

SUBPART A - GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Record Keeping Requirements

Bidders List: 26.11(c)

The City participates in the Colorado Unified Certification Program (UCP) and utilizes the bidders list maintained by the Colorado UCP for information about all certified DBE firms (<https://coucp.dbesystem.com>)

All formal bids and Requests for Proposal (RFPs) are publicly posted on an e-procurement web portal known as Bidnet Direct at www.bidnetdirect.com/colorado/city-of-fort-collins. The City will use registered bidders from the Colorado UCP and Bidnet Direct, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to use this information to calculate overall goals.

Semi-Annual Uniform Reports of DBE Awards or Commitments and Payments

The City is required to submit a Uniform Report of DBE Awards or Commitments and Payments semi-annually. The report addresses the contracting opportunities of the City and its subrecipients (if applicable). Reports are due by June 1 (for the period covering October 1 through March 31) and by December 1 (for the period covering April 1 through September 30).

The Semi-Annual Uniform Report is prepared by the DBELO with all data provided by the Transfort Financial Analyst. The report is reviewed by the Transfort Financial Analyst and the Director of Purchasing prior to finalization. The final report is submitted in the Transit Award Management System (TrAMS) DBE reporting module by the DBELO or designee. Any

comments from the Federal Transit Administration (FTA) on the reports must be addressed in a timely manner.

Please see the City's Procurement Policies & Procedures Manual for complete details on how to complete the Semi-Annual Uniform Report.

Section 26.13 Federal Financial Assistance Agreement

City of Fort Collins has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

The City of Fort Collins 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 City of Fort Collins 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 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 City receives awards from FTA of \$250,000 or more in FTA planning capital, and/or operating assistance in a federal fiscal year, the City will continue to carry out this program until all funds from DOT financial assistance have been expended. DOT will be provided updates representing significant changes in the program.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The City has designated the following individual as our DBE Liaison Officer:
Annabelle Phillips, Interim Compliance Manager, City of Fort Collins, P.O. Box 580, Fort Collins,
CO 80522, 970.224.6173, aphillips@fcgov.com.

The DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Fort Collins complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Chief Financial Officer and the City Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO, the Director of Purchasing, and purchasing staff ensure that the following duties and responsibilities are performed:

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 City of Fort Collins' progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings or delegates to other Purchasing staff.
8. Advises the Chief Financial Officer and City Manager on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Colorado Uniform Certification Program.
12. Provides outreach to DBE's and community organizations to advise them on opportunities.

The DBELO will work in close collaboration with Project Managers, Transfort's Financial Analyst, and the Director of Purchasing. In the event of a DBE good-faith determination, the DBELO will consult with the Project Manager of the Contract, the Buyer and the Director of Purchasing. The DBELO will have the final decision-making authority.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Fort Collins to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions:

As of 6/1/2023 there are no Financial Institutions (NAICS 522) in the City of Fort Collins or Front Range of Colorado registered as certified DBEs by the Colorado UCP.

Section 26.29 Prompt Payment Mechanisms

The City will include the following clause in each DOT-assisted prime contract:

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from City of Fort Collins. In addition, the contractor may not hold retainage from its subcontractors and is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The City of Fort Collins may hold retainage from the prime contractor and will ensure the prompt return of the retainage within 30 days of the completion of the work. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Fort Collins. This clause applies to both DBE and non-DBE subcontracts.

If the contractor fails or refuses to comply in the time specified, the Purchasing Agent may 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.

To ensure compliance with 49 CFR §26.29, Prompt Payment, the City requires prime contractors to complete and submit a prompt payment certification with each pay application and Invoice. In addition, City staff monitors compliance to the Prompt Payment requirements by periodically auditing the contractor's payment records to ensure the prime contractor is paying all subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment that the City makes to the prime contractor to include prompt return of retainage whether the City has paid the retainage amount to the prime contractor.

Section 26.31 Directory

The City of Fort Collins uses the Colorado Department of Transportation (CDOT) DBE directory identifying all firms certified and eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory is hosted by the Colorado UCP. The link to the directory is: www.codot.gov/business/civilrights/smallbusiness/dbe/directory.

