

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY



DISADVANTAGED BUSINESS ENTERPRISE PROGRAM



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Introduction

The Central Florida Regional Transportation Authority (LYNX) was founded in May 1972 as the Orange Seminole Osceola Transportation Authority (OSOTA). It became Tri-County Transit in 1984, began doing business as LYNX in 1992, and officially changed its name to the Central Florida Regional Transportation Authority in March 1994. LYNX serves Orange, Seminole, and Osceola counties—an area of approximately 2,500 square miles with a resident population of more than 2.3 million people. Small portions of Polk and Lake counties are also served.

As a recipient of United States Department of Transportation (USDOT) grant funds, LYNX is subject to regulations governing such funds including the Code of Federal Regulations, Title 49 Part 26, which detail Disadvantaged Business Enterprise (DBE) requirements. The DBE Program in the pages that follow sets forth and formalizes LYNX's actions with respect to upholding its commitment to create a level playing field on which small and disadvantaged businesses can compete fairly for DOT assisted projects.

I. SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives/Policy Statement

LYNX adopts the objectives provided in 49 CFR 26.1 for its DBE Program. The objectives are found in the policy statement attached to this program.

Section 26.3 Applicability

LYNX, as a recipient of Federal Transit funds authorized by Titles I, III, V and VI or ISTEA, Pub. L. 102-240 or by Federal transit laws in title 49, U.S. Code, or Titles I, III and V of the TEA-21 Pub. L. 105-178.

Section 26.5 Definitions of Terms

LYNX will adopt the definitions contained in § 26.5 for this program. See definitions Attachment.

Section 26.7 Non-Discrimination Requirements

LYNX 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, LYNX 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

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

LYNX will report DBE participation to the DOT and Federal Transit Administration (FTA) on a bi-annual basis by submitting the Uniform Reports of DBE Awards or Commitments and Payment Form. This form reflects payments actually made to DBEs on DOT- assisted contracts.

Reporting to USDOT 26.11 (b)

LYNX will continue to provide data about the Program to the DOT as directed by FTA.

Bidders List: 26.11(c)

LYNX will create and maintain a bidders list. The purpose of this requirement is to allow use of a bidders list approach to calculating overall goals. The bidder's list must include the name, address, DBE or non-DBE status, annual gross receipts, and the North American Industry Classification System (NAICS) code applicable to each scope of work proposed by the firm in its bid.

LYNX will obtain the noted information by requiring all prime contractors bidding on DOT assisted contracts to submit a Contract Utilization Form, Intent to Perform and Documentation of Good Faith Efforts at the time of submittal of its bid/proposal. The forms must be completed by the prime contractor/consultant and all subcontractors submitting a bid to the prime for the solicitation.

When requested, LYNX will submit the bidders list data through a dedicated U.S. DOT system.

Section 26.13**Federal Financial Assistance Agreement**

LYNX has signed the following assurances, applicable to all USDOT-assisted contracts and their administration. This language will appear in financial assistance agreements with sub-recipients.

Assurance: 26.13(a)

LYNX 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 LYNX 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.).

Contract Assurance: 26.13(b)

LYNX 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 LYNX deems appropriate.

II. SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21**DBE Program Update**

LYNX will continue to carry out this Program until all funds from DOT financial assistance have been expended. LYNX will provide to DOT updates representing significant changes in the Program.

Beginning October 9, 2024, the Federal Transit Administration moved to a two-tiered system for Disadvantaged Business Enterprise program compliance for recipients that receive planning, capital, or operating assistance. Tier I recipients are those recipients that will award prime contracts exceeding a cumulative total value of \$670,000 in FTA funds in a federal fiscal year, excluding transit vehicle purchases. Tier II recipients are those recipients that will award prime contracts with a cumulative total value of \$670,000 or less in FTA funds in a federal fiscal year, excluding transit vehicle purchases.

As a recipient of DOT grant funds, LYNX must adopt a DBE Program as a Tier I recipient as it awards more than \$670,000 in federal transit funds annually in third-party contracts excluding transit vehicle purchases.

Section 26.23 Policy Statement

LYNX has issued the policy statement attached to this program. The policy statement has been circulated throughout LYNX as well as to DBE and non-DBE business communities that perform work on DOT-assisted contracts. The policy statement is also available on the LYNX website.

Section 26.25 DBE Liaison Officer (DBELO)

LYNX has designated the individual whose name is shown in the organizational chart attached to this program as the DBE Liaison Officer:

In this capacity, DBE Liaison Officer is responsible for implementing all aspects of the LYNX's DBE Program and ensuring that the LYNX complies with all provisions of 49 CFR Part 26. The DBE Liaison Officer has direct, independent access to the LYNX CEO.

It is the responsibility of the DBELO to carry out the day-to-day operations of the LYNX's DBE Program. Specifically, the duties of the DBELO include, but are not limited to:

1. Develop, monitor and provide the implementation and continuing evaluation of the DBE Program;
2. Work with all LYNX departments to set the LYNX's overall annual DBE participation goal;
3. Circulate the DBE Policy Statement to LYNX personnel and the LYNX's contracting community;
4. Identify contracts and procurements to ensure that general and/or contract- specific DBE goals are included in solicitations and monitor the results;
5. Review third-party contracts and purchase requisitions for compliance with this program;
6. Ensure that bid notices and requests for proposals are available to DBEs in a timely manner;
7. Provide DBEs with information and assistance in preparing bids, and obtaining bonding and insurance;
8. Analyze the LYNX's progress towards goal attainment and identify methods for improvement;
9. Consult with legal counsel, project managers and LYNX's Procurement Department to determine contractor compliance with good-faith efforts;
10. Provide management and technical assistance for the expansion and overall business development of DBEs;
11. Publicize LYNX business opportunities to DBEs;
12. Attend pre-bid, pre-award and pre-construction meetings to explain DBE Program requirements;
13. Monitor contractors' and subcontractors' compliance with their DBE participation commitments through the life of the contracts;
14. Plan and participate in training sessions for the purpose of informing potential bidders about the DBE Program and about business opportunities with LYNX;
15. Ensure timely submission of DBE Program reports that are required by FTA;
16. Maintain accurate and up-to-date records demonstrating DBE efforts and progress within LYNX;

17. Review the Affirmative Action Programs of contractors to determine their compliance with DBE Program requirements; advise contractors (if required) of the steps necessary to bring them into compliance regarding DBE utilization; and conduct compliance reviews as needed to ensure effective program implementation;
18. Investigate complaints and protests filed against the DBE Program;
19. Ensure that each contract and each subcontract executed by the prime contractor contains the assurances listed in Section 26.13;
20. Establish contract-specific DBE goals where applicable;
21. Survey the DBE community and other relevant sources as part of the DBE participation goal-setting process;
22. Conduct outreach in order to increase business opportunities for DBEs at LYNX;
23. Advise the LYNX's CEO and Board on DBE matters and achievement;
24. Evaluate all change orders that affect the original contract value for potential DBE participation opportunities; and
25. Ensure that safeguards are instituted to mitigate any potential conflicts of interest including reporting relationships.

Conflict of Interest

In the event that the DBELO is the Procurement Director, a mechanism has been put in place to provide independent oversight of the activities to prevent the appearance of any undue influence or conflict of interest.

Transparent Reporting: The individual holding the combined role will maintain transparency by regularly reporting to senior management and relevant oversight bodies on both procurement outcomes and DBE participation metrics. This will include:

- Detailed reports on procurement decisions, contract awards, and the rationale behind such decisions.
- Regular updates on DBE participation, challenges encountered, and efforts to meet DBE participation goals.

Ensuring Fair Opportunity for All Contractors:

- In performing the duties of both roles, the individual will ensure that all contractors, including DBEs, are afforded a fair opportunity to compete for contracts.
- The individual will not give preferential treatment to any contractor or DBE at the expense of procurement fairness, best value, or transparency.
- This individual is required to disclose any potential conflicts of interest, including relationships with DBE firms.
- If a conflict is identified, the individual will recuse themselves from participating in the procurement process related to that DBE company.

Support Staff: The DBE Compliance Administrator is the DBELO support staff from within the DBE Department. (the support staff is included in the organizational chart provided as an attachment on this Program.)

The following officials from other departments assist the DBELO with implementing the DBE Program:

1. **In-House Legal Counsel:** The assistance includes, but is not limited to:
 - a. Provide legal advice with respect to interpreting and implementing the DBE regulations;

- b. Advise the CEO and DBELO regarding matters dealing with imposition of administrative sanctions against contractors who violate any part of the DBE program requirements; and
- c. Represent LYNX in all legal actions involving DBE issues.

2. Chief Financial Officer: The assistance includes but are not limited to:

- a. Consult with the DBELO to maximize investments of LYNX funds with minority financial institutions, and periodically report progress to the LYNX Board;
- b. Assist in assuring adherence to the prompt payment provision in LYNX contracts; and
- c. Assist the DBELO in providing information on applications for federal grants.

Section 26.27 DBE Financial Institutions

It is the policy of LYNX 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 contracts to make use of these institutions. Information on the availability of such institutions can be obtained at the U.S. Department of Treasury <http://www.federalreserve.gov/releases/mob/>.

Section 26.29 Prompt Payment

Prompt Payment 26.29(a)

As required by 49 CFR Part 26 26.29 following clause is in each DOT-assisted prime contract. The Prime Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than ten (10) business days after the Contractor has received payment from LYNX. A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the DBELO.

Retainage 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within (30) calendar 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 LYNX. This clause applies to both DBE and non-DBE subcontracts. If the prime contractor determined the work to be unsatisfactory, they must notify LYNX' Project Manager and DBELO immediately, in writing, and state the reason(s) for unsatisfactory work performance. Failure to satisfy prompt payment no later than 10 Days from the receipt of payment from LYNX may be cause to terminate the contract.

Reporting Requirements:

- 1. The Bidder shall, within seven (7) calendar days of contract award, or prior to any work being performed by any Subcontractor of any tier, execute written subcontracts or purchase orders with the Subcontractors included in the Bid. In the event the Bidder cannot complete the agreement with one or more Subcontractors within this seven (7) day period, the Bidder must provide a written explanation for the delay and an estimated date by which the written agreement will be completed to the DBE Department. These written agreements shall be made available to the DBELO upon request.

2. The Contractor must utilize the Authority's DBE FORM 3- Monthly DBE Payment Report for reporting payments rendered to all Subcontractors.
3. The Contractor must report all Subcontractor payments no later than Five (5) calendar days of each month. Failure to follow these directions may delay payment.
4. The Contractor will be expected to respond to desk audits performed at the contract's quarterly milestones. Requests for information will include, but are not limited to, subcontractor invoices and proof of payment (i.e. cancelled check or electronic fund transfer ("EFT") statement).

Section 26.31 Directory

It is a requirement for LYNX to participate in a combined statewide directory under the State of Florida DOT Uniform Certification Program (UCP). The directory identifying all firms eligible to participate as a certified DBE, may be located at the Florida Department of Transportation website <http://www.dot.state.fl.us.equalopportunityoffice/>.

