will also strengthen the transportation industry. If the Department can provide you with any assistance in the DBE Program, please contact Art Wright, Manager, Equal Opportunity Office, at (850) 414-4749 or e-mail: Arthur.wright@dot.state.fl.us .
I also encourage you to visit the Equal Opportunity Office website at www.dot.state.fl.us/equalopportunityoffice/ to view the 20XX-20XY federal fiscal year grading scale and reporting criterion.
Thank you again.
Sincerely, FDOT Secretary

Section 2.9

SUPPORTIVE SERVICES

2.9.1 General

The Supportive Services Program is structured to promote the Department's efforts to provide customized training in the form of managerial and technical assistance to DBEs and small businesses in order to increase prime and subcontracting opportunities. The Department is committed to its efforts to promote meaningful participation by disadvantaged and small business contractors and consultants in highway construction projects throughout the State of Florida.

The primary goal of the Supportive Services Program is to increase the number of DBEs and small businesses participating in Department contracts and the percentage of dollars awarded to DBEs and small businesses by:

- Matching prime contractors/consultants with certified DBEs and small businesses as a subcontractor/sub-consultant/supplier;
- Assisting certified DBEs and small businesses in becoming prime contractors/consultants; and
- Assisting certified DBEs and small businesses in obtaining contracts as prime contractors/consultants on Department projects.

2.9.2 DBE Supportive Services

The Department provides supportive services to DBEs conducting business with or seeking to conduct business with the Department. Supportive Services are those activities and services that are designed to contribute to the growth and eventual self-sufficiency of DBEs so that they may achieve proficiency in competing for contracts and subcontracts. The purpose of the DBE Supportive Services Program is to increase the number of certified DBEs participating in the highway program and to contribute to the growth and eventual self-sufficiency of DBE firms. The Department's statewide DBE Supportive Services Provider provides managerial and technical assistance to certified DBEs participating in the highway program at no cost. Participation in the DBE Supportive Services Program is open to firms certified as a DBE by the Florida Unified Certification Program.

The DBE Supportive Services Provider is available to assist prime contractors with locating DBEs on the Department's online business directory and matching primes with DBEs for subcontracting/sub consulting/supplier opportunities. Another opportunity for prime contractors to identify DBEs for subcontracting/sub consulting/supplier

opportunities is to participate in DBE Matchmaker Conferences. The Department's DBE Supportive Services Provider is charged with planning, coordinating, and hosting a minimum of four (4) DBE Matchmaker Conferences statewide designed to assist DBEs in meeting with prime contractors to discuss future working relationships and to educate DBEs and non certified minority and women-owned firms about doing business with FDOT.

For more information or assistance regarding the DBE Supportive Services, refer to the FDOT Equal Opportunity Website for the providers' contact information.

2.9.3 Construction Management Development Program & Bond Guarantee Program

The **Construction Management Development Program (CMDP)** is a voluntary program designed to improve and develop the skills of small business owners and managers enabling them to perform successfully on FDOT construction projects. Courses offered are *Business Management, Construction Accounting, Construction Math and Estimating, Contracts, Specification and Law, Scheduling for FDOT and Plan Reading for FDOT*. Participation in the CMDP is open to firms certified as a DBE by the Florida Unified Certification Program or a small business firm whose annual gross receipts do not exceed \$2 million dollars average over the last three year period.

The **Bond Guarantee Program (BGP)** is a financial support program which the State of Florida acts as a second surety, guaranteeing the construction bonds for DBEs working on FDOT projects. Participation in the BGP is limited to those DBEs who have been awarded a *Certificate of Proficiency* and have documented knowledge of the principals of construction bonding. Services under the BGP include: *Packaging Bond Applications, Construction Bond Principals Seminars and Overhead Audits*, a one time free service for DBEs seeking pre-qualification as a consultant.

For more information or assistance regarding the CMDP-BGP, contact:

Florida A&M University Small Business Development Center
2035 East Paul Dirac Drive, Suite 130, Morgan Building
Tallahassee, Florida 32310
Telephone: (850) 561-2393 Toll Free: (800) 226-3881
Fax: (850) 561-2395 www.sbdcatfamou.org

CHAPTER 14 - DISADVANTAGED BUSINESS ENTERPRISES

14.1 GENERAL

14.1.1 It is the policy of the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprises (DBEs) have an equal opportunity to participate in the performance of federally financed contracts or subcontracts. (DBEs are defined in 49 Code of Federal Regulation, Part 23). To achieve this goal, all Local Agencies and their contractors must take steps to make sure that DBEs are encouraged to compete for construction contracts, procurement contracts, grants, services, financial aid or other benefits. DBEs must have full access to these opportunities.

14.1.2 In accordance with guidance provided by the Federal Highway Administration (FHWA), contracts issued by Local Agencies that have FHWA funds must be in compliance with the FDOT DBE Program. The FDOT DBE Program is race-neutral and has a goal for the 2007-2008 Federal Fiscal Year to spend at least 8.1% of the highway dollars received from the Federal Government on projects with Certified DBEs as prime contractors/subcontractors and prime consultants/sub consultants. Race-neutral means that the Department will not be assigning individual goals on each project. Instead, the Department believes that the 8.1% overall goal can be achieved through the normal competitive procurement process. According to 49 CFR Part 26, if the 8.1% goal is not achieved, the Department may be required to return to a race-conscious program. In this program, goals are imposed on individual contracts. The Department encourages all of their contractors to obtain bids and quotes from Certified DBEs. The Department's DBE Program Plan goal methodology can be found at:
www.dot.state.fl.us/equalopportunityoffice/.

14.1.3 The District Administrator will arrange for the Department's Equal Opportunity Office (EOO) to provide training to Local Agencies, as necessary.

14.2 ESTABLISHMENT OF PROJECT DBE AVAILABILITY GOAL PERCENTAGES

The Local Agency will review each project to determine if the work allows for DBE participation. The Local Agency must also set up a DBE availability goal percentage. This DBE availability goal percentage is not a fixed contract requirement. It is a guide to inform the contractor of the work that could reasonably be contracted to a DBE. The Local Agency considers the following criteria when making a goal: (1) the dollar amount of the contract to make sure that it is large enough to allow efficient subcontracting, (2) the work

of the project that can be subcontracted, and (3) the availability of DBE firms in the project area able to do the required work.

14.3 ANTICIPATED DBE PARTICIPATION STATEMENT

The contractor must complete and submit the "Anticipated DBE Participation Statement," (shown in Appendices 14.7.1) at the pre-construction or pre-work conference. The Statement must only include companies certified as a DBE. The contractor can and should update the Statement when additions or deletions are made through the life of the contract.

This will not become a binding part of the contract. It will assist the Department in tracking planned or estimated DBE use. The contractor must mail or fax the Statement to the Department's Equal Opportunity Office at the following address within 3 days of the pre-construction or pre-work conference:

Florida Department of Transportation
Equal Opportunity Office, MS-65
605 Suwannee Street
Tallahassee, Florida 32399-0450
Fax Number: (850) 414-4879

14.4 EQUAL OPPORTUNITY REPORTING (EOR) SYSTEM

To comply with federal changes in the DBE Program Plan, the Department is also collecting actual payments made to subcontractors in addition to the planned use. The Local Agency reports data on actual payments, minority status, and the type of work of all subcontractors and major suppliers. Reports can be made through the Equal Opportunity Reporting System (EOR) on the Internet at www.dot.state.fl.us/equalopportunityoffice/. Each month the Local Agency must report actual payments to all DBE subcontractors and suppliers. Payments to all non-DBE subcontractors can be reported either monthly or at the end of the project. The EOO is working to revise the reporting system so contractors can enter this information instead of the Local Agency.

14.5 DBE CERTIFICATION

The DBE firm(s) named by the contractor in the "Anticipated DBE Participation Statement" and the EOR System must be certified as a DBE firm in order to be counted as a DBE. To verify whether a firm is certified as a DBE for the work being performed, the contractor must refer to the Business Directory published by the Department's Equal Opportunity Office on the Internet at: www.dot.state.fl.us/equalopportunityoffice/. If the Internet is not available, the contractor can call the Equal Opportunity Office for verification at (850) 414-4747.

14.6 BIDDERS LIST

Federal regulations require States to maintain a database of all firms that are participating or attempting to participate in FDOT-assisted contracts. The list must include all firms that bid on prime contracts or bid or quote subcontracts on FDOT-assisted projects, including both DBEs and non-DBEs. The Bid Opportunity List is used to record bidders' information for all subcontractors or sub consultants who submitted bids to primes. This information should be returned with the bid package or proposal package on the Bidders Opportunity List form. The local agency should mail or fax the form to the Equal Opportunity Office.

14.7 MONITORING DBE REPORTING

The Local Agency must monitor the contractor to ensure that it submits the "Anticipated DBE Participation Statement" at the pre-construction or pre-work conference and then forwards it to the Equal Opportunity Office. The Equal Opportunity Office will monitor the EOR System to ensure that the Local Agency is providing the necessary information.

14.8 APPENDICES

Anticipated DBE Participation Statement (275-030-11A) and Bidders Opportunity List (275-030-11) – Contact District LAP Administrator for the form.

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FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
County No: _____	Contract No: _____	Vendor No: _____

Data Universal Number System (DUNS) No: 80-939-7102
Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS AGREEMENT, made and entered into this ____ day of _____, ____ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and _____ hereinafter called the Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 339.12, Florida Statutes, to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is to provide for the Department's participation in _____ and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

1.01 Attachments: Exhibit(s) _____ are attached and made a part hereof.

2.01 General Requirements: The Agency shall complete the project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

Removal of Any Unbilled Funds

If Agency fails to timely perform its obligations in submitting invoices and documents necessary for the close out of the project, and said failure results in a loss of the remaining unbilled funding either by Federal withdrawal of funds or loss of State appropriation authority (which may include both federal funds and state funds, if any state funds are on the project), Agency will be responsible for the remaining unbilled funds on the project. No other funds will be provided by the Department. Agency waives the right to contest such removal of funds by the Department, if said removal is directly related to Federal (FHWA) withdrawal of funds or loss of State appropriation authority due to Local Agency's failure or nonperformance. In addition to loss of funding, the Department will consider de-certification of said Agency for future LAP projects.

Removal of All Funds

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If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

2.02 Expiration of Agreement: The Agency agrees to complete the project on or before _____. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

2.03 Pursuant to Federal, State, and Local Laws: In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.04 Agency Funds: The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

2.05 Submission of Proceedings, Contracts, and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the project as the Department and the Federal Highway Administration (FHWA) may require.

