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FY 2023-2025

# Disadvantaged Business Enterprise (DBE) Program Policy

Revision Issued – September 13, 2022

Approved by Board of Directors:

FHATA, Inc. November 1, 2022

FHATA Board November 2, 2022

An abstract graphic consisting of several thin, curved lines in shades of red and purple, extending from the bottom left towards the center of the page.

Flint Hills Area Transportation Agency

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# FLINT HILLS AREA TRANSPORTATION AGENCY

## DBE PROGRAM POLICY STATEMENT

### **Objectives/Policy Statement §26.1, §26.23**

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


It is the policy of the *FLINT HILLS AREA TRANSPORTATION AGENCY* to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in FTA-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of FTA - assisted contracts;
2. To develop procedures that assist in ensuring equitable environment in which DBEs can compete fairly for FTA-assisted contracts;
3. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
4. To help educate and assist in development of DBE's in participation in FTA assisted contracts;

The *Executive Director* has delegated the DBE Liaison Officer to the Executive Administrator. In that capacity, the *Executive Administrator* is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the *FLINT HILLS AREA TRANSPORTATION AGENCY* in its financial assistance agreements with the Department of Transportation.

Daphne McNelly  
Flint Hills Area Transportation Agency  
5815 Marlatt Av  
Manhattan, KS 66503  
785-537-6345  
dmcnelly@rileycountyks.gov

The *FLINT HILLS AREA TRANSPORTATION AGENCY* has disseminated this policy statement to the governing board of the *FLINT HILLS AREA TRANSPORTATION AGENCY* and all of the components of our organization. We have distributed the policy through FHATA procurement documents to DBE and non-DBE business communities that perform work for us on FTA-assisted contracts. This policy statement is posted on the FHATA website at: [www.flinthillsatabus.com](http://www.flinthillsatabus.com)

  
\_\_\_\_\_  
Chief Executive Officer of the  
Flint Hills Area Transportation Agency

3 November 2022  
Date

## **SUBPART A - GENERAL REQUIREMENTS**

### **Objectives**

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

### **Applicability §26.3**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* is the recipient of federal transit funds authorized by Federal transit laws in Title 49, U.S. Code and 49 CFR Part 26.

### **Definitions §26.5**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* will adopt the definitions contained in Section 26.5 of Part 26 for this program.

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-A/section-26.5>

### **Non-discrimination Requirements §26.7**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

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

### **Record Keeping Requirements §26.11**

Uniform Report of DBE Awards or Commitments and Payments: 26.11(b)

*FLINT HILLS AREA TRANSPORTATION AGENCY* will report DBE participation on a semi-annual basis on June 1 and December 1. These reports will reflect payments made to DBEs on FTA-assisted contracts and the reports will be uploaded to TRAMS. Information and documentation is provided by the Procurement Officer.

Bidders List: 26.11(c)

The *FLINT HILLS AREA TRANSPORTATION AGENCY* will create a bidders list, consisting of DBE Directory, using existing contractors and bidders, search of available firms for the type of procurement pursued, and actual firms we do business with. The list will include information about all DBE and non-DBE firms that bid or quote on FTA-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder list will request voluntarily information including the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

### **Assurances §26.13**

*FLINT HILLS AREA TRANSPORTATION AGENCY* has signed the following assurances, applicable to all FTA-assisted contracts and their administration, through annual certifications and assurances (submitted through TRAMS with receipt of grants)

Federal Financial Assistance Agreement Assurance: 26.13(a)

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

This language will appear in financial assistance agreements with any sub-recipients of *FLINT HILLS AREA TRANSPORTATION AGENCY*.

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every FTA-assisted contract and subcontract:

The contractor 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 FTA 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 FLINT HILLS AREA TRANSPORTATION AGENCY deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **DBE Program Updates §26.21**

Since the *FLINT HILLS AREA TRANSPORTATION AGENCY* has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to FTA updates representing significant changes in the program, including but not limited to, a change to DBELO.

### **DBE Liaison Officer (DBELO)**

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

*Daphne McNelly, Marketing & Communications Specialist  
Flint Hills Area Transportation Agency  
5815 Marlatt Av  
Manhattan, KS 66503  
785-537-6345  
dmcnelly@rileycountyks.gov*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the *FHATA* complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director of *FHATA* concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is found in Attachment to this program.

In coordination with Procurement and Finance Officer, the DBELO is responsible for developing, implementing and monitoring the DBE program. The duties and responsibilities include the following:

1. Gathers and reports DBE statistical data and other information as required by FTA
2. Periodically reviews third party contracts and purchase orders for compliance with this program.
3. Works with Procurement and Finance departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are posted on the *FHATA* website in a timely manner.
5. Analyzes *FHATA*'s progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Advises the Board of Directors on DBE matters and achievement.
8. Refer DBEs to organization (local Chamber of Commerce, Builder's Associations and Small Business Development Center) for information and assistance in preparing bids, obtaining bonding and insurance.
9. Participates in training sessions or meetings on how to do business with *FHATA*.

### **DBE Financial Institutions §26.27**

It is the policy of the *FLINT HILLS AREA TRANSPORTATION AGENCY* to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in Kansas, to make reasonable efforts to use these institutions, within state law; and to encourage prime contractors on FTA-assisted contract to make use of these institutions.

There are two banks in Kansas known to be owned and controlled by socially and economically disadvantaged persons. Liberty Bank and Trust Company (African-American) located in Kansas City, Kansas, telephone number (913) 321-7200. The second is CBW Bank (African American/Native-American) located in Weir, Kansas, telephone number (620) 396-8221. This list will be updated periodically by the DBE Liaison Officer.

