

Disadvantaged Business Enterprise Program

for the

Georgia Department of Human Services

Submitted for:

Federal Fiscal Year 2012-2014

Policy Statement

Section 26.1, 26.23 Objectives/Policy Statement

It is the policy of the Georgia Department of Human Services (GDHS) to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in GDHS-assisted contracts.

The GDHS has established a DBE program for the Section 5310 program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The GDHS has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the GDHS has signed an assurance that it will comply with 49 CFR Part 26.

In order to carry out this assurance while supporting existing programs related to the DBE plan, the GDHS has included the information from programs already in place that are administered by the Georgia Department of Administrative Services (DOAS) Governor's Small Business Center and the Georgia Department of Transportation (GDOT)/Metropolitan Atlanta Rapid Transit Authority (MARTA) State of Georgia Unified Disadvantaged Business Enterprise Certification Program (UCP). These programs are used to certify minority businesses as Disadvantaged Business Enterprises (DBEs) with the state of Georgia therefore allowing increased participation in state contracting and purchasing. GDHS will refer all DBE candidates to these offices for certification and orientation. Representatives from GDHS will also participate in the DOAS Governor's Small Business Center and GDOT/MARTA UCP programs to ensure all aspects relative to the DBE plan are addressed.

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I. Policy – 26.23

A. Policy Statement

It is the policy of the Georgia Department of Human Services (GDHS) to ensure that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in GDHS-assisted contracts.

The GDHS has established a DBE program for the Section 5310 program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The GDHS has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the GDHS has signed an assurance that it will comply with 49 CFR Part 26.

In order to carry out this assurance while supporting existing programs related to the DBE, the GDHS has included the information for the programs already in place that is administered by the Department of Administrative Services (DOAS) Governor's Small Business Center and the Georgia Department of Transportation (GDOT)/Metropolitan Atlanta Rapid Transit Authority (MARTA) State of Georgia Unified Disadvantaged Business Enterprise Certification Program (UCP). These programs are used to certify minority businesses as Disadvantaged Business Enterprises (DBEs) with the state of Georgia therefore allowing increased participation in state contracting and purchasing. GDHS will refer all DBE candidates to these offices for certification and orientation. Representatives from GDHS will also participate in the programs to ensure all aspects relative to the DBE plan are addressed.

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

The Director of the Office of Facilities and Support Services (OFSS) (current incumbent is Mr. James T. Bricker) has been delegated as the DBE Liaison Officer. In that capacity, the OFSS Director 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 Department of Human Services in its financial assistance agreements with the Department of Transportation.

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Section 26.3 Applicability

The Department of Human Services is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The Department of Human Services will adopt the definitions contained in Section 26.5 for this program..

1. **Affiliation** has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR Part 121. Except as otherwise provided in 13 CFR Part 121, concerns are affiliates of each other when, either directly or indirectly:
 - (i) One concern controls or has the power to control the other; or
 - (ii) A third party or parties controls or has the power to control both; or
 - (iii) An identity of interest between or among parties exists such that affiliation may be found. In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.
2. **Alaska Native** means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.
3. **Alaska Native Corporation (ANC)** means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).
4. **Compliance** means that a recipient has correctly implemented the requirements of this part.
5. **Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.
6. **Contractor** means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.
7. **Department or DOT** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).
8. **Disadvantaged business enterprise or DBE** means a for-profit small business concern:

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(a) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

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

10. **DOT/SBA Memorandum of Understanding or MOU**, refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.

11. **GDHR** means Georgia Department of Human Services.

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

13. **Immediate family member** means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

14. **Indian tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States of Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

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

16. **Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

17. **Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

18. **Noncompliance** means that a recipient has not correctly implemented the requirements of this part.

19. **Operating Administration or OA** means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit

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Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

20. **Personal net worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participating DBE firm; or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.
21. **Primary industry classification** means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual-United States, 1997 which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161; by calling 1 (800) 553-6847; or via the Internet at: <http://www.ntis.gov/product/naics.htm>.
22. **Primary recipient** means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.
23. **Principal place of business** means the business location where the individuals who manage the firm’s day-to-day operations spend most working hours and where top management’s business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.
24. **Program** means any undertaking on a recipient’s part to use DOT financial assistance, authorized by the laws to which this part applies.
25. **Race-conscious** measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.
26. **Race-neutral** measure or program is one that is, or can be, used to assist all small businesses. For the purpose of this part, race-neutral includes gender-neutrality.
27. **Recipient** is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.
28. **Secretary** means the Secretary of Transportation or his/her designee.
29. **Set-aside** means a contracting practice restricting eligibility for the competitive award of a contract sole to DBE firms.
30. **Small Business Administration** or SBA means United States Small Business Administration.
31. **SBA certified firm** refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.
32. **Small business concern** means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

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33. **Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

(a) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. (b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas, Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

34. **Tribally-owned concern** means any concern at least 51 percent owned by an Indian tribe as defined in this section.