3.00 Project Cost:

3.01 Total Cost: The total cost of the project is \$ _____. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

3.02 Department Participation: The Department agrees to participate, including contingencies, in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

3.03 Limits on Department Funds: Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

- a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;
- c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- d) Department approval of the project scope and budget at the time appropriation authority becomes available.

3.04 Appropriation of Funds: The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

3.05 Multi-Year Commitment: In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

- "(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any

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contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

3.06 Notice-to-Proceed: No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed from the Department.

3.07 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

4.00 Project Estimate and Disbursement Schedule: Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project, and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

5.00 Records:

5.01 Establishment and Maintenance of Accounting Records: Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the project records, together with supporting documents and records of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

5.02 Costs Incurred for Project: The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

5.03 Documentation of Project Costs: All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

5.04 Audit Reports: Recipients of federal and state funds are to have audits done annually using the following criteria:

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The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

Monitoring: In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the FDOT's Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I - Federally Funded: Recipients of federal funds (i.e., state, local government or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "1" of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

Part II - State Funded: Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

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3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

Part III - Other Audit Requirements: The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

Part IV - Report Submission:

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

- a) The Department at each of the following address(es):

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

- b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised), at the following address:

Federal Audit Clearinghouse
 Bureau of the Census
 1201 East 10th Street
 Jeffersonville, IN 47132

- c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards directly to each of the following:

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any Management Letters issued by the auditor, to the Department at each of the following addresses:

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)

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3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:
 - a) The Department at each of the following address(es):

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)
 - b) The Auditor General's Office at the following address:

Auditor General's Office
 Room 401, Pepper Building
 111 West Madison Street
 Tallahassee, Florida 32399-1450
4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:
 - a) The Department at each of the following address(es):

(Insert mailing address(es) of office(s) responsible for program oversight - District LAP Administrator or person designated by District.)
5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

Part V - Record Retention: The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

5.05 Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, sub-contractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1)(c), Florida Statutes).

5.06 Uniform Relocation Assistance and Real Property Statistical Report: For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

6.00 Requisitions and Payments: Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

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All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-"Travel" of the Department's Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

7.00 Department Obligations: Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

7.01 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof or in or with respect to any document of data furnished therewith or pursuant hereto;

7.02 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement or payments to the project;

7.03 Approval by Department: The Agency shall have taken any action pertaining to the project which, under this Agreement, requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

7.04 Conflict of Interests: There has been any violation of the conflict of interest provisions contained here in paragraph 12.07.

7.05 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

7.06 Federal Participation: The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

7.07 Disallowed Costs: In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit "B" for the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7.08 Final Invoices: The Agency must submit the final invoice on the project to the Department within 120 days after the completion of the project. Invoices submitted after the 120-day time period may not be paid.

8.00 Termination or Suspension of Project:

8.01 Termination or Suspension Generally: The Department may, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement

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as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

8.02 Action Subsequent to Notice-of-Termination or Suspension: Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the project activities and contracts and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.00 Contracts of Agency:

9.01 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

9.02 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the consultant selection process for all projects. In all cases, the Agency's attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation: It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

"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

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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 Department, 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.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The contractor, subrecipient 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 C.F.R. 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."

11.00 Compliance with Conditions and Laws: The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the project, except contracts for the standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

12.02 Title VI – Civil Rights Act of 1964: The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

12.03 Americans with Disabilities Act of 1990 (ADA): The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

12.04 Public Entity Crime: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36

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months from the date of being placed on the convicted vendor list.

12.05 Discrimination: In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

12.07 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer or employee of the Agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

12.08 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

13.02 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

13.03 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

13.04 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

13.05 Bonus or Commission: By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

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13.06 State Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

13.07 Plans and Specifications: In the event that this Agreement involves constructing and equipping of facilities on the State Highway System, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency a written approval with any approved portions of the project and comments or recommendations covering any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

13.08 Right-of-Way Certification: Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

13.09 Agency Certification: The Agency will certify in writing, prior to project closeout that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

13.10 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

13.11 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

13.12 Restrictions on Lobbying:

Federal: The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

State: No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

13.13 Maintenance: The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency will will not maintain the improvements made for their useful life.

13.14 Vendors Rights: Vendors (in this document identified as the Agency) providing goods and services to the

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Department should be aware of the following time frames. Upon receipt, the Department has 5 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and the receipt, inspection, and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), Florida Statutes, will be due and payable in addition to the invoice amount to the Agency. Interest penalties of less than one \$1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at 850-413-5516 or by calling the State Comptroller's Hotline, 877-693-5236.

13.15 Reimbursement of Federal Funds:

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement. Federal Economic Stimulus awards do not exempt the Agency from adherence to federal guidelines, procedures, and regulations.

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IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

AGENCY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name:
Title:

By: _____
Name:
Title:

Attest: _____
Title:

Attest: _____
Title:

As to form:

Legal Review:

Attorney

Office of the General Counsel

See attached Encumbrance Form for date of funding approval by Comptroller.

Approved:

Effective: July 20, 2011
Office: Equal Opportunity
Topic No.: 275-020-002-g

Department of Transportation

EQUAL OPPORTUNITY CONSTRUCTION CONTRACT COMPLIANCE

PURPOSE:

The Federal Highway Administration (FHWA) requires the Florida Department of Transportation (FDOT) as a contracting agency to assure compliance of contractors with the requirements of federal-aid construction contracts including the Equal Employment Opportunity (EEO), Affirmative Action (AA), Disadvantaged Business Enterprise (DBE), and On-the-Job Training (OJT) requirements. These requirements must be included in all applicable direct and federal-aid highway construction contracts, including subcontracts of \$10,000 or more (not including subcontracts for materials and supplies). This procedure establishes requirements and guidelines for administering the EEO, DBE, and OJT contract requirements on FDOT construction contracts.

This procedure also applies to the administration of the equal opportunity requirements set forth in the EEO Special Provisions included in state funded construction projects.

AUTHORITY:

Sections 20.23(4)(a) and 334.048(3), Florida Statutes (F.S.)

REFERENCES:

- Construction Contract Equal Opportunity Compliance, 23 CFR Part 230
- EEO Special Provisions 23 CFR Appendix A of Subpart A of Part 230
- Training Special Provisions 23 CFR , Appendix B to Subpart A of Part 230
- 49 CFR Part 26 Disadvantaged Business Enterprise
- Federal Highway Administration Form 1273
- On-theJob Training Specification 7-26
- Federal Aid Policy Guide
- EEO Special Provisions State Funded Projects

23 CFR Part 230: Prescribes the policies, procedures, and guidance for equal opportunity on federal construction contracts.

23 CFR Part 230.407: This is a list of definitions for this federal regulation.

23 CFR Part 230.409: Prescribes the policies, procedures, and guidance of the contract compliance review process.

40 USC 276 [a] (Davis-Bacon Act of 1931): Under the provisions of the **Act**, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The **Davis-Bacon Act** directs the Secretary of Labor to determine such local prevailing wage rates which can be found in a document named "General Decision Number". For more information on this **Act**, visit the U.S. Department of Labor at <http://www.thecre.com/fedlaw/legal12a/276a.htm> .

SCOPE:

This procedure applies to all offices that hold responsibility for administering the Equal Opportunity Provisions in construction contracts. The offices are referenced in **Section 1.0**.

GENERAL:

This procedure establishes the process to be used by Districts to ensure uniformity in the Equal Opportunity Construction Contract Compliance Program. The **Equal Employment Opportunity Construction Contract Compliance Workbook** was developed to assist contractors in their understanding of EEO requirements. The **Workbook** provides examples of forms and other documentation necessary to satisfy the numerous EEO requirements. The **Workbook** also describes the actions needed for contractors to achieve and maintain compliance with non-discrimination, OJT, and wage rate requirements of the contract.

FDOT offices responsible for EEO construction contract compliance:

- Equal Opportunity Office (EOO)
- Office of Construction
- District Construction Office
- District Contract Compliance Office (DCCO)
- Resident Engineer's Office

The goal of each office is to maintain a program that fulfills all federal-aid requirements. To achieve this goal, all Districts must collect data, conduct frequent and thorough contract compliance reviews and evaluations, maintain complete and accurate files, and operate in a consistent and timely manner. The primary offices: the State Construction Office, District Contract Compliance Office, each Resident Engineer Office and the Equal Opportunity Office must maintain constant communication and coordination.

DEFINITIONS:

Commercially Useful Function (CUF): A determination of CUF is made in regard to proper reporting of work for DBE utilization purposes. A DBE performs a CUF when it is (1) responsible for execution of the work of the contract (2) carries out its responsibilities by actually performing, managing, and supervising the work involved, and (3) is responsible, with respect to materials and supplies used on the contract, for negotiating price directly with the supplier, determining quality and quantity, ordering material, and installing (where applicable) and paying for the material itself.

Consultant CEI: A consulting engineering firm pre-qualified by the Department to perform Construction Engineering and Inspection (CEI) and under contract to perform such services on a project or series of projects.

Disadvantaged Business Enterprise (DBE): Small business concern (a) which is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly-owned business, at least 51% of its stock is owned by one or more socially and economically disadvantaged individuals, and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owners.

District Construction Engineer (DCE): The engineer appointed by the District Secretary serves to manage all District functions pertaining to construction of Department projects managed by either in-house CEI or Consultant CEI personnel.

District Contract Compliance Manager (DCCM): The position within each of the District Offices that is responsible for administering the Equal Opportunity Construction Contract Compliance Program.

District Contract Compliance Office (DCCO): The office within each District Office that is responsible for administering the Equal Opportunity Construction Contract Compliance Program.

Equal Opportunity Office (EOO): The FDOT's Equal Opportunity Office was created to administer the Department's Disadvantaged Business Enterprise Program, Title VI Program (Nondiscrimination in State and Federal Programs and Activities), and Internal and External Equal Employment Opportunity/Affirmative Action Program (Title VII).

Equal Opportunity Reporting System (EORS): This is a database system that is used to track data for the EEO.

Equal Employment Opportunity (EEO): The absence of partiality or distinction in employment treatment so that the right of all persons to work and advance on the basis of merit, ability, and potential is maintained.

Florida Commission on Human Relations (FCHR): The state commission responsible for investigating employment discrimination charges filed in accordance with **Chapter 760, F.S.**

Florida Department of Transportation (FDOT): The state agency that is responsible for the administration of the state highway and public transportation system.

Federal Highway Administration (FHWA): The Federal Highway Administration is a division of the U.S. Department of Transportation and is responsible for setting policies, writing procedures, and providing oversight, guidance and direction to State Departments of Transportation receiving federal financial assistance.

FHWA 1273: Prescribes the policies and procedures for the Equal Employment Opportunity Contract Compliance Program.