FHATA will re-evaluate whether additional financial institutions on an ongoing basis. FHATA will utilize the Department of Treasury website to identify any DBE Financial Institutions in FHATA's community [http://www.fms.treas.gov/mbdp/current\\_list.html](http://www.fms.treas.gov/mbdp/current_list.html) .

### **Prompt Payment Mechanisms**

#### Prompt Payment: §26.29(a)

The *FLINT HILLS AREA TRANSPORTATION AGENCY* will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten calendar days from the receipt of each payment the prime contract receives from FHATA. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of FHATA. This clause applies to both DBE and non-DBE subcontracts. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of FHATA. This clause applies to both DBE and non-DBE subcontracts.

#### Retainage: 26.29(b)

The *FLINT HILLS AREA TRANSPORTATION AGENCY* may hold retainage from prime contractors related to capital contracts and provides for prompt and regular incremental acceptances of portions of the prime contract. Retainage is paid to prime contractors based on these acceptances; and prime contractors have a contract clause obligating them to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within ten days after the grantee payment to the prime contractor.

#### Monitoring and Enforcement: 26.29(c)

*FLINT HILLS AREA TRANSPORTATION AGENCY* has established the following mechanism to monitor and enforce prompt payment and return of retainage:

1. The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have already performed. A copy of the verification that the subcontractor was paid with the previous FHATA payment to the Prime Contractor.
2. FHATA will closely monitor vendors who have received contract awards.
3. FHATA will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of FHATA.
4. FHATA will withhold the next payment until verification has been provided.

### **Directory §26.31**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* utilizes the Kansas Department of Transportation (KDOT) directory. KDOT publishes a daily directory on the internet identifying certified DBEs willing to perform as subcontractors on KDOT's federal aid projects. All DBE firms listed in the directory are certified as meeting the requirements as outlined in 49 CFR Part 26. The directory contains the DBE firm name, address, phone, fax, owner name, NAICS codes and work types. Copies are available on KDOT's website at <https://kdotapp.ksdot.org/dbecontractorlist/>.

### **Overconcentration §26.33**

Currently, overconcentration is not a problem in Kansas, nor has it been in the past. It will be reconsidered in the future during the goal methodology analysis. Should there be an overconcentration we would communicate findings to KDOT to identify resolutions. Any interested party who has a concern should submit relevant facts in writing to the Flint Hills Area Transportation Agency DBE liaison officer.

### **Business Development Programs §26.35**

*FLINT HILLS AREA TRANSPORTATION AGENCY* has not established a business development program. We will re-evaluate the need for such a program triennially.

### **Monitoring and Enforcement Mechanisms §26.37**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26. Attachment C lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. Monitoring will be completed through contract manager monitoring the project through review of DB wages, interviews of subcontract employees, and verification the DBE is onsite. This will be documented through written evidence throughout the duration of the project.
4. We will keep documentation for the accumulation of payments made to DBE through accounting records, for actual payments to all firms for work committed to them at the time of contract award.

### **Section §26.39 Small Business Participation**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on FTA-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

1. Post on *FHATA AGENCY* website all formal solicitations
2. Refer to Chamber of Commerce and Builder Association for assistance
3. Refer to Local Small Business Development Center at Washburn University.  
<https://washburnsmallbusiness.com/>
4. Hold pre-bid conferences
5. Invite small business to business development trainings



## **SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section §26.43 Set-asides or Quotas**

The *FLINT HILLS AREA TRANSPORTATION AGENCY* does not use quotas in any way in the administration of this DBE program.

### **Section §26.45 Overall Goals**

In accordance with Section 26.45 (f), the *FLINT HILLS AREA TRANSPORTATION AGENCY* will submit its triennial overall DBE goal to *FTA* on August 1 of the year specified by *FTA*.

FHATA will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by *FTA* or *KDOT*.

#### **General Procedures:**

The process generally used by FHATA to establish the overall DBE goal is as follows:

1. Identify Projects and the contract values within the triennial period to establish the overall DBE goals.
2. Identify DBE firms ready willing and able to perform work using NAICS codes relevant to the FHATA services.
3. Identify FHATA's relevant surrounding service area within 110 miles of Base of Operations in Manhattan, Kansas (Kansas Counties: Saline, Dickenson, Geary, Riley, Pottawatomie, Clay, Wabaunsee, Shawnee, Morris, Sedgwick and Johnson Counties)
4. Search the following databases and select DBE's based on the NAICS codes identified.
  - Search Kansas Department of Commerce Office of Minority and Women Business Development Directory  
<https://www.kansascommerce.gov/program/business-incentives-and-services/mw-development/dmw-directory/>
  - Kansas Department of Transportation DBE Directory  
<https://kdotapp.ksdot.gov/dbecontractorlist/>
  - The most recent federal census bureau data  
<https://www.census.gov/data/data-tools/cbb.html>
  - Information obtained from local Chamber of Commerce, Area Builders Associations, and Small Business Development Center
5. The numbers obtained from Census Bureau and KDOT DBE Directory database will provide the numerator and the denominator for determining availability of willing and able DBE's.

STEP 1 – Base figure – Determine the availability of willing and able DBE companies/firms to perform work in the subcontract area.

STEP 2 – Adjustment – After calculating the base figure of DBE's, FHATA will examine additional information as described in 26.45 to determine if an adjustment is needed. Adjustments may be made based on past participation after the first triennial goal has been established and has been effective for at least three years.

### **Public Participation**

In establishing its overall goal, FHATA will provide for consultation and publication, which includes:

- Communicate with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.
- Publish the proposal goal for comment before submission to the FTA on August 1<sup>st</sup>. The notice will be posted on the FHATA's official website.
- FHATA will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at its principal office and for a 30-day comment period. Notice of the comment period will include addresses to which comments may be sent.

