

# City of Springfield, Ohio

## Disadvantaged Business Enterprise Program for FTA-assisted Projects

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### MEMORANDUM

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**TO :** BRYAN L. HECK, CITY MANAGER

**FROM:** SHANNON L. MEADOWS, COMMUNITY DEVELOPMENT DIRECTOR

**DATE:** NOVEMBER 6, 2019

**RE:** DISTRIBUTION OF DBE PROGRAM FOR FTA-ASSISTED PROJECTS

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The City of Springfield, through its Department of Community Development and in partnership with the Department of Finance, has drafted and submitted to the Federal Transit Administration a new Disadvantaged Business Enterprise Program FTA-assisted Projects document.

This plan document is to be distributed, along with the City of Springfield's Policy Statement, to the Springfield City Commission; Senior Staff of each department within the City organization; as well as DBE and non-DBE business communities that perform work for the City of FTA-assisted contracts.

Additionally, the City's Program and its associated DBE Policy shall be placed on the city's website at [www.springfieldohio.gov/SCAT](http://www.springfieldohio.gov/SCAT).

Within the Program and Policy document, you will find the stated objectives for the City's DBE Program for FTA-assisted Projects:

1. To ensure nondiscrimination in the award and administration of FTA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in FTA-assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program;
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients; and,
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBE.

Additionally, you will find all descriptions, requirements and associated attachments and exhibits necessary for the City of Springfield to carry out this program and implement the objectives outlined in the policy statement. The program document is arranged to include information pertaining to Subpart A: General Requirements; Subpart B: Administrative Requirements; Subpart C: Goals, Good Faith Effort, and Counting; Subpart D: Certification Standards; Subpart E: Certification Procedures; and Subpart F: Compliance and Enforcement.

**CITY OF SPRINGFIELD  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
FOR FTA-ASSISTED CONTRACTS**

**POLICY STATEMENT**

**OBJECTIVES/POLICY STATEMENT**

**PART 49 SECTION 26.1, 26.23**

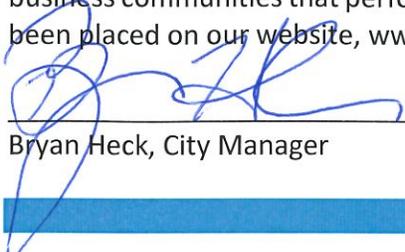
The City of Springfield (hereinafter "City") has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the Department of Transportation, and as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

It is the policy of the City to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. The objectives of this policy are:

1. To ensure nondiscrimination in the award and administration of FTA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in FTA-assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program;
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients; and,
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBE.

The City of Springfield's Community Development Director shall serve as the City's DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. In the capacity of DBELO, the Director shall call upon the assistance of the Finance Director and the director's staff for full compliance, implementation, monitoring, and assistance in carrying out the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the Department of Transportation.

The City has disseminated this policy statement to the City Commission and all appropriate components of the organization. This statement has been distributed to DBE and non-DBE business communities that perform work for the City on FTA-assisted contracts. This program has been placed on our website, [www.springfieldohio.gov/SCAT](http://www.springfieldohio.gov/SCAT).

  
Bryan Heck, City Manager

11/7/19  
Date

## **SUBPART A - GENERAL REQUIREMENTS**

### **OBJECTIVES**

#### **SECTION 26.1**

The Objectives of the City DBE Program are

1. To ensure nondiscrimination in the award and administration of FTA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in FTA-assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program;
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients; and,
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBE.

### **APPLICABILITY**

#### **SECTION 26.3**

The City is the recipient of federal transit funds authorized by Titles I, III, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation equity Act for the 21<sup>st</sup> Century (TEA-21), Pub. > 105-178, 112 Stat. 107.

## DEFINITIONS

### SECTION 26.5

*Affiliation* with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliation business concerns need not be in the same line of business. The calculation of a concern's size includes the employees or receipts of all affiliates. Except as otherwise provided, concerns are affiliates of each other when, either directly or indirectly:

- a. One concern controls or has the power to control the other; or
  - b. A third party or parties controls or has the power to control both; or
  - c. An identity of interest between or among parties exists such that affiliation may be found.
- (2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

*Alaska Native* means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

*Assets* mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

*Business, business concern or business enterprise* means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

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

*Contingent Liability* means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owned by the applicant concern, legal claims and judgments, and provisions for federal income tax.

*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.

*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.

*Department of DOT* means US 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.

*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.

*Home state* means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

*Immediate family member* means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

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

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

*Liabilities* mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

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

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

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

*Operating Administration or OA* means any of the following parts of DOT: The Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

*Personal net worth* means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participating DBE firm; or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.

*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 US Census Bureau Web site: <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.

*Principal place of business* means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations the recipient will determine the principal place of business.

*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.

*Secretary* means the secretary of Transportation or his/her designee.

*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.

*SBA certified firm* refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

*Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and small Business Administration regulations implemented in (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in § 26.65(b).

*Socially and economically disadvantaged individual* means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - c. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
  - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the US Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  - e. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - f. Women;
  - g. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- (3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

*Spouse* means a married person, including a person in a domestic partnership or a civil union recognized under State law.

*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 serve 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.

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

*You* refers to a recipient, unless a statement in the text of this part or the context requires otherwise.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]

## **NON-DISCRIMINATION REQUIREMENTS**

### **SECTION 26.7**

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation as defined by state and federal law, and in Springfield Codified Ordinances. In administering its DBE program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation as defined in state and federal law, and in Springfield Codified Ordinances.

## **RECORD KEEPING REQUIREMENTS**

### **SECTION 26.11**

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#### **REPORTING TO DOT**

##### **SECTION 26.11(B)**

The City Finance Department 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. Procedures for completing Uniform Reports are included as Exhibit 1.

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#### **BIDDERS LIST**

##### **26.11(C)**

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

The City will collect this information via contract clauses requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

The bidders list will be updated annually.

## FEDERAL FINANCIAL ASSISTANCE AGREEMENT

### SECTION 26.13

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

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#### GENERAL ASSURANCE

##### 26.13(A)

The City shall not discriminate on the basis of race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation, as defined by state and federal law, and in Springfield Codified Ordinances, in the award and performance of any FTA-assisted contract or in the administration of this DBE Program Policy 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 FTA-assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in all FTA-assisted agreements. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of FTA-assisted agreements. Upon notification to the City of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

**This language will appear, verbatim as stated in 26.13(a), in financial assistance agreements with sub-recipients.**

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## CONTRACT ASSURANCE

### 26.13(B)

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

*The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation, as defined in state and federal law, and in Springfield Codified Ordinances, in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of FTA-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:*

- 1. Withholding monthly progress payments;*
- 2. Assessing sanctions;*
- 3. Liquidated damages, and/or*
- 4. Disqualifying the contractor from future bidding as non-responsible.*

**This language will appear, verbatim as stated in 26.13(b), in FTA-assisted contracts and subcontracts.**

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **DBE PROGRAM UPDATES**

#### **SECTION 26.21**

Since the City has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, the City will continue to carry out this program until all funds from FTA financial assistance have been expended. The City will provide to DOT updates representing significant changes in the program.

### **POLICY STATEMENT**

#### **SECTION 26.23**

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

### **DBE LIAISON OFFICER (DBELO)**

#### **SECTION 26.25**

The City has designated the following individual as our DBE Liaison Officer:

Shannon L. Meadows  
Community Development Director  
76 East High Street, Springfield, Ohio 45502  
937-324-7380  
smeadows@springfieldohio.gov

In that capacity, the DBELO is responsible for assisting in the implementation of all aspects of the DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization as well as a general job description for the Community Development Director position is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program in coordination with other appropriate officials. In the capacity of DBELO, the Director, shall call upon the assistance of other Community Development staff as well as the Finance Director and the director's staff for full compliance, implementation, monitoring, and assistance in carrying out the DBE Program.

The DBELO has a minimum of five additional team members to assist in the administration of the program. These staff positions include the City Finance Director, FTA Project Manager, City Purchasing Agent/Buyer, City Contract Compliance Representative, and the Minority Business

Development Coordinator. The City Manager will ensure the successful implementation of the DBE program with the direct assistance of the DBLEO and all others whom the DBLEO calls upon for completion of tasks and compliance/oversight of this program.