Local Agency Program (LAP): The LAP program is administered by a State LAP Administrator in Central Office. The LAP is administered in each District by a District LAP Administrator designated by the District Secretary. Project-level direction and oversight are provided through the Offices of Planning, Environmental Management, Design, Right of Way, Policy Planning, Environmental Management, Federal-Aid, Design, Contracts Administration, Equal Opportunity, Comptroller, and Work Program Development.

On-the-Job Training (OJT): As part of the Contractor's Equal Employment Opportunity affirmative action program, training shall be provided. The Contractor shall provide OJT aimed at developing full journeymen/women in the type(s) of trade or job classification(s) involved in the work. Contractors are encouraged to utilize the OJT Program to achieve diversity.

Resident Compliance Specialist (RCS): This position is responsible for ongoing monitoring and technical assistance to federal aid contractors regarding the requirements of **FHWA 1273** and other federal regulations. This position may be employed internally by FDOT or through the Consultant CEI firms.

Standard Metropolitan Statistical Area (SMSA): An urbanized area of 50,000 or more inhabitants.

1. RESPONSIBILITIES

1.1 EQUAL OPPORTUNITY OFFICE (EOO)

The EOO has the responsibility for setting policy, issuing guidance, providing technical assistance, and monitoring District compliance actions through District visits and periodic **Quality Assurance Reviews**. In addition, the EOO will initiate all required reporting to FHWA. While the District offices will be required to provide information to the EOO for reporting, the Districts will not provide reports to FHWA.

The EOO will perform other specific activities, including setting the Department's DBE utilization goal, maintaining the Equal Opportunity Reporting System, DBE outreach initiatives and supportive services, Title VI, and various other programs.

1.2 OFFICE OF CONSTRUCTION

The Office of Construction is responsible for developing procedures relating to wage rates, payrolls, prompt payment, monitoring District Contract Compliance activities, and providing guidance as required. (See **Construction Project Administration Manual, Topic No. 700-000-000.**)

1.3 DISTRICT CONSTRUCTION ENGINEER

Each DCE or a designee will supervise their DCCO. The DCEs are responsible for initiating sanctions for noncompliance of the EEO, DBE, and OJT requirements when appropriate.

1.4 DISTRICT CONTRACT COMPLIANCE OFFICE

The DCCO is responsible for monitoring the contractor's EEO, DBE and OJT activities, providing training to Resident Compliance Specialists (RCS), contractors, construction engineering and inspection firms, and providing annual and special purpose reporting to the EOO. It is recommended that each DCCO have a DCCM and one or two RCS who are responsible for the activities of the DCCO.

Each DCCO schedules, conducts, and prepares compliance reviews of contractors. Each District is required to complete no less than two contract compliance reviews per quarter or eight reviews annually. The review period is based on the federal fiscal year (October 1 to September 30). The District is not limited to eight compliance reviews and is encouraged to exceed the required number of reviews. If there is reason to suspect that a contractor is noncompliant with **FHWA 1273, 23 Code of Federal Regulations**, or other federal authorities, the District shall conduct a compliance review to assess compliance with federal provisions, even if the District has completed the required number of reviews. Each company reviewed, prime or subcontractor, is considered as one review. Reviews should be a mixture of project and area reviews, depending on

the work program mix of the district. Follow-up reviews are generally not included in the required number of reviews. However if a follow-up review requires an extensive amount of work and oversight, the follow-up review will be calculated in the overall number of required reviews and requires prior approval from the EOO. The project review will cover the workforce for the entire contract and will include the prime contractor and all applicable subcontractors active on the project. In an area wide review, the contractor's entire workforce in a geographical area is reviewed. The geographical area is determined by the DCCM and should be clearly identified to the contractor.

The DCCO will perform the following functions:

- (A) Conduct compliance reviews.
- (B) Provide technical assistance and training to contractors regarding **FHWA 1273** and other federal authorities.
- (C) Conduct site visits, audits, and reviews.
- (D) Provide training and review of compliance staff/consultants in monitoring responsibilities as identified in the EEO Construction Contract Compliance Workbook.
- (E) Conduct special investigations.
- (F) Participate in reviews and audits.
- (G) Complete annual FHWA reports and special reporting.
- (H) Coordinate external agency investigations.
- (I) Ensure retention of project records.
- (J) Verify that Resident Compliance Specialists are completing ongoing monitoring of contractors by reviewing submissions of annotated payrolls to assess for compliance with **FHWA 1273** and other federal authorities. Each DCCO shall carefully review annotated payrolls to look for discrepancies in pay and fluctuations in the overall workforce which may be indicative of fraud, abuse, or noncompliance with EEO requirements.
- (K) Coordinate with LAP Administrators to verify that Local Agencies are completing ongoing monitoring of contractors by reviewing submissions of annotated payrolls to assess for compliance with **FHWA 1273** and other federal authorities. Each DCCO shall carefully review annotated payrolls to look for discrepancies in pay and fluctuations in the overall workforce which may be indicative of fraud, abuse, or noncompliance with EEO requirements.

- (L) Provide technical assistance to the District LAP Administrators regarding the Equal Employment Opportunity Contract Compliance Program.
- (M) Provide training and technical assistance to the Local Agencies.

1.5 RESIDENT ENGINEER'S OFFICE

Resident Engineer Offices have the responsibility of supporting the Contract Compliance Program. Duties vary by District based on organizational preference. The Resident Engineer Office is responsible for reviewing, evaluating, ensuring the completion and review of certain workforce interviews and job site inspections, and assisting project administrators and the DCCOs as required.

The Resident Engineer's Office will:

- (A) Provide technical assistance to contractors and subcontractors.
- (B) Maintain the official compliance records for the project.
- (C) Assist the DCCO in compliance review activities.
- (D) Determine if DBEs are performing CUF.
- (E) Monitor the OJT.
- (F) Review annotated payrolls to assess the degree of compliance (i.e. completeness, accuracy, and discrepancies) and irregularities which may be indicative of fraud, abuse, or noncompliance with EEO requirements.
- (G) Notify the DCCO of specific concerns or issues regarding contractors' compliance with **FHWA 1273** and other federal authorities.
- (H) Monitor the progress of the project and DBE participation.

2.0 CONTRACT COMPLIANCE REVIEWS

The following procedural steps have been taken from **23 CFR Part 230.409** and modified for this procedure. The definitions in **23 CFR Part 230.407** are incorporated by reference.

The compliance review procedure provides for continual monitoring of the employment process. Monitoring officials must analyze information to ensure proper completion of procedural requirements and to ascertain the effectiveness of program implementation.

2.1 REVIEW SCHEDULING

Priority in scheduling equal opportunity compliance reviews shall be given to reviewing those contractor's workforces:

- (A) Which hold the greatest potential for employment and promotion of minorities and females (particularly in higher skilled crafts or occupations);
- (B) Working in areas that have significant minority and female labor forces within a reasonable recruitment area;
- (C) Working on projects that include training special provisions;
- (D) Where the contractor's compliance with Equal Opportunity is questionable based on a review of employment data, previous compliance reviews, on-site visits, and annotated payrolls;
- (E) Where there is evidence that the contractor may have engaged in, or tolerated alleged discriminatory practices.

In addition, the following considerations shall apply:

- (1) Reviews requested by FHWA shall receive priority scheduling;
- (2) Where practicable, a review should be conducted prior to or during peak employment periods; and
- (3) Do not review a home office workforce of less than 15 employees unless requested and approved by FHWA headquarters Office of Civil Rights.

2.1.2 For compliance reviews based on an area workforce, the DCCO shall define the applicable geographical area by considering the following:

- (A) Union geographical boundaries;
- (B) The geographical area from which the contractor recruits employees, i.e., reasonable recruitment area;
- (C) SMSA or census tracts; and
- (D) The county in which the Federal or Federal-aid project(s) is located and adjacent counties.

2.1.3 Each DCCM must submit a quarterly review schedule to the EOO by the 15th of the month prior to the start of a new quarter. Quarterly review schedules should

be submitted to the EOO on February 15th, May 15th, August 15th, and November 15th. Any subsequent changes should be forwarded to the EOO with an appropriate explanation.

2.2 CONTRACTOR NOTIFICATION

2.2.1 The DCCO should provide written notification to the contractor of the pending compliance review at least two weeks prior to the scheduled on-site review. This notification shall include the purpose, scope, date, and time of the review. The notice should include the contractor's responsibility for providing pertinent documentation and information as requested, an outline of the mechanics and basis of the review, requisite interviews, and documents required.

2.2.2 The contractor shall be requested to supply to the DCCO prior to the onsite verification and interviews the following information:

- (A) Current EEO Report developed from the most recent payroll;
- (B) Copies of all current bargaining agreements;
- (C) Copies of purchase orders and subcontracts containing the EEO clause;
- (D) A list of recruitment sources available and utilized;
- (E) A statement of the status of any action pertaining to employment practices taken by the Equal Employment Opportunity Commission (EEOC), FCHR, any local agency, or internally regarding the contractor or from present or past employees;
- (F) A list of promotions made during the past 6 months, to include race, national origin, sex of employee, previous job held, job promoted into, and corresponding wage rates;
- (G) An annotated certified payroll to show job categories, race, sex and date of hire;
- (H) A list of minority-owned or female-owned companies contacted as possible subcontractors, vendors, material suppliers, etc.;
- (I) EEO Policy Statement and DBE Affirmative Action Plan; and
- (J) Any other necessary documents or statements requested by the DCCO for review prior to the actual onsite visit.

2.2.3 For a project review, the DCCO shall hold the prime contractor responsible for

ensuring that all active subcontractors are present at the on-site meeting and have supplied the required documentation.

2.3 PRELIMINARY ANALYSIS AND INITIAL MEETING

Before the onsite verification and interviews, the DCCO shall analyze the employment patterns, policies, practices, and programs of the contractor to determine whether or not problems exist by reviewing information relative to:

- (A) The contractor's current workforce;
- (B) The contractor's relationship with referral sources, e.g., unions, employment agencies, community action agencies, minority and female organizations, etc.;
- (C) The minority and female representation of sources;
- (D) The availability of minorities and females with requisite skills in a reasonable recruitment area based on U.S. Census data or U.S. Department of Labor Statistics;
- (E) Any pending EEOC, FCHR, Department of Justice cases or local cases which are relevant to the contractor; and
- (F) The related project (and/or contractor) file to obtain current information relating to the status of the contractor's project(s), value, scheduled duration, written corrective action plans, EEO Reports, training requirements, previous compliance reviews, certification of payment to subcontractors, information submitted in the Equal Opportunity Reporting System, and other pertinent correspondence and/or reports.