The public consultation will be documented, to include:

- Proof of website posting
- Documentation of the communications with the minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of DBEs and non-DBEs.
- Summary of comments received and responses

Documentation of the public participation will be included with the goal submission.

Our overall goal submission to FTA will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal on website.

FHATA will begin using its overall goal on October 1 of each year, unless it has received other instructions from FTA. If FHATA establishes a goal on a project basis, we will begin using our goal by the time of the first solicitation for a FTA-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

FHATA may consider annual changes to update for significant changes through an annual review of the current goal compared to the Agency's ability to meet the goal and determination if a change is warranted.

### **Race-Neutral Measures**

FLINT HILLS AREA TRANSPORTATION AGENCY estimates that in meeting their overall goal, the Agency will obtain 100% from race-neutral participation. FLINT HILLS AREA TRANSPORTATION AGENCY will use the following race-neutral means to increase DBE participation Through the steps identified in Section §26.39 and §26.51 (a-c)

### **Section §26.47 Goal Setting and Accountability**

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

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments.
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Maintain information and records regarding the analysis and efforts made on file for three years, and make available to FTA on request for review.

### **Section §26.49 Transit Vehicle Manufacturers Goals**

FLINT HILLS AREA TRANSPORTATION AGENCY will never set a DBE goal for transit vehicle purposes. FHATA will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section.

### **Section §26.51(a-c) Meeting Overall Goals/Contract Goals**

The breakout of estimated race-neutral and race-conscious participation can be found in the triennial goal and methodology.

FLINT HILLS AREA TRANSPORTATION AGENCY must meet the maximum feasible portion of their overall goal by using race neutral means of achieving DBE participation. Race neutral DBE participation occurs when a DBE wins a contract or subcontract that did not have contract specific goals, or when the DBE status was not considered when making the award. Race neutral does not mean that no efforts are made to facilitate DBE participation. Race neutral means include:

- Making bid solicitations attractive to DBE firms, through posting all solicitation on FHATA website, advertising in multiple print and online media sources, attending chamber meetings, refer businesses to Chambers.
- Making DBEs aware of opportunities through direct mail, and posting on website.
- Informing prime contractors of where to obtain DBE directories.
- Referring DBE to the area Small Business Development Center located at Washburn University in Topeka, Kansas to share bid opportunities. <https://washburnsmallbusiness.com/> Hold pre-bid conferences
- Invite DBE and small businesses to business development trainings

In the event Flint Hills Area must operate a race conscious program, FHATA will follow the procedures on race conscious requirements as described in Attachment D.

### **Section §26.51(d-g) Meeting Overall Goals/Contract Goals**

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

### **Section §26.53 Good Faith Efforts Procedures**

#### Award of Contracts with a DBE Contract Goal: 26.53(a)

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

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

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as *responsive*:

DBELO Daphne McNelly  
5815 Marlatt Av  
Manhattan, KS 66503  
785-537-6345  
[dmcnelly@fhata.org](mailto:dmcnelly@fhata.org)

The process used to determine whether good faith efforts have been made by a bidder are as follows:

1. FHATA will make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts.
2. FHATA will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made.
3. The determination concerning the sufficiency of the firm's good faith efforts is a judgment call: there is no quantitative formula.
4. FHATA will ensure that all information is complete and accurate and adequately document the bidder's good faith efforts before they commit to the performance of the contract by the bidder.

FHATA treats bidders' compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information with the bid/proposal submission:

1. The names and addresses of DBE firms that will participate in the contract.
2. A description of the work that each DBE will perform.
3. The dollar amount of the participation of each DBE firm participating.
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration: 26.53(d)

If FHATA determined the DBE proposal does not meet the DBE goal or does not demonstrate a good faith effort, the bidder may be considered not *responsive*. The bidder/offeror may request administrative reconsideration. Within 3 business days the bidder must notify *FLINT HILLS AREA TRANSPORTATION AGENCY, in writing*, that the bidder is going to request administrative reconsideration. Within 7 business days following the notification a formal written appeal and reasons why their proposal should not be rejected is required to be submitted.

This request in writing to the following reconsideration official(s):

DBELO Daphne McNelly  
5815 Marlatt Av  
Manhattan, KS 66503  
785-537-6345  
[dmcnelly@fhata.org](mailto:dmcnelly@fhata.org)

FHATA Board Chair  
5815 Marlatt Ave  
Manhattan, KS 66503  
fhata@fhata.org

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

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

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with or without Contract Goals: 26.53(f)

*FHATA* requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without *FHATA*'s prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to *FHATA* its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to *FHATA* prior to consideration of the request to terminate. The DBE will then have five (5) business days to respond and advise *FHATA* of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, *FHATA* will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

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

**Section §26.55 Counting DBE Participation**

*FLINT HILLS AREA TRANSPORTATION AGENCY* will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. *FHATA* will follow 26.55 as it applies to contracts related to purchase of commodities, equipment, construction related projects, professional services, software and related IT services. <https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-C/section-26.55>

## **SUBPARTS D & E- CERTIFICATION**

### **Section §26.81 Unified Certification Programs**

*FLINT HILLS AREA TRANSPORTATION AGENCY* is not a certifying agency. FHATA will follow the Unified Certification Program (UCP) directory, as administered by The Kansas Department of Commerce, Office of Minority and Women Business Enterprises and the Kansas Department of Transportation, Office of Civil Rights Compliance. *FHATA* will use and count for DBE credit only those DBE firms certified by the Kansas Statewide Certification Program.