The statewide directory should enable prime contractors for applicable projects to proceed more easily in their attempts to comply with goals regarding Disadvantaged Business Enterprises.

Section 26.33 Overconcentration

If LYNX determines overconcentration exists in the types of work that DBE firms perform LYNX will derive the appropriate measures to address this overconcentration. Appropriate measures to address this overconcentration may include the use of incentive, technical assistance and other measures designed to assist DBEs in performing work outside of the specific field.

Section 26.35 Business Development Programs

LYNX has elected not to administer a Business Development Program (BDP) and/or a Mentor-Protégé Program as part of its overall DBE activities. However, LYNX is committed to the growth and development of the DBE Community and its ability to compete in the general marketplace. In this interest, LYNX has designed the following activities:

1. Participate in training seminars and community outreach for the purpose of informing prospective contractors of available business opportunities
2. Distribute through electronic media procurement advertisements to businesses that have been identified as certified DBEs and Small Business Enterprises (SBEs) listed in the DBE directory which are likely to participate on the contract
3. Encourage DBE and SBE attendance at pre-bid conferences

Section 26.37 Monitoring and Enforcement Mechanisms

LYNX will engage in the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. LYNX will bring to the attention of the Department of Transportation (DOT) any false, fraudulent, or dishonest conduct in connection with the Program, so that the 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 Section 26.109.
2. LYNX will monitor and enforce mechanisms to ensure compliance with 49 CFR Part 26. Failure to comply with the DBE requirements of the contract or failure to use DBEs as stated in the bid/proposal constitutes a material breach of contract. The DBELO shall have the

discretion to recommend to LYNX's to apply suitable sanctions to the Contractor if the Contractor is found to be in non-compliance with the DBE requirements. Such sanctions include, but are not limited to, withholding payment to the Contractor until corrective action is taken; suspension and/or termination of the contract, in whole or in part; and debarring or suspending the Contractor from entering into future contracts with the LYNX. Individual citizens aware of these violations by any company may report to LYNX such incidence directly to the DBE Department.

3. LYNX will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed. This will be accomplished by the following:

Introduction

When a contract award is made by LYNX, the DBELO Officer will provide notification to the DBE and prime contractor confirming the contract award. This will also serve as an introduction and provide contact information to the DBELO.

Kick-off Meeting

DBE Department staff shall attend a kickoff meeting to inform the contractor of the DBE Requirements and other matters, prior to or immediately after Notice to Proceed is issued. The Contractor shall be responsible for informing the Subcontractors of all DBE Requirements as specified by LYNX herein.

DBE Forms

All relevant reporting forms will be provided to the prime contractor and the DBE to include LYNX' monthly vendor payment report and the DBE certifying payments verification form.

Monthly Reports

LYNX will require the prime contractor to submit regular reports (monthly) with invoice of the actual payments made to DBE firms for work committed to them at the time of contract award and a copy to the DBELO. DBE participation will be credited to an overall or contract goal when payments are actually made to the DBE firm(s).

Subcontract Agreement

If awarded the contract, the prime contractor would be required to execute and provide the subcontractor agreements or purchase orders with DBEs listed on their utilization plan within seven (7) calendars days prior to start of work with the DBE subcontractors identified in its bid/proposal.

Contract Monitoring

1. LYNX actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms}, including a means of comparing these attainments to commitments.
2. LYNX proactively reviews contract payments to subcontractors including DBEs on a monthly basis. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to LYNX by the prime contractor and in accordance to our Prompt payment section.
3. LYNX will monitor by randomly contacting DBE subcontractors to ensure DBE payments are being made in accordance to our Prompt Payment section and that they match that of what the prime is reporting.

Design-Build Contracts

LYNX will require prime contractors (Design-Build Team) to submit an open-ended DBE Performance Plan (DPP) with the proposal. Open-ended DPP Guidelines will be provided at the time of the bid.

1. The DPP submitted must include a commitment to meet the DBE goal listed in the contract proposal and a detailed plan for ongoing DBE solicitation and outreach efforts.
2. The DBE Open-Ended Performance Plan must be submitted with the Technical Proposal during the design-build procurement process by all proposers. No DBE firms will be submitted at the time of bid. To be considered responsive.
3. The DPP must be included with the technical proposal in the executed contract and will become a contractual obligation.
4. The Design-Build Team will be required to adhere to all aspects of the DPP unless otherwise approved by the DBE Department.
5. The DBE Department will provide monitoring of goal attainment throughout the life of the project to evaluate good faith efforts, and parties may agree to make written DPP revisions throughout life of project.
6. Primes must submit a progress reports to show that the design-build prime contractor is meeting the contract goal for the project, or if the goal is not being met, the design-build contractor must submit satisfactory evidence that it has made good faith efforts, of payments made to DBE firms will be maintained by LYNX.
7. The design-build contractor will promptly provide LYNX with the contract information upon selection of any DBE or other subcontractor not previously identified by the design-build contractor. During the course of the contract, differences must be explained and resolved by either making corrections or requesting a substitution.
8. The design-build contractor will provide DBE Progress Reports to LYNX each quarter. The Design-Build Team's Point of Contact shall meet with the DBELO or representative to discuss progress on the project, upcoming DBE work, review the DPP Monitoring to ensure that DBE subcontracting opportunities are on track, discuss good faith efforts, commitments and any other topics related to the DPP. The payments made to DBE subcontractors shall be reported monthly in addition to reporting on the DPP Monitoring Plan.

Termination Request

The Prime Contractor cannot terminate for convenience, in whole or part, a DBE subcontractor listed on the DBE Form 1- Utilization and Commitment Confirmation without the written concurrence of LYNX's DBELO. This includes, but is not limited to, instances in which a Prime Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE subcontractor, or with another DBE subcontractor. Unless consent is provided by LYNX, the Prime Contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE subcontractor. The DBE Termination Procedure is included as an attachment on this program.

Records Keeping

LYNX will require prime contractors to maintain records of payments to DBEs for three (3) years following the completion or termination of the contract. These records will be made available upon request for inspection by any authorized representative of LYNX, and DOT. The requirement also extends to any certified DBE.

Commercially Useful Function Monitoring

During the course of the contract, LYNX will conduct onsite monitoring to ensure that the scope of work committed to the DBEs are actually being performed by the DBEs.

Section 26.39 Small Business Participation

LYNX is committed to promote and foster Small Business participation and in order to

increase opportunities for small business will include in its DBE program to allow for contracting opportunities or small business to compete for procurements as prime contractors or subcontractors. During its normal course of business LYNX currently utilizes small business in such areas as custodial, landscaping services, printing and the items for small purchase.

LYNX will analyze small business contracting opportunities in order to encourage and facilitate participation for small business to compete for contracts. The DBE Department will work with the procurement department and project managers to identify contracting opportunities for certified small business and monitor the participation.

Outreach efforts will be utilized by way of the bidders list and member association agencies and on the LYNX website in an effort to make them aware of potential contracting and subcontracting opportunities that will occur.

III. SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

LYNX's DBE Program is a goal-oriented program. LYNX will not use quotas in any way in the administration of the DBE Program.

Section 26.45 Overall Goals

LYNX will follow the requirements of 49 CFR Part 26 when setting its overall agency DBE goal for its DOT-assisted contracts. To the extent possible, the goal will be met using means that are race neutral such as outreach, technical assistance and procurement modification.

Where race neutral means are insufficient, contract-specific goals will be set by the LYNX to assist it in achieving its overall agency DBE goal. The means used to achieve the goal will avoid imposing undue burden on on-DBEs.

Contract-specific goals will be reviewed regularly. The information gathered from such review will be used, along with other data, to adjust the use of contract-specific goals accordingly. The overall agency DBE goal will be reviewed on a tri-annual basis and revised as necessary.

From time to time, LYNX will utilize the services of a consultant to analyze available data, including census data, survey data and data on past LYNX contracting with federal dollars to perform a disparity study. This consultant will perform a detailed statistical analysis to assess the current availability data and a detailed statistical analysis that assesses the current availability of DBEs in relevant market and that assesses whether past or current discrimination has limited the current availability of DBEs in that market.

LYNX will establish its overall DBE goal every three (3) years and establish project-specific DBE goals when appropriate. In accordance with the methodology set forth in the regulations (49CFR Part 26.45). LYNX will then establish its overall and project-specific DBE goal as follows:

Step 1: The current bidders list that LYNX compiles will be used to determine the number of ready, willing, and able DBE firms and the number of all ready, willing, and able firms. Each firm will be required to provide NAICS code(s) in which it would like to compete for LYNX contracts in. LYNX will then receive forecasted DOT-assisted projects from all departments and identify subcontracting opportunities by NAICS code for each contract and assign estimated dollars based on the departments' estimates. Finally, LYNX will divide the number of DBE firms by the number of all firms in each NAICS code to derive the base figure.

Step 2: In addition to measuring the relative availability of DBEs, LYNX will gather historical data on the forecasted contracts to analyze whether the forecasted dollars are similar to the previous three years of DOT-assisted spending. If they are similar, LYNX will use the median attainment from the past three years to adjust the base figure. To adjust the base figure, LYNX will average the base figure and the median attainment from the past three years.

If they are not similar, LYNX will review previous contracts similar in size and scope to analyze whether the base figure is consistent with previous attainments.

LYNX will also confer with local experts, engage in public outreach, meet with technical assistance agencies, and examine anticipated changes in DOT-assisted contracting over the next year to buttress the consultant's recommendation.

When establishing or revising its agency DBE goal, LYNX will:

1. Following the consultation, LYNX 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 public that you and DOT will accept comments on the goals for 30 days from the date of the notice.
2. LYNX posts notices in the Orlando Sentinel, El Sentinel, and LYNX' website. Normally, LYNX 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.
3. The overall goal submission to DOT will include a summary of information and comments received during this public participation process and LYNX' responses.
4. LYNX will begin using the overall goal on October 1 of each year, unless LYNX has received other instructions from DOT.

If LYNX is instructed by FTA or feels it is necessary to establish a project DBE goal, LYNX will use the same methodology described above specific to the work detailed in the project.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on LYNX' Uniform Report of Awards or Commitments and payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, LYNX will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/ commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Submit the plan to FTA within 90 days of the end of the affected fiscal year.

Section 26.49 Transit Vehicle Manufacturers Goals

LYNX will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on DOT-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. In conformity with 49 CFR Part 26.49 (f), LYNX 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 manufacturers are required to submit separate annual percentage overall goals for the utilization of DBEs to the FTA Administrator. LYNX will verify each bidder/proposer's TVM certification on DOT's website prior to the award of a contract or option on a contract.

Additionally, LYNX will notify DOT within 30 days of making an award of a new contract or an option on a multi-year contract including the name of the successful bidder and the total dollar value of the contract. LYNX will report the required information on transit vehicle procurement awards on the online form developed by FTA [Transit Vehicle Award Reporting Form](#).