2.3.1 The review must include at least one construction site visit. During this meeting with the contractor, the following topics shall be discussed during the visit:

- (A) The material submitted by the contractor, including the actual implementation of the employee referral source system and any discrepancies found in the material; and
- (B) Arrangements for the site tour and employee interviews. The initial meeting may be held at any appropriate location convenient to the review area and agreed upon by the contractor.

2.4. ONSITE VERIFICATION AND INTERVIEWS

2.4.1 After the initial meeting and preliminary analysis, the DCCO shall make a physical tour of the employment site(s) to determine that:

- (1) EEO posters are displayed in conspicuous places in a legible fashion;
- (2) Supervisory and personnel office employees have been oriented to the contractor's EEO commitments;
- (3) The employee referral source system is being implemented;
- (4) Reported employment data is accurate;
- (5) Meetings or other methods of communication have been used to disseminate the EEO policy particularly new employees; and
- (6) Employees are aware of their right to file complaints of discrimination.

2.4.2 The DCCO shall:

- (1) Interview at least one minority, one non-minority, and one female in each trade, classification, or occupation. The contractor's superintendent or home office manager should also be interviewed.
- (2) Determine the union membership status of union employees on the site (e.g. whether they have permits, membership cards, or books, and in what category they are classified [e.g., A, B, or C] based on a sampling of the organization's members.
- (3) Determine the method utilized to place employees on the job and whether equal opportunity requirements have been followed.
- (4) Verify that all DBE subcontractor payments entered into the Equal Opportunity Reporting System are accurate and up-to-date.
- (5) Request any other documentation deemed necessary to ensure contractor compliance.

2.4.3 The DCCO shall make the following determinations in the review report:

- (A) Is there reasonable representation and utilization of minorities and females in each craft, classification or occupation? If not, what has the contractor done to increase recruitment, hiring, upgrading, and training of minorities and females?

- (B) What action is the contractor taking to meet the contractual requirement to provide equal employment opportunity?
- (C) Are the actions taken by the contractor acceptable? Could they reasonably be expected to result in increased utilization of minorities and females?
- (D) Is there impartiality in treatment of minorities and females?
- (E) Are affirmative action measures of an isolated nature or are they continuing?
- (F) Have the contractor's efforts produced results?
- (H) The DCCO should interview or survey subcontractors to determine compliance with prompt payment requirements.

2.4.4 The DCCO should determine if the contractor is complying with its DBE Affirmative Action Plan by the following:

- (A) What is the contractor's DBE utilization?
- (B) Does the contractor have bid files and efforts of documentation to solicit quotes from DBEs?
- (C) What are the duties of the DBE Officer?

2.5 EXIT CONFERENCE

2.5.1 Before concluding the review process, the DCCO should schedule an exit conference with the contractor. The following topics shall be discussed:

- (A) Any preliminary findings that, if not corrected immediately or not corrected by the adoption of an acceptable voluntary corrective action plan, would necessitate a determination of noncompliance;
- (B) The process and time in which the contractor shall be informed of the final determination (15 days following the onsite verification and interviews);
- (C) Any other matters that could be resolved before concluding the onsite portion of the review.

2.5.2 Voluntary corrective action plans may be negotiated at the exit conference.

2.5.3 The acceptance of a voluntary corrective action plan at the exit conference does not preclude a determination of noncompliance, particularly if deficiencies not addressed by the plan are uncovered during the final analysis and report writing. A voluntary corrective action plan should be accepted with the understanding that it only addresses those problems uncovered prior to the exit conference.

2.6 COMPLIANCE DETERMINATIONS

2.6.1 Based on information obtained through the compliance review, the DCCO conducting the review shall determine the contractor's compliance or noncompliance with contractual provisions and include written documentation to support the review findings.

2.6.2 The compliance determination will include consideration of the contractor's efforts in the following areas:

- (A) The contractor's EEO policy;
- (B) Dissemination of the policy and education of supervisory and personnel office employees concerning their responsibilities in implementing the EEO policy;
- (C) The authority and responsibilities of the EEO officer;
- (D) The contractor's recruitment activities, especially establishing minority and female recruitment and referral procedures;
- (E) The extent of utilizing minorities and females in training programs;
- (F) The contractor's review of personnel actions to ensure equal employment opportunities;
- (G) The contractor's participation in training;
- (H) The contractor's relationship (if any) with unions and minority and female union membership;
- (I) The contractor's procedures for monitoring subcontractors' utilization of minorities and females in the subcontractors' workforces;
- (J) The adequacy of the contractor's records and reports.

2.6.3 A contractor shall be considered to be in compliance when the equal opportunity requirements have been effectively implemented, or there is evidence that every good faith effort has been made toward achieving this end. Efforts to achieve

this goal shall be result-oriented, initiated and maintained in good faith, and emphasized as any other vital management function.

2.6.4 A contractor shall be considered not to be in compliance when:

- (A) The contractor has discriminated against applicants or employees with respect to the conditions or privileges of employment; or
- (B) The contractor fails to provide evidence of every good faith effort to provide equal opportunity; or
- (C) The contractor submits **Form No. 700-011-13, Certification Compliance with Equal Employment Opportunity(EEO) Provisions on Federal Aid Contracts**, but fails to provide evidence of meeting EEO requirements.

2.7 SHOW CAUSE PROCEDURES

2.7.1 Once the onsite verification and exit conference have been completed and a compliance determination has been made, the contractor shall be notified in writing of the compliance determination. This written notification shall be sent to the contractor within 15 days following the completion of the onsite verification and exit conference. If a contractor is found to be in noncompliance, efforts to bring the contractor into compliance shall be initiated through the issuance of a show cause notice. The notice shall advise the contractor to show cause within 30 days why sanctions should not be imposed. The date of the contractor's receipt of the show cause notice shall begin the 30 day show cause process.

2.7.2 A show cause notice must be issued when a determination of noncompliance is made based upon:

- (A) The findings of a compliance review; or
- (B) The results of an investigation that verifies the existence of discrimination.

2.7.3 Show cause notices will normally be issued to federally assisted contractors when the Department has made a determination of noncompliance, or when FHWA has made such a determination and has requested the State to issue the notice when circumstances warrant. FHWA may exercise primary compliance responsibility by issuing the notice directly to the contractor.

2.7.3.1 The show cause notice must:

- (A) Notify the contractor of the determination of noncompliance and provide the basis for the determination of noncompliance;

- (B) Notify the contractor of the obligation to show cause within 30 days why formal proceedings should not be instituted;
- (C) Schedule (date, time, and place) a compliance conference to be held approximately 15 days from the contractor's receipt of the notice;
- (D) Advise the contractor that the conference will be held to receive and discuss the acceptability of any proposed corrective action plan and/or correction of deficiencies;
- (E) Advise the contractor of the availability and willingness of the DCCO to conciliate within the time limits of the show cause notice.

2.7.3.2 In preparing and processing the show cause notice, the DCCO shall:

- (A) Develop complete background data for the issuance of the show cause notice.
- (B) Forward the background data and the final draft notice for review by the General Counsel's Office and provide the EOO with a copy of the correspondence.
- (C) Deliver the notice to the contractor by personal service, certified mail, return receipt requested, with a certificate of service or the return receipt filed with the case record.
- (D) Issue the 30-day show cause notice directly to the noncompliant contractor or subcontractor with an informational copy sent to any concerned prime contractors.
- (E) Ensure the show cause is issued by the DCCM.

2.7.3.3 Conciliation efforts during show cause period:

- (A) The DCCM is required to attempt conciliation with the contractor throughout the show cause time period. Conciliation and negotiation efforts shall be directed toward correcting contractor program deficiencies and initiating corrective action that will maintain and ensure equal opportunity. Records shall be maintained in case files indicating actions and reactions of the contractor, a brief synopsis of any meetings with the contractor, notes on oral communication and written correspondence, requests for assistance or interpretations, and other relevant matters.
- (B) In instances where a contractor is determined to be in compliance after a show cause notice has been issued, the show cause notice will be rescinded and the contractor formally notified of compliance.

2.7.3.4 Corrective Action Plans

The following procedural steps have been taken from **23 CFR Part 230.409** and modified for this procedure. The definitions in **23 CFR Part 230.407** are incorporated by reference.

- (A) When a contractor is required to show cause and the deficiencies cannot be corrected within the 30-day show cause period, a written corrective action plan may be accepted. The written corrective action plan shall specify clear unequivocal action by the contractor with time limits for completion. Token actions to correct cited deficiencies will not be accepted.
- (B) When a contractor submits an acceptable written corrective action plan, the contractor shall be considered in compliance during the plan's effective implementation and submission of required progress reports.
- (C) When an acceptable corrective action plan is not agreed upon and the contractor does not otherwise show cause as required, a recommendation to withhold funds should be made to the DCE.
- (D) When a contractor, after having submitted an acceptable corrective action plan and being determined in compliance is subsequently determined to be in noncompliance based upon the contractor's failure to implement the corrective action plan, a recommendation to withhold funds should be made to the DCE. There are no provisions for reinstating a show cause notice.
- (E) When a contractor operating under an acceptable corrective action plan carries out the provisions of the corrective action plan but the actions do not result in the necessary changes, the corrective action plan shall be immediately amended through negotiations. If, the contractor refuses to appropriately amend the corrective action plan, a recommendation to withhold the monthly estimate for the project should be made to the DCE.
- (F) A contractor operating under an approved voluntary corrective action plan entered into prior to the issuance of a show cause must be issued a 30-day show cause notice when it fails to implement an approved corrective action plan or the agreed upon corrective actions fail to result in necessary changes.

2.8 FOLLOW-UP REVIEWS

A follow-up review is an extension of the initial review process to verify the contractor's performance of corrective action and to validate progress report information. Therefore, follow-up reviews shall only be conducted on those

contractors where the initial review resulted in a finding of noncompliance and a show cause notice was issued.

Follow-up reviews shall be reported as a narrative summary referencing the initial review report. The report will assess the adequacy of the contractor's corrective actions in addressing any deficiency.

2.9 REVIEW REPORTS

2.9.1 The DCCO shall maintain detailed notes from the beginning of the review on which a comprehensive compliance review report can be developed.

2.9.2 The completed compliance review report shall contain documentary evidence to support the determination of a contractor or subcontractor's compliance status. The report must be submitted within 15 days of completion of the review to the EOO.

2.9.3 Findings, conclusions, and recommendations shall be explicitly stated and supported by documentary evidence.

2.9.4 The compliance review report must be completed on **Form No. 275-021-09, Compliance Data Report**, and contain the following information:

- (A) Complete name and address of contractor.
- (B) Project(s) identification.
- (C) Basis for the review, i.e. area workforce or project workforce.
- (D) Identification of federal or federal-aid contract(s).
- (E) Date of review.
- (F) Employment data by job craft, classification, or occupation by race and gender. This data must be verified during the onsite.
- (G) Identification of local unions involved with contractor, when applicable.
- (H) Determination of compliance status: compliance or noncompliance. The determination of compliance should include documentation to support the findings for each standard on the **Compliance Data Report**.
- (I) Copy of show cause notice or compliance notification sent to contractor.
- (J) Name and title of the staff who conducted the review.