## **SUBPART F - COMPLIANCE AND ENFORCEMENT**

### **Section §26.107 Enforcement actions apply to firms participating in DBE Programs**

- A. If you are a firm that does not meet the eligibility criteria of [subpart D of this part](#) and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under [2 CFR parts 180](#) and [1200](#).
- B. If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of [subpart D of this part](#), the Department may initiate suspension or debarment proceedings against you under [2 CFR parts 180](#) and [1200](#).
- C. In a suspension or debarment proceeding brought under [paragraph \(a\)](#) or [\(b\)](#) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.
- D. The Department may take enforcement action under [49 CFR Part 31](#), Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under [49 CFR part 31](#).
- E. The Department may refer to the Department of Justice, for prosecution under [18 U.S.C. 1001](#) or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

### **Section §26.109 Information, Confidentiality, Cooperation**

- A. Availability of records: The USDOT may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law. FHATA will not release any information that may be construed as confidential business information to any third party without the written consent of the firm that submitted the information.
- B. Confidentiality of information on complainants: The identity of complainants shall be kept confidential, at their election unless such confidentiality will hinder the investigation, proceeding or hearing.
- C. Cooperation: All participants in the DBE program are required to cooperate fully and promptly with USDOT, FTA, and KDOT compliance reviews, certification reviews, investigations, and other requests for information.
- D. Intimidation and retaliation: If you are a recipient, contractor or any other participant in the program, you must not intimidate, threaten, coerce or discriminate against any individual or firm for the purpose of: 1) interfering with any right or privilege, 2) because the individual or firm has made a complaint, or 3) testified, assisted, or participated in any manner in an investigation, proceeding or hearing.

## **ATTACHMENTS**

Attachment A: Organizational Chart

Attachment B: Goal Setting Methodology and Forms

Attachment C: Meeting Overall Goals / Contract Goals – Race Conscious Program

Attachment D: Monitoring and Enforcement Mechanisms/Legal Remedies

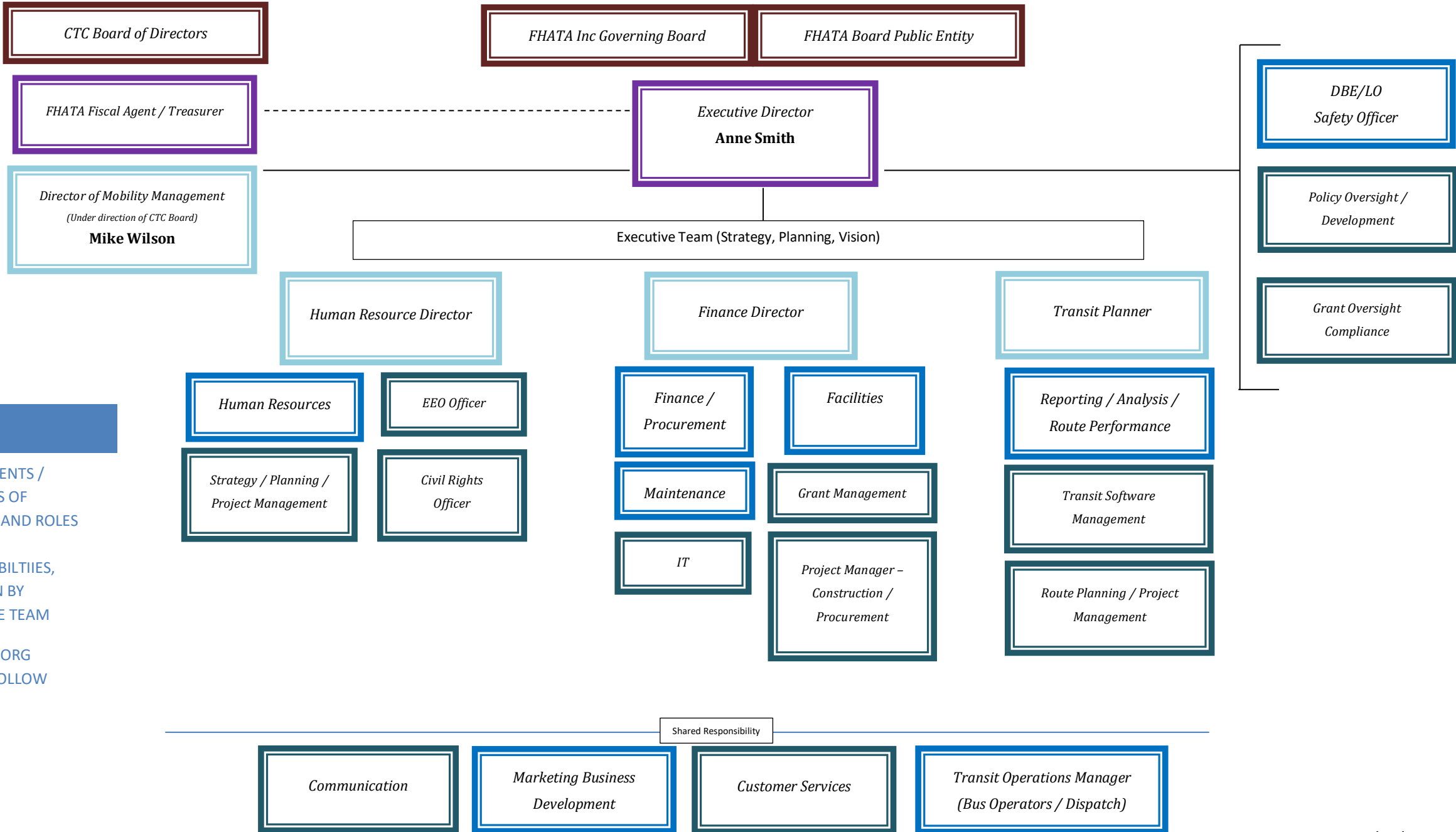
Attachment E: Demonstration of Good Faith Efforts Forms