Section 26.33 Overconcentration

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

Section 26.35 Business Development Programs

Purchasing staff actively participate with the professional organizations listed below to foster business development.

These organizations provide an excellent opportunity for peer networking and interaction with small businesses and Disadvantage Business Enterprises with a focus on Colorado.

- National Institute for Governmental Purchasing (NIGP) – Annual meetings
- Rocky Mountain Governmental Purchasing Association (RMGPA) – Quarterly meetings
- Colorado Municipal Assembly of Procurement Officials (MAPO) – Monthly meetings

In addition, Purchasing staff attends annual vendor trade shows sponsored by RMGPA. These trade shows often include representatives from small businesses and DBEs. Purchasing staff

also interact with the Larimer County Small Business Development Center (SBDC). In the past, Purchasing staff have presented at local vendor events hosted by SBDC intended to educate small businesses and DBEs how to do business with public entities and municipalities like Fort Collins.

Purchasing also informally notifies via email DBEs certified by the Colorado Unified Certification Program (UCP) when a bid or Request for Proposal (RFP) includes a race conscious DBE goal.

Section 26.37 Monitoring and Enforcement Mechanisms

The City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. Bring to the attention of the DOT 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. Consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by periodic on-site verification by the applicable Project Manager.
4. Track actual payments to DBE firms by reviewing invoices/pay applications for work committed to them at the time of contract award.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 2 to this program plan. This section of the program will be updated every third year.

In accordance with Section 26.45(f) the City will submit its overall goal to FTA on August 1 every third year (next plan due August 1, 2026). Before establishing the overall goal every third year, the City of Fort Collins will consult with the FTA Region 8 Civil Rights Officer, Colorado UPC, minority groups and community organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Fort Collins efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the City 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 the City's principal office for 30 days following the date of the notice, and informing the public that the City of Fort Collins and FTA will accept comments on the goals for 45 days from the date of the notice. This notice will be published and posted on the City's

website prior to submission of the plan to the FTA. The notice must include addresses to which comments may be sent and addresses where the proposal may be reviewed.

The City's overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

The City will begin using our overall goal on October 1 every third year, unless other instructions have been received from the FTA. If goals are established on a project basis, that goal would be used at the time of the first solicitation for an FTA-assisted contract for the project.

Section 26.47 Shortfall Analysis

In the event that the City falls short of the overall DBE goal, the City will analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year and establish specific steps and milestones to correct the problems identified in the analysis to enable the City to fully meet the goal for the new fiscal year.

Section 26.49 Transit Vehicle Manufacturers Goals

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

Transit Vehicle Manufacturer purchase information is submitted to FTA within 30 days of making an award.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 3 to this program. This section of the program will be updated when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The City will use contract goals to meet any portion of the overall goal the City of Fort Collins does not project being able to meet using race-neutral means. 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 using race-neutral means.

The City will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. There is no need to 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.)

The City will express the contract goal as a percentage of the total contract amount.

Section 26.53 Good Faith Efforts Procedures

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The following solicitation elements are required no later than five days after the bid opening:

- i. The names and addresses of DBE firms that will participate in the contract;
- ii. A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
- iii. The dollar amount of the participation of each participating DBE firm;
- iv. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
- v. Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
- vi. If the contract goal is not met, evidence of good faith efforts must be provided. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

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 responsible: the Project Manager of the Contract, the City of Fort Collins Purchasing Agent, the Director of Purchasing, and the DEBLO. The DEBLO will have the final decision-making authority.

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

Information to be submitted (26.53(b))

The City treats bidder/offers' compliance with good faith efforts' 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 commitment in the bid/RFP response 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))

Within seven (7) days of being informed by the City of Fort Collins that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: The Chief Financial Officer of the City of Fort Collins, PO Box 580, Fort Collins, CO 80522, 970.416.2367, tstorin@fcgov.com with a copy to the DBELO, PO Box 580, Fort Collins, CO 80522, 970.224.6173, aphilips@fcgov.com. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The City 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 DOT.

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

The City 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. The City 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, the City requires the prime contractor to obtain 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, the Purchasing Agent may 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.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Fort Collins to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE

subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

SUBPART D - CERTIFICATION STANDARDS

Section 26.61 - 26.73 Certification Process

The City is a member of a Colorado Unified Certification Program (UCP) administered by the Colorado Department of Transportation (CDOT). The Colorado UPC meets the requirements of this section.