Section 26.51 Meeting Overall Goals

The breakout of estimated race-neutral and race-conscious participation can be found in the Goal Setting Methodology Attachment to this program. This section of the program will be updated every three (3) years with goal calculations.

Race-Neutral Measures

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

1. The invitation for bids/proposals which are publicly advertised will be solicited from an adequate number of known small businesses, providing them sufficient bid-submittal time prior to the date set for opening bids/proposals. Ensure that unreasonable requirements are not placed on firms in order for them to qualify to do business, such as unnecessary experience and excessive bonding. Also ensure establishment of delivery schedules, quantities and specifications, where the solicitation permits, that encourage participation by small and DBE businesses;
2. Encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces;
3. Providing technical assistance and other services;LYNX shall meet the maximum feasible portion of the proposed annual goal through the use of race-neutral means of facilitating DBE participation.
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses on LYNX's mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Ensuring distribution of the DBE directory, through electronic means, to the widest feasible universe of potential prime contractors;

Race- Conscious Measures (Contract Goals)

LYNX will use contract goals to meet any portion of its overall DBE goal it projects it will not be able to meet using race-neutral means. Contract goals will be established over the period to which the overall goal applies.

LYNX will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities, and the size of the 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).

On contracts for which a contract specific goal has been established, LYNX shall in the solicitation inform competitors of the requirement to submit Disadvantaged Business Enterprise participation information to LYNX and that the award of the contract will be conditioned upon satisfaction of the requirements established by LYNX.

The apparent successful competitor shall submit, at the time of the bid opening or proposal review, the following information:

1. The name and address of Disadvantaged Business Enterprise firms that will participate in the contract;
2. The description of the work each named Disadvantaged Business Enterprise will perform; and
3. The dollar amount or percentage of participation by each named DBE firm.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts 26.53 (a)

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 - 49 CFR Part 26**.

The DBELO 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.

Mere pro forma efforts will not be considered good faith efforts to meet the DBE contract requirements.

Information to be submitted: 26.53 (b)

LYNX treats bidder's compliance with good faith efforts' requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidder/ offeror, with bid proposal, to submit the following information:

1. The names and addresses of DBE's that will participate in the contract;
2. A description of work that each DBE will perform, including the assigned NAICS Code;
3. The dollar amount of each DBE's participation;
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 on the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts documentation must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE sub-contractor was selected over a DBE for work on the contract.

Evaluation of Good Faith Efforts: 26.53 (c)

1. The DBELO or representative 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.
2. For all contracts in which contract DBE goals are established, LYNX will inform competitors in the solicitation that all bidders/proposers will be required to show

- good faith efforts to meet the DBE goal with their bid/proposer documents.
3. Good faith efforts will be shown by documenting enough DBE participation to meet the goal or documenting adequate good faith efforts to meet the goal or a combination of the two.
 4. An award of the contract will be conditioned upon the bid/proposers documenting good faith efforts to meet the DBE goals on the contracts.
 5. On all invitations for bids, meeting the DBE goal/documenting good faith efforts will be an element of responsiveness.
 6. On all requests for proposals and letters of interest and qualifications, meeting the DBE goal/documenting good faith efforts will be an element of responsibility.
 7. If insufficient DBE participation is submitted to meet the DBE contract goal, bidders/proposers must document their good faith efforts to meet the goal at the time of submitting their bid or proposal. This submission should be submitted on the DBE Good Faith Efforts Form.
 8. LYNX will ensure that all information is complete, accurate, and adequately documents the bidder's and or proposer's good faith efforts before LYNX awards the contract.
 9. The DBELO or representative shall review the submissions for compliance and make a determination as to the responsiveness of the proposals and submit a summary of the results to the Contract Administrator. The letter of intent shall include all subcontractors' names, scope or types of work to be performed and estimated dollar value of the work.

Administrative reconsideration (26.53(d))

Within 3 days of being informed by LYNX that the offeror it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offeror should make this request in writing to the following reconsideration official:

Chief Executive Officer, Central Florida Regional Transportation Authority (LYNX)
455 North Garland Avenue
Orlando, Florida 32825
(407) 254- 6063, thomler@golynx.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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

LYNX 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 replaced on a contract 26.53 (f)

LYNX requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without LYNX's prior written consent. Prior written

consent will only be provided where there is “good cause” for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

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

A copy of the DBE’s response must also be provided to LYNX. In those instances where “good cause” exists to terminate a DBE’s contract, LYNX will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. LYNX will require the prime contractor to notify the DBELO immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation.

In this situation, LYNX 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, LYNX’ 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 proceedings.

Section 26.55 Counting DBE Participation

LYNX will count DBE participation toward the overall and contract goals as provided in 49CFR Part 26.55.

Commercially Useful Function

DBE primes and subcontractors, at any tier, must perform a Commercially Useful Function (CUF). A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. If a DBE does not perform or exercise responsibility for at least 30 percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, LYNX will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence in writing to rebut this presumption. LYNX may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices. LYNX decisions on commercially useful function are not administratively appealable.

IV. SUBPART D – CERTIFICATION STANDARDS

Section 26.61–26.73

Certification Process

LYNX is a member of the Unified Certification Program (UCP) in the State of Florida. A firm must meet all certification eligibility standards. The UCP will meet all of the requirements of this section. LYNX will use the DBE and count for DBE credit only those firms certified in directory listed on the UCP website.

V. SUBPART E – CERTIFICATION PROCEDURES

Section 26.81

Unified Certification Programs

LYNX is a non-certifying member of the Unified Certification Program (UCP) in Florida administered by:

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

www.dot.state.fl.us/equalopportunityoffice/DBEProgram

All firms must apply through the UCP to be certified in the state of Florida. The local certifying agency in Orange County is the Greater Orlando Aviation Authority (GOAA) located at the Orlando International Airport. LYNX will use the directory administered by the Florida Department of Transportation and listed on the UCP website to verify if a firm is DBE certified. The Florida UCP will meet all of the requirements of 49 CFR Part 26.

The following is a description of the UCP: The Florida UCP certifies DBEs in accordance with Federal Regulations. An Annual Meeting of the Florida UCP is held for all members to attend and discuss issues or needed changes in the UCP program.

Section 26.83-91

Procedures for Certification Decisions

Any firm or complainant may appeal a Florida UCP decision matter to the DOT. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Avenue S.E.
West Building, 7th Floor
Washington, D. C 20590

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

VI. SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109

Information, Confidentiality, Cooperation

LYNX will safeguard from disclosure 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 written consent of the submitter.

Monitoring Payments to DBEs

LYNX 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 LYNX or DOT. This reporting requirement also extends to any certified DBE subcontractor.

LYNX will perform project milestone audit 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.

VII. AMENDMENT

This Program may be amended to comply with changes to the federal regulations, 49 CFR Part 26, or with changes to the manner in which LYNX does business by the CEO of LYNX; provided, however, that the DBE goal may only be set or revised by LYNX Board.

VIII. ATTACHMENTS

1. Definitions
2. LYNX Policy Statement
3. Organizational Chart
4. Overall Goal Calculation Methodology
5. DBE Form 2 - Good Faith Efforts Documentation
6. DBE Termination Procedure
7. Commercially Useful Function (CUF) Questionnaire

DEFINITIONS

Applicant means one who submits an application, request, or plan to be approved by a department official or by a primary recipient as a condition to eligibility for Department of Transportation financial assistance; and “application” means such an application, request, or plan.

Compliance means that a recipient has correctly implemented the requirements of this part.

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.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Days mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

DBE Liaison Officer (DBELO) means designated individual responsible for implementing all aspects of the DBE program and ensuring compliance with all provisions of 49 CFR Part 26.

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).

Disadvantaged Business Enterprise or DBE means a for-profit small business concern— (1) 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 (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

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.

DPP means the DBE Performance Plan.

Goal a numerically expressed objective which LYNX or its contractors are encouraged to make a Good Faith effort to achieve.

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.

Non-compliance means the recipient or contractor has not correctly implemented the requirements of this part.

Primary industry classification means the most current North American Industry 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, which is available on the Internet at the U.S. Census Bureau Website: <http://www.census.gov/eos/www/naics/>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

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.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or SBA means the United States Small Business Administration.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.

Uniform Certification Program (UCP) the UCP provides “one stop shopping” for all firms seeking certification as a Disadvantaged Business Enterprise [DBE] in Florida.

POLICY STATEMENT



DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM POLICY STATEMENT

The Central Florida Regional Transportation Authority, d.b.a. LYNX, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. As a recipient of Federal financial assistance from the Department of Transportation and as a condition of receiving this assistance, LYNX has signed an assurance that it will comply with 49 CFR Part 26 and LYNX will submit to the State DOT its DBE program Policy for compliance with statutes and regulations.

It is the policy of LYNX to ensure that DBEs as 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 and Small Business in DOT assisted contracts;
6. To promote the use of DBEs in all types of Federally-assisted contracts and procurement activities;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing, and providing opportunities to DBEs.

The Director of Procurement/ DBE Liaison Officer has been designated as the DBE Liaison Officer. In that capacity, the Director of Procurement/ DBE Liaison Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is afforded the same priority as compliance with all other legal obligations incurred by the LYNX in its financial assistance agreements with the Department of Transportation. The current DBE Liaison Officer is:

Maurice Jones
Director of Procurement/DBE Liaison Officer
455 North Garland Avenue
Orlando, Florida 32801
(407) 254-6029
MAJones@golynx.com