Additional duties and responsibilities DBELO include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. In partnership with the Finance Director, reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. In partnership with the Finance Director, ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. In partnership with the Finance Director, identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment) and identifies ways to improve progress.
6. Analyzes City's progress toward attainment and identifies ways to improve progress.
7. In partnership with the Finance Director, FTA project manager, purchasing agent/buyer, and contract compliance representative ensures representation of the DBE program and program goals are communicated at pre-bid meetings.
8. Advises the City Manager on DBE matters and achievements as well as shortfalls and areas for improvement – including staffing and team capacity.
9. Chairs the DBE Advisory Committee established by the City Manager, and including members representative of the Finance Department, the Community Development Department, the City Manager's Office, the Law Department, and City contractors responsible for the largest portion of FTA assisted funding.
10. In partnership with the Finance Director and Minority Business Development Coordinator provides DBEs with information and assistance in preparing bids, obtaining bonding, and insurance.
11. In partnership with the Minority Business Development Coordinator plans and participates in DBE training seminars.
12. Acts as a liaison to the Uniform Certification Process in Ohio.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains an updated DBE directory as developed by Ohio Department of Transportation through the Uniform Certification Program (UCP).
15. Submits triennial DBE goals to DOT.

The Finance Director shall ensure assistance to the DBELO in the following compliance requirements.

1. In partnership with the FTA project manager, compile necessary data and information to accurately and completely comply with all reporting requirements, including uniform reports and information needed to establish DBE goals.
2. In partnership with the FTA project manager, and contract compliance representative monitor contract compliance, including Prompt Payment requirements as required by FTA.

3. In partnership with the FTA project manager and procurement agent/buyer(s), and contract compliance representatives within the procurement division, monitor goal attainment and enforcement, including the monitoring of substitutions of DBEs and participation on worksite visits when necessary and applicable.
4. In partnership with the FTA project manager and Buyer(s) within the procurement division, ensure procurement compliance, including the insurance of contract clauses included within procurement documents and contracts as well as, in consultation with the DBELO, determination if Race Conscious goals need to be applied to particular contracts in order to fully comply with Triennial Goal Attainment as set forth in the City's Goal Methodology.

## DBE FINANCIAL INSTITUTIONS

### SECTION 26.27

The Federal Deposit Insurance Corporation (FDIC) publishes a Minority Depository Institutions (MDIs) Report that lists the current MDIs across the United States that registered with the FDIC. The City will conduct an annual review of FDIC MDI Reports, assess the new MDIs accessible to the City of Springfield and State of Ohio, and invite them to partner with the City's DBE program.

The FDIC releases the MDI report quarterly, and the data is available roughly twelve weeks after the end of each calendar quarter. The City will, at a minimum, update its Financial Institutions report annually, no later than the end of the first quarter of each year. However, the City may update the report upon request. A copy of the FDIC MDI report can be obtained by visiting <https://www.fdic.gov/regulations/resources/minority/mdi.html> or by contacting the DBELO.

Per the FDIC Quarterly MDI Report, dated March 31, 2019 (included as Attachment 2), there are zero (0) Minority Depository Institutions (MDIs) in the City of Springfield or in the State of Ohio. There are no MDIs within one hundred and fifty (150) miles of Springfield, thus there are no MDIs accessible for certified DBEs. The Ohio Department of Transportation has determined there are also no MDIs accessible for Ohio's certified DBEs.

Regardless, it is the policy of the City of Springfield to investigate the full extent of services offered by Minority Financial Institutions (MFI) owned and controlled by socially and economically disadvantaged individuals in the community and to make reasonable efforts to use these institutions and encourage prime contractors on DOT-assisted contracts to make use of these institutions. The following clause will be included in DOT contract documents:

“Minority Financial Institutions - The Bidder is encouraged to utilize financial institutions owned and controlled by socially and economically disadvantaged individuals and community banks. Information about such institutions is available on-line at: [www.fdic.gov/regulations/resources/minority/](http://www.fdic.gov/regulations/resources/minority/) “

## PROMPT PAYMENT MECHANISMS

### SECTION 26.29

The City will use an internal monitoring system to assess payment transactions between the City and awarded contractors; subcontractors; and/or sub recipients, and the duration for the prime to in turn complete payments to its subcontractors or sub consultants. The City will require prime contractors and consultants 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 represented of the City of Springfield or the USDOT. This requirement also extends to any certified DBE subcontractor or sub consultant.

The Finance Department will perform interim audits of contract payments, and will provide these reports to the DBELO each quarter. The audit will review payments to DBE and non-DBE subcontractors and sub consultants to ensure that the actual amount paid to DBE subcontractors or sub consultants equals or exceeds the dollar amounts stated in the most current invoice under review, and that the payments were made within 30 days. The Finance Department will notify the DBELO if the audit determines that a DBE was not paid timely.

### CONTRACT CLAUSE

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In order to ensure prompt payment by a prime contractor to a subcontractor, the City shall include the following clause in FTA-assisted contracts

*The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contract receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontracts.*

The Prime Contractor shall notify the City that it has complied with the Prompt Payment requirements. The affirmation of compliance shall include the following information:

- 1) The name of the subcontractor or supplier that was paid;
- 2) The dollar amount of the payment to the subcontractor or supplier;
- 3) The date the subcontractor/supplier was paid.

Subcontractors or suppliers will affirm the payment was made, on the date and in the amount listed in the affirmation. The prime Contractor shall include this affirmation requirement in all subcontractor and supplier contracts that it enters into and further require that all subcontractors and suppliers place the same payment obligation on each of their lower tier contracts.

A copy of the Affidavit of Subcontractor Payment form is provided in Attachment 3.

## DIRECTORY

### SECTION 26.31

The City shall utilize the Ohio Department of Transportation's DBE directory for FTA-assisted project compliance. ODOT maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's pertinent information, inclusive of firm name, address, phone number, email address, ethnic group of primary ownership, prequalification status, certification status, original certification date is available on the certificate, and the approved NAICS Code(s) and corresponding NAICS Code description(s) defining the type of work the firm has been certified to perform as an eligible DBE. ODOT utilizes its outreach resource on an on-going basis to connect with all relevant agencies, trade unions, and associations, to identify potential DBE firms, and once certified, add these firms to its DBE Directory.

ODOT updates the directory in real time. The Directory is available by visiting <http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx>

The Directory is also available by Mail:

Ohio Department of Transportation  
Division of Opportunity, Inclusion, and  
Office of Small & Disadvantaged Business Enterprise  
1980 W. Broad Street, MS: 3270  
Columbus, OH 43223

Interested parties may also review a copy of the directory by contacting the Community Development Department, the DBELO, and/or the City's Minority Business Development Coordinator.

City of Springfield  
Community Development Department  
76 East High Street  
Springfield, Ohio 45502  
937-324-7380

## OVERCONCENTRATION

### SECTION 26.33

The City has not identified that overconcentration exists in the types of work that DBEs perform. However, the City will continue to review and monitor DBE Participation and statistical reports by the close of each Federal Fiscal Year in order to determine whether there is an overconcentration of DBEs. DBE participation on federally funded contracts will continue to be tracked by NAICS Codes.

The City of Springfield will review Ohio Department of Transportation data to determine if a trend toward overconcentration may exist. If the DBELO determines that the DBE participation is so over-concentrated in certain types of work or in contracting or procurement opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBELO will develop appropriate measures to address the overconcentration. The DBELO will seek approval from FTA, as required. Once approved, the measures will become an integral part of the City's DBE program.

A contractor may challenge that there is an area of FTA-Assisted work in which there is an overconcentration of DBE firms, and that such concentration creates an undue burden for non-DBE firms in obtaining work in this area. Where such challenges are made, they shall be processed as follows:

The challenge must be submitted in writing to the City of Springfield, Community Development Department, Disadvantaged Business Development Liaison Officer: 76 East High Street, Springfield, Ohio, 45502.

The written challenge must identify the challenging party, summarize the grounds for the challenge, and include all available information relevant to determining whether the challenge is valid. The city will thoroughly review the information submitted.

Based on this information, the City will conduct an inquiry. To assist in the inquiry, the city will use information available through the Ohio Department of Transportation UCP and the guidance of the State of Ohio Office of Business and Economic Opportunity.

If the City determines that there is no reason to believe the challenge is valid, the challenging party shall be informed in writing thereby terminating the challenge procedure.

If it is determined that there is reason to believe that the party has a valid claim, the City will work with FTA administration on a determination of overconcentration and to devise measures to address it. The measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specified field in which the city determined that

non-DBEs are unduly burdened. Once approved, the measures will become part of the DBE Program.