SUBPART E - CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City is a member of a Colorado Unified Certification Program (UCP) administered by the Colorado Department of Transportation (CDOT). The Colorado UPC meets all of the requirements of this section.

Information regarding the Colorado UCP DBE certification process is located at:
<https://www.codot.gov/business/civilrights/smallbusiness/dbe/getting-certified/application>.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

This section and associated procedure is the responsibility of the Colorado UCP.

"No Change" Affidavits and Notices of Change (26.83(j))

This section and associated procedure is the responsibility of the Colorado UCP.

Section 26.85 Denials of Initial Requests for Certification

This section and associated procedure is the responsibility of the Colorado UCP.

Section 26.87 Removal of a DBE's Eligibility

This section and associated procedure is the responsibility of the Colorado UCP.

Section 26.89 Certification Appeals

This section and associated procedure is the responsibility of the Colorado UCP.

Any firm or complainant may appeal the decision of the Colorado UCP in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (202) 366-4754
TTY: (202) 366-9696
Fax: (202) 366-5575

SUBPART F - COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law. All such disclosures shall be in accordance with the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 et seq. ("CORA"), by order of a court of appropriate jurisdiction, or other applicable law.

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

Monitoring Payments to DBEs

The City will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Fort Collins or FTA. This reporting requirement also extends to any certified DBE subcontractor.

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

Public Participation

The City published its DBE goal information in these publications:

- Ridetransfort.com
- Coloradoan newspaper
- City of Fort Collins website

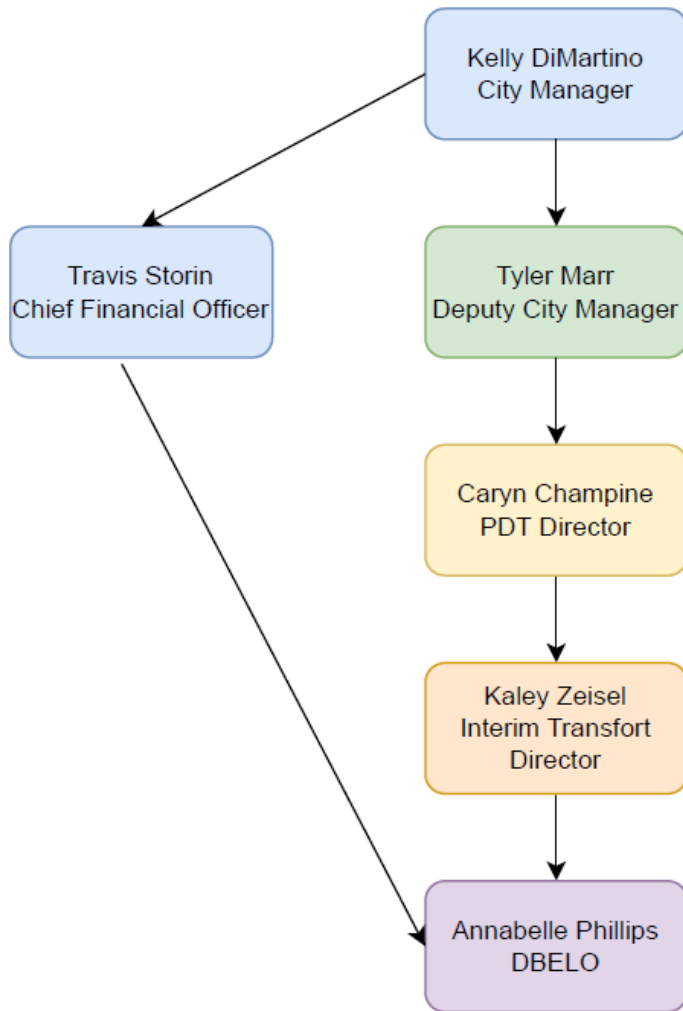
Additionally, a public meeting will be held on 6/21/2023 at 10:00am the Downtown Transit Center

ATTACHMENTS

- Attachment 1 Organizational Chart
- Attachment 2 Overall Goal Calculation
- Attachment 3 Breakout of Estimated Race-Neutral & Race-Conscious Participation

Attachment 1

Organizational Chart



Attachment 2

Section 26.45: Overall Goal Calculation

Amount of Goal

The City of Fort Collins's overall goal for the following time period 2024-2026 is the following: **2.29%** of the federal financial assistance expended in FTA-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBE's was calculated as follows:
Ready, willing, and able DBEs

Base figure = $187 / 5955 = 3.14\%$

The data source or demonstrable evidence used to derive the numerator was: The Colorado UCP Directory for the applicable local market.