2.9.5 Each contractor (a joint venture is one contractor) will be reported separately. When a project review is conducted, the reports should be attached, with the initial report being that of the prime contractor followed by the reports of each subcontractor. Each review level is responsible for ensuring that required information is contained in the report.

2.9.6 When a project review is conducted, the project workforce must be reported. During an areawide review (all federal-aid or federal projects in an area), areawide workforce must be reported.

3.0. COMPLAINT INVESTIGATION

3.1. When a contractor's employee complains of discrimination or harassment to Department personnel alleging discriminatory practices by the contractor, the complaint should be referred to the contractor for investigation. If requested by the contractor, the District Contract Compliance Manager with the knowledge of the EOO may assist the contractor with the investigation and resolution of a complaint.

3.2 The District Contract Compliance Manager must ensure that:

- (1) A prompt internal investigation is made by the contractor and documented.
- (2) A follow-up inquiry is made with the contractor to determine the outcome of the investigation. If the contractor's investigation determines that discrimination has taken place, appropriate corrective action within a reasonable time frame should occur. If the inquiry indicates that persons other than the complainant have been affected, corrective action should include such other persons.
- (3) The matter has been resolved. If the complaint has not been resolved the DCCM will notify the EOO and a decision will be made based on the information gathered during the follow-up inquiry. If unlawful discrimination has occurred, the Manager of the EOO will be responsible for bringing the matter to the attention of the FHWA.
- (4) The complainant is informed of their right to file a complaint with the FCHR or U.S. EEOC.

4.0 CONSULTANT CONTRACTS

When the Department contracts with a consultant to manage a construction project, the consultant may have the responsibilities for all actions of the Resident Engineer's Office. Depending on the experience of the consultant, the

DCCO will be required to train the consultant's employees to perform the required compliance functions.

5.0 CONSTRUCTION CONTRACT COMPLIANCE ADMINISTRATION (CCCA) FIELD OFFICE REVIEW

Every six months, or as often as necessary, the DCCO will conduct a **Construction Contract Compliance Field Office Review** of no less than 20% of the RCS' projects to determine if the EEO procedures are being followed. Project records (files) will be reviewed for accuracy and content to ensure contract compliance with EEO, OJT and DBE contract clauses and contract activities. The review and the closeout should be completed within seven days.

A written report will be prepared and review findings and recommendations will be forwarded to the Resident Engineer within seven days of the closeout for further handling and/or distribution. Any deficiencies noted in the report should be corrected within 14 days of the dated formal report. If the District is unable to resolve any issues arising from the cited deficiency and the deficiency cannot be resolved, the issue will be forwarded to the EOO for resolution. The District Compliance Manager will provide a quarterly schedule of offices to be reviewed by the 15th day of the month preceding the scheduled quarter to the EOO. The final reports shall be kept at the DCCO and made available to the EOO upon request.

6.0 PROJECT ASSIGNMENTS

- 6.1** The Resident Engineer will assign a Project Administrator to the project and notify the Resident Compliance Specialist that the contract has been awarded.
- 6.2** The Project Administrator will contact the Resident Engineer, Resident Compliance Specialist, and the contractor to schedule a preconstruction conference. The Project Administrator will confirm the schedule in writing.

7.0 PROJECT FILES

The Resident Compliance Specialist will maintain for the Department the project's official contract compliance records evidencing compliance with **FHWA 1273, 23 Code of Federal Regulations Part 230, 49 Code of Federal Regulations Part 26** the requirements set forth in the FDOT **EEO Construction Compliance Workbook**, and other federal authorities.

8.0 PRECONSTRUCTION CONFERENCE

The RCS will ensure that information is presented regarding DBE participation, OJT, payroll, wage rates, bulletin board, payments to subcontractors, retainage,

subcontract rental agreements, and labor compliance as well as collect the **Anticipated DBE Participation Statement**.

The contractor will be advised of the EEO Certification process and the responsibility for monitoring the EEO compliance of their subcontractors. The RCS will also discuss sanctions for noncompliance if reporting requirements are not fulfilled (see **Construction Project Administration Manual, Topic No. 700--00-000**).

The District may elect to conduct a Post Preconstruction Training Evaluation Meeting in addition to the preconstruction conference to discuss the EEO requirements.

9.0 EEO AFFIRMATIVE ACTION MONITORING

- (1) The RCS will receive, review and evaluate all reports and documentation from the prime and subcontractors for accuracy, completeness and timeliness.
- (2) The RCS will assist the Project Administrator in monitoring the project through on-site inspections and interviews. The information obtained from the interviews will become a part of the project file and will be reviewed and evaluated during compliance reviews.
- (3) The RCS will attend compliance reviews and furnish the complete project files for the review. When a letter is received indicating that a compliance review has been scheduled by the DCCO, the RCS will review all of the files on the project to ensure accuracy and completeness. The RCS may be requested to assist the DCCO with the review if necessary.
- (4) The RCS will ensure the **Anticipated DBE Participation Statement** information has been entered into the EORS by the contractor prior to the Preconstruction Conference or collect the information during the conference and forward to the DCCO. If collected at the Preconstruction Conference the District should forward this information to the EEO within three business days. The RCS will forward revised **Anticipated DBE Participation Statements** to the EEO office within 14 business days from the date of receipt.

10.0 SUBCONTRACTOR MONITORING

- (1) The RCS must monitor the progress of the project and DBE participation. This effort is accomplished in conjunction with the Project Administrator and Inspector who have daily contact with the contractor and subcontractors, monitoring monthly payments, and payroll documents, interviews with DBE subcontractors, employees, and observations by the

Project Administrator and Inspector. The RCS will be able to determine if the prime is utilizing an identified DBE and if the DBE subcontractor is providing a commercially useful function as required by the DBE Special Provision. The RCS will utilize **Form No. 275-021-18, Commercially Useful Function DBE Monitoring Report (CUF Report)**, to document this process. If problems are identified, the RCS should discuss the problems with the Resident Engineer and the DCCM.

The RCS is responsible for the following:

- (A) Ensuring that a **CUF Report** is completed once every month for each DBE within the first three active months. If a DBE subcontractor (excluding trucking companies) has not performed at least 30% of the total value of the contract at the end of the first three active months, a final CUF report must be conducted at the end of the project to assess performance.
 - (B) Working in conjunction with the inspector or other qualified personnel to ensure that an observation of the DBE's work and workforce is completed.
 - (C) Sending the completed **CUF Report** to the District Contract Compliance Manager and the Project Administrator for review and signature. Assisting the Project Administrator and/or DCCM with any follow-up research or additional reviews.
 - (D) Verifying that all subcontractors identified on the **Anticipated DBE Participation Statement** are performing work in the area for which they have an active certification. If DBEs are performing work in an area they are not certified in, the prime contractor will not receive credit for DBE participation.
 - (E) Ensuring that the DBE trucking ledger is completed to assess performance for trucking companies. The DBE trucking ledger should be completed monthly for every month that DBE trucking subcontractors are active on the project.
- (2) The RCS will review the Department's EORS to determine if the contractor has supplied the required subcontractor payment data and report any discrepancies to the District Contract Compliance Office. The RCS should notify the prime contractor in writing if payments have not been posted. The District Contract Compliance Office will advise the DCE and the EOO of any contractor refusing to report subcontractor payments as required by the contract.

10.1 DBE Monitoring

The Department has an approved race and gender neutral DBE Program. However, if directed by the FHWA the Department may at times assign project specific goals on certain federally funded contracts. If so directed, the DCCM, RCS, and other District personnel will be required to monitor such projects in accordance with the DBE Special Provisions for Projects with goals.

10.2 Anticipated DBE Participation and OJT Monitoring

All Districts will review all Anticipated DBE Participation information submitted by contractors to ensure that statements have been updated to reflect any adjustments in DBE participation on the project by September 1st on an annual basis. Contractors should also be contacted for verification that the DBE participation reported is accurate. Each District must report the final DBE anticipated participation for the end of the Federal Fiscal Year to the EOO no later than September 30th for inclusion in the Department's annual report to FHWA regarding DBE utilization on Federal and State funded highway construction contracts.

OJT will be administered in accordance with OJT Special Provisions included in the contract. The DCCM will approve the contractor's training schedules and may modify the number of trainees estimated on the contract on certain projects that are not conducive to meeting the training obligations.

11.0 WAGE RATES AND PAYROLLS

NOTE: *This section is the responsibility of the Office of Construction and is provided here as a convenience for the DCCO.*

The primary review of payroll documents is the responsibility of the Resident Compliance Specialist. The DCCO will monitor compliance through periodic visits to the Resident Engineer's Office to review wage rate violations. The DCCO will assist the Resident Engineer's Office as required.

At the preconstruction conference, the contractor is reminded of several requirements in the federal-aid contract. One of these requirements is the submittal of payrolls from all contractors and subcontractors working on projects that exceed \$2,000.00, per **FHWA Form 1273, Section V**.

When payroll requirements are discussed it must be remembered that there are other forms that are linked to the submittal of payrolls which should be identified. These forms are:

- (A) Wage and Hour Record FDOT Form 700-010-69 (which includes the Weekly Statement of Compliance and payroll reporting);

- (B) Employee Interview Report Labor/EEO Compliance Form 700-010-63;
- (C) Notification to Contractor and FHWA of Non-compliance with the Work Hours Act -Form 700-010-59; and
- (D) Additional Wage Rate Classification Request Form 700-010-07.

12.0 SCHEDULE OF PREVAILING WAGE RATES

The Schedule of Prevailing Wage Rates lists the job classifications and the minimum wage to be paid for each employee. The contractor should review this schedule and determine if it is necessary to have additional classifications added. If additional classifications are needed, the Contractor is to submit a request form to the Department's Prevailing Wage Rate Coordinator in Tallahassee. In some cases, the classification may be approved but the pay may be altered. If the Schedule is determined to fit the contractor's needs, only those classifications listed on the Schedule will appear on the payrolls submitted by the contractor and subcontractors.