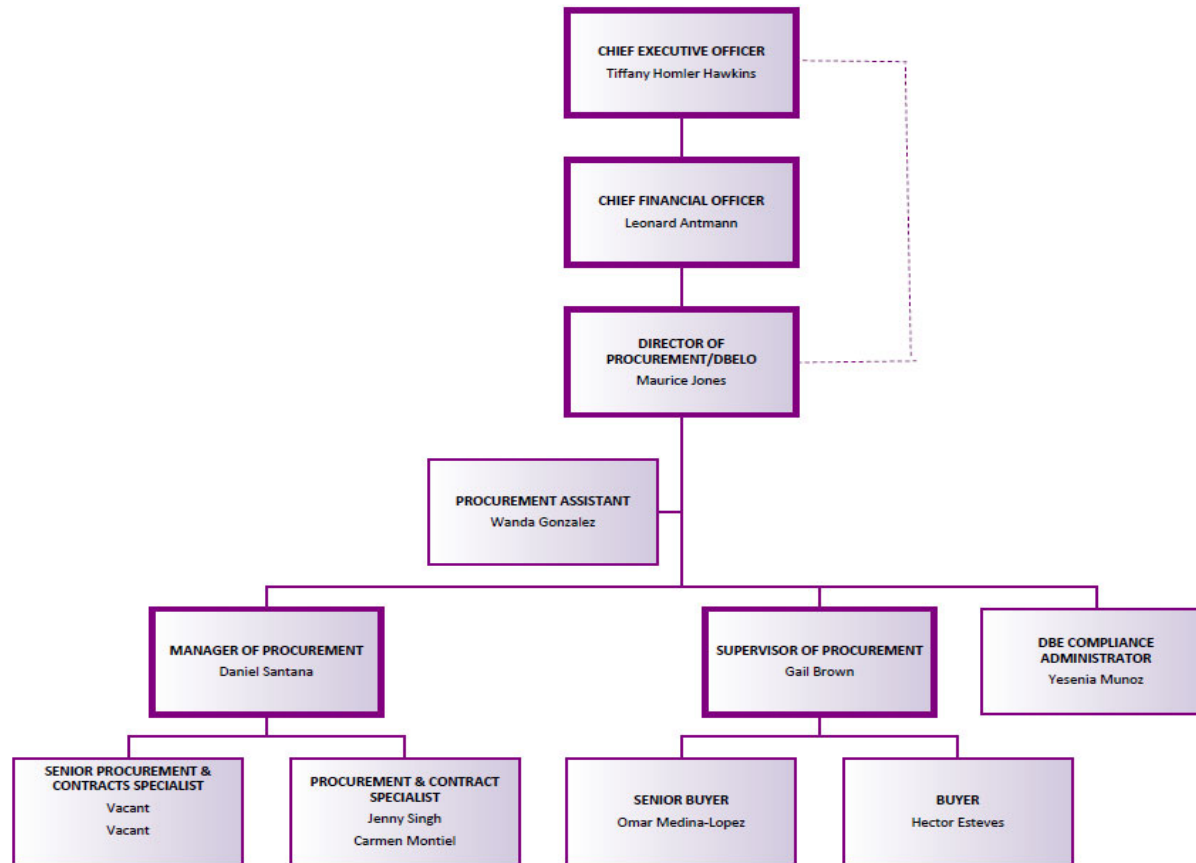
Tiffany Homler Hawkins, Chief Executive Officer, shall be for the DBE program purposes the Reconsideration official. Ms. Homler Hawkins is located at 455 North Garland Avenue, Orlando, Florida 32801.

LYNX will disseminate this policy statement to the *Board of Directors of LYNX* and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. Publishing this statement in a newspaper or of general circulation focused on minority readers, annually. Additionally, the DBE policy statement will be posted on the LYNX website.


Tiffany Homler Hawkins, Chief Executive Officer

4/18/24
Date

ORGANIZATIONAL CHART



PROCUREMENT DEPARTMENT

**CENTRAL FLORIDA REGIONAL
TRANSPORTATION AUTHORITY
D/B/A LYNX
DISADVANTAGED BUSINESS ENTERPRISE
PROGRAM**



**FEDERAL FICSAL YEARS 2023-2025
Triennial GOAL**

Section 26.45: Overall Goal Calculation Methodology

As a recipient of U.S. DOT financial assistance and in accordance with Code 49 of Federal Regulations, Part 26.45, each recipient is required to set an overall goal for DBE participation in U.S. DOT assisted contracts. The goal will provide for participation by all certified DBEs and will not be subdivided into group specific goals nor established as a quota system. LYNX will utilize a two-step process in the development of its overall Disadvantaged Business Enterprise (DBE) goal.

Step One: Calculation of a base figure, that represents the availability of DBEs ready, willing and able to work LYNX' contracts.

Step Two: Adjustment of the base figure so that the final overall goal represents the amount of participation LYNX might expect in the absence of discrimination.

Step 1: 26.45(c) Determine the base Figure for the relative availability of DBEs

Relative Availability of DBEs

In general, the Normal Market Area is not defined in the DOT DBE regulations. LYNX determines its Normal Market Area based on the following factors:

- 1) Where all contractors (DBEs and non-DBEs) doing business with LYNX are located; and,
- 2) Where the majority of the contracting dollars are spent by LYNX on DBE projects.

Location where DOT-Assisted Dollars Are Spent

All DOT-assisted contract dollars were spent in the Tri County Area which is described as Orange, Seminole and Osceola counties where a substantial majority of the contractors and subcontractors with which we do business are located. In this service area we spend the majority of our federal contracting dollars.

Relative Availability of DBE Firms

LYNX has identified its local market as the three-county area of Orange, Seminole, and Osceola Counties, where the majority the prime contractors and subcontractors are located, and contract dollars are spent.

Relative Availability of all Firms

The data sources for used to derive the ready, willing and able vendors are the Florida State UCP Directory and the 2020 US Census, County Business Patterns (CBP).

LYNX, in accordance with 49 CFR Part 26, is required to report its goal for a three-year period due to FTA on August 1, 2022, covering fiscal years 2023, 2024, 2025. LYNX developed the goal using the following process. A projection of anticipated projects was determined and a base figure was calculated. This base figure was used along with the previous five-year median to calculate the three-year goal.

Procurement Types by NAICS CODENAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
238310	LCS & LOC Roof insulation	\$400,875	0.004
238990	LCS & LOC Enhancements	\$400,875	0.004
238110	Bus facility concrete improvements	\$362,000	0.003
236220	LCS Food service/Leased area Enhancements	\$249,500	0.002
238210	Electrician to install LCS generator	\$390,000	0.004
238150	Installation of Bulletproof glass	\$62,200	0.001
236220	Florida Mall SS construction	\$1,797,826	0.017
236220	Pine Hill Transfer center	\$8,842,780	0.083
333921	Replacement of 2 post inground lifts for buses	\$1,019,000	0.010
238220	LCS & LOC HVAC upgrades	\$2,405,250	0.023
236220	Tool crib and wellness center renovation	\$700,000	0.007
238910	Bus wash exit Drainage improvements	\$352,000	0.003
238110	Bus wash exit concrete	\$88,000	0.001
238210	Electrician to install generator	\$74,138	0.001
237990	Fuel island drainage improvements	\$250,000	0.002
238150	Window replacement and upgrade	\$2,000,000	0.019
237120	Southern ops: Fueling (Alternative fuels, direct selling)	\$2,780,000	0.026
237110	Southern ops: Vehicle Wash (car washes)	\$1,400,000	0.013
237130	Southern ops: EV Charging	\$1,300,000	0.012
236220	Southern ops: Maintenance and Ops building construction	\$63,000,000	0.591
335312	Generator upgrade to CNG	\$910,000	0.009
327215	Manufacturing of Bulletproof glass	\$248,800	0.002
335312	Expansion - admin Bldg Generator	\$222,412	0.002
336330	Road ranger equipment	\$240,000	0.002
334310	Boardroom A/V updates (Microphone upgrades, move podium, etc.)	\$70,000	0.001
334118	Kiosks for LCS, LYMMO and transfer stations	\$400,000	0.004
334111	Dell video server for security	\$100,000	0.001
541310	Southern ops design	\$15,450,000	0.145
541611	Southern ops site suitability evaluation/study	\$172,550	0.002
541620	Southern ops site evaluations (NEPA, Geotech & categorical exclusion)	\$365,640	0.003

Procurement Types by NAICS CODENAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
541820	Public relations for NEPA	\$49,860	0.000
541330	Florida Mall SS CEI service (construction engineering inspection)	\$138,367	0.001
334310	Update LCS open space A/V setup	\$106,000	0.001
541512	LCS core network replacement	\$200,000.00	0.002
	Total FTA-Assisted Contract Funds	\$106,548,073	100%

**Proposed Triennial DBE Goal FY 23, 24, 25 Federally
Funded Projects Dollars and Weights of Total**

Relative Availability of DBEs by NAICS Code and Project

(Orange, Seminole, and Osceola County Florida UCP Directory and U.S. Census Bureau Business Pattern Data were used to determine the number of available DBE and non-DBE firms.)

NAICS Code	Project	DOT funded projects	% of total DOT funds (weight)	DBE	All	Relative Avail	Weighted Avail
236220	LCS Food service/Leased area Enhancements	\$249,500	0.002	28	379	0.0739	0.0002
236220	Florida Mall SS construction	\$1,797,826	0.017	28	379	0.0739	0.0012
236220	Pine Hill Transfer center	\$8,842,780	0.083	28	379	0.0739	0.0061
236220	Tool crib and wellness center renovation	\$700,000	0.007	28	379	0.0739	0.0005
236220	Southern ops: Maintenance and Ops building construction	\$63,000,000	0.591	28	379	0.0739	0.0437
237110	Southern ops: Vehicle Wash (car washes)	\$1,400,000	0.013	6	47	0.1277	0.0017
237120	Southern ops: Fueling (Alternative fuels, direct selling)	\$2,780,000	0.026	1	3	0.3333	0.0087
237130	Southern ops: EV Charging	\$1,300,000	0.012	1	46	0.0217	0.0003
237990	Fuel island drainage improvements	\$250,000	0.002	2	27	0.0741	0.0002
238110	Bus facility concrete improvements	\$362,000	0.003	10	175	0.0571	0.0002
238110	Bus wash exit concrete	\$88,000	0.001	10	175	0.0571	0.0000
238150	Installation of Bulletproof glass	\$62,200	0.001	0	45	0.0000	0.0000
238150	Window replacement and upgrade	\$2,000,000	0.019	0	45	0.0000	0.0000
238210	Electrician to install LCS generator	\$390,000	0.004	13	556	0.0234	0.0001
238210	Electrician to install generator	\$74,138	0.001	13	556	0.0234	0.0000
238220	LCS & LOC HVAC upgrades	\$2,405,250	0.023	2	750	0.0027	0.0001
238310	LCS & LOC Roof insulation	\$400,875	0.004	0	221	0.0000	0.0000
238910	Bus wash exit Drainage improvements	\$352,000	0.003	14	167	0.0838	0.0003
238990	LCS & LOC Enhancements	\$400,875	0.004	38	428	0.0888	0.0003
327215	Manufacturing of Bulletproof glass	\$248,800	0.002	0	14	0.0000	0.0000

NAICS Code	Project	DOT funded projects	% of total DOT funds (weight)	DBE	All	Relative Avail	Weighted Avail	
333921	Replacement of 2 post inground lifts for buses	\$1,019,000	0.010	0	0	0.0000	0.0000	
334111	Dell video server for security	\$100,000	0.001	0	0	0.0000	0.0000	
334118	Kiosks for LCS, LYMMO and transfer stations	\$400,000	0.004	0	3	0.0000	0.0000	
334310	Boardroom A/V updates (Microphone upgrades, move podium, etc.)	\$70,000	0.001	0	3	0.0000	0.0000	
334310	Update LCS open space A/V setup	\$106,000	0.001	0	3	0.0000	0.0000	
335312	Generator upgrade to CNG	\$910,000	0.009	0	0	0.0000	0.0000	
335312	Expansion - admin Bldg Generator	\$222,412	0.002	0	0	0.0000	0.0000	
336330	Road ranger equipment	\$240,000	0.002	0	0	0.0000	0.0000	
541310	Southern ops design	\$15,450,000	0.145	8	163	0.0491	0.0071	
541330	Florida Mall SS CEI service (construction engineering inspection)	\$138,367	0.001	38	610	0.0623	0.0001	
541512	LCS core network replacement	\$200,000.00	0.002	5	488	0.0102	0.0000	
541611	Southern ops site suitability evaluation/study	\$172,550	0.002	27	911	0.0296	0.0000	
541620	Southern ops site evaluations (NEPA, Geotech & categorical exclusion)	\$365,640	0.003	25	64	0.3906	0.0013	
541820	Public relations for NEPA	\$49,860	0.000	6	47	0.1277	0.0001	
	Total FTA-Assisted Contract Funds	\$106,548,073	100%	359	7442	7.2%	Overall availability of DBEs	

Step 2: 26:45 (d)

The US DOT regulations (49 CFR Part 26) require that the Base Figure be adjusted to determine, as precisely as possible, the overall goal in the absence of discrimination. After calculating a base figure of the relative availability of DBE's, various types of evidence were examined to determine what adjustment was needed to the base figure. Those examined included the capacity of DBEs to perform work, related fields that affect opportunities for DBEs to form, grow and compete including ability to get financing, bonding, and insurance to participate. After careful consideration of these, it was determined that our goal could be impacted; therefore, an adjustment to our goal was made.