The data source or demonstrable evidence used to derive the denominator was: The BidNet Bidders List for the applicable local market.

The numerator was divided by the denominator to arrive at the base figure for the overall DBE goal, 3.14%.

Availability Data

Past participation was not used to determine the overall base figure. The relative availability of DBEs is defined as the total number of DBE firms that are ready, willing, and able to perform the types of contracts the City anticipates awarding. The City used the approach suggested in 49 CFR 26.45(c)(1) to compare the number of available DBEs to all firms in the industry. In order to determine how many "Ready, Willing and Able" DBE firms were available, the City developed a fiscally constrained list of probably projects over the goal period (Oct 1, 2023 – Sept 30, 2026), the estimated amount of federal funds to be expended and the applicable NCAIS codes for each project type. These NCAIS codes were then used to search the CDOT DBE directory to determine the number of available DBEs. The total number of all firms in the industry was determined by using comparable codes to search BidNet's Bidder's List.

Market Area Determination

As defined by the USDOT Goal Setting Tips, the local market area is the area in which the substantial majority of the contractors and subcontractors with which the City does business are located and the area in which the City spends the substantial majority of its contracting dollars. The City defined the local market as within 50 miles of the central Fort Collins zip code (80525). Looking back over the previous triennial review period, contractors were located an average distance of 30.8 miles from this location with a minimum distance of 0.3 miles and a maximum distance of 84.5 miles; 82% of federal contracted dollars were awarded to firms located within a 50-mile radius of 80525.

Weighting

Weighting was used to further ensure that the City's base figure was as accurate as possible. Anticipated total contract dollars were broken down by NAICS and NIGP codes to find the percent of total federal contract dollars per each category. This was then multiplied by the ratio of DBE firms that were found to be available through a search of the Colorado UCP directory over the total number of available firms available as found through a search of BidNet's Bidder's List. These calculations were then summed to update the base figure, weighted by the type of work to be performed.

Base Figure, weighted by type of work to be performed = 2.29%

Sum of ((Estimated Federal Contract work by project type / Total Estimated Federal Contract Work) x (Available DBEs / Total Available Firms))

NAICS Code	Total Project Cost	% of total	DBE Firm/Total Available	% of total project cost x DBE ratio
236220	\$ 42,400.00	0.61%	0.0000	0.0000
237310	\$ 336,000.00	4.86%	0.1429	0.0069
238210	\$ 800,000.00	11.56%	0.0741	0.0086
238290	\$ 520,000.00	7.51%	0.0000	0.0000
332812	\$ 128,000.00	1.85%	0.0000	0.0000
334210:20458	\$ 40,000.00	0.58%	0.0000	0.0000
334210:20464	\$ 130,400.00	1.88%	0.0000	0.0000
334210:83845	\$ 115,200.00	1.66%	0.0000	0.0000
334210:83833	\$ 48,000.00	0.69%	0.0000	0.0000
335999	\$ 1,600,000.00	23.12%	0.0060	0.0014
485310	\$ 480,000.00	6.94%	0.0000	0.0000
485991	\$ 1,200,000.00	17.34%	0.0000	0.0000
541330:90735	\$ 400,000.00	5.78%	0.0637	0.0037
541330:92531, et all	\$ 120,000.00	1.73%	0.0466	0.0008
541910	\$ 160,000.00	2.31%	0.0100	0.0002
561730 (landscaping)	\$ 120,000.00	1.73%	0.0345	0.0006
561730 (snow removal)	\$ 400,000.00	5.78%	0.0093	0.0005
561730 (one time)	\$ 280,000.00	4.05%	0.0049	0.0002
SUM	\$ 6,920,000.00	100%		2.29%

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure to arrive at the overall goal.