## **BUSINESS DEVELOPMENT PROGRAMS**

### **SECTION 26.35**

The City assists with business development as a part of Section 26.35 through its office of Minority Business Development located in the Human Relations Division of the Community Development Department. Business Development program strategies include, but are not limited to: providing timely notification of opportunities, outreach, education, mentoring, and technical assistance through capacity building.

The Minority Business Development Coordinator works to coordinate business and entrepreneurial opportunities and education/outreach programming throughout the community. Working in conjunction with the local chapter of the NAACP, the coordinator develops and hosts trainings, panels, and one on one sessions with community members interested in beginning their own, as well as growing, their businesses. Additionally, the coordinator works with Opportunities for Individual Change Re-entry program through their Second Chance program to help members of the community develop entrepreneurial skills that will lead to brighter futures.

Through this programming, the coordinator provides information related to contracting opportunities with the City of Springfield and provides guidance and support in bidding City work as well as assistance with exploring financial opportunities through the Small Business Development Center and local banking institutions. Often the coordinator is the first point of contact for many Section 3 businesses, and those desiring to become certified Disadvantaged Business Enterprises, as well as owners who are seeking to develop formal business plans. The Minority Business Development Office is located on the second floor of City Hall. Appointments for one on one conversations can be made, but often the coordinator facilitates walk in conversations as well.

Cheryl DeGroat Dover, Minority Business Development Coordinator  
City of Springfield  
Community Development Department  
Human Relations Division  
76 East High Street  
Springfield, Ohio 45502  
937-324-7380

In addition to the local business development initiatives, the City encourages all Small Business and DBE firms to explore and participate in Ohio Department of Transportation DBE Supportive Services Program (DBE/SSP). ODOT, as part of its regular business, developed a number of robust programmatic strategies that will ensure the fullest possible inclusion and participation of DBEs in federally-assisted programs and projects.

The Capacity Building Program (CBP) has been developed to assist DBE firms in building and implementing viable business strategies, expanding technical skills, and enhancing leadership and collaboration capabilities. The CBP targets DBEs that have established themselves as a viable businesses but are seeking to increase capacity through building in-house technical expertise, pursuing larger contracting opportunities, and/or transitioning from the role of subcontractor to prime contractor. DBE/SSP offers tuition reimbursement for various seminars, trade shows, programs, workshops, and conferences. Tuition reimbursement may also be available for education courses from a university, community college, technical trade school, or courses offered by ODOT.

Interested firms can learn more about the state of Ohio DOT supported small business programs by contacting the State Department of Transportation directly, or through conversation and guidance provided by the City's Minority Business Development Coordinator.

## **MONITORING AND ENFORCEMENT MECHANISMS**

### **SECTION 26.37**

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

1. The City will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The City will consider similar action under its own legal authorities, including reasonable determinations in future contracts.
3. The City will also implement a monitoring and enforcement mechanism to ensure that the DBEs are performing work committed to DBEs at contract award, when DBE participation commitments are required by the contract (when Race Conscious goals are included). This mechanism will provide for a running tally of actual DBE attainments (e.g., verified payment made to DBE firms), including a means of comparing these attainments to commitments. This mechanism will include a written certification that the City has reviewed contracting records and monitored work sites for this purpose. The Finance Director will provide a copy of these certifications to the DBELO monthly, or if payments are not made on a monthly basis, no less than each quarter beginning in December and following March, June, and September. This mechanism will be accomplished by requiring prime contractors to report all payments to the DBE and non-DBE contractors to the FTA project manager and Finance Director. The reports will be maintained in the project files and copies will be delivered to the DBELO as data used to monitor overall goal attainment, shortfall analysis, and information to feed goal methodologies moving forward. If at any time the DBELO identifies

inconsistencies in the monitoring and enforcement reports, the DBELO will immediately notify the City Manager and Finance Director so corrections or enforcement can be pursued.

The City will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. This report will be generated by the Finance Department and shared with the DBELO on a monthly basis, or if payments are not made on a monthly basis, no less than the end of each quarter of each year.

## **FOSTERING SMALL BUSINESS PARTICIPATION.**

### **SECTION 26.39**

The City will coordinate a race-neutral small business program element that will:

1. Establish a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).
2. For large contracts (e.g., for “megaprojects”) require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
3. On prime contracts not having DBE contract goals, require the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
4. Identify alternative acquisition strategies and structure procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.  
Ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

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

### SET-ASIDES OR QUOTAS

#### SECTION 26.43

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

### OVERALL GOALS

#### SECTION 26.45

The City will submit its triennial overall DBE goal to FTA on August 1 of the year specified by the operating administration. The next goal will be submitted to FTA on August 1, 2019 for review and approval.

In general, goals will be established by the 2-step process as specified in 49 CFR Part 26.45. If the City does not anticipate awarding more than \$250,000 in FTA funding annually during the 3-year reporting period, the City will not develop an overall goal; however the existing DBE program will remain in effect and the City will seek to fulfill the objectives outlined in 49 CFR 26.1. The City 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), the City will then establish its overall and project-specific DBE goal as follows:

Step 1: The current bidders list that City 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 City contracts in. The City will then identify DOT-assisted contract opportunities and identify subcontracting opportunities by NAICS code for each contract and assign estimated dollars based on the contract budget estimates. Finally, the City 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, the City 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, the City will use the median attainment from the past three years to adjust the base figure. To adjust the base figure, the City will average the base figure and the median attainment from the past three years. If they are not similar, the City will review previous contracts similar in size and scope to analyze whether the base figure is consistent with previous attainments.

When establishing its overall goal, in accordance with 26.45, the City will consult with minority and women contractor and/or consultant groups, general contractors and consultants, community organizations, and other organizations or officials to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City's efforts to establish a level playing field for the

participation of DBEs. This consultation shall include, at a minimum, representation from the Greater Springfield Chamber of Commerce; the local Small Business Development Center; the Minority Business Development Office; the Springfield/Clark County Transportation Coordinating Committee; the local chapter of the NAACP; other minority, women's and general contractor groups; the City of Springfield City Commission; the City of Springfield Human Relations Board; and various other entities that are involved with disadvantaged business development in the region and throughout the state. This consultation is required to include a scheduled, direct, and interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before the City is required to submit its methodology to the appropriate operating administration for review. The City will document in its goal submission the consultation process in which it engaged.

Following the consultation, the City will publish a notice of the proposed overall goal(s) informing the public that the proposed goal(s) and its rationale are available for inspection during normal business hours in the Community Development Department of the City of Springfield for 30 days following the date of the notice and informing the public that the City will accept comments on the goals for 45 days from the date of the notice. The overall goal will be published in the Springfield News Sun and on the City of Springfield website. In addition, the City will email the notice to interested stakeholders as well as the DBE bidders list. Normally, the City will issue the notice no later than June 10 and it will include the address to which comments may be sent and where the proposal may be reviewed.

The City's overall goal submission to the operating administrations will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc. used to develop the goal; a summary of information and comments received during the public participation process and the City's response; and proof of publication of the goal in the Springfield News Sun.

The City will implement its overall goal on October 1 of the specified year unless it has received other instructions from the FTA. If the City establishes a goal on a project basis, it will begin using the goal by the time of the first solicitation for a FTA-assisted contract for the project. The City's goal will remain effective for the duration of the three-year period established and approved by the operating administration.

Goals for the DBE Program will be reviewed annually, and updated if necessary and approved by FTA.

## GOAL SETTING AND ACCOUNTABILITY

### SECTION 26.47

If the awards and commitments shown on the City's Uniform Report of Awards or Commitments and Payments at the end of any federal fiscal year are less than the overall applicable to the fiscal year the City will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestone to correct the problems identified in the analysis; and
3. Complete the plan within 90 days of the end of the affected fiscal year and retain it on file for future FTA reviews.

## TRANSIT VEHICLE MANUFACTURERS GOALS

### SECTION 26.49

When the City implements its own Invitation to Bid to Transit Vehicle Manufacturers, the City shall require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, the City 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. Prior to award of all vehicle contracts, the City's Purchasing Department will verify that the selected vendor appears on the FTA list of Eligible Transit Vehicle Manufacturers. The list will be printed and kept with the procurement files to document that the vendor was on the list at the time of award. Within 30 days of award, the Purchasing Department will report the award via FTA's online Transit Vehicle Award Reporting Form.

When the City participates in ODOT's State purchasing schedule for transit vehicles, the City shall rely on ODOT's process of compliance. A state purchasing schedule is an arrangement that a State establishes with multiple vendors in which those vendors agree to provide essentially an option to the State, and its subordinate governmental entities and others it might include in its programs, to acquire specific property or services in the future at established prices. ODOT usually refers to its State purchasing schedule for transit vehicles as "vehicle term contracts."