**ATTACHMENT A  
Flint Hills Area Transportation Agency  
Organizational Chart**

**FLLINT HILLS AREA TRANSPORTATION AGENCY  
ORGANIZATIONAL CHART**

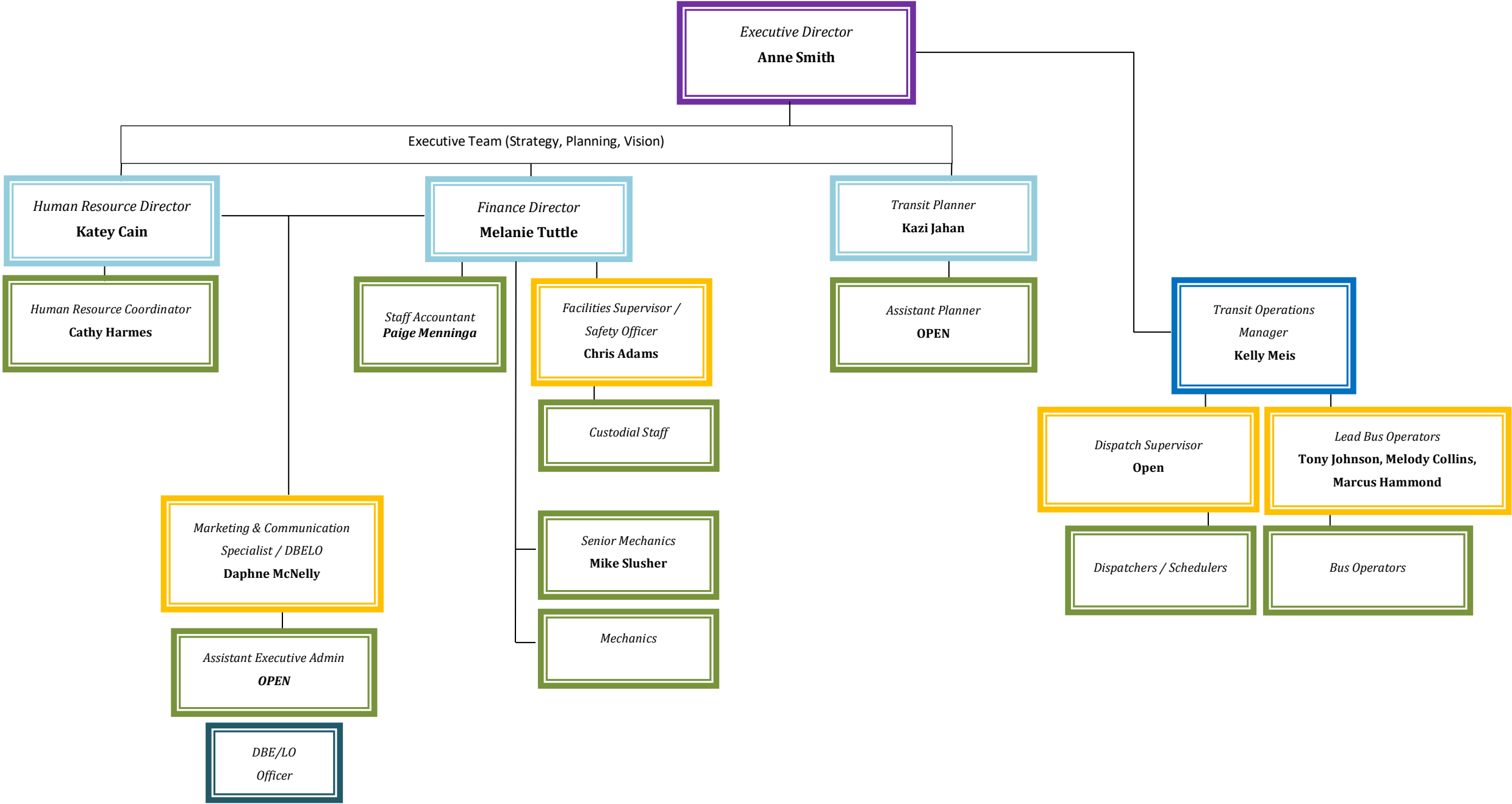
**EXECUTIVE CHART / DEPARTMENTS**



DEPARTMENTS /  
BRANCHES OF  
BUSINESS AND ROLES  
AND  
RESPONSIBILITIES,  
OVERSEEN BY  
EXECUTIVE TEAM

DETAILED ORG  
CHARTS FOLLOW

**FLLINT HILLS AREA TRANSPORTATION AGENCY  
ORGANIZATIONAL CHART**



## Attachment C

### Goal Setting Methodology and Forms

STEP 1 – Base figure – Determine the availability of willing and able DBE companies/firms to perform work in the subcontract area.

1. Identify projects and contract values within the triennial period. Identify NAICS codes relevant to the FHATA services. Utilize codes based on anticipated need for the following three years. <https://www.census.gov/naics/>
2. Identify FHATA's relevant surrounding service area:

FHATA has identified 110 miles radius from Base of Operations in Manhattan, Kansas. Counties included (but limited to) are Saline, Dickenson, Geary, Riley, Pottawatomie, Clay, Wabaunsee, Shawnee, Morris, Sedgwick, Johnson and Wyandotte. The basis for this radius is due the historical experience of the Agency's ability to obtain bids and quotes from vendors outside of the area based on the cost of the project. For projects that cannot be complete remotely and require onsite work, the Agency has been unsuccessful of drawing bids further than the areas such as Topeka, Kansas City, Wichita or Salina. The State of KS has limited number of contractors and even smaller number of DBE's in and around our services area, and the nature of FHATA's contracts do not receive many bidders and contractors outside of this radius due to the cost of doing business. If FHATA determines a project will occur costing greater than \$750,000 for a specific project the area may be expanded for the specific NAICS codes.