LYNX' DBE participation for FY 17-21 shows a median DBE utilization attainment of 8%. LYNX has determined that it is necessary to make an adjustment to the base figure. Due to the past five years' participation median being 8% and the base figure being 7.2%, a step 2 adjustment was made.

Five Years Past Participation

FY17	11%
FY18	8%
FY19	9.7%
FY20	1.6%
FY21	0%

To calculate the adjusted base figure, the median of 8% from the previous 5 years was used along with the calculated base figure of 7.2%. The average of the two is 7.6%. Using 7.6% as the DBE goal, the anticipated total federal funding for FY23, 24 and 25 is \$8,097,653 .

Anticipated Total Federal Funding for Projects FY 23, 24, 25 is \$106,548,073

Anticipated DBE Participation for FY 23, 24, 25 is \$8,097,653 (7.6% of \$106,548,073)

As described in the DBE Program, LYNX will promote the overall Program goal of 7.6%, race conscious 5.6% and race neutral 2.0%.

LYNX understands that it is to meet the maximum feasible amount of DBE participation through race-neutral means. With this in mind, LYNX is projecting that by capitalizing on capacity-building partnerships with stakeholders, reviewing procurement processes that may present barriers to DBEs, and accurate counting of race-neutral participation at the time of award, that it can attain 2% of its overall participation race-neutrally. The results of these efforts will be evaluated at the submission of our June 2023 semi-annual report and methods adjusted if deemed necessary

Contract goals shall be used by LYNX in the event that race neutral methods of achieving the overall goal is not met. LYNX will only establish contract goals on those DOT-assisted contracts that have sub-contracting possibilities. LYNX need not establish a contract goal on every such contract, furthermore LYNX does not require a contract DBE Goal on every contract. Contract goals are only identified or determined necessary to meet possible anticipated goal accomplishment.

Additionally, consistent with 49 CFR, subpart 26.43, LYNX does not subscribe to or implement quotas.

Quotas are not used and or recommended in any aspects of the DBE Program Goals and or programmatic implementation. Moreover, LYNX has not identified nor evidenced any egregious cases of discrimination that would warrant consideration for limited set-asides.

Consultation and Public Participation

LYNX is aware of the importance of public participation in the establishment of its DBE goal. The goal was published for notice and comments in the local area general circulation and minority newspapers (The Orlando Sentinel, El Sentinel) and posted on the LYNX website. The notice includes the address to which comments may be sent. LYNX will continue its ongoing efforts of continued outreach with local small businesses, contractors and consultants, community organizations and other interested parties.

On July 7, 2022, LYNX conducted the consultative process with local agencies that represent business interests concerning the availability of disadvantaged and non- disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and LYNX efforts to establish a level playing field for the participation of DBEs. A summary of that meeting is included at the end of this document.



**Public Notice
Disadvantaged Business Enterprise (DBE) Program
Proposed Goal FFY 2023-2025**

The Central Florida Regional Authority's (LYNX) has established a Disadvantaged Business Enterprise (DBE) goal in accordance with the U.S. Department of Transportation (DOT) 49 Code of the Federal Regulations (CFR) Part 26 hereby notifies the public of its proposed Disadvantaged Business Enterprise (DBE) triennial goal. LYNX' proposed Disadvantaged Business Enterprise (DBE) triennial overall goal is 7.6% on U.S. DOT-assisted contracts. The overall goal is for a three-year period from Federal Fiscal Years (FFY) 2023-2025 beginning October 1, 2022 to September 30, 2025. 2.0% will be achieved utilizing race-neutral methods, and 5.6% of its goal utilizing race-conscious methods.

LYNX' DBE liaison officer is available to respond to inquiries and receive comments on the DBE goal. If you have any questions, comments or need additional information, please do not hesitate to contact Amber Johnson at 407.254.6171 or by email to dbe@golynx.com. Written comments can be mailed to:

LYNX
Attn: Amber Johnson
DBE Officer
455 N Garland Ave.
Orlando, Florida 32801

Information pertaining to this goal and its development, is available for review from 8:00 a.m. to 4:00 p.m. (Eastern Time) for 30 days following the date of this notice.

GROSS PRICE * : \$181.17

PACKAGE NAME: Public Hearing/Bid/Misc_Legal

Product(s): Orlando Sentinel, Affidavit, Floridapublicnotices.com, Classifieds.OS.com_Legals

AdSize(s): 1 Column

Run Date(s): Tuesday, July 12, 2022

Zone: Full Run

Color Spec. B/W

Preview

**PUBLIC NOTICE DISADVANTAGED BUSINESS
ENTERPRISE (DBE) PROGRAM PROPOSED
GOAL FFY 2023-2025**

The Central Florida Regional Transportation Authority, d.b.a. LYNX has established a Disadvantaged Business Enterprise (DBE) goal in accordance with the U.S. Department of Transportation (DOT) 49 Code of the Federal Regulations (CFR) Part 26 hereby notifies the public of its proposed Disadvantaged Business Enterprise (DBE) triennial goal. LYNX' proposed Disadvantaged Business Enterprise (DBE) triennial overall goal is 7.6% on U.S. DOT-assisted contracts. The overall goal is for a three-year period from Federal Fiscal Years (FFY) 2023-2025 beginning October 1, 2022 to September 30, 2025. 2.0% will be achieved utilizing race-neutral methods, and 5.6% of its goal utilizing race-conscious methods.

LYNX' DBE liaison officer is available to respond to inquiries and receive comments on the DBE goal. If you have any questions, comments or need additional information, please do not hesitate to contact Amber Johnson at 407.254.6171 or by email to dbegolynx.com. Written comments may be mailed to:

LYNX
Attn: Amber Johnson
DBE Officer
455 N Garland Ave.
Orlando, Florida 32801

Information pertaining to this goal and its development, is available for review from 8:00 a.m. to 4:00 p.m. (Eastern Time) for 30 days following the date of this notice.
7/12/2022 7248740

Order ID: 7248773

* Agency Commission not included

GROSS PRICE * : \$56.00

PACKAGE NAME: El Sentinel

Product(s): El Sentinel, Affidavit, Floridapublicnotices.com, Classifieds.OS.com_Legals

AdSize(s): 1 Column

Run Date(s): Saturday, July 16, 2022

Zone: Full Run

Color Spec. B/W

Preview

**NOTICIA PÚBLICA PROGRAMA DE EMPRESAS
COMERCIALES EN DESVENTAJA (DBE) META
PROPUESTA AFY 2023-2025**

Por la presente, la Autoridad de Transportación de la Región Central de la Florida d.b.a. LYNX notifica al público que ha establecido un objetivo trienal de Empresa Comercial en Desventaja (DBE, por sus siglas en inglés) de acuerdo con el Código 49 de las Regulaciones Federales (CFR, por sus siglas en inglés) del Departamento de Transporte de los Estados Unidos (DOT, por sus siglas en inglés) Parte 26. El objetivo general trienal propuesto por LYNX para DBE es 7.6% en contratos asistidos por el DOT de EEUU. El objetivo general es para un período de tres años fiscales federales (FFY) del 2023-2025, comenzando el 1 de octubre de 2022 hasta el 30 de septiembre de 2025. El 2.0% de la meta se logrará utilizando métodos neutrales en cuanto a raza y el otro 5.6 % se logrará utilizando métodos raciales-conscientes.

El Oficial de Enlace de DBE de LYNX está disponible para responder consultas y recibir comentarios sobre la meta de DBE. Si tiene alguna pregunta, comentario o necesita información adicional, puede comunicarse con Amber Johnson al 407-254-6171 o por correo electrónico a dbes@golynx.com. Comentarios escritos pueden enviarse por correo a:

LYNX
Attn: Amber Johnson
DBE Officer
455 N Garland Ave.
Orlando, Florida 32801

Información relacionada a este objetivo y su desarrollo, está disponible para consulta de 8:00 AM a 4:00 PM (hora del Este) durante 30 días posteriores a la fecha de este aviso.

7248773

7/16/2022

**Minutes of DBE Consultation
Process**

Thursday July 7, 2022

LYNX

Held Virtual via Zoom

10:00 a.m. – 11:00 a.m.

The following organizations were invited to the consultation meeting:

- Women’s Business Enterprise Council Florida
- Central Florida Urban League
- Orlando Economic Partnership
- Central Florida Business Diversity Council
- COMTO – Central Florida
- Women’s Transportation Seminar – Central Florida
- National Association of Women Business Owners – Orlando
- Asian American Chamber of Commerce
- African American Chamber of Commerce Orlando
- Hispanic Chamber of Commerce of Metro Orlando
- Florida State Minority Supplier Development Council
- Florida Women’s Business Center
- Goldman Sachs 10,000 Small Businesses
- Orlando MBDA Business Center

The following individuals attended the meeting

Yetzenia Negrón	Hispanic Chamber of Commerce
Nelia Castro	Hispanic Chamber of Commerce
Diane Sears	Women’s Business Enterprise Council of Florida
Jordan Dewitt	Orlando Economic Partnership
Iranetta Dennis	CFX
Denise Bailey	Milligan Consulting, LLC
Maurice Jones	LYNX
Amber Johnson	LYNX
Carrie Sarver	LYNX

LYNX and Milligan representatives covered the following topics:

- Introductions
- Overview of LYNX
- DBE Program Basics
- LYNX Goal Setting Methodology
- How to Provide Comments
- Partnering Opportunities

The presentation provided at the meeting follows this summary.

Following the presentation, the following questions and comments (Q/C) information and answers (A) provided. None of the comments suggested a revision to the proposed goal.