ODOT selects a single vendor for each type of transit vehicle available on its State purchasing schedule. ODOT selects its vendors using a formal Invitation to Bid process. As part of this process, each bidder must certify that it (or, if the bidder is a dealer/distributor, that the transit vehicle manufacturer who will actually be producing the vehicles) is listed on FTA's certified list of Transit Vehicle Manufacturers, or that it has submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation. Bidders that cannot make this certification will be deemed non-responsive. Prior to entering into an agreement with

a vendor, ODOT confirms the bidder's certification by confirming the bidder's presence on FTA's Edible TVMs List.

Should the City participate in a cooperative purchasing agreement with another government entity to purchase Transit Vehicles, the City will ensure that the lead entity requires compliance with this section prior to agreeing to enter into the cooperative purchasing agreement.

## **BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE-CONSCIOUS PARTICIPATION**

### **SECTION 26.51(A-C)**

The City endeavors to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal. Currently, the City's DBE goal is 100% race-neutral.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation;
2. Referring DBEs for assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
4. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

Each time the City submits its overall goal for review by FTA, the City submits its projection of the portion of the goal it expects to meet through race-neutral means and the basis for that projection. The projection is subject to the approval of FTA, in conjunction with its review of the City's overall goal.

All invitations to bid will contain the statement:

**The City of Springfield encourages all bidders to review the list of certified DBE companies in the Ohio Unified Certification Program at [www.ohiouncp.org](http://www.ohiouncp.org).**

## CONTRACT GOALS

### SECTION 26.51(D-G)

The City will use contract goals to meet any portion of the overall goal the City does not project being able to meet using race-neutral means. Contract goals are established so that over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means. The City may establish contract goals on contracts and agreements that have subcontracting opportunities, and only when determined necessary to meet triennial goals.

All bidders responding to FTA-assisted invitations to bid or other procurement solicitations with established contract goals are required to submit a DBE Utilization Plan at the time of bid, setting forth specific information demonstrating how the bidder plans to achieve the DBE goal. By submitting a DBE Utilization Plan, the bidder is affirming that it will be using the DBE firms identified in the Utilization Plan to meet the DBE contract goal. The DBE Utilization Plan will include

1. The names and addresses of the certified DBE firm(s) that will be used to meet the DBE goal;
2. A description of the work that each DBE will perform.
  - a. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
3. Whether the DBE firm(s) being used to meet the goal will be utilized as a subcontractor, regular dealer, manufacturer, consultant, or other capacity; and
4. The dollar amount of the participation of each DBE firm used to meet the DBE goal.

The Apparent Low Bidder will ensure the DBE firms being utilized to meet the DBE goal affirm their participation in the bid within five calendar days after the bid opening. A DBE Affirmation Form will be utilized as written confirmation from each listed DBE firm that it is participating in the contract or professional services agreement in the kind of work provided in the bidder's DBE Utilization Plan. The Apparent Low Bidder will submit a separate DBE Affirmation Form for each DBE it is utilizing to meet the DBE goal. All other bidders will submit a DBE Affirmation Form(s) if notified that the information is required in order for the City to complete its bid assessment. Bidders have five calendar days from the date of notification to submit all required DBE Affirmation Forms.

In the event the DBE firm fails to confirm the information contained in the DBE Affirmation form within five calendar days of bid opening, the Apparent Low Bidder needs to submit a Request to Terminate/Substitute DBE form, as set forth herein, and described below in order for the Apparent Low Bidder to still be considered for contract award. The Apparent Low Bidder must provide all efforts it made to obtain the affirmation from the DBE firm and will need to attach proof of these efforts.

In the event the bidder is also a certified DBE firm, the bidder is required to complete a DBE Utilization Plan as set forth above. In this instance, however, the certified DBE bidder would not

need to submit a DBE Affirmation Form for the work it is planning to self-perform in order to meet the goal. The City will consider the submission of the bid as the certified DBE bidder's written confirmation that it is participating in the contract or profession services agreement. However, a DBE Affirmation Form must be submitted for all other DBE firms that are being utilized toward the DBE goal.

The City of Springfield works to attain contract goals without using race-conscious means; however, when necessary, the City will express contract goals as a percentage of the total amount of the FTA-assisted contract.

## **GOOD FAITH EFFORTS PROCEDURES**

### **SECTION 26.53**

#### **DEMONSTRATION OF GOOD FAITH EFFORTS**

##### **SECTION 26.53 (A) (B) (C)**

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The obligation of the bidder is to make good faith efforts. The bidder can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.

The Community Development Director, serving as the DBELO, and the Finance Director, serving as the chief purchasing officer, are together responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

Information to be submitted:

In the event that the DBE contract goal established by City is not met, the Apparent Low Bidder (prime contractor or consultant) must demonstrate that it made adequate good faith efforts (GFEs) to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

The City treats bidder compliance with good faith efforts' requirements as a matter of responsiveness.

Guidelines pertaining to the City of Springfield demonstration of Good Faith Efforts is provided in Attachment 4. Likewise, Good Faith Efforts Contractor Form Reason for Shortfall is provided in Attachment 5.

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#### SAMPLE BID SPECIFICATION:

Each solicitation for which a contract goal has been established will include the following:

The requirements of 49 CFR Part 26, Regulations of the US Department of Transportation, apply to this contract. It is the policy of the City of Springfield to practice nondiscrimination based on race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation as defined in Springfield Codified Ordinances, in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders, including those who qualify as a DBE. A DBE contract goal of \_\_\_ percent has been established for this contract. The bidder shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 – incorporated into this document as Exhibit 2 – to meet the contract goal for DBE participation in the performance of this contract.

And will require the bidders to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment (referred to as DBE Affirmation Form); and
6. If the contract goal is not met, evidence of Good Faith Efforts.

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#### DEMONSTRATING EVIDENCE OF GOOD FAITH EFFORTS:

The Apparent Low Bidder must demonstrate its GFEs by submitting the following information within five calendar days after the bid opening:

1. All written quotes received from certified DBE firms;
2. All written (including email) communications between the Apparent Low Bidder and DBE firms;
3. All written solicitations to DBE firms, even if unsuccessful;
4. Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract or professional services agreement;
5. Phone logs of communications with DBE firms.

The City will utilize the guidance set forth in 49 CFR §26.53 Appendix A (incorporated into this document as Exhibit 2) in determining whether the Apparent Low Bidder has made adequate GFEs to meet the goal. The DBELO, in consultation with the Finance Director, will review the GFE documentation and issue a written determination on whether adequate GFEs have been demonstrated prior to contract award.

## **ADMINISTRATIVE RECONSIDERATION**

### **SECTION 26.53 (D)**

In the event the City determines that the Apparent Low Bidder has failed to demonstrate adequate GFEs to meet the goal, and has been deemed not responsive, the Apparent Low Bidder will have an opportunity for administrative reconsideration prior to the contract being awarded. As part of this reconsideration, the Apparent Low Bidder may provide written documentation or argument concerning the issue of whether it met the goal or made adequate GFEs to do so. Such written documentation or argument must be provided to the City within two business days of the City's written determination that GFEs were not adequately demonstrated.

The written documentation must be delivered to

Bryan Heck, City Manager  
City of Springfield  
76 East High Street  
Springfield, Ohio 45502  
937-324-7300  
bheck@springfieldohio.gov

The Apparent Low Bidder may also include in its written documentation a request for an in person meeting to discuss the issue or whether it met the goal or made adequate GFEs to do so. The City will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate GFEs to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

## **GOOD FAITH EFFORTS WHEN A DBE IS REPLACED ON A CONTRACT**

### **SECTION 26.53(F)**

The City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal, and will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

Shannon Meadows, Community Development Director

City of Springfield  
DBELO  
76 East High Street  
Springfield, Ohio 45502  
937-324-7380  
smeadows@springfieldohio.gov

The DBELO will review the information and prior to proceeding with a replacement, City will require approval from the City Manager prior to the prime contractor substituting a DBE. The City will also require the prime contractor to provide copies of new or amended subcontracts, or documentation of good faith efforts.

Should a prime contractor fail to meet good faith efforts, the City may apply sanctions, provided in Attachment 6.

If the contractor fails or refuses to comply in the time specified, the DBELO, in consultation with the Finance Director, will direct the accounts payable division to stop all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the DBELO, in consultation with the Finance Director, may recommend to the City Manager a termination for default proceeding.