Past DBE Participation

The City evaluated past participation of DBEs over the last several years in order to determine whether this would be an appropriate factor to use in adjusting the weighted base figure. The

following median figure was found after analyzing the past five (5) years' worth of reported DBE participation: 0.71%

Fiscal Year	Month Report Due	Total Contracts Awarded	Total Awarded to DBEs	% Awarded to DBEs
FY19	June	\$ 984,066.00	\$ -	0.00%
FY20	June	\$ 1,085,955.00	\$ -	0.00%
FY20	December	\$ 767,431.00	\$ -	0.00%
FY21	June	\$ 502,669.00	\$ -	0.00%
FY22	December	\$ 977,497.00	\$ -	0.00%
FY18	June	\$ 1,608,644.00	\$ 11,408.00	0.71%
FY22	June	\$ 1,296,385.00	\$ 22,750.00	1.75%
FY18	December	\$ 914,386.00	\$ 23,732.00	2.60%
FY21	December	\$ 975,571.00	\$ 52,338.00	5.36%
FY23	June	\$ 1,538,563.00	\$ 112,141.00	7.29%
FY19	December	\$ 913,015.00	\$ 602,233.00	65.96%

Based on the low figure that the median represents, Transfort chose not to adjust the overall DBE goal down any further.

Comparisons with Other Agencies

Transfort reviewed the DBE goals set by other agencies to determine whether the weighted base figure appeared representative of the local market. CDOT set a goal of 2.44% for the FY 2023 – 2025 goal setting period. City of Loveland Transit (COLT) set a goal of 0.29% for the FY 2022 – 2024 period. Based on these figures, Transfort chose not to make further adjustments to its weighted goal.

Disparity Study

A Disparity Study was conducted by Keen Independent Research in 2020, on behalf of CDOT. The study found that there is not a level playing field in Colorado for businesses for certain groups and that without further action, disparities in participation of diverse businesses will likely persist. However, during analysis for their own DBE goal, CDOT determined that the State Disparity Study was focused on state-funded contracts which accounts for only a small percentage of CDOT projects that are not eligible for the FTA DBE program. Due to this and the fact that several contracting categories were combined (such as highway construction and building construction) it was determined that the study did not provide the level of granularity needed to use the outcome as a comparative factor for a Step 2 adjustment. Based on CDOT's assessment not to use the disparity study to adjust its goal, Transfort also chose not to make any further adjustments to the weighted base figure based on this.

Attachment 3

Race Neutral versus Race Conscious

An analysis was performed of the contracts awarded to DBEs over the past five (5) years to determine the percentage awarded based on race conscious versus race neutral means. In determining the percentage of the overall goal should be race neutral, the median figure could not be used as it was zero (0). Therefore, means were analyzed and determined to be 86% and 14% for race neutral vs. race conscious contracts, respectively. These percentages were used to then break down the overall goal.

Fiscal Year	Month Report Due	Total to DBE	Total Race Conscious	% Race Conscious	Total Race Neutral	% Race Neutral
FY18	June	\$ 11,408.00	\$ 11,122.00	97%	\$ 286.00	3%
FY18	December	\$ 23,732.00	\$ 23,732.00	100%	\$ -	0%
FY19	June	\$ -	\$ -	0%	\$ -	0%
FY19	December	\$ 602,233.00	\$ 5,154.00	1%	\$ 597,079.00	99%
FY20	June	\$ -	\$ -	0%	\$ -	0%
FY20	December	\$ -	\$ -	0%	\$ -	0%
FY21	June	\$ -	\$ -	0%	\$ -	0%
FY21	December	\$ 52,338.00	\$ 52,538.00	100%	\$ -	0%
FY22	June	\$ 22,750.00	\$ 22,750.00	100%	\$ -	0%
FY22	December	\$ -	\$ -	0%	\$ -	0%
FY23	June	\$ 112,141.00	\$ -	0%	\$ 112,141.00	100%
		\$ 824,602.00	\$ 115,296.00	14%	\$ 709,506.00	86%

Applying these percentages to the weighted base figure of 2.29%, it was determined that the overall DBE goal will be broken down as follows:

Overall DBE Goal	Race Conscious	Race Neutral
2.29%	0.29%	2.0%