12.1 PAYROLLS AND CERTIFICATION

Refer to the ***Construction Project Administration Manual, Topic No. 700-00-000; Chapter 5.4 Contract Wage Requirements.***

13.0 TRAINING

None Required

14.0 FORMS

Refer to the forms library for an index of forms referenced in the ***Equal Opportunity Construction Contract Compliance Workbook.*** The index is located on the Equal Opportunity Office's web site at:

<http://formserver.dot.state.fl.us/capture/listings/FormListing.aspx?ListType=FormOffice&Office=EQUAL+OPPORTUNITY+OFFICE>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

COMMERCIALLY USEFUL FUNCTION (CUF) DBE MONITORING REPORT**SECTION 1: PROJECT IDENTIFICATION**

1. Financial Project No.	2. F.A.P. No. <input type="checkbox"/> NON-FAP	3. Contract No.	4. County	5. District
6. Prime Contractor	7. FEID No.	8. Contract Begin Date	9. Est. completion date	10. Is Prime a DBE? <input type="checkbox"/> No <input type="checkbox"/> Yes

SECTION 2: DBE IDENTIFICATION

11. DBE's FEID No.	12. DBE Co. Name
13. Mailing address & phone used for project communication	
14. NAICS / Specialty Codes (from FDOT DBE Directory-list up to 10) (referred to in #21 & #34)	
Phone ()	
15. DBE's function on this Contract	<input type="checkbox"/> Subcontractor <input type="checkbox"/> Trucking Co. <input type="checkbox"/> Leased Truck. <input type="checkbox"/> Supplier <input type="checkbox"/> Rental Agreement without operator <input type="checkbox"/> Rental Agreement with operator
16. DBE's Begin date	
17. If DBE is a Subcontractor, Identify tier. Attach Certification of Sublet (700-010-36) and Schedule A	
<input type="checkbox"/> 1 st Tier <input type="checkbox"/> 2 nd Tier <input type="checkbox"/> 3 rd Tier	
18. Name of contractor DBE is subordinate to (or 'Prime' if 1 st tier) <input type="checkbox"/> Prime	

SECTION 3: OBSERVATION OF DBE'S, WORK, WORKFORCE & EQUIPMENT

19. Date Observed	20. Observer's Name first & last
21. Description of work being performed	
22. Was a foreman or superintendent directing the workers? <input type="checkbox"/> No First/last name & employer	
<input type="checkbox"/> No <input type="checkbox"/> Yes	23. This work has/ is not performed by other subs or prime. If yes, Co's name:
<input type="checkbox"/> No <input type="checkbox"/> Yes	24. Foreman is not directing workers/crews of other subs
25. Number & type of workers (exclude foreman)	
26. Number and type of equipment & tools used <input type="checkbox"/> None	
27. WORKFORCE OF THE DBE:	
<input type="checkbox"/> No <input type="checkbox"/> Yes	A. Uniforms have DBE's Co. name <input type="checkbox"/> No uniforms
<input type="checkbox"/> No <input type="checkbox"/> Yes	B. Workers of other subs/ prime not involved in the work
<input type="checkbox"/> No <input type="checkbox"/> Yes	C. DBE appears to control/supervise their own work
<input type="checkbox"/> No <input type="checkbox"/> Yes	D. DBE appears to be performing work with own workers
<input type="checkbox"/> No <input type="checkbox"/> Yes	E. DBE appears to employ their own workers
28. EQUIPMENT OF THE DBE:	
<input type="checkbox"/> No <input type="checkbox"/> Yes	A. Name is painted or a permanent decal <input type="checkbox"/> No name on any <input type="checkbox"/> No name on some
<input type="checkbox"/> No <input type="checkbox"/> Yes	B. Name on equipment is DBE Co. name (box 12)
<input type="checkbox"/> No <input type="checkbox"/> Yes	C. Name is not easily removed/replaced
<input type="checkbox"/> No <input type="checkbox"/> Yes	D. Using/renting own equipment and tools
29. Observer's comments: <input type="checkbox"/> N/A	

SECTION 4: DBE ADMINISTRATIVE REVIEW

30. Date Reviewed	31. Reviewer's Name:	32. ADBEPS amount
33. Verification of DBE data per Payrolls, Daily Diaries & Bizweb		34. DBE data on Sublet & ADBEPS Forms
<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> NON-FAP	A. DBE's Payroll reflects no. & type of workers in #25 (FAP projects only)	<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> NON-FAP	B. The person signing the Payroll Certification appears to be an employee of the DBE (FAP projects only)	<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> No <input type="checkbox"/> Yes	C. DBE's workers /foreman are not on other co. payrolls	<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> No <input type="checkbox"/> Yes	D. Daily Diary reflects foreman (#22) and workers (#25)	<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> No <input type="checkbox"/> Yes	E. Payments to DBE are in EOR System <input type="checkbox"/> Too close to begin date (M/D/Y began)	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N-A
35. Reviewer's Comments <input type="checkbox"/> None		A. Sublet Work Description & #21 work is included in #14 Codes? Circle those codes in #14 B. The DBE has not subcontracted to other Companies. If yes, name of company subletted. DBE? <input type="checkbox"/> No <input type="checkbox"/> Yes C. The latest ADBEPS lists this DBE D. The Dollar Amount stated on the latest ADBEPS for this DBE appears reasonable

SECTION 5: RECORD OF REPORT REVIEW

36. Title	37. First &- last name-print/type	38. Signature	39. Date	40. Recorded data reflects CUF
Proj Adm.				<input type="checkbox"/> No <input type="checkbox"/> more investigation <input type="checkbox"/> Yes
DCCM				<input type="checkbox"/> No <input type="checkbox"/> more investigation <input type="checkbox"/> Yes

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**State of Florida Department of Transportation
Commercially Useful Function (CUF) DBE Monitoring Report
Instructions for Completing Form**

General: The purpose of this form is to record data evidencing compliance or non compliance with DBE program requirements. One DBE is recorded on a form. Project staff (RCS, Office Manager, Inspectors, etc) complete Sections 1 to 4. The Project Administrator and District Contract Compliance Manager review completed forms and confer regarding any subsequent action to be taken.

Section 1: Project Identification

This section is completed by the Project staff (RCS on FAP Projects) and the form copied for use throughout the project. Only box 9 Estimated Completion Date may require updates

Box 1: Fin. Proj No. – The Financial Project Number

Box 2: FAP No. – The Federal Aid Project Number assigned to federally funded projects or 'non-FAP' or check off ' non-FAP'

Box 3: Contract No.- the project's contract number

Box 4: County – County or counties project work is being performed in

Box 5: District – The Department's District Number Designation where the project is located (Districts are 1-7, and the Turnpike District).

Box 6: Prime Contractor Name – The name of the prime contractor.

Box 7: FEID No. – The Prime contractor's Federal Identification Number

Box 8: Contract Begin Date– starting Month/day/year

Box 9: Estimated Completion Date- Month/day/year the contract is expected to be complete

Box 10: Is Prime a DBE? Refer to DBE Directory and indicate yes or no

Section 2: DBE Identification

This section is completed by the Project staff (RCS on FAP Projects) and the form copied for use throughout the project.

Box 11: DBE's FEID No. The DBE contractor's Federal Identification Number

Box 12: DBE Co. Name – name of the DBE firm.

Box 13: DBE'S mailing address and phone used for project communication: Street, city, state, zip code and full phone number of DBE.

Box 14: NAICS Specialty Codes: Refer to the DBE Directory data for the DBE firm and record each of their NAICS Specialty codes (up to 10)

Box 15: DBE's function on this contract: Mark the appropriate function

Box 16: DBE's Begin Date – Month/day/year DBE began work on the contract

Box 17: If DBE is a subcontractor, Identify tier. Attach Certification of Sublet (form 700-010-36) and Schedule A

Box 18: Name of Contractor DBE is Subordinate to: Mark prime if first tier or indicate the name of the firm the DBE is subordinate to

Section 3: Observation of DBE's Work and Workforce

General: Several observations , spread over time, should be done of the DBE's work during the course of the project. Each observation is recorded on a separate form. This form is a record of activity observed throughout one work day. Equipment and labor data is recorded as it is done for the Weekly Report.

Box 19: Date observed: Month/day/year work was observed

Box 20: Observer's Name: first and last name of observer for the Department

Box 21: Description of Work Performed: brief statement of the work the DBE was seen performing.

Box 22: Was a foreman or superintendent directing the work? If there was no foreman, mark 'no'; otherwise record their full name and name of the employer as stated.

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Box 23: This work has/is not performed by other subs or prime Mark yes or no. If yes, name the contractor

Box 24: Foreman not directing the workers/crew of other subs? Mark yes or no

Box 25: Number and type of workers (exclude the foreman) List the number and type of workers engaged in the work e.g. common, skilled, equipment operator

Box 26: Number and type of equipment and hand tools in use Mark none or list the number and type e.g., 1-concrete vibrator, 1-water truck 2 pickup trucks, 2-straight edge, 2-hammers,

Box 27: WORKFORCE OF THE DBE? Five questions are asked to determine if the DBE appears to be employing their own workers Mark yes or no to each

- A. **Uniforms have DBE's co. name** –may also mark 'no uniforms'
- B. **Workers of other subs/prime not involved in the work**
- C. **DBE appears to control/supervise their own work**
- D. **DBE appears to be performing work with their own workers**
- E. **DBE appears to employ their own workers**

Box 28: EQUIPMENT OF THE DBE. Four questions are asked to determine if the DBE appears to have it's own equipment. Mark yes or no to each

- A. **Name is painted or a permanent decal** –may also mark 'no name on any equipment' or 'no name on some'
- B. **Name (On equipment) is the DBE's company name (box 12)**
- C. **Name is not easily removed / replaced.** Mark yes or no to indicate if the name on the equipment cannot be easily replaced. Names that are applied using a magnetic sign can be easily replaced
- D. **Using/renting own equipment and tools**

Box 29: Observer comments: Mark 'None' or clarify data or note concerns

Section 4: DBE Administrative Review

General: The Project Staff (RCS on FAP Projects) completes this section after Section 3 has been completed and after payrolls have been received for the week during which the observation occurred as shown in Box 19.