## COUNTING DBE PARTICIPATION

### SECTION 26.55

DBE certification does not guarantee that the City will count the firm's work on a project towards the City's DBE goal. In order for services performed by a DBE to count toward the City's goal, the firm must perform a Commercially Useful Function (CUF) and its work must be in the NAICS code for which the DBE is certified.

Expenditures to a DBE contractor can be counted toward DBE goals only if the DBE is performing a CUF on that contract. Considerations in determining CUFs include the following:

1. DBE performs a CUF when the DBE is responsible for execution of the work and is actually performing, managing, and supervising the work involved. To perform a CUF, 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;
2. To determine whether a DBE is performing a CUF, the City must evaluate the amount of work subcontracted, industry practice, whether the amount the DBE 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;
3. The City must presume a DBE is not performing a CUF if the DBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to create the appearance of DBE participation. In determining whether a DBE is such an extra

participant, the City must examine similar transactions, particularly those in which DBEs do not participate;

4. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of the DBE's contract with its own workforce, 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, the City must presume that the DBE is not performing a CUF; and
5. When a DBE is presumed not to be performing a CUF as stated in paragraphs 2 and 3, the DBE may present evidence to rebut this presumption. The City may determine that the DBE is performing a CUF given the type of work involved in normal industry practices.

Monitoring CUF is a vital role in the success of the City's DBE program. In keeping with normal contract requirements, it is the primary responsibility of the prime contractor to ensure that the DBE is performing a CUF. The City, as the contracting agency, has oversight responsibility to ensure that the prime contractor has effectively met this responsibility under its contract with the City. Attachment 7 outlines the City of Springfield's Commercially Useful Function Monitoring Procedures. Additionally Attachments 8 and 9 provide examples of the city's Commercially Useful Function Site Visit Inspection Form and Commercially Useful Function DBE Monitoring Report respectively.

In determining the portion of DBE work on a project that will count toward the DBE goal, refer to the list below. This list is not an exhaustive list; the City may request additional information from the prime contractor and/or DBE firm to determine the portions of work the City will count as DBE participation.

1. The DBE firm is performing a CUF;
2. The work is in the NAICS code for which the DBE is certified;
3. The work is performed by the DBE's own workforce;
4. Supplies and equipment purchased or leased by the DBE are not affiliated with the prime contractor;
5. The cost of supplies and materials obtained by the DBE for the work is counted including purchased and leased equipment;
6. Reasonable fees or commissions charged by a DBE for providing a bona fide service, or for providing bonds or insurance required for performance of a City contract may be counted. Examples of bona fide services include professional, technical, consultant, or managerial services; and
7. The work a DBE subcontracted to others is counted only if the work is subcontracted to another DBE. Work subcontracted to non-DBEs does not count.

When a DBE subcontracts part of the DBE's work to another firm, the value of the subcontracted work is counted only if the work is subcontracted to another DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

When a DBE performs as a participant in a joint venture, DBE credit will be counted only for work that is clearly defined in the contract that the DBE performs with the DBE's own management, workforce, and equipment. All CUF rules still apply.

The City will not count contract goal credit under either of the following conditions:

- 1) The subcontracted DBE firm is not certified at the time of contract award; and
- 2) Prime contractor's or consultant's payments to the certified DBEs on the project have not been paid.

City Contract Compliance representatives will advise prime contractors at the Pre-Construction/Pre-Award Meeting to maintain and make available to the City, when so requested, records substantiating the performance of a CUF by a DBE contractor and supplier as part of the contractor's compliance. Contractor records, which may be reviewed to substantiate CUF, include, but are not limited to:

- Contracts, subcontracts, or rental agreements
- Delivery tickets
- Invoices
- Bills of Landing
- Lease agreements
- Hauling tickets
- Contractor's daily trucking records
- Canceled checks
- Bank records
- Equipment titles of ownership
- Material/supply agreements
- Payroll records

City records which will be reviewed to confirm CUF include, but are not limited to:

- Contractual commitments
- Daily reports and project photos
- Subcontractor payments
- CUF Reports completed by Contract Compliance Representatives
- CUF Forms and Prevailing Wage Interviews
- Payroll records
- DBE Directory Information
- NAICS website information

In the assessment of a CUF, the DBELO may request copies of invoices based on the following factors:

- 1) The DBE is a material supplier, manufacturer, or regular dealer on a project;
- 2) There is a concern that the DBE is not performing a CUF and invoices are needed for further verification.

When a DBE is presumed not to be performing a CUF, the DBE may present evidence to rebut this presumption. Decisions regarding CUF determinations are subject to review by FTA. However, CUF decisions are not appealable to USDOT as such are considered to be contract administration issues.

Counting guidelines are provided as follows:

- DBE as the Prime Contractor: 100% DBE credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE prime subcontracts to a non-DBE firm does not count toward the DBE goal.
- DBE as a Joint Venture Contractor: 100% DBE credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- DBE as a Subcontractor: 100% DBE credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the prime contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE firm does not count toward the DBE.
- DBE as a Material Supplier or Broker:
  - 100% DBE credit for the cost of materials or supplies obtained from a DBE manufacturer.
  - 60% DBE credit for the cost of the materials or supplies purchased from a DBE regular dealer.
  - 100% DBE credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a regular dealer or manufacturer
- DBE as a Trucker: 100% DBE credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed and insured by the DBE must be used on the contract. Credit will be given for the full value of all such DBE-owned trucks operated using DBE employed drivers. DBE credit for transportation services provided by a non-DBE firm will be limited to the value of transportation services provided by DBE-owned trucks on the contract. Any additional participation by a non-DBE firm will receive credit only for the value of the reasonable fee or commission received by the DBE.

The City will use the following factors in determining whether to count expenditures to a DBE trucking firm, to determine if it is performing a commercially useful function:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract and there cannot be a contrived arrangement for the purpose of meeting the DBE commitment.
2. The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the contract.

3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
4. The DBE may lease trucks from another DBE firm, including an owner- operator who is certified as a DBE. The DBE who leases the trucks from another DBE receives credit for the total value of the transportation services the DBE lessor provides on the contract.
5. The DBE may also lease trucks from a non-DBE firm, including an owner- operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by the non-DBE firm not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE firms receive credit only for the fee or commission it receives as a result of the lease arrangement. CTA will obtain written consent from FTA if it chooses this approach.

For purposes of the section above, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

## SUBPART D - CERTIFICATION STANDARDS

### CERTIFICATION PROCESS

#### SECTION 26.61 - 26.73

The City is member of the Unified Certification Program (UCP) administered by the Ohio Department of Transportation (ODOT). The City does not manage a DBE certification program. ODOT uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet ALL certification eligibility standards.

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

Ohio Department of Transportation  
Division of Opportunity, Diversity, and Inclusion  
Office of Small and Disadvantaged Business Enterprise  
1980 W. Broad Street, MS 3720  
Columbus, Ohio 43223  
614-752-5756  
<http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP.aspx>

## SUBPART E - CERTIFICATION PROCEDURES

### UNIFIED CERTIFICATION PROGRAMS

#### SECTION 26.81

The City is the member of a Unified Certification Program (UCP) administered by the State of Ohio. The UPC will meet all of the requirements of this section.

The following is a description of the UCP:

The Ohio UCP is a "one stop" certification process for the Federal DBE Program in Ohio. The Ohio UCP consolidates all DBE firms certified by any of the four different agencies into one centralized DBE Directory for USDOT-assisted contracts for airports, highways, and transit. A firm's DBE certification is valid at any Ohio entity receiving USDOT funds with a DBE Program. Small businesses desiring DBE certification must submit their application to one of the four certifying agencies within the state.

The Ohio Department of Transportation (ODOT)  
Division of Opportunity, Diversity, and Inclusion  
Office of Small and Disadvantaged Business Enterprise  
1980 W. Broad Street, MS 3270  
Columbus, OH 43223  
(614) 752-5756  
[www.dot.state.oh.us/dbe](http://www.dot.state.oh.us/dbe)

Firms certified by The Ohio Department of Transportation or any of the State of Ohio designated certifying agencies are included in one consolidated and centralized DBE Directory. There are currently over 1,000 certified DBE firms in the shared database. Because this is the mechanism that has been established in accordance with the latest applicable Federal regulations, ODOT does NOT accept any reciprocal DBE certification agreements from non-Ohio UCP members.