The Department of Human Services will ensure that prime contractors fulfill commitments to use DBE subcontractors. We will monitor each contract to make sure prime contractors are fulfilling their obligations and do not dismiss DBE subcontractors without good cause. We will participate in conjunction with GDOT/MARTA UCP in creating a plan for improving the use of small businesses including DBEs. We will accept DBE certification obtained in other states, unless the state finds good cause not to accept it.

Section 26.7 Non-discrimination Requirements

The Department of Human Services 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 Department of Human Services will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of

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defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation following the necessary requirements as they apply to the GDHS.

Bidders List: 26.11 (c)

When necessary, the GDHS will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on GDHS-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals.

We will collect this information in the following ways:

A contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts; a recipient-directed survey of a statistically sound sample of firms on a name/address list to get age/size information; a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to the recipient.

Monitoring Payment to DBEs

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

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

Section 26.13 Federal Financial Assistance Agreement

Assurances 26.13(a)

We will ensure that the following clause is placed in all future GDHS-assisted contract and subcontract:

Department of Human Services shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Department of Human Services of its failure to carry out its approved program, the Department may impose sanction as provided

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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 sub-recipients.

Contract Assurance: 26.13b

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

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

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the Department of Human Services 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 DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

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

Section 26.25 DEB Liaison Officer (DBELO)

The Director of the Office of Facilities and Support Services (OFSS) (current incumbent is Mr. James T. Bricker) has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the OFSS Director 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 GDHS in its financial assistance agreements with the Department of Transportation. The DBELO will attend the class offered by the DOAS Governor's Small Business Center and GDOT/MARTA UCP in order to be knowledgeable and helpful in explaining the certification process to DBE candidates.

James T. Bricker can be reached at 404-656-4427. Please send correspondence to:

Grantee ID# 5423
Georgia Department of Human Services
Office of Facilities and Support Services
2 Peachtree Street, Room 29.490
Atlanta, Georgia, 30303
Jtbricker@dhr.state.ga.us

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Department of Human Services complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the [*indicate chief executive officer of recipient*] concerning DBE program matters. *An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.*

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The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of one to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes the Department of Human Services' progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Georgia.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the Department of Human Services updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the GDHS to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on GDHS-assisted contracts to make use of these institutions. The practices set in place by the DOAS Governor's Small Business Center and GDOT/MARTA UCP will be used to complete this requirement. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

We will include the following clause in all future GDHS-assisted prime contracts: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract in a timely manner. The prime contractor agrees further to return retainage payments to each subcontractor in a timely manner after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the GDHR. This clause applies to both DBE and non-DBE subcontractors.

Section 26.31 Directory

The DOAS Governor's Small Business Center and the GDOT/MARTA UCP maintain a directory identifying all firms eligible to participate as DBEs. GDHS will refer to this list as the DBE directories. The directories list the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. The Directories may be found at

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www.doas.georgia.gov and
www.dot.state.ga.us/construction/contractrsadm/document/dbe/dbe_dir.pdf.

Section 26.33 Overconcentration

GDHS has not experienced problems resulting from overconcentration issues.

Section 26.35 Business Development Programs

The Governor's Small Business Center has established a Mentor Protégé program. This program pairs emerging companies with established, successful businesses to offer smaller firms the resources and guidance they need to succeed

Section 26.37 Monitoring and Enforcement Mechanisms

The Department of Human Services will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

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 26.37. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

Contractor Reporting Requirements

In order to monitor and evaluate the progress of GDHS and its third party contractors towards meeting the goals of the DBE Plan, GDHR shall develop and maintain a record keeping system in line with that of the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.

Public Participation and Outreach Efforts

It will be the responsibility of the DBELO to recommend to GDHR whether firms are qualified and eligible. GDHS will use information collected from the DOAS Governor's Small Business Center and the GDOT/MARTA UCP to determine this eligibility

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

When funds are identified for DBE needs, notices will be published by GDHS in newspapers of general circulation.

Section 26.45 Overall Goals

In accordance with Section 26.45(f) the Department of Human Services will submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, Department of Human Services will consult with the FTA DBE Officer, our contractors, Human Service Providers, and supported organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Department of Human Services efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the

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public that you and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will be published on the DHS, TSS website and published in newspapers of general circulation. Normally, we will issue this notice by June 1 or each year.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Overall Goal/Method

Step One: 1,111 (Ready, willing and able DBEs) / 12,214 (All firms ready, willing, and able-including DBEs and non-DBEs) = 9.1 %. Based on the above method used, we believe we can accomplish 9.1 % of our goal setting for fiscal year 2009-2010. The method is based on the total number of ready, willing and able DBE's registered with DOAS Governor's Small Business Center and the total number of all firms ready, willing and able registered with GDOT/MARTA UCP.