3. Identify all firms ready, willing, and able to perform for FHATA using the most recent federal census bureau data, using the identified NAICS codes identified in #1 within the surrounding service area identified in #2. <https://www.census.gov/data/data-tools/cbb.html>
4. Using the following databases identify DBE firms ready willing and able to perform work using NAICS codes identified in #1, relevant to the FHATA services in the state of Kansas.
  - Kansas Department of Commerce Office of Minority and Women Business Development Directory <https://www.kansascommerce.gov/program/business-incentives-and-services/mw-development/dmw-directory/>
  - Kansas Department of Transportation DBE Directory <https://kdotapp.ksdot.gov/dbecontractorlist/>
  - Information obtained from local Chamber of Commerce, Area Builders Associations, and Small Business Development Center
5. Calculate the Base: Figure (below) represents the relative availability of ready, willing, and able DBE firms (#4) as compared to all firms ready, willing, and able to perform for FHATA (#3):

$$\frac{\text{DBEs (\#4)}}{\text{All Non-DBEs and DBEs (\#3)}}$$

STEP 2 – Adjustment – After calculating the base figure of DBE's, FHATA will examine additional information as described in 26.45 to determine if an adjustment is needed. Adjustments may be made based on past participation after the first triennial goal has been established and has been effective for at least three years.

## Attachment D

### Meeting Overall Goals / Contract Goals – Race Conscious Program

**Race Conscious** means the Recipient must establish contract goals to meet any portion of its overall goal that it does not project being able to meet using race neutral means.

The following rules apply:

- A. Contract goals may only be used on FTA-assisted contracts with subcontracting opportunities (set-asides are not allowed).
- B. Goals are not required on all contracts, nor must they match the overall goal. FLINT HILLS AREA TRANSPORTATION AGENCY may not set contract goals at all if it projects meeting the entire goal through race neutral means.
- C. FLINT HILLS AREA TRANSPORTATION AGENCY must reduce contract goals if it projects that during the year it will exceed the overall goal.
- D. Conversely, if FLINT HILLS AREA TRANSPORTATION AGENCY expects to fall short of its overall goal, it should add contract goals, as appropriate.

## Attachment E

### **Monitoring and Enforcement Mechanisms/Legal Remedies**

Flint Hills Area Transportation Agency has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract, Flint Hills Area Transportation Agency reserves the right to pursue all federal, state, and local remedies.
2. Breach of contract action, pursuant to Uniform Commerce Code; Applicable Case Law and other legal remedies.
3. Violations of applicable Federal, State, and local laws and regulations. Such action could result in referral to the Department of Justice or the U.S. DOT Inspector General for possible criminal prosecution, suspension and debarment.
4. Finding of non-responsibility for future contracts, and other possible sanctions and penalties.
5. Suspension from doing business with Flint Hills Area Transportation Agency for a designated time period. Suspension or debarment proceedings pursuant to 49 CFR part 26 2. Enforcement action pursuant to 49 CFR Part 31 3. Prosecution pursuant to 18 USC 1001.
6. Suspensions will be imposed only after the appropriate due process (i.e. notice and an opportunity to be heard).

## Attachment F

### Demonstration of Good Faith Efforts F1. Example Bid / Proposal Procedures and Documentation

*[Note: When a race-conscious contract goal is established pursuant to the FHATA DBE Program, the sample bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established.]*

This contract is subject to the requirements of 49 CFR Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. FHATA has established an overall goal for DBE participation of X.X percent. **The contract goal for this procurement is X.X%.**

1. If applicable, provide a list of subcontractors, including their DBE status and estimated contract amounts using Forms 1 -3. A contractor must make efforts to invite DBE participation and must document those efforts. A list of qualified Kansas DBE businesses may be found at <https://kdotapp.ksdot.org/dbecontractorlist/>.
2. **Non-discrimination** - The contractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this FTA-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of the Contract, which may result in the termination of the Contract or such other remedy as FHATA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph. See 49 CFR 26.13(b).
3. **DBE Certification** - FHATA will only recognize firms that are certified as DBE's under the DOT guidelines found in 49 CFR Part 26 and must be certified with the Kansas Department of Transportation (KDOT). The KDOT list of certified firms may be found at <https://kdotapp.ksdot.org/dbecontractorlist/>. Firms not certified by KDOT will not be considered.
4. **DBE Participation Credit** - DBE firms may participate as Prime Contractors, Subcontractors or Suppliers.

The following shall be credited towards achieving the goals, except as provided herein:

- a) The total contract dollar amount that a qualified DBE Prime Contractor earns for that portion of work on the contract that is performed by its own workforce, is performed in a category in which the DBE is currently certified and is a commercially useful function as defined by the Program. DBE Prime Contractors must perform thirty percent (30%) of the contract value.
- b) The total contract dollar amount that a Prime Contractor has paid or is obligated to pay to a subcontractor that is a qualified DBE; and
- c) Subcontractor participation with a lower tier DBE subcontractor; and
- d) Sixty percent (60%) of the total dollar amount paid or to be paid by a Prime Contractor to obtain supplies or goods from a supplier who is not a manufacturer and who is a qualified DBE. If the DBE is a manufacturer of the supplies, then one hundred percent (100%) may be credited, to be determined on a case-by-case basis.
- e) NO CREDIT, however, will be given for the following:
  - i. Participation in a contract by a DBE that does not perform a commercially useful function as defined by the Program; and
  - ii. Any portion of the value of the contract that a DBE Subcontractor subcontracts back to the prime contractor or any other contractor who is not a qualified DBE; and

- a. Materials and supplies used on the contract unless the DBE is responsible for negotiating the price, determining quality and quantity, ordering the materials and installing (where applicable) and paying for material itself; and
- b. Work performed by a DBE in a scope of work other than that in which the DBE is currently certified.