### PROCEDURES FOR CERTIFICATION DECISIONS

#### SECTION 26.83

The DBE certification process allows small businesses, which are independently owned and controlled by one or more socially and economically disadvantaged individuals, admittance into the DBE Program. The certification process is managed by the Ohio Department of Transportation through the Ohio Unified Certification Program. ODOT's goal is to remove barriers to DBE participation in USDOT-assisted highway and transit projects.

There is no application fee for DBE certification.

The City will consider a firm a DBE if it is certified under the UCP and listed in the ODOT DBE Directory. If the firm is not in the Directory, the City will consider the firm not to be a certified DBE firm.

#### **RE-CERTIFICATIONS**

##### **SECTION 26.83(A) & (C)**

ODOT requires Annual Declarations to verify continued eligibility in the DBE Program and identify owner or company changes that may affect DBE certification including gross receipts.

#### **"NO CHANGE" AFFIDAVITS AND NOTICES OF CHANGE**

##### **SECTION 26.83(J)**

The City will not require re-certifications nor “no change” affidavits or notices of change statements. The City will review the ODOT DBE Directory on a quarterly basis to determine if any current firms are still in the Directory or have left the Directory.

#### **DENIALS OF INITIAL REQUESTS FOR CERTIFICATION**

##### **SECTION 26.85**

The City utilizes the Ohio UCP, and as such, any denial regarding a firm’s application or DBE status shall depend wholly on the firm’s listing in the ODOT DBE Directory.

When an applicant is denied certification by the Ohio UCP as a DBE, he or she will be notified in writing of the reasons for that decision with specific references to the evidence in the record that supports each reason for the denial. The applicant may request an administrative appeal by writing to the USDOT in accordance with 49 DFR §26.89.

#### **REMOVAL OF A DBE'S ELIGIBILITY**

##### **SECTION 26.87**

The City participates in the Ohio UCP. Actions to remove/decertify a DBE firm will be made under ODOT authority and with ODOT’s DBELO. Removal/decertification actions may originate from a review of a firm’s records, standard operating procedures, and/or a third-party ineligibility complaint. All documented claims of ineligibility challenges must be elevated to the ODOT DBELO. The ODOT DBELO will investigate these claims for reasonable cause.

Office of Small & Disadvantaged Business enterprise  
Division of Opportunity, Diversity, and Inclusion  
Ohio Department of Transportation  
1980 W. Broad Street, MS 3270

Columbus, OH 43223  
614-466-7699  
[Deborah.green@dot.ohio.gov](mailto:Deborah.green@dot.ohio.gov)

## **CERTIFICATION APPEALS**

### **SECTION 26.89**

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

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

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

### **INFORMATION, CONFIDENTIALITY, COOPERATION**

#### **SECTION 26.109**

The City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local laws (Federal Freedom of Information and Privacy Acts (5 USC 552 and 552a) and Ohio Revised Code Chapter 149.43).

#### **MONITORING PAYMENTS TO DBES**

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

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

## ATTACHMENTS

Attachment 1 Organizational Chart, Distribution of duties, and Community Development Director Job Description

Attachment 2 FDIC MDI Report

Attachment 3 DBE Subcontractor Payment Affidavit

Attachment 4 Contractors Good Faith Efforts Guidelines

Attachment 5 Good Faith Efforts Contractor Form Reason for Shortfall

Attachment 6 DBE Good Faith Efforts Sanctions

Attachment 7 Commercially Useful Function Monitoring Procedures

Attachment 8 Commercially Useful Function Site Visit Inspection Form

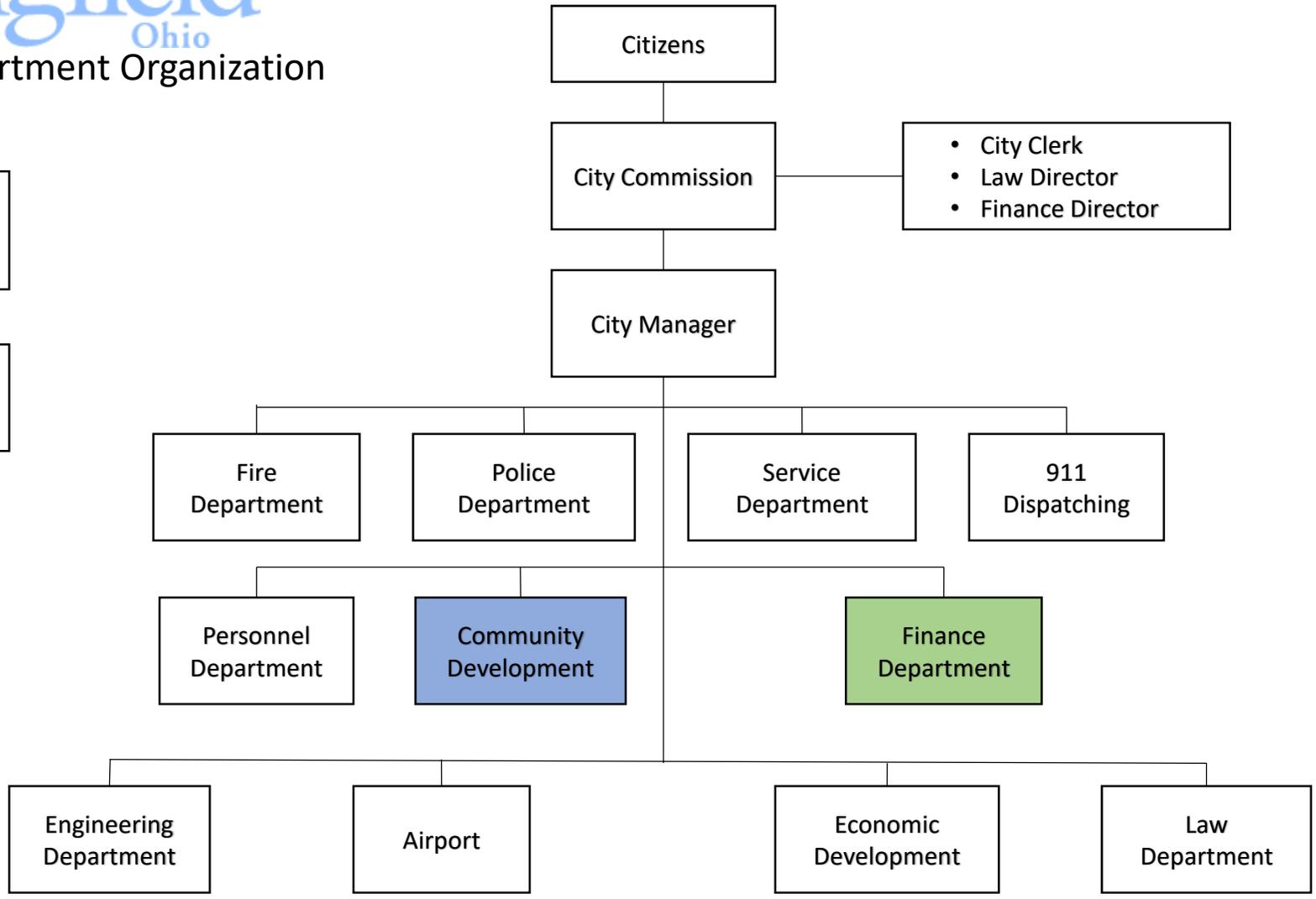
Attachment 9 Commercially Useful Function DBE Monitoring Report