Step 2: The percentage is lower because there was a significant increase of registered DBEs with DOAS Governor's Small Business Center and GDOT/MARTA UCP.

Section 26.49 Transit Vehicle Manufacturers Goals

In the event that GDHS plans to purchase transit vehicles, the GDHS will require transit vehicle manufacturers (TVM) to provide a certification, as a condition to bidding on transit vehicle purchases funded by FTA that it has complied with requirements. The TVM will certify to the GDHR that:

- They have submitted the required annual overall DBE goals to FTA; and that
- FTA has either approved their annual goals, or that FTA has not disapproved their annual overall goals.
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Section 26.51 (a-c) Breakout of Estimated Race- Neutral & Race-Conscious Participation

GDHS will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. We estimate that, in meeting our overall goal of 9.1%, we will obtain 4.55% from race-neutral participation and 4.55% through race-conscious measures.

Section 26.51 (d-g) Contract Goals

GDHS will use contract goals to meet any portion of the overall goal GDHS does not project being able to meet using race-neutral means. These goals will be ones established by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those GDHS-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of

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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).

In conjunction with the Governor's Small Business Center and the GDOT/MARTA UCP GDHS will participate with tracking and reporting race neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract a DBE obtains through customary competitive procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award. Data will be maintained separately on DBE achievements in those contracts with and without contract goals.

We will express our contract goals as a percentage of the total amount of FTA funding to be received by GDHS for both operating and capital improvements and the dollar value of these funds available for contracting purposes.

Section 26.53 Good Faith Efforts Procedures - 26.53

Demonstration of good faith efforts (26.53 (a) & (c)

GDHS will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b)).

GDHS treats bidder/offerors' compliance with good faith effort requirements as a matter of responsibility.

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

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE 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 contractors commitment and;
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d)

Contracts will be awarded only to bidder/offerors who make good faith efforts to meet the established contract goal. When reconsideration decisions are made, the decision must be made by an official who did not take place in the original determination that the bidder/offeror failed to meet the goal or to make adequate good faith efforts.

The officials are:

GDOT/MARTA Official – Vance C. Smith, Commissioner – (404)631-1990
DOAS Official – Brad Douglas, Commissioner – (404) 657-9441

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Good Faith Efforts when a DBE is replace on a contract (26.53(f))

Department of Human Services will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the 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

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

GDHS will use the certification standards of Subpart D of part 26 as well as those used by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP to determine the eligibility of firms to participate as DBEs in GDHR-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decision based on the facts as a whole.

- A. Burdens of Proof**
The firm seeking certification must prove to the GDHR that it meets the requirements for inclusion as defined in 26.61.
- B. Group Membership Determinations**
Individuals in questionable status must demonstrate that he or she is a member of the disadvantaged group or disadvantaged on an individual basis.
- C. Social and Economic Disadvantage Statement**
Applicants must meet rules determined for the disadvantaged status as stated in 26.67 as well as those set forth by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.
- D. Business Size Determinations**
The firm must meet requirements defined by Small Business Administration standards to be eligible.

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- E. Ownership Determinations**
To be an eligible DBE, the firm must meet requirements as defined in 26.69 as well as those set forth by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.
- F. Control Determinations**
Only an independent business may be certified as a DBE.
- G. Other Considerations**
GDHS will participate in and abide by the rules of the program in place at the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.

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

Ms Vickie Young
Department of Human Services
Office of Facilities and Support Services
Transportation Services Section
2 Peachtree Street NW, 29th Floor
Email: vkyoung@dhr.state.ga.us

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

Department of Human Services is the member of a Unified Certification Program (UCP) administered by the Georgia Department of Transportation. The UPC will meet all of the requirements of this section in accordance with the plan approved by the USDOT.

Section 26.83 Procedures for Certification Decisions

Recertification Procedures 26.83(a-c)

- A. Unified Certification Program**
GDHS will comply with requirements as outlined in 26.81.
- B. Initial Certification Procedures**
GDHS will use the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in GDHS-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions decision based on the facts as a whole.
- C. Recertification Procedures**
GDHS will comply with requirements as outlined in 26.81.

Section 26.85 Denials and Reapplication Procedures

As defined in 26.86.

Section 26.87 Removal of a DBE's Eligibility

As defined in 26.87.

Section 26.89 Certification of Appeals

GDHS will comply with requirements as outlined in 26.81.

Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 2104
Washington, D.C. 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g. certify a firm if DOT has determined that our denial of its application was erroneous).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

We will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

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

Monitoring Payment to DBEs

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

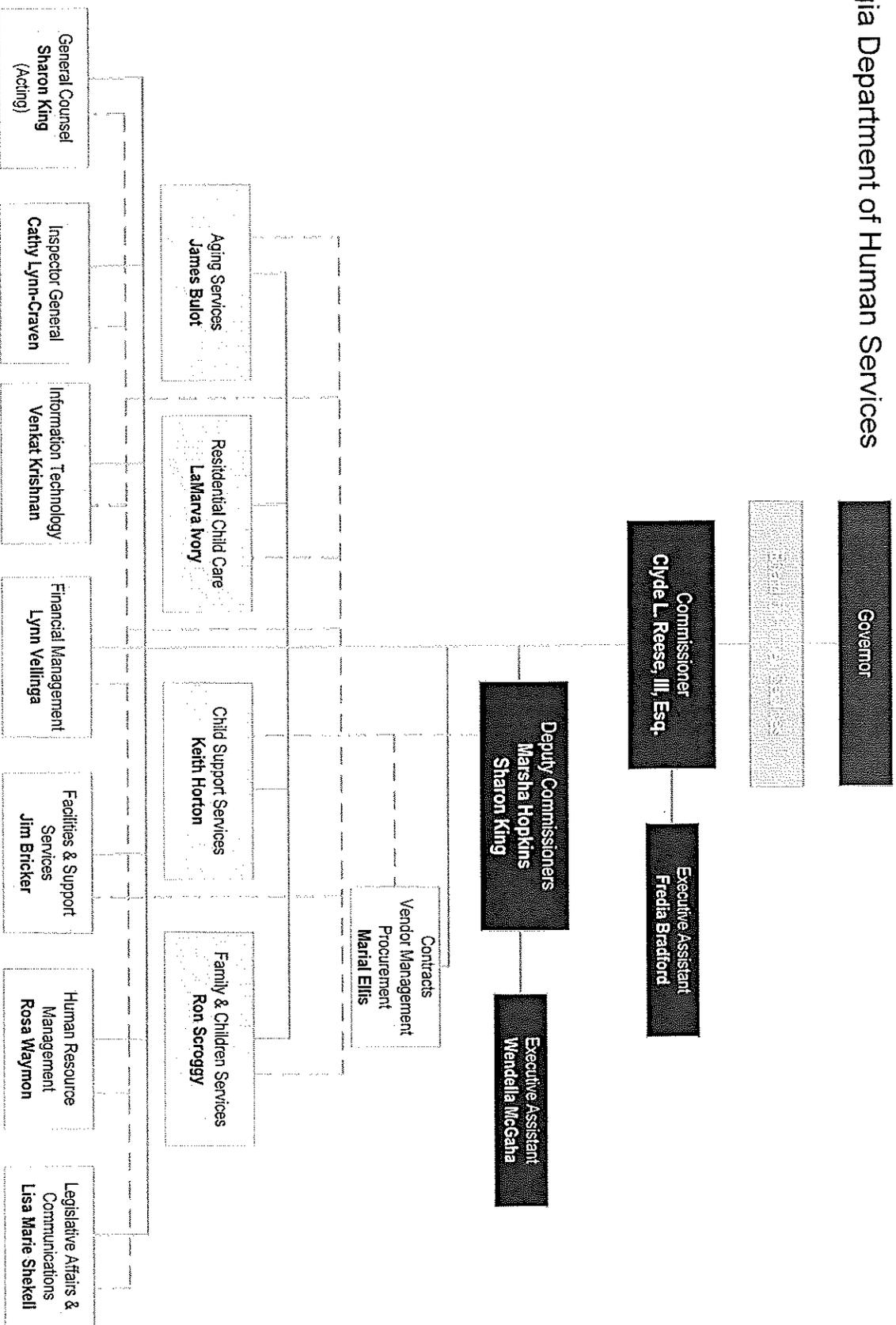
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Georgia Department of Human Services
Disadvantaged Business Enterprise Program

ATTACHMENTS

- | | |
|--------------|---|
| Attachment 1 | DHS Organizational Chart |
| Attachment 2 | State of Georgia UCP Plan
www.dot.state.ga.us |
| Attachment 3 | Regulations: 49 CFR Part 26
www.fta.dot.gov |

Georgia Department of Human Services



Program Division

Enterprise Function

Commissioner's Office

SOURCES:

- 1. DEPARTMENT OF ADMINISTRATIVE SERVICES**
- 2. GOVERNOR'S SMALL BUSINESS CENTER
CERTIFICATION AND ORIENTATION INFORMATION**
- 3. GDOT/MARTA UNIFIED DISADVANTAGED BUSINESS
ENTERPRISE DIRECTORY**