

OXFORD/UNIVERSITY TRANSIT DBE PROGRAM

POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

The City of Oxford 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 City of Oxford has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Oxford has signed an assurance that it will comply with 49 CFR Part 26.

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

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

Tim Akers, City Planner has been delegated as the DBE Liaison Officer. In that capacity, Tim Akers 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 City of Oxford in its financial assistance agreements with the Department of Transportation.

Tim Akers has disseminated this policy statement to the Mayor and Board of Aldermen and all of the components of our organization. We have distributed this statement on the City of Oxford's web page to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

[Signature of Recipients Chief Executive Officer]

Date _____

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT as follows:

The City of Oxford – We will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

The City of Oxford will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways: Bidders list will be created by requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

The City of Oxford 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 [Recipient] 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 of Oxford has received a grant of \$857,500 for FTA capital 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 DBE Liaison Officer (DBELO)

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

Tim Akers, 107 Courthouse Square, Oxford, MS 38655, 662-232-2305, takers@oxfordms.net

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Oxford complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor 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 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 City of Oxford's 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 Mississippi.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the City of Oxford's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Oxford 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: Contacted local financial institutions.

To date we have identified the following such institutions: [None]

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

The City of Oxford 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 90 days from the receipt of each payment the prime contract receives from City of Oxford. The prime contractor agrees further to return retainage payments to each subcontractor within 90 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Oxford. This clause applies to both DBE and non-DBE subcontracts. If the contractor fails or refuses to comply with this Section, 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 26.31 Directory

The City of Oxford participates in the Mississippi Uniform Certification Program which maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory is available from the Mississippi Department of Transportation's Civil Rights Division; 601-359-7344.

Section 26.33 Overconcentration

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

Section 26.35 Business Development Programs

The City of Oxford has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

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

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. Contract termination is available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
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. This will be accomplished by site visits by city staff.
4. We will keep a running tally of actual payments to DBE firms 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 of Oxford 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. This section of the program will be updated annually.

In accordance with Section 26.45(f) the City of Oxford will submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, The City of Oxford will consult with the Mississippi Department of Transportation, Civil Rights Division; U.S. Census County Business Patterns; and the various city departments to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Oxford's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice in the Oxford Eagle and on the City's web page 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 public that you and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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.

Section 26.49 Transit Vehicle Manufacturers Goals

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

Section 26.51(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 4 to this program. This section of the program will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The City of Oxford will use contract goals to meet any portion of the overall goal the City of Oxford 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 through the use of race-neutral means.

We will establish contract goals only on those DOT-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.)

We will express our contract goals as a percentage of total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

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

The DBE Liason Officer is 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.

We 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))

City of Oxford treats bidder/offers' 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:

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))

Within 15 days of being informed by City of Oxford that it is not responsive 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: City Clerk; 107 Courthouse Square, Oxford, MS 38655; 662-232-2312. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We 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 replace on a contract (26.53(f))

City of Oxford 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.

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 Oxford 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 (5) if the contract goal is not met, evidence of good faith efforts.

[Note: When a contract goal is established pursuant to the recipient's DBE program, the sample bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found at Attachment 6 can be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both nonconstruction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.]

Section 26.55 Counting DBE Participation

We 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 of Oxford will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:
Tim Akers; 107 Courthouse Square, Oxford, MS 38655; 662-232-2305; takers@oxfordms.net

Our certification application forms and documentation requirements are found in Attachment 7 to this program.

SUBPART E – CERTIFICATION PROCEDURES**Section 26.81 Unified Certification Programs**

By March 2002, all other recipients of funding by the United States Department of Transportation will establish a USDOT approved Unified Certification Program (UCP) meeting the requirements of 40 CFR 26.81.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

We will review the eligibility of DBEs that we certified under former part 23, to make sure that they will meet the standards of Subpart E of Part 26. We will complete this review no later than three years from the most recent certification date of each firm. Our schedule for this review process will be: our 5 most active firms by August 1, our next 5 most active firms by December 1, etc.

For firms that we have certified or reviewed and found eligible under part 26, we will again review their eligibility every three years. These reviews will include the following components: filling out a new application.

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

We require all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the City of Oxford's application for certification.

We also require all owners of all DBEs we have certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [*name of DBE firm*] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [*name of DBE*]'s application for certification, except for any changes about which you have provided written notice to the [*Recipient*] under 26.83(j). [*Name of firm*] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$20.41 million.

We require DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

We will notify all currently certified DBE firms of these obligations in writing 30 days before their anniversary date. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Denials of Initial Requests for Certification

If we deny a firm's application or decertify it, it may not reapply until 12 months have passed from our action.

Section 26.87 Removal of a DBE's Eligibility

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87. Attachment 8 to this program sets forth these procedures in detail. To ensure

separation of functions in a de-certification, we have determined that the City Clerk will serve as the decision-maker in de-certification proceedings. We have established an administrative "firewall" to ensure that the City Clerk will not have participated in any way in the de-certification proceeding against the firm (including in the decision to initiate such a proceeding).