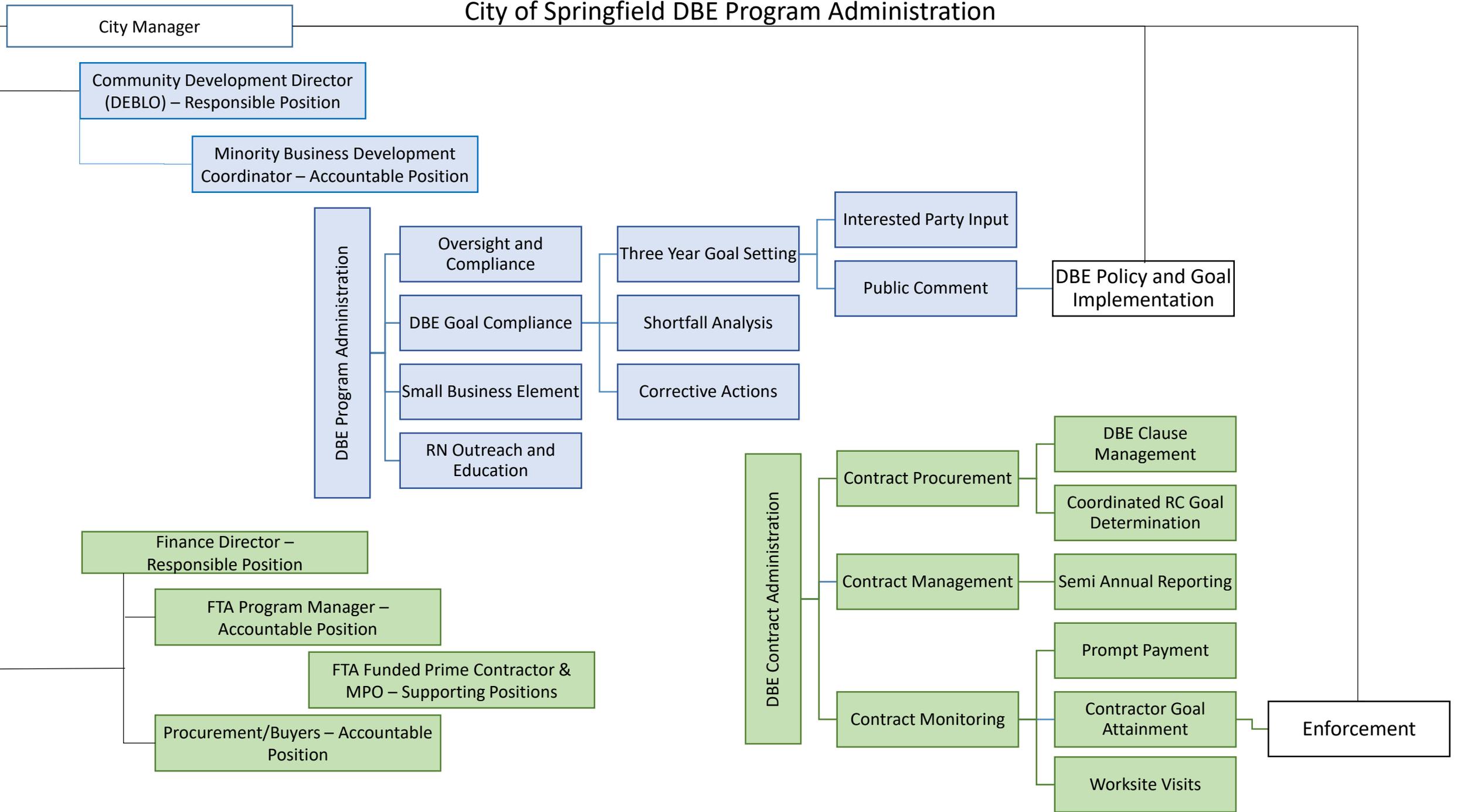
# General Department Organization

Municipal Court  
• Judicial  
• Court Clerk

NTPRD



# City of Springfield DBE Program Administration



SIGNED \_\_\_\_\_  
Personnel Director Date

5104

## COMMUNITY DEVELOPMENT DIRECTOR

### **NATURE OF THE WORK**

This is responsible and complex professional work in the field of Community Development. Includes responsibility for overseeing planning/zoning, inspections, housing rehabilitation, code enforcement and Community Development Block Grant Program.

Work is performed with the exercise of considerable independent judgment and discretion in interpreting, applying, and enforcing laws, regulations, ordinances, and policies applicable to a variety of programs and activities; participates in developing policies and long-range plans for the Department; provides direction and coordination to technical and other support personnel through subordinate managers; and coordinates efforts with other governmental and private agencies, and the public. Assignments involve responsibility for final decisions and results in all technical and operational matters, reviewing divisional requests, and recommending the annual budget for the department. Work is performed with wide latitude for the exercise of independent judgment and action under the general administrative direction of the City Manager and within the framework of the policies of the City Commission and federal and state regulations. Work is reviewed through conferences, reports, and an evaluation of the results obtained.

Work shall promote and protect equal opportunities within the City; administer the fair housing and human relations ordinances and policies of the City and the Human Relations Board; administer and enforce the minority business enterprise ordinance of the city; coordinate and administer the City's housing programs; and coordinate neighborhood activities. Work shall focus on and foster safe and orderly development within the city; coordinate administration of the department, coordinate Community Development Block Grant, Urban Development Action Grant, Economic Development Administration and similar federally-funded economic development programs and activities; supervise the planning, subdivision, and zoning responsibilities of the City, administer and enforce the building, heating, electrical, housing, and property maintenance codes of the city; coordinate the city's nuisance abatement efforts; and other duties as required by the City charter, ordinance, and City Manager's journal entry.

**ILLUSTRATIVE EXAMPLES OF WORK** (Any one position may not include all of the specific duties listed, nor do the examples cover all the duties that may be performed.)

Plans, organizes, directs, coordinates, monitors, and evaluates the programs and activities relating to inspections, housing rehabilitation, planning and zoning, code enforcement, and Community Development Block Grant Program.

Oversees the distribution of information to general public relative to all planning and development activities including zoning and subdivision matters and coordinates the processing of applications for zoning amendments, subdivision of land, variances and conditional use permits, and related matters.

Reviews plans, reports, budget estimates, and proposed ordinances and regulations submitted by division managers.

Confers with other City employees, consultants, and contractors to coordinate projects and activities.

Supervises the review of projects for ordinance compliance and general feasibility; prepares written staff opinions for review; advises administration, neighborhood organizations, community associations, and citizens on land use plan and policy.

Provides staff reports for City Planning Board, Board of Zoning Appeals and other required boards and commissions; attends meetings and makes presentations to the aforementioned bodies and the City Commission, including answering questions and providing other public information relative to planning and zoning regulations, as necessary.

Reviews, updates, and provides oversight in the maintenance of the City's Land Use Plan and Zoning Code; conducts independent investigations; performs research, planning, and technical analysis for the more complex planning studies; analyzes and prepares reports on special projects or activities such as neighborhood studies, policy development, operational planning, community development, and related planning and zoning matters; provides technical assistance of other City departments in such areas as site planning and construction.

Participates in development of general policies in consultation with the City Manager and the appropriate division managers for the operation of the Department.

Represents City on advisory bodies as required.

Performs related work as required.

### **REQUIREMENTS OF WORK**

Completion of a bachelor's degree in planning, public administration, land use planning or related field; master's degree preferred, plus varied experience in urban planning and economic development, or any equivalent combination of management training and experience that provides the following knowledge, abilities, and skills:

Thorough knowledge of management principles and practices of modern public administration.

Thorough knowledge of modern theories, principles, and techniques of urban planning and community development.

Thorough knowledge of legal provisions, federal and state standards, and guidelines applicable to planning and economic development.

Considerable knowledge in addressing community needs and problems related to economic development, code enforcement, land use and planning and zoning.

Ability to organize, manage and direct the activities of several divisions in a manner conducive to achieving full performance and high morale.

Ability to interpret legal and other requirements to engineers, developers and the general public and to guide land uses towards constructive results.

**REQUIREMENTS OF WORK** (Cont'd)

Ability to prepare and present reports effectively both orally and in writing.

Ability to provide technical and professional guidance to subordinate staff.

Ability to delegate, supervise, and review the work of a subordinate professional, technical, and administrative staff.

Ability to communicate effectively both orally and in writing, and to make effective presentations to a variety of groups and assemblies.

Ability to develop and work in a team effort to accomplish City goals.

## City of Springfield Disadvantaged Business Enterprise Program for FTA-Assisted Contracts

### Attachment 2

The Federal Deposit Insurance Corporation (FDIC) publishes a Minority Depository Institutions (MDIs) Report<sup>1</sup> that lists the current MDIs across the United States that registered with the FDIC. The City of Springfield will conduct an annual review of FDIC MDI Report, assess the new MDIs accessible within the City of Springfield and State of Ohio, and invite them to partner with the City of Springfield's DBE Program, and encourage them to receive outreach communication published by the City of Springfield.

Per the FDIC Quarterly MDI Report, dated March 31, 2019, there are zero (0) Minority Depository Institutions (MDIs) in Springfield, Ohio. There are also no MDIs within one hundred fifty (150) miles of the City of Springfield. Therefore, no MDIs will be pursued to participate in the City of Springfield's DBE Program.

A full listing of published MDIs is included in the following pages, as well as a geographic representation of metropolitan areas within 150 miles of the City of Springfield.

A copy of the MDI quarterly report can be obtained by visiting <https://www.fdic.gov/regulations/resources/minority/mdi.html> or by contacting the City of Springfield DBELO.