Box 30: Date Reviewed: month/day/year Section 4 is being completed

Box 31: Reviewer's Name: first and last name of person completing Section 4. On FAP projects, this is the RCS

Box 32: ADBEPS Amount: The dollar amount for this DBE on the most recent Anticipated DBE Participation Statement (ADBEPS)

Box 33: VERIFICATION OF DBE DATA PER PAYROLLS, DAILY DIARIES, BIZWEB. Five questions are asked to determine if other project records correlate to the observation. Mark yes or no

- A. **Payroll reflects no. & type of workers in #25(FAP only)**
- B. **The person signing the Payroll Certification appears to be an employee of the DBE (FAP only)**
- C. **DBE's workers/foreman are not on other company payrolls**
- D. **Daily diary reflects foreman (#33) and workers (#25)**
- E. **Payments to DBE are in EOR System:** Mark 'too close to begin date' if there are no payments and work DBE began work 60 to 90 days before this observation. Record that begin date as month/day/year

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Box 34: DBE DATA ON SUBLET AND ADBEPS FORMS. Four questions are asked to determine if the DBE is doing the work intended in the sublet. Mark yes or no

- A. **Sublet work description (form 700-010-36) and #21 work is included in #14 NAICS codes. If yes, circle the code or codes in box 14.'**
- B. **The DBE has not subcontracted to other companies.** If yes, name the company and indicate if that company is a DBE
- C. **The latest ADBEPS form lists this DBE**
- D. **The Dollar Amoun stated on the latest ADBEPS for this DBE appears reasonable**

Box 35: Reviewer's Comments Mark 'None' or clarify data or note concerns

Section 5: Record of Report Review

General: This section is completed by the Project Administrator and District Contract Compliance Manager to affirm that the data recorded on this Monitoring Report has been reviewed. The Project Administrator and the District Contract Compliance Manager may confer to determine if special action/reviews may be warranted. Separate lines are provided for the Project Administrator and District Contract Compliance Manager

Box 36: Title: identifies the data line for the Proj. Adm. (Project Administrator) and the DCCM (District Contract Compliance Manager)

Box 37: First initial and last name

Box 38: Signature

Box 39 Date Month/day/year report was reviewed and signed

Box 40: Recorded data reflects CUF (commercially useful function)- mark yes, no or if uncertain or questionable, mark 'more investigation' required in order to make a determination.

FLORIDA DEPARTMENT OF TRANSPORTATION

METHODOLOGY FOR DETERMINING DBE GOAL (49 CFR 26.45) FEDERAL FISCAL YEAR 2012

OVERALL GOAL

The overall goal for the Florida Department of Transportation's (FDOT) Disadvantaged Business Enterprise (DBE) program for FHWA assisted contracts is established on a triennial basis. The overall goal for federal fiscal year 2012 has been set at **8.60%** utilizing the methodologies described in 49 CFR Part 26.

METHODOLOGY

In setting the goal for FDOT, it is required that the goal setting process begin with a base figure for the relative availability of DBEs. The overall goal must 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 FHWA assisted contracts.

FDOT has reviewed the alternatives listed in 49 CFR Part 26 and selected the bidders list as the best approach for goal development. FDOT has gathered information for the bidders list from the sources below and has included those firms bidding during one or more of the 2008 thru 2010 calendar years. The bidders list includes both successful and unsuccessful bidders, primes and subs, and DBEs and non-DBEs. Three years was used for the bidders list because it would incorporate the largest number of likely participating bidders, especially small businesses who may only be able to work on one large contract that may last more than a year. Capturing three years of bidders also ensures that FDOT has the more complete information and would more likely include businesses that should have, but did not show up on a list that included only one year. The sources are:

- Subcontractors listed on the Bidders Opportunity List that is provided by primes in their bids submitted to the Contracts Administration Office for construction contracts and the Procurement Office for professional services contracts; this form is provided whether they were awarded the bid or not.
- Reports from Trns*port that list all bidders, successful bidders, and their listed subcontractors.

Most of this information was entered into our Equal Opportunity Reporting System (BizTrak) that generated the reports for the step one analysis.

Step One

In the analysis of the relative availability of DBEs, FDOT reviewed the last three years to determine the median percentage of dollars expected to be available for the two major work categories: construction and consulting. Construction contractors received 84.82% of the awarded federal dollars and professional services consultants received 15.18% of the awarded federal dollars.

CONSTRUCTION CONTRACTORS:

FDOT's Trns*port System has adequate information to identify how much dollars FDOT spends on different types of construction work. FDOT, however, does not prequalify or track the types of work performed by all subcontractors. Therefore, FDOT cannot weight the dollars for construction by the type of work. FDOT is in the process, however, of replacing the current DBE reporting system to capture bidders list information electronically and by type of work that will allow a weighting of bidder opportunity by type of work. The only information related to weighting that can be used in construction at this time is in major and intermediate bridges where FDOT has no DBEs that can perform this work. FDOT estimates that 9.41% of our federal funds are used for major and intermediate bridges. After subtracting these dollars from this analysis, FDOT estimates that 75.41% (84.82%-9.41%) of our dollars are available for DBEs in construction work.

FDOT reviewed the bidders list and found that a total of approximately 4,280 firms were bidding as either a prime or a subcontractor on construction projects. Of this amount approximately 339 or 7.92% were DBEs.

Given that 75.41% of FDOT's dollars are available for DBEs in construction work and that 7.92% of the construction bidders are DBEs, FDOT would expect that 5.97% of all dollars awarded would be awarded to DBEs in construction work. This is represented by the following calculation: **.0792 x 75.41% = 5.97%**

CONSULTANTS:

The median dollars received by the consultant industry over the last three years was 15.18% of the federal dollars. FDOT prequalifies all of our professional services' firms by work category and also tracks the dollars spent in each of these work categories. Therefore, FDOT is able to weight our calculations by each work group. The following table provides the percentage of dollars that DBEs would be expected to receive by work category:

PREQUALIFICATION AREA	DBEs &		PERCENT OF DBES BIDDING	PERCENT	
	TOTAL BIDDING	DBEs BIDDING		FEDERAL DOLLARS	PERCENT FOR DBES
PD & E Studies	82	6	7.32%	6.97%	0.51%
Minor Highway Design	247	67	27.13%	11.12%	3.02%
Major Highway Design	165	33	20.00%	13.41%	2.68%
Controlled Access Hwy Design	117	21	17.95%	5.42%	0.97%
Minor Bridge Design	96	17	17.71%	7.01%	1.24%
Major Bridge Design - Concrete	65	4	6.15%	0.42%	0.03%
Moveable Span Bridge Design	6	0	0.00%	0.13%	0.00%
Conventional Bridge Inspection	82	14	17.07%	1.64%	0.28%
Bridge Load Rating	87	14	16.09%	0.09%	0.01%
Traffic Engineering Studies	149	40	26.85%	0.53%	0.14%
Traffic Signal Timing	115	29	25.22%	0.53%	0.13%
Traffic Systems Analysis & Design	76	14	18.42%	1.15%	0.21%
Traffic Eng. Systems Implementation	57	9	15.79%	0.42%	0.07%
Signing, Marking & Channelization	212	55	25.94%	0.21%	0.05%
Control Surveying	99	22	22.22%	0.06%	0.01%
Highway Materials Testing	30	10	33.33%	2.10%	0.70%
Roadway CEI	163	48	29.45%	36.24%	10.67%
Eng. Contract Administration & Mgmt.	28	1	3.57%	10.72%	0.38%
Policy Planning	69	11	15.94%	0.30%	0.05%
Systems Planning	100	22	22.00%	0.58%	0.13%
Architect	35	2	5.71%	0.53%	0.03%
Other	866	260	30.02%	0.41%	0.12%
Weighted Availability of DBEs				99.99%	21.45%

The weighted DBE consultant availability is 21.45%. Given that consultants would get 15.18% of the total federal dollars awarded, FDOT would expect that 3.34% of all dollars awarded would be awarded to DBE consultants. This is represented by the following calculation: $.2145 \times 15.18 = 3.26\%$

Step One Result:

Contractor Availability	5.97%
Consultant Availability	3.26%

Baseline Figure

9.23% relative DBE availability

The results of step one indicate that 9.23% is a valid base figure under current rules and processes for the determination of availability. This has been determined based on the most accurate information available.

Step Two

According to 49 CFR Part 26, step two of the calculation process should examine the evidence available to determine if adjustments are needed in the base figure to arrive at an overall goal. The last Disparity Study conducted for FDOT was dated January 1999 and reviewed data from July 1991 through December 1997. This study conducted by MGT of America recommended “the suspension of current race and gender preference programs” and “the establishment of race and gender neutral programs which assist all small businesses.” The only other evidence that was available to be considered to determine if an adjustment was warranted was the capacity of DBEs measured by the past volume of work performed between 2002 and 2010.

PAST PARTICIPATION

To analyze past performance, FDOT narrowly tailored our review by reviewing the performance of contractors and consultants separately over the past 9 years. In the past nine fiscal years from 2001/2002 thru 2009/2010, DBE contractors performed 3.85%, 4.66%, 6.13%, 6.71%, 5.98%, 6.16%, 5.01%, 4.88% and 6.49% respectively of the Federal-aid work, in dollars. The median past participation over these nine years is 5.98% and the relative availability of DBE contractors as determined in step one is 5.97%. To incorporate past performance, the appropriate adjustment is to average the median past participation (5.98%) and the relative availability (5.97%). This average is 5.975%, which results in an upward adjustment to the relative availability of .005% for contractors.

In the same fiscal years, DBE consultants performed 1.25%, 3.17%, 1.42%, 1.32%, 2.17%, 1.99%, 2.74%, 3.28% and 1.78% respectively, of the Federal-aid work, in dollars. The median past participation over these nine years is 1.99%. The relative availability of DBE consultants as determined in step one is 3.26%. To incorporate past performance, the appropriate adjustment is to average the median past participation (1.99%) and the relative availability (3.26%). This average is 2.625%, which results in a downward adjustment to the relative availability of .635% for consultants.

PAST PARTICIPATION

<u>Fed Fiscal Year</u>	<u>% work by DBE</u>	<u>% DBE Contractors</u>	<u>% DBE Consultants</u>
<u>2001/02</u>	<u>5.10</u>	<u>3.85</u>	<u>1.25</u>
<u>2002/03</u>	<u>7.83</u>	<u>4.66</u>	<u>3.17</u>
<u>2003/04</u>	<u>7.55</u>	<u>6.13</u>	<u>1.42</u>
<u>2004/05</u>	<u>8.03</u>	<u>6.71</u>	<u>1.32</u>
<u>2005/06</u>	<u>8.15</u>	<u>5.98</u>	<u>2.17</u>
<u>2006/07</u>	<u>8.15</u>	<u>6.16</u>	<u>1.99</u>
<u>2007/08</u>	<u>7.75</u>	<u>5.01</u>	<u>2.74</u>
<u>2008/09</u>	<u>8.16</u>	<u>4.88</u>	<u>3.28</u>
<u>2009/10</u>	<u>8.27</u>	<u>6.49</u>	<u>1.78</u>
<u>Median</u>		<u>5.98</u>	<u>1.99</u>

Therefore, the proposed DBE goal is represented by the following calculation:

Baseline Figure:	9.230%
Adjustment for Contractors:	+ .005%
Adjustment for Consultants:	- .635%
Proposed DBE Goal:	8.60%

RACE NEUTRAL PARTICIPATION

Based upon DBE participation for the last six federal fiscal years, the DBE participation over the last eight years in the state-funded DBE Program, new initiatives from FDOT, and a continued emphasis from both the Florida Transportation Builders Association and the Florida Institute of Consulting Engineers, FDOT projects that the 8.18% overall goal can be 100% achieved through race-neutral means. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract which a DBE obtains through the normal competitive procurement process and DBE participation through a subcontract on a prime contract that does not have a DBE goal.