**5. Documents Due at Bid Closing:**

- a) **Schedule of Participation by Contractor and Subcontractors** - This form is to be completed and should include all subcontractors scheduled to perform on the project. The first section, "Prime Contractor," is the amount of work the Prime will be performing. List all DBE and non-DBE subcontractors in the second section. The "DBE % Participation" is the amount of work each DBE (prime or sub) will perform compared to the total contract amount. If using DBE suppliers count 60% of their contract amount.
  - Total Value of Work: Total Bid/Proposal Amount
  - Total DBE Participation: Total amount of all work to be performed by DBEs (subs or primes)
  - Total DBE Percentage: Dollar amount of "Total DBE Participation" divided by "Total Value of Work"
- b) **Letter of Intent to Subcontract** - To be completed for each DBE firm on the project and signed by both the Prime and the DBE.
- c) **Contractor Utilization Plan/Request for Waiver** - This is a commitment that the Prime understands the DBE participation required on the project. In the event the Prime is not making a commitment to meet or exceed the established goal on the project, they must request a waiver and provide documentation that good faith efforts were expended to try to meet the goal. Good faith efforts are efforts that, given all relevant circumstances, a Proposer actively and aggressively seeking to meet the goals can reasonably be expected to make.

*FHATA* treats bidders' compliance with good faith efforts requirements as a matter of responsiveness. Failure to meet the contracted DBE participation commitment without documented evidence of good faith efforts may result in termination of the contract. It is the bidder's responsibility to provide evidence demonstrate it has made sufficient good faith efforts prior to submission of its bid.

In evaluating good faith efforts, *FHATA* will consider whether the bidder has demonstrated sufficient good faith effort in accordance with 26.53(a) & (c) using the following process:

- *FHATA* will make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts.
- *FHATA* will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made.
- The determination concerning the sufficiency of the firm's good faith efforts is a judgment call: there is no quantitative formula.
- *FHATA* will ensure that all information is complete and accurate and adequately document the bidder's good faith efforts before they commit to the performance of the contract by the bidder.

Bid Submission: Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information with the bid/proposal submission:

- The names and addresses of DBE firms that will participate in the contract.
- A description of the work that each DBE will perform.
- The dollar amount of the participation of each DBE firm participating.



- Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
- Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
- If the contract goal is not met, evidence of good faith efforts (see next section for examples).

Demonstration of Good Faith-Efforts may be documented using the following procedures:

- Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- Negotiating in good faith with interested DBEs.
  - a. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
  - b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, include DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to aid in the recruitment and placement of DBEs.
- If a firm is certified in another state or with another department, they can find information [here](#) about applying for KDOT certification. Contractors can share this information to firms interested in becoming certified as part of their good faith effort in the bid process. Additional resources can also be obtained through Local Small Business Development Center at Washburn University. <https://washburnsmallbusiness.com/>

6. **Documents Due After Award:**

- a) FHATA reserves the right to review the Contractor's written agreement with its subcontractors (DBE and non-DBE) to confirm that required federal contract clauses are included. FHATA may perform random audits and contact minority subcontractors to confirm the reported participation.
- b) **Subcontractor Monthly Utilization Report** - Contractors will be required to submit this report with each pay application to FHATA. This report will include payments to ALL subcontractors – DBE and non- DBE. FHATA may require lien waivers from all subcontractors before reimbursement is made to the Contractor. FHATA may perform random audits and contact minority subcontractors to confirm the reported participation. Failure to meet the contracted goal without documented evidence of good faith effort may result in the termination of the contract.
- c) **Request for Modification, Replacement or Termination of Disadvantaged Business Enterprise (DBE) Project Participation** - Contractor is responsible for meeting or exceeding the DBE commitment amounts listed on the *Schedule of Participation by Contractor and Subcontractors* form submitted as part of Contractor's Bid Documents and as amended by any previously approved Request for Modification/Substitution. Any Change Orders or amendment modifying the amount Contractor is to be compensated will impact the amount of compensation due to DBEs for purposes of meeting or exceeding the Bidder/Proposer commitment. Contractor shall consider the effect of a Change Order or amendment and submit a Request for Modification/Substitution if the DBE commitment changes.
  - i. **Termination Only for Cause** - Once the contract has been awarded; Contractor may not terminate a DBE subcontractor without FHATA's prior written consent. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
  - ii. **Good Cause** - Good cause includes the following circumstances:
    - a. The listed DBE subcontractor fails or refuses to execute a written contract; or
    - b. The listed DBE subcontractor fails or refuses to perform the work of its normal industry standards. Provided, however, that the good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor; or
    - c. The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
    - d. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
    - e. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law; or
    - f. The DBE subcontractor is not a responsible contractor; or
    - g. The listed DBE subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal;
    - h. The listed DBE is ineligible to receive DBE credit for the type of work required;
    - i. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
    - j. Other documented good cause that compels FHATA to terminate the DBE subcontractor. Provided the good cause does not exist if the Prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the Prime Contractor can substitute another DBE or non- DBE contractor.
  - iii. Before submitting its request to terminate or substitute a DBE subcontractor, the Prime Contractor must give notice in writing to the DBE subcontractor, with a copy to FHATA, of its

- intent to request to terminate and/or substitute, and the reason for the request.
- iv. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise the FHATA and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why FHATA should not approve the Prime Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.
  - d) DBE Job-Site Review Commercially Useful Function (CUF) Determination. FHATA will be conducting on-site interviews with all DBE contractors. The number of interviews will be based on the DBE's projected scope of work. FHATA staff will work closely with the Prime Contractor on the project schedule to determine when DBE subcontractors will be on the project.