- (Q/C): For the market area, does that focus on firms that have done work in the three counties or firms that are located in those counties? (A): The data used from the UCP and the Census was firms located in those counties.
- (Q/C): Does LYNX evaluate their progress against their goal by dividing the 7.6% by 3 or is the goal 7.6% each year? (A): Each year, LYNX measures its DBE attainment (measured by awards) against the 7.6% goal. For any year that LYNX does not meet the 7.6% goal, it has to develop a shortfall analysis, per the USDOT regulations.
- (Q/C): How are contract goals set? (A): The process is very similar to setting an overall agency goal, in that LYNX reviews the scope of work and the relative availability of DBEs to perform that work. An additional consideration for contract goals is to determine if LYNX needs to set a goal on that contract in order to meet (but not over-achieve) its overall 7.6% goal.
- (Q/C): Does Florida DOT (FDOT) set its DBE goal the same way as LYNX? (A): FDOT is required to follow 49 CFR 26.45 in setting an overall DBE goal, as LYNX is. The resultant goals are likely different because of the different types of projects that FDOT would be funding with FHWA and FTA funds.
- (Q/C): Is the DBE certification process different for LYNX projects than the Orlando Airport provides? (A): The requirement in 49 CFR Part 26 for a Unified Certification Program provides for one-stop certification for DBEs within each state. The Airport is one of the certifiers under the Florida UCP. To be counted as a DBE on LYNX FTA-funded projects, firms must be certified as a DBE with the Florida UCP (not other designations such as M/WBE).
- (Q/C): Does Race Neutral and Race Conscious include women. (A): Yes, it is more specifically race and gender neutral and conscious.
- (Q/C): What are the payment requirements under LYNX projects. (A) Per 49 CFR Part 26.29 LYNX establishes a time frame in its contracts for how long a prime has to pay all of its subs (including DBEs) after it has been paid by LYNX. Per regulation, that timeframe cannot exceed 30 days.
- Both the Hispanic Chamber of Commerce and the Women's Business Enterprise Council representatives noted several outreach and capacity events and publications that their organizations host and invited LYNX representatives to participate in them. LYNX will follow up with the organizations to coordinate participation.



Disadvantaged Business Enterprise (DBE)
Federal Fiscal Year 2023-2025
Goal Setting
Stakeholders Meeting
July 7, 2022



Overview

- Introductions
- Overview of LYNX
- DBE Program Basics
- LYNX Goal Setting Methodology
- How to Provide Comments
- Partnering Opportunities
- Questions

Introductions

- Carrie L. Sarver, Esq., B.C.S.
 - *LYNX Senior In-House Counsel*
- Amber Johnson
 - *LYNX DEI/Civil Rights Compliance Administrator*
- Maurice A. Jones,
 - *LYNX Director of Procurement*
- M. Denise Bailey
 - *Milligan Consulting, LLC*

Overview of LYNX

- Provides public transit in Orange, Seminole, and Osceola counties
- Over 298 buses serving 68 local routes
- \$175,022,663 operating budget
- LYNX procurement opportunities available at the LYNX Procurement Portal

<https://www.golynx.com/corporate-info/doing-business/procurement/current-procurement-opportunities.stml>



DBE Program Basics

- Governing US DOT Regulation
 - 49 CFR Part 26 and Participation by DBEs in Department of Transportation (DOT) Financial Assistance Programs
- LYNX Responsibilities
 - Establish Overall Goals (every three years)
 - Determine Contract Goals
 - Monitoring and Enforcement
 - Reporting



Establishing Overall Goals

- 49 CFR 26.45 of CFR requires the LYNX to set an overall DBE goals for its FTA-funded projects.
- Overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate in the agency's FTA-funded contract opportunities.
- Goal must reflect determination of the level of DBE participation LYNX would expect absent the effects of discrimination.

DBE Goal Setting

- Current DBE Goal is 11.06%
- Previous (2017-2019) Goal was 7.6%
- Past Participation

Fiscal Year	DBE Achievement
FY2017	11%
FY2018	8%
FY 2019	9.7%
FY 2020	4.9%
FY 2021	1.4%

*revised 2020 and 2021 figures

DBE Goal Setting

- LYNX is currently developing its Federal Fiscal Years 2023-2025 DBE goals
- Goal-setting is a two-step process
 - Establish a base figure based on the relative availability of DBEs to participate in LYNX's FTA-funded capital projects.
 - Make any necessary adjustments to the base figure based on local market conditions.

Calculating the Base Figure

- This goal focuses on the participation of DBEs in FTA-funded contracts that will be *awarded* over the next three years.
- Potential projects are forecast three years into the future.
- This provides a “best estimate” of potential contracting activity and opportunities.

Base Figure

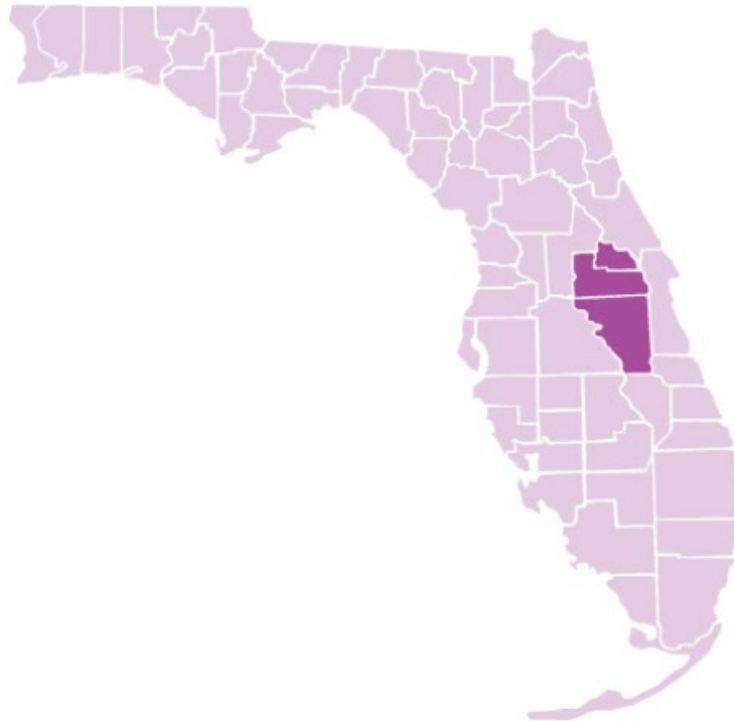
Federal Fiscal Year 2023 – 2025 Anticipated FTA-Funded Projects

Bus Communications Center
LCS & LOC - HVAC upgrades/Enhancements/Roof Insulation
LCS Bus Facility Concrete Improvements
LCS Enhancements (Food Svc / Leased Area)
LCS Generator upgrade to CNG
LCS Installation of Bullet Proof Glass
LOC Buildout - Tool Crib & Wellness Center Renovation
LOC Bus Wash Exit Concrete & Drainage Improvements
LOC Expansion - Admin Bldg Generator
LOC Fuel Island Drainage Improvements
LCS Window Replacement and Upgrade
Southern Ops Design/Land Acquisition/Construction
Southern Ops Site Suitability Evaluation/Study
Southern Ops Site Evaluations (NEPA, Geotech & Categorical Exclusion)

Florida Mall SS CEI Services (construction engineering inspection)
Florida Mall SS Construction
Pine Hills Transfer Center
Automated Vehicle Health Checks
Fueling Management System at LOC for FR Fleet
Replacement of 2 Post Inground Lifts for Buses
Road Ranger Equipment
Update LCS Open space A/V setup
Boardroom A/V Updates (Microphone upgrades, move podium, etc)
Kiosks for LCS, LYMMO and transfer stations
Virtual Infrastructure for LOC
LCS Core Network Replacement
Tech for 2nd EOC at LCS
Dell Video Server for Security

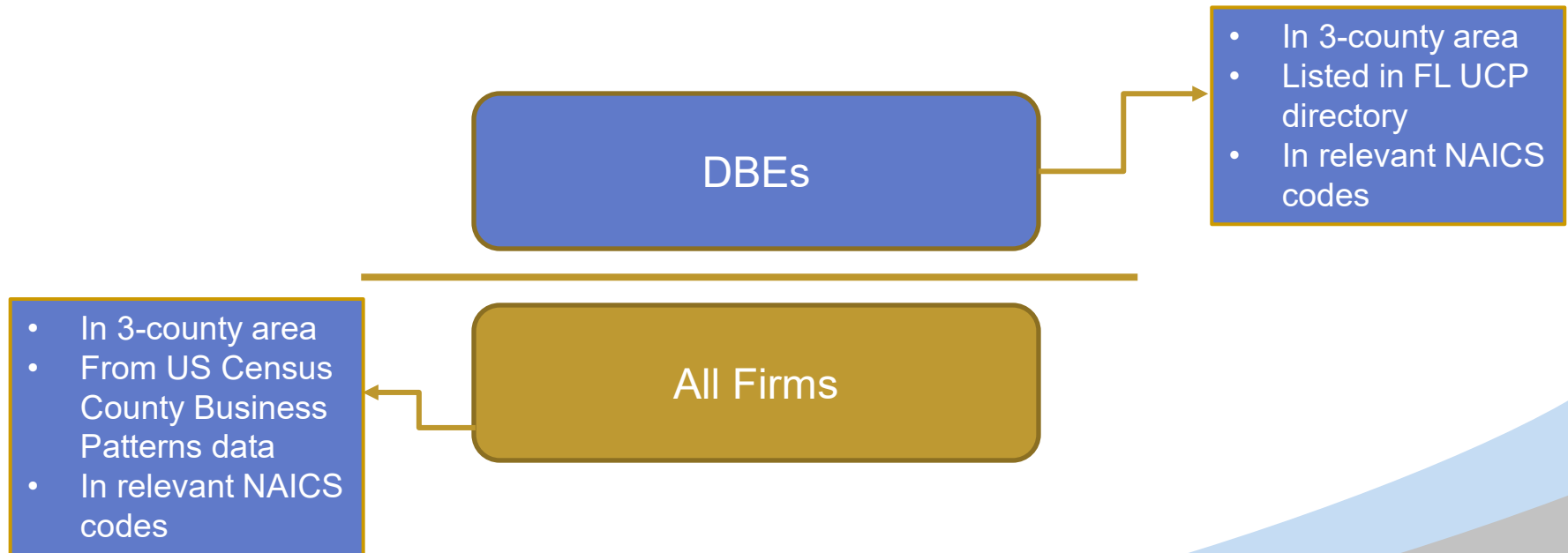
Base Figure

- The majority of work is awarded to firms in the three-county area of Orange, Seminole, and Osceola Counties



Base Figure

- Based on projected opportunities and past/current DBE participation, LYNX estimates the % of DBEs compared to all firms that can participate in its FTA-funded contracts.