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<sup>1</sup> The FDIC released the MDI report quarterly, and the data is available roughly twelve (12) weeks after the end of each calendar quarter.

**MINORITY DEPOSITORY INSTITUTIONS (MDIs)**

**March 31, 2019**

NAME	CITY	STATE	EST.		CLASS	REGULATOR	MINORITY	MINORITY	FDIC	TOTAL	
			DATE	CERT			STATUS	STATUS			
							Alpha	Num.	REGION	ASSETS	
											(\$000)
ALAMERICA BANK	BIRMINGHAM	AL	20000128	35314	NM	FDIC	B	1	ATLANTA	21,993	
BAC FLORIDA BANK	CORAL GABLES	FL	19731012	21265	NM	FDIC	H	2	ATLANTA	2,274,769	
BANESCO USA	CORAL GABLES	FL	20060110	57815	NM	FDIC	H	2	ATLANTA	1,315,632	
CENTRAL BANK	TAMPA	FL	20070226	58377	NM	FDIC	A	3	ATLANTA	174,824	
INTERNATIONAL FINANCE BANK	MIAMI	FL	19831130	24823	NM	FDIC	H	2	ATLANTA	687,459	
OCEAN BANK	MIAMI	FL	19821209	24156	NM	FDIC	H	2	ATLANTA	4,134,941	
PLUS INTERNATIONAL BANK	MIAMI	FL	20010914	57083	NM	FDIC	H	2	ATLANTA	88,203	
SUNSTATE BANK	MIAMI	FL	19990315	34643	NM	FDIC	H	7	ATLANTA	435,194	
U S CENTURY BANK	DORAL	FL	20021028	57369	NM	FDIC	H	2	ATLANTA	1,189,969	
CARVER STATE BANK	SAVANNAH	GA	19270101	16584	NM	FDIC	B	1	ATLANTA	42,699	
FIRST IC BANK	DORAVILLE	GA	20000131	34998	NM	FDIC	A	3	ATLANTA	563,067	
METRO CITY BANK	DORAVILLE	GA	20060404	58181	NM	FDIC	A	3	ATLANTA	1,488,463	
NOA BANK	DULUTH	GA	20081106	58657	NM	FDIC	A	3	ATLANTA	391,090	
LUMBEE GUARANTY BANK	PEMBROKE	NC	19711222	20568	NM	FDIC	N	4	ATLANTA	340,872	
MECHANICS&FARMERS BANK	DURHAM	NC	19080301	12266	NM	FDIC	B	1	ATLANTA	267,837	
SOUTH CAROLINA CMTY BANK	COLUMBIA	SC	19990326	35241	NM	FDIC	B	1	ATLANTA	64,033	
AMERICAN METRO BANK	CHICAGO	IL	19970129	34334	NM	FDIC	A	3	CHICAGO	83,643	
CITIZENS BANK OF CHATSWORTH	CHATSWORTH	IL	19340101	10843	NM	FDIC	A	3	CHICAGO	31,275	
INTERNATIONAL BK OF CHICAGO	CHICAGO	IL	19921026	33708	NM	FDIC	A	3	CHICAGO	621,955	
MILLENNIUM BANK	DES PLAINES	IL	20070702	58348	NM	FDIC	A	3	CHICAGO	129,362	
METRO BANK	LOUISVILLE	KY	19970106	34308	NM	FDIC	B	6	CHICAGO	26,609	
FIRST INDEPENDENCE BANK	DETROIT	MI	19700514	20179	NM	FDIC	B	1	CHICAGO	271,989	
BAY BANK	GREEN BAY	WI	19950821	34052	NM	FDIC	N	4	CHICAGO	97,216	
COLUMBIA SAVINGS&LOAN ASSN	MILWAUKEE	WI	19240101	28480	SL	FDIC	B	1	CHICAGO	22,832	
LIBERTY BANK&TRUST CO	NEW ORLEANS	LA	19721116	20856	NM	FDIC	B	1	DALLAS	601,406	
CENTINEL BANK OF TAOS	TAOS	NM	19690301	19904	NM	FDIC	H	2	DALLAS	254,889	
BANK OF COMMERCE	STILWELL	OK	19310101	422	NM	FDIC	N	4	DALLAS	79,174	
BANK OF GROVE	GROVE	OK	20050609	57915	NM	FDIC	H	2	DALLAS	177,517	
F&M BANK	EDMOND	OK	19020101	12761	NM	FDIC	N	4	DALLAS	491,468	
FIRST SECURITY BANK AND TRUST COMPANY	OKLAHOMA CITY	OK	19510406	17001	NM	FDIC	B	1	DALLAS	53,069	
FORT GIBSON STATE BANK	FORT GIBSON	OK	19730521	21090	NM	FDIC	N	4	DALLAS	61,723	
OKLAHOMA STATE BANK	VINITA	OK	19380713	15611	NM	FDIC	N	4	DALLAS	153,571	
PEOPLES BANK	WESTVILLE	OK	19030203	2320	NM	FDIC	N	4	DALLAS	48,993	
CITIZENS SAVINGS B&T CO	NASHVILLE	TN	19040104	10319	NM	FDIC	B	1	DALLAS	103,459	
TRI-STATE BANK OF MEMPHIS	MEMPHIS	TN	19461216	16511	NM	FDIC	B	1	DALLAS	94,531	
BANK OF SOUTH TEXAS	MCALLEN	TX	19860708	26727	NM	FDIC	H	2	DALLAS	133,071	
FREEDOM BANK	FREER	TX	19580712	17881	NM	FDIC	H	2	DALLAS	43,833	
CITIZENS STATE BANK	ROMA	TX	19780515	22657	NM	FDIC	H	2	DALLAS	84,577	
COMMERCE BANK	LAREDO	TX	19820331	23772	NM	FDIC	H	2	DALLAS	601,246	
FALCON INTERNATIONAL BANK	LAREDO	TX	19861210	26856	NM	FDIC	H	2	DALLAS	1,198,564	
FIRST STATE BANK	SHALLOWATER	TX	19601008	18301	NM	FDIC	A	3	DALLAS	107,270	
GREATER STATE BANK	FALFURRIAS	TX	19740101	31762	NM	FDIC	H	2	DALLAS	77,685	
INTERNATIONAL BK OF COM	LAREDO	TX	19660902	19629	NM	FDIC	H	2	DALLAS	8,523,139	
INTERNATIONAL BK OF COM	ZAPATA	TX	19840206	24961	NM	FDIC	H	2	DALLAS	418,869	
INTERNATIONAL BK OF COM	BROWNSVILLE	TX	19841009	25679	NM	FDIC	H	2	DALLAS	1,047,570	
ONE WORLD BANK	DALLAS	TX	20050404	57901	NM	FDIC	A	3	DALLAS	102,571	
RIO BANK	MCALLEN	TX	19850211	25886	NM	FDIC	H	7	DALLAS	545,256	
STATE BANK OF TEXAS	DALLAS	TX	19871019	27074	NM	FDIC	A	3	DALLAS	886,174	
WALLIS STATE BANK	WALLIS	TX	19721028	20845	NM	FDIC	A	3	DALLAS	718,071	
CBW BANK	WEIR	KS	18920101	13959	NM	FDIC	A	3	KANSAS CITY	56,831	
PEOPLES BANK OF SENECA	SENECA	MO	19960315	34146	NM	FDIC	N	4	KANSAS CITY	200,451	
TURTLE MOUNTAIN STATE BANK	BELCOURT	ND	20071203	58586	NM	FDIC	N	4	KANSAS CITY	32,800	
INDUSTRIAL BANK	WASHINGTON	DC	19340818	14679	NM	FDIC	B	1	NEW YORK	432,560	
HARBOR BANK OF MARYLAND	BALTIMORE	MD	19820913	24015	NM	FDIC	B	6	NEW YORK	290,202	
NEW MILLENNIUM BANK	NEW BRUNSWICK	NJ	19990719	35151	NM	FDIC	A	8	NEW YORK	440,866	
AMERASIA BANK	FLUSHING	NY	19880620	27267	NM	FDIC	A	3	NEW YORK	634,397	
GLOBAL BANK	NEW YORK	NY	20070312	58263	NM	FDIC	A	3	NEW YORK	168,747	
NEWBANK	FLUSHING	NY	20060929	58203	NM	FDIC	A	3	NEW YORK	429,468	
SHINHAN BANK AMERICA	NEW YORK	NY	