Section 26.89 Certification Appeals

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 Payments 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. These records will be made available for inspection upon request by any authorized representative of the City of Oxford or DOT. 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 states in the schedule of DBE participation.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculation
Attachment 5	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of DBE's Eligibility

Attachment 1

Organizational Chart

Board of Aldermen

Mayor

DBE Liaison Officer (City Planner)

Attachment 2

DBE Directory

See Mississippi Department of Transportation, Civil Rights Division
Phone: 601-359-7466
Fax: 601-576-4504
Email: civilrights@mdot.state.ms.us

Attachment 3**Monitoring and Enforcement Mechanisms**

The City of Oxford 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.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. 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.

Attachment 4

Section 26.45: Overall Goal Calculation

Amount of Goal

1. The City of Oxford's overall goal for FY 2009 is the following: 2.3 % of the Federal Financial assistance we will expend in DOT-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.
2. \$1,071,875 is the dollar amount of DOT-assisted contracts that the City of Oxford expects to award during FY 2009 – FY 2011. This means that City of Oxford has set a goal of expending \$24,653 with DBEs during these fiscal years.

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:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs} \quad 14}{\text{All firms ready, willing and able} \quad 603} = 2.3\%$$

The data source or demonstrable evidence used to derive the numerator was: MDOT Certified DBE Address List Report

The data source or demonstrable evidence used to derive the denominator was: U.S. Census 2006 County Business Patterns

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine if adjustment to the base figure was needed.

In order to reflect as accurately as possible the DBE participation, we would expect in the absence of discrimination we have not adjusted our base figure.

The data used to determine the adjustment to the base figure was: MDOT Certified DBE Address List Report and U.S. Census 2006 County Business Patterns.

The reason we chose not to adjust our figure using this data was that it reflected the number of qualified/certified businesses that met the standards of DBE certification. The "relative availability" of DBE's in the Oxford contracting area is estimated at 2.3%. Since the federal funds will be used to construct a transit operations/maintenance facility, this figure was derived by comparing the number of certified DBE's in the construction or construction related areas with the total number of construction firms that are thought to be ready, willing and able to bid on contracts and subcontracts as reported by Standard Industrial Code in the U.S. Census 2006 County Business

Patterns. Due to the relatively small number of certified DBE firms in the construction industry within the local market, the City felt it was not necessary to adjust the base figure.

Public Participation

We published our goal information in these publications: Oxford Eagle

We received comments from these individuals or organizations:

Summaries of these comments are as follows:

Our responses to these comments are:

Attachment 5

Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation

The City of Oxford will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The City of Oxford uses the following race-neutral means to increase DBE participation:

- Arrange solicitations and times for presentation of bids in ways that facilitate DBE's and other small business participation;
- Provide technical services and information to help DBE's increase contracting opportunities.

We estimate that, in meeting our overall goal of 2.3%, we will obtain 1.3% from race-neutral participation and 1% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: The City of Oxford will establish goals to determine race-neutral and race conscious including the use of outside directories, census data and other related facts to determine relative availability. The City of Oxford will make an effort to collect data as a result of this program, will review performance data including race-neutral and race conscious means and their effectiveness, and will participate in outreach meetings with both DBE's and non DBE's willing to participate in transit programs.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report 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 procurement 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.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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.

_____ The bidder/offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

.....
.....
.....
.....

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Attachment 8

Procedures for Removal of DBE's Eligibility

When the City of Oxford notifies a firm that there is reasonable cause to remove its eligibility, the City of Oxford will give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified. In the proceeding, the City of Oxford bears the burden of proving, by the preponderance of the evidence, that the firm does not meet the certification standards. The City Clerk will conduct the hearing.

The City of Oxford will maintain a record of the proceedings, including a verbatim record of an administrative hearing. If there is an appeal to USDOT under 49 CFR 26.89 the City of Oxford will provide a transcript of the hearing to USDOT and, on request, to the firm. The City of Oxford will retain the original record of the hearing. The City of Oxford will charge the firm for any cost of copying the record, if one is requested by the firm.

The firm may choose to present information and/or arguments in writing, without attending the hearing. In such a situation, the City of Oxford's burden of proof remains the same.

A decision to remove eligibility of a firm will be based on one or more of the following:

1. Changes in the firm's circumstances since its certification that render it unable to meet the eligibility standards;
2. Information or evidence not made available to the City of Oxford at the time the firm was certified;
3. Information that was concealed or misrepresented by the firm in the certification action and process. This specifically includes a firm's failure to timely provide information requested by the City of Oxford, as required by 49 CFR 26-739(c), 26.839(i)(3), 26.83(j) and 26-109(c).
4. A change in USDOT's certification standards or requirements since the firm was certified;
or
5. A documented finding the City of Oxford earlier determination to certify the firm was factually erroneous.