Achievements

FDOT implemented a race-neutral DBE Program for state-funded projects in March 1999 and for federal – funded projects in January 2000. For the first two years of a 100% race neutral DBE Program for federal funded projects, the DBE goal was 8%. The chart below summarizes the past participation of DBEs in federal and state funded contracts.

Fed Fiscal Year	Goal	Federal Achieved	State Achieved	State:Federal
2001	8	8.62	11.55	+2.93
2002	8	5.10	8.35	+3.25
2003	7.5	7.83	8.61	+0.78
2004	7.5	7.55	7.92	+0.37
2005	7.5	8.03	7.50	-0.53
2006	7.9	8.15	9.23	+1.08
2007	8.1	8.15	9.96	+1.81
2008	8.1	7.75	9.49	+1.74
2009	8.12	8.16	10.00	+1.84
2010	8.18	8.33	10.13	+1.80

Therefore, based upon the historical achievements of the DBE Program for federal- and state-funded projects and the current achievements, FDOT projects that the DBE goal of 8.60% will be achieved through a 100% race-neutral Program this fiscal year.

Another important measure of achievement is the fact that 106 firms that we know of have either graduated from the DBE program or exceeded the Personal Net Worth.

RACE CONSCIOUS PARTICIPATION

In federal fiscal year 2009-2010, FDOT's DBE participation goal was 8.18%. The actual DBE participation was 8.33% of federally funded contracts which was .15% higher than the established goal. On state funded contracts, DBE participation was 10.13%; DBE participation on federal and state funded contracts combined was 8.79%. The DBE participation goal for the current federal fiscal year is 8.18% and through June 30, 2011 DBE participation on federally funded contracts is 9.30%. On state funded contracts the DBE participation is 12.29% and federal and state funds combined is 10.43%.

Race Neutral Methods

FDOT has initiated many new strategies over the past nine years and is continuing to develop and implement others. Some of the strategies that have been implemented in these years have taken time to mature and show results, but the efforts are productive. One of the significant race neutral strategies has been the implementation of the Business Development Initiative (BDI). This Initiative was implemented on state funded projects in July 2006. FDOT originally submitted a request to apply this Initiative on federally funded contracts as a race neutral method in our DBE goal calculation methodology in FDOT's submittal to the FHWA on July 26, 2006. After much delay, FDOT was asked to request this approval separately. On March 6, 2007 FDOT submitted a proposal to the FHWA Florida Division requesting to also apply the BDI to federally funded projects. On September 25, 2007, the FHWA Florida Division forwarded the request to FHWA headquarter for approval as an SEP 14. On March 31, 2009, FDOT received conditional approval as part of our race neutral program.

Other race neutral methods that have been used continuously are:

1. Providing technical assistance and other services to DBEs with special emphasis on marketing.
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing.
3. Providing the name, phone number and email address for additional information concerning a contract.
4. Continuing DBE supportive services program to develop and improve business management, record keeping, and financial and accounting capability for DBEs.
5. Working very closely with new start-up firms, particularly in fields in which DBE participation has been historically low.
6. Assisting DBEs to develop their capability to utilize emerging technology and conduct business through electronic media.
7. Working with prime contractors, consultants, the Florida Transportation Builders Association, and the Florida Institute of Consulting Engineers to encourage the use of DBEs.

PUBLIC PARTICIPATION

CONSULTATION PROCESS

On May 26, 2011, FDOT held an open outreach meeting in Orlando, Florida from 1:00 p.m. to 3:00 p.m. in conjunction with the Florida Institute of Consulting Engineers (FICE) statewide conference. The sole purpose of the meeting was to discuss the DBE goal methodology. The meeting date and time was communicated to the FICE members through email by FICE. This was an attempt to target a significant group that continually does business with FDOT, and has knowledge of the availability of DBEs in the road construction business, as well as member DBE firms. There were 14 participants in attendance representing several disadvantaged group members. At this meeting, the DBE goal methodology was distributed and fully explained. Questions and answers were provided during and after the presentation.

In addition to this meeting, FDOT also consulted the Florida Transportation Builders Association. These two groups are the most significant groups that continually do business with FDOT and would have knowledge of the availability of DBEs in the road construction business. Various issues were discussed in the meeting including the DBE goal methodology.

COMMENTS

The comments received in the FICE public meeting were mostly questions that required a clarification of the DBE methodology and general questions about how to do business with FDOT. During the consultation process, there were no issues dealing specifically with the DBE goal methodology that required any changes.

PUBLISHED NOTICE

On June 15, 2011, FDOT began to publish the notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at FDOT's Equal Opportunity Office for 30 days following the date of notice, and informing the public that FDOT will accept comments on the goals for 45 days from the date of the notice. FDOT informed the public of the proposed goal through advertisements in the following newspapers: the Tallahassee Democrat, South Florida Times, La Gaceta - a minority newspaper, Florida Sentinel Bulletin – a minority newspaper, and the South Florida Sun Sentinel – a minority newspaper.

The notice of the proposed DBE goal and the complete document showing the methodology was published June 15, 2011 on the Internet. The notice included addresses to which comments may be sent and the address where the documents may be reviewed.

If you have any questions or need additional information, please contact Art Wright at (850) 414-4749 or by e-mail at arthur.wright@dot.state.fl.us.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION ('ADBEPS') STATEMENT

275-030-11A
 EQUAL OPPORTUNITY OFFICE
 01/11

1. FINANCIAL PROJECT NO.	2. FAP NO.	3. CONTRACT NO.	4. COUNTY(IES)	5. DISTRICT	
6. PRIME CONTRACTOR NAME			7. PRIME'S FEID NUMBER		
8. CONTRACT DOLLAR AMOUNT			9. ADBEPS REVISION? <input type="checkbox"/> NO <input type="checkbox"/> YES IF YES, REVISION NUMBER:		
10. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED "DBE"? (Disadvantaged Business Enterprise)		11. IS THE WORK OF THIS CONTRACT			
<input type="checkbox"/> NO <input type="checkbox"/> YES		<input type="checkbox"/> CONSTRUCTION <input type="checkbox"/> MAINTENANCE <input type="checkbox"/> OTHER			
12. ANTICIPATED DBE SUBCONTRACTS:					
DBE SUBCONTRACTOR or SUPPLIER COMPANY NAME AND FEID NUMBER		TYPE OF WORK AND FDOT SPECIALTY CODE(S)	DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS	
A	NAME: FEID:	WORK: SPEC CODE:			
B	NAME: FEID:	WORK: SPEC CODE:			
C	NAME: FEID:	WORK: SPEC CODE:			
D	NAME: FEID:	WORK: SPEC CODE:			
E	NAME: FEID:	WORK: SPEC CODE:			
F			11A TOTAL DOLLARS TO DBE'S \$0.00	11B TOTAL PERCENT OF CONTRACT 0.00%	
13. SUBMITTED BY		12. DATE	13. TITLE OF SUBMITTER		
14. EMAIL ADDRESS OF SUBMITTER		15. FAX NUMBER	16. PHONE NUMBER		
NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL STATE AND FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION OR PRE WORK CONFERENCE. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.					
THE FOLLOWING SECTIONS ARE FOR FDOT USE					
DIST	17. PROCESSED BY	18. DATE TO EO OFFICE	19. LETTING DATE	20. EXECUTED DATE	21. PRECON CONF DATE
	22. SUBMITTED TO EO BY		<input type="checkbox"/> FAX <input type="checkbox"/> EMAIL <input type="checkbox"/> SHARED FOLDER		
EO OFFICE	23. INCLUDED IN DBE PARTICIPATION REPORT OF (M/D/Y)				

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ANTICIPATED DBE PARTICIPATION STATEMENT ('ADBEPS')
LOCAL AGENCY PROGRAM

275-030-12
 EQUAL OPPORTUNITY OFFICE
 01/11

1. FDOT LAP AGREEMENT#	2. FDOT LAP AGREEMENT AMT (\$)	3. LOCAL AGENCY'S CONTRACT # WITH PRIME	4. LOCAL AGENCY NAME
5. PRIME CONTRACTOR'S NAME			6. FEID NUMBER OF PRIME CONTRACTOR
7. CONTRACT DOLLAR AMOUNT WITH PRIME			8. FEID NUMBER OF LOCAL AGENCY
9. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED DISADVANTAGED BUSINESS ENTERPRISE (DBE)? <input type="checkbox"/> YES <input type="checkbox"/> NO		10. IS THE WORK OF THIS CONTRACT CONSTRUCTION <input type="checkbox"/> MAINTENANCE <input type="checkbox"/> OTHER? _____	
11. IS THIS AN ADBEPS REVISION? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, revision number _____			

12. ANTICIPATED DBE SUBCONTRACTS

DBE SUBCONTRACTOR OR SUPPLIER COMPANY NAME AND FEID NUMBER	TYPE OF WORK AND FDOT SPECIALTY CODE(S)	DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
A NAME: FEID:	WORK: SPEC CODE:		
B NAME: FEID:	WORK: SPEC CODE:		
C NAME: FEID:	WORK: SPEC CODE:		
D NAME: FEID:	WORK: SPEC CODE:		
E NAME: FEID:	WORK: SPEC CODE:		
F		11A TOTAL DOLLARS TO DBE'S \$0.00	11B TOTAL PERCENT OF CONTRACT 0.00%

SECTION TO BE FILLED BY PRIME CONTRACTOR

13. NAME OF SUBMITTER	14. DATE	15. TITLE OF SUBMITTER
16. EMAIL ADDRESS OF PRIME CONTRACTOR SUBMITTER		17. FAX NUMBER
		18. PHONE NUMBER

SECTION TO BE FILLED BY LOCAL AGENCY

19. SUBMITTED BY	20. DATE	21. TITLE OF SUBMITTER
22. EMAIL ADDRESS OF SUBMITTER		23. FAX NUMBER
		24. PHONE NUMBER

NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.

THE FOLLOWING SECTIONS ARE FOR FDOT LAP USE

DISTRICT	LAP NAME	DATE TO EO OFFICE (ELECTRONICALLY)	EXECUTED DATE (LAP AGREEMENT)	EXECUTED DATE (BETWEEN LOCAL AGENCY AND PRIME)	PRE-CONSTRUCTION CONFERENCE DATE