*For questions concerning FHATA's DBE Program or Vendor Registration/Affirmative Action Requirements please contact FHATA's DBE Liaison Officer at (785) 537-6345 or via email at [dmcnelly@fhata.org](mailto:dmcnelly@fhata.org).*

**F2. Forms 1 Disadvantaged Business Enterprise (DBE) Utilization (Sample)**

**F2. FORM: DISADVANTAGED BUSINESS ENTERPRISE (DBE) SCHEDULE OF PARTICIPATION**

This contract is subject to requirements of 49 CFR Part 26, *Participation by Disadvantaged Business Enterprises in Federal Transit Administration Assistance Programs*. This form is to be completed and should include all subcontractors scheduled to perform on the project. The "DBE % participation" is the amount of work each DBE (prime or sub) will perform compared to the total contract amount. If using DBE suppliers count 60% of their contract amount.

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract. Details of DBE participation are provided below.

\_\_\_\_\_ The bidder/offeror is unable to meet the DBE goal of \_\_\_\_\_% and has demonstrated Good faith effort, but is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract. Details of DBE participation are provided below, and we have attached documentation of Good-faith efforts.

\_\_\_\_\_ The bidder/offeror is unable to meet the DBE goal of \_\_\_\_\_% and has demonstrated Good-faith effort, in which documentation is attached.

**DBE Participation: (you may attach a separate sheet if more space is needed \_\_\_\_\_)**

Bid Item / Description of Work to be Performed	Qualified DBE Firm Name (must attached certification)	Letter of Intent Included	DBE \$ participation	DBE %
	Total \$ DBE Participation (A)			
	Total \$ Value of Work (B)			
	Total DBE Percentage (A / B)			

Bidder / Offeror Name: \_\_\_\_\_

Name / Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**F3. Form 2: Letter of Intent – DBE (Sample)**

Name of bidder/offeror's firm: \_\_\_\_\_ Bid No: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: - \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: - \_\_\_\_\_

Contact Name: \_\_\_\_\_ Telephone / email: \_\_\_\_\_

DBE Certification Type: \_\_\_\_\_ Attached Certification: \_\_\_\_\_

Description of work to be performed by DBE firm:

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

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and is a qualified DBE as certified by Kansas Department of Transportation.

By \_\_\_\_\_ (Signature)(Title)

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

(Submit this page for each DBE subcontractor.)

**F4. Form 3: DBE Good Faith Effort Form (Sample)**

**FORM: DBE GOOD FAITH EFFORT (GFE) FORM**

*Bidder / Proposer **must complete this form and submit with Bid** if the bidder/proposer is unable to satisfy the full DBE goal established for the project. Must be submitted even if partial goal is being met. FHATA encourages all bidders to submit a completed form, even if the bid indicates the goal will be met. The Bidder/Proposer is responsible to ensure the accuracy and completeness of the information contained in this form.*

FHATA BID NO: \_\_\_\_\_ DBE CONTRACT GOAL: \_\_\_\_\_%

Name of bidder/offeror's firm: \_\_\_\_\_

Bid Proposal Amount: \_\_\_\_\_ DBE Goal Commitment on Contract \_\_\_\_\_%

For questions on the form, or how to complete the form please contact:

**Daphne McNelly, DBELO**  
 Flint Hills Area Transportation Agency  
 5815 Marlatt Avenue  
 Manhattan, KS 66503  
 Phone: (785) 537-6345  
 Email: [dmcnelly@fhata.org](mailto:dmcnelly@fhata.org)

**GBE Factor Item 1:** List items of work the Bidder / Proposer made available to DBE firms. For each item listed, show the dollar value (\$) and percentage (%) of the total contract. The Bidder must demonstrate that sufficient work to meet the goal was made available to DBE firms. Attach a spreadsheet with the minimum information provided below: You may attach a spreadsheet if more space is needed, check here [REDACTED].

Items of Work Made available to DBEs	Broken into Economically Feasible Units (Yes/No)	Dollar (\$) value of Work	Percentage (%) of Total Bid
TOTAL DBE		\$	%



**GBE Factor Item 4:** Describe the Bidder's efforts to solicit DBE quotes through advertisements. If published in paper, on website, etc please indicate dates and time period published *FHATA reserves the right to request proof of documentation of the attempt to solicit to aid in determination of adequate good faith efforts.* You may attach a spreadsheet if more space is needed, check here           .

Name / Type of Publication	Dates of Publication

**GBE Factor Item 5:** Describe the Bidder's efforts made (if any) to assist interested DBE's in obtaining bonding, lines of credit, or insurance, necessary equipment, supplies, or to complete their certification through KDOT / State of Kansas and/or other assistance. *FHATA reserves the right to request proof of documentation of the attempt to solicit to aid in determination of adequate good faith efforts.* You may attach a spreadsheet if more space is needed, check here           .

If no firms were identified, check here \_\_\_\_\_.

DBE Name	Assistance Requested	Date Assistance Provided

**GBE Factor Item 6:** List the names of agencies and the dates on which they were contacted to obtain assistance in contacting, recruiting, and using DBE firms. *FHATA reserves the right to request proof of documentation of the attempt to solicit to aid in determination of adequate good faith efforts.* You may attach a spreadsheet if more space is needed, check here           .

Name of Agency	Date of Contact