Relevant NAICS Codes

236220	Commercial and Institutional building construction
237110	Vehicle Wash (car washes)
237120	Fueling (Alternative fuels, direct selling)
237130	EV Charging (Motor Vehicle Electrical and Electronic Equipment Manufacturing)
237990	Other heavy and civil engineering construction
238110	Poured Concrete Foundation and Structure contractors
238150	Glass and glazing contractors
238210	Electrical Contractors and Other Wiring Installation Contractors
238220	Heating, ventilation and air-conditioning (HVAC) contractors
238310	Drywall and Insulation Contractors
238910	Site preparation contractors
238990	Asphalt paving contractors
327215	Glass product manufacturing made of purchased glass
333921	Automobile lifts (i.e., garage-type, service station) manufacturing
334111	Electronic computer manufacturing
334118	Smart card readers manufacturing
334310	Audio and video equipment manufacturing
335312	Motor and Generator manufacturing
336330	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing
541310	Architectural Services (Building architectural design services)
541330	Engineering Services
541512	Network systems integration design services, computer
541611	Site location consulting services
541620	Environmental Consulting Services
541820	Environmental Public Relations (NEPA)

Base Figure

For each NAICS codes, determine the relative weight of that type of work, determine the number of 'DBE' and 'All' firms and determine the weighted relative availability. Below is a portion of that analysis:

NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)	DBE Firms	All Firms	Relative Availability	Weighted Avail
236220	LCS Food service/Leased area Enhancements	\$249,500	0.002	28	379	0.073878628	0.000172999
236220	Florida Mall SS construction	\$1,797,826	0.017	28	379	0.073878628	0.001246582
236220	Pine Hill Transfer center	\$8,842,780	0.083	28	379	0.073878628	0.006131434
236220	Tool crib and wellness center renovation	\$700,000	0.007	28	379	0.073878628	0.000485368
236220	Southern ops: Maintenance and Ops building construction	\$63,000,000	0.591	28	379	0.073878628	0.043683132
237110	Southern ops: Vehicle Wash (car washes)	\$1,400,000	0.013	6	47	0.127659574	0.001677397
237120	Southern ops: Fueling (Alternative fuels, direct selling)	\$2,780,000	0.026	1	3	0.333333333	0.00869717
237130	Southern ops: EV Charging	\$1,300,000	0.012	1	46	0.02173913	0.000265241

After the Weighted Availability for each NAICS code is determined, add all figures in the Weighted Availability column to derive the base goal. For LYNX, this equals 7.2 %

Adjusting The Base Figure

Once a base figure has been calculated, relevant evidence in the market area is examined to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal. Considerations include:

- Past DBE participation
- Evidence from disparity studies
- Any available evidence from related fields that affect the opportunities for DBEs to form, grow and compete, such as:
 - Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate
 - Data on employment, self-employment, education, training and union apprenticeship programs, to the extent that it is relevant

Adjusting For Past Participation

- Past participation of DBEs was determined to be the Relevant adjustment to consider.
- For past five years, that participation was:

Fiscal Year	DBE Achievement
FY2021	1.4%
FY2020	4.9%
FY 2018	8%
FY 2019	9.7%
FY 2017	11%

Regulations require using the median (or middle) past participation percentage

Adjusting The Base Figure

Calculate the Overall Goal by *averaging* the results of Step 1 (7.2%) with Step 2 (8%)

The diagram illustrates the calculation of an average goal. It features three blue rounded rectangular boxes with gold borders. The first box contains '7.2%', the second contains '8%', and they are connected by a gold plus sign. Below these boxes is a horizontal gold line, and underneath the line is a third box containing the number '2'. To the right of this structure is a gold equals sign, followed by a fourth blue rounded rectangular box with a gold border containing '7.6%'. The entire diagram is set against a light gray background with a blue and gray curved decorative element at the bottom.

$$\frac{7.2\% + 8\%}{2} = 7.6\%$$

Projecting Race-Neutral/Race Conscious Split

- Once the overall goal is established, LYNX must project what part of the goal it anticipates achieving race-neutrally (i.e. no DBE goals set on agreements/contracts) and what portion it anticipates achieving race-consciously (i.e. setting a goal).
- The regulation requires that agencies meet the maximum DBE participation feasible through race-neutral means.
 - Race-neutral examples:
 - A DBE wins a prime contract
 - There is no DBE goal on a contract and a prime uses a DBE
 - A prime exceeds the DBE goal through commitments at project award
- Based on past participation and the ability to resume in-person outreach, LYNX anticipates attaining 2% race neutrally and 5.6% race-consciously for its FFY 2023-2025 goal.

Public Participation

- LYNX is required to communicate with the public in two ways
 - Consultative process with stakeholders
 - Today
 - Publishing of goal on its website
- Please meet with us after this session or send us your comments on the goal setting to DBE@golynx.com
- Send comments by July 13, 2022

Partnering Opportunities

- LYNX welcomes the opportunity to showcase our opportunities with local partners
- If you are hosting an outreach or business-capacity building event, contact us to participate
- As we begin to conduct more in-person outreach events, we will contact stakeholders for their participation.

Questions/Discussion



DBE FORM 2 - GOOD FAITH EFFORTS DOCUMENTATION

- If the Respondent or Proposer cannot fully meet the DBE goal of this Contract, the Respondent or Proposer shall complete Schedule DBE Form 2 and attach documentation demonstrating the Respondent's or Proposer's good faith efforts.
- LYNX has the authority to make a fair and reasonable judgment whether a Respondent or Proposer that did not meet the contract goal made adequate good faith efforts.
- Respondents are required to demonstrate Good Faith Efforts with additional documentation as applicable including call logs, posted advertisements, attendance to pre-bid/submittal meetings, and records of negotiation.
- CFR 49 Part 26, Appendix A, Part IV is quoted below with a list of actions to consider as part of the bidder's good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A.

(1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.

D.

(1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E.

(1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.



DBE FORM 2 - GOOD FAITH EFFORTS DOCUMENTATION

If you have **not** attained the amount of DBE participation to meet the contract goal you are required to complete and submit **DBE Form 2- Good Faith Efforts Documentation** along with all required supporting GFE documentation.

BIDDERS: *This completed form along with all required supporting documentation must be submitted at the time of submission. Should the bidder fail to comply with this request, the bid shall be considered non-responsive.*

RFP/RFQ/Bid/Solicitation/Other #: _____ Bid/Proposal Amount: \$ _____ Date: ____ / ____ / ____

Description: _____

Name of Bidder/Respondent: _____ has satisfied the requirements of the bid/proposal specifications for the above referenced BID/RFP/RFQ or solicitation by the Central Florida Regional Transportation Authority- (LYNX) in the following manner:

- ☐ The Bidder/Respondent is unable to meet the DBE contract goal and has completed and submitted DBE Form 2- Good Faith Efforts Documentation along with all required supporting GFE documentation.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

PRINT NAME: _____ SIGNATURE: _____ TITLE: _____

Instructions: Please complete sections A through D, and include all specific supporting documentation as outlined below. All sections of this form **MUST** be completed or your response will be deemed non-responsive. If you feel that any section of this form is not applicable, do **not** respond/write *not applicable* or *N/A*. You must provide a written statement as to why a section is not applicable to your response. Attach additional pages if necessary.

- ☐ **SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR:** Complete section A.
- ☐ **NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES:** Please attach a copy of the announcement and written notices distributed to DBE(s). Example: Newspaper, email, mail correspondence, community outreach notices, etc.
- ☐ **INITIAL SOLICITATION & FOLLOW-UP OF INITIAL SOLICITATION:** Bidders/Respondents may only solicit from the Florida Unified Certification Program (FLUCP) for federally-funded projects. For non-federal projects, bidders/respondents may use the FLUCP and/or the State and Local Disadvantaged Business Enterprise directories.



DBE FORM 2 - GOOD FAITH EFFORTS DOCUMENTATION

A. SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR: You MUST list all selected scopes or portions of work to be performed by DBE(s) in order to increase the likelihood of meeting the contract goal for this project and the estimated value of each scope or portions of work identified. Use additional pages if needed.

Scope or Portions of Work Identified for DBE Participation		Estimated Value	% of Contract Value
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			



DBE FORM 2 - GOOD FAITH EFFORTS DOCUMENTATION

B. NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES: Please complete all fields below, list all sources of advertisement and outreach to DBE subs.

I. Did you attend all pre-bid and/or outreach meetings scheduled by LYNX to inform DBEs of subcontracting opportunities? Yes _____ No _____ If yes, date of meeting _____
If no, was there a meeting advertised by LYNX? Yes _____ No _____

II. **ADVERTISING SUBCONTRACTING OPPORTUNITIES:** You MUST identify publications in which announcements or notifications were placed and published. Include a copy of each announcement or notification.

Source of Advertising/Outreach	What subcontracting areas of work were advertised?	Date of Ad	Due Date & Time for Sub Bids Date Time		DBE Office Verification
1.					
2.					
3.					
4.					

C. INITIAL SOLICITATION & FOLLOW-UP: You MUST complete all fields below. List all certified DBE firms that received telephone or e-mail notification of work items to be subcontracted. If no response was received to the initial solicitation, you must indicate when firms received subsequent telephone or e-mail solicitations (list delivery dates, or read receipt date, and certified firm's response). You must include copies of the physical and/or electronic notice(s) sent to certified firms. Use additional pages as needed.

DBE Firm & Contact	Phone	Scope of Work Solicited	Date of Written Notification	Result of Initial Communication	Date of Follow-Up & Method of Contact		Result of Follow-Up Communication
1. Example: ABC Company/Jane Smith	(407) 123-4567	Electrical/Services	01/01/24	Will submit a quote	01/10/14	email	Quote received
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							



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D. NEGOTIATE IN GOOD FAITH: You MUST provide an explanation for any rejected DBE bid or price quotation, unless another DBE is accepted for the same work.

I. Where price competitiveness is not the reason for rejection, you must complete all fields below and provide a copy of the written rejection notice including the reason for rejection to the rejected DBE firm. A meeting may be held with the rejected DBEs, if requested to discuss the rejection. Use additional pages if needed. You must attach a copy of the notice.

[illegible]



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I. Where price competitiveness is the reason for rejection, you MUST complete all fields below and attach copies of all DBE and non-DBE bid quotes. Use additional pages as needed.

DBE Subcontractor	Scope	Quote	Non-DBE Subcontractor	Scope	Quote	Price Variance (+/-)

II. NEGOTIATE IN GOOD FAITH: You MUST provide a copy of all correspondence documenting negotiation efforts including copies of DBE and non-DBE quotes and copies of written rejection notices.

III. OTHER: Please provide narrative details of any other efforts your firm conducted to attain the DBE goal. Use additional pages as needed.

LYNX Use Only:

Form Received: __/____/____

Verified by: _____

LYNX

DBE SUBCONTRACTOR TERMINATION/SUBSTITUTION PROCEDURE

This procedure is to be followed by all Prime Contractors.

Termination and substitution policy and procedures do not apply to race-neutral participation.

The Prime Contractor cannot terminate for convenience, in whole or part, a DBE subcontractor listed on the Contractor Utilization Plan (CUP) without the written concurrence of LYNX's Disadvantaged Business Enterprise Liaison Officer (DBELO). This includes, but is not limited to, instances in which a Prime Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE subcontractor, or with another DBE subcontractor. Unless consent is provided, the Prime Contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE subcontractor.

Good cause for termination of the DBE includes, but is not limited to, the following circumstances:

- The listed DBE subcontractor fails or refuses to execute a written contract.
- The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor.
- The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements.
- The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
- The Prime Contractor has determined that the listed DBE subcontractor is not a responsible contractor.
- The listed DBE subcontractor voluntarily withdraws from the project and provides written notice of its withdrawal.
- The listed DBE subcontractor is ineligible to receive DBE credit for the type of work required.
- A DBE subcontractor owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract.
- Other documented good cause that the Prime Contractor determines may compel the termination of the DBE subcontractor.

Good cause does not exist if the Prime Contractor seeks to terminate a DBE subcontractor it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the DBE subcontractor was engaged or so that the Prime Contractor can substitute another DBE or non-DBE subcontractor after contract award.

Commitment Reductions

A Prime Contractor cannot reduce the amount of work committed to a DBE subcontractor at contract award without good cause and LYNX's DBELO approval. A reduction is considered a partial termination of the DBE's contract with the Prime Contractor.

Termination Procedures

Step 1: The Prime Contractor is required to issue a **Notice of Intent to Terminate/ Substitute Sample** to the DBE subcontractor of its intent to terminate and the reason for the termination.

- The Prime Contractor is required to copy LYNX's DBELO in the correspondence.
- The DBE subcontractor must be given five (5) business days to respond to the Prime Contractor's notice and will advise the Prime Contractor and LYNX of the reasons, if any, why it objects to the proposed termination of its subcontract and why LYNX should not approve the Prime Contractor's request for termination.

Step 2: The Prime Contractor must submit a DBE Termination/Substitution Request Form to the DBELO. The DBELO will review the request and related information and if necessary, seek additional information to formulate its response.

Step 3: DBELO or authorized representative will provide an acknowledgement of the request within three (3) business days.

Step 4: DBELO or authorized representative will provide a written response to the request within seven (7) business days. The DBELO may provide a shorter response time if required.

- If DBELO approves the request, the Prime Contractor has good cause to terminate the DBE subcontractor.
- If DBELO denies the request, the Prime Contractor must continue to use the committed DBE subcontractor in accordance with the contract.

Substituting a DBE Subcontractor

When a termination of a DBE subcontractor or voluntary withdrawal of a DBE subcontractor results in a shortfall, the Prime Contractor must make good faith efforts to find, as a substitute for the original DBE subcontractor, another DBE subcontractor to perform, at least to the extent needed to meet the established contract goal.

The Prime Contractor will document its good faith efforts in a new ***DBE FORM 2- GOOD FAITH EFFORTS DOCUMENTATION*** to find and secure a substitute DBE subcontractor within seven days of approval of the termination/substitution request.

The Prime Contractor will request, in writing, approval from DBELO to utilize the substitute DBE subcontractor.

DBELO will respond in writing to the Prime Contractor's request to use the substitute DBE subcontractor and may seek additional information, as necessary, to formulate a response.

If the substitution request is approved, the Prime Contractor will provide an updated ***DBE FORM 1- Utilization Plan and Commitment Confirmation***.

The substitute DBE subcontractor cannot work on the contract without written approval from DBELO.

Process When a Contractor Fails to Secure a Substitute DBE

If the substitution of a DBE subcontractor results in a DBE goal shortfall, the Prime Contractor must submit good faith efforts on ***DBE FORM 2- GOOD FAITH EFFORTS DOCUMENTATION*** documenting the steps taken to meet the goal.

Such documentation should include, but not be limited to, the following:

- Copies of written notification soliciting DBEs.
- Efforts to negotiate with DBEs to include at a minimum:
 - The names, addresses, and telephone numbers of DBEs who were contacted.
 - A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed.
 - A list of reasons why DBEs quotes were not accepted.

DBELO will provide the Prime Contractor with a written response either accepting or rejecting the Prime Contractor's good faith efforts.

If the Prime Contractor's good faith efforts are rejected, DBELO may assess whether administrative remedies are appropriate.

DBELO has the authority to make a fair and reasonable judgment whether proposer made adequate good faith efforts.



COMMERCIALLY USEFUL FUNCTION (CUF) QUESTIONNAIRE

General Information: A DBE performs a **commercially useful function** (CUF) when it is responsible for execution of the contract and is carrying out its responsibilities by managing, performing, and supervising the work involved. This questionnaire is intended to see if the DBEs role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed through in order to obtain the appearance of DBE participation.

It is primarily the Prime Contractor's responsibility to ensure that the DBE firm is performing a CUF. The Prime Contractor shall submit a Commercially Useful Function Questionnaire for each DBE that performs work or provides supplies in the North American Industry Classification System (NAICS) code. LYNX will not authorize the DBE closeout until it receives a Commercially Useful Function Questionnaire from the Contractor for each DBE whose participation is **counting toward the DBE contract goal** from the Master Contract. Any additional DBE firms added at Task Order level whose participation **counts toward the DBE contract goal** will also require CUFs. The DBE, Prime Contractor, and LYNX DBE Department shall fill out their portion of the form and sign the Commercially Useful Function Questionnaire.

INSTRUCTIONS: The Prime Contractor shall complete this information and present it to the active DBE when the DBEs work is between **35%-50% complete and paid**. The ending date of work is the anticipated last day that the DBE will be on the job. Tracked signatures accepted in signature areas.

SECTION 1: PROJECT INFORMATION

Prime Contractor Name:	DBE Firm:
PO # (Task order #):	Begin and End Date of Work:

SECTION 2: DBE QUESTIONS

Instructions: The DBE owner or manager with contract signature authority shall complete the "DBE Questions" section of this form. The DBE Questions shall be answered when the work is between **35%-50%** completed on the project. Once completed, the DBE shall submit the form to the Prime Contractor.

What work did your firm perform on this job?

Did your firm subcontract out any portion of its work? ☐ Yes ☐ No

If yes, list firm name(s) and what portion of work (percentage and dollar amount)? If no, skip to next question.



Did your firm lease any employees or lease/rent equipment to perform the work (usually Construction Management contracts)? Yes ☐ No ☐

If yes, list resources and from whom. If no, skip to next question.

Did your firm supply any materials to another firm (usually Construction Management contracts) ? ☐ Yes ☐ No

If yes, list what materials and from what source they were acquired (i.e. self-manufactured, withdrew from inventory, purchased from another supplier, etc.) If no, skip to the signature.

Printed Name:

Signature of Individual Completing Form:

Title:

Phone:

SECTION 3: PRIME CONTRACTOR QUESTIONS

Instructions: The Prime Contractor shall complete the questions within 10 days of receipt from the DBE. Once complete, the Prime Contractor shall submit the form to LYNX DBE Representative.

To your knowledge, the DBE statements provided are true and correct. ☐ Yes ☐ No

If no, please explain.

Work performed was consistent with the Utilization Plan submitted to LYNX? ☐ Yes ☐ No

If no, please explain.



Did your firm participate in the DBEs responsibilities in any way (negotiation of contract/price, payroll, employees, equipment, etc.) during this project? ☐ Yes ☐ No

If Yes, please describe.

Printed Name:

Signature of Individual Completing Form:

Title:

Phone:

SECTION 4: LYNX DBE REPRESENTATIVE QUESTIONS

Instructions: LYNX DBE representative will complete the "LYNX DBE Representative Questions" section of the Commercially Useful Function Questionnaire using information from Section 5 "CUF Guidance for LYNX DBE Department".

Provide information related to what was observed on-site or what items were reviewed during the desk audit (include date of observation if selected)

Does it appear that the DBE is performing a Commercially Useful Function? ☐ Yes ☐ No

If no, please notify the Region Civil Rights Office.

Printed Name:

Signature of Individual Completing Form:

Title:

Phone:



Section 5: CUF Guidance for LYNX DBE Department

General Information:

LYNX DBE department will evaluate whether a DBE firm participating on the contract (whether as a Contractor, subContractor, vendor or supplier) is performing a Commercially Useful Function. In assessing whether a DBE is performing a Commercially Useful Function, LYNX DBE representative's evaluation should be based on a holistic review of the DBE's performance through a combination of on-site observation and desk audits/document review. The list below is intended to provide key areas for review and should not be treated as a comprehensive checklist. If red flags are observed, LYNX DBE representative will immediately contact the Region Civil Rights Office.

Management/Execution of Work

Potential Factors to Consider During On-Site Observation

- DBE shall be responsible for the execution of its contract (or subcontract) work
- DBE is actually performing, managing, and supervising the work involved in its contract (or subcontract). The work of the subcontract shall be performed by the DBE with its own workforce
- The DBE shall keep a regular workforce and has its own employees
- DBE supervisor shall be a full-time employee of the DBE
- Employees shall be supervised by the DBE supervisor
- DBE is scheduling work operations

Potential Factors to Consider During Desk Audit (Review of Records/Documents):

- Evaluation of the amount of work subcontracted, whether it is consistent with normal industry practices
- Whether the amount the firm is paid under the contract is commensurate with the work that is actually being performed to be credited towards the goal
- Certified Payrolls - N/A for Professional Services contracts

Red Flags for Management/Execution of Work

- The DBE provides little or no supervision of the DBE's work
- Key staff and personnel are not under the control of the DBE
- The DBE manager/superintendent is not a regular employee of the DBE
- The DBE's work is being performed by personnel normally employed by the prime Contractor or another business
- DBE owners are not aware of the status/performance of the work and inquiries are answered by the Prime

Equipment

Potential Factors to Consider During On-Site Observation:

- The DBE shall utilize its own equipment
- DBE shall be responsible for negotiating the price, determining quality and quantity of the temps, and paying invoices to indicate that DBE is the customer • invoices indicate that the DBE owner or Superintendent is the contact person
- Operation and temp employees of the equipment shall be subject to the full control of the DBE

Potential Factors to Consider During Desk Audit (Review of Records/Documents):

- Subcontract Agreement or Purchase Order
- Equipment ownership, rental, or lease documents
- Certified Payrolls - N/A for Professional Services



Red Flags for Equipment
<ul style="list-style-type: none">• Equipment used by the DBE belongs to the prime Contractor or another business with no formal lease agreement
Materials (for material credit):
Potential Factors to Consider During On-Site Observation:
<ul style="list-style-type: none">• DBE shall be responsible for the delivery of the materials• DBE shall be responsible for negotiating the price, determining quality and quantity of the material, ordering the material and paying invoices to indicate that DBE is the customer• Material invoices indicate that DBE owner or Superintendent is the contact person
Potential Factors to Consider During Desk Audit (Review of Records/Documents):
<ul style="list-style-type: none">• Invoices
Red Flags for Materials
<ul style="list-style-type: none">• Materials used by the DBE are ordered and/or paid for by the Prime Contractor without prior notice and/or approval• Materials used by the DBE are delivered to, billed to, or paid for by another business• Payment for materials is deducted by the Prime Contractor from its payments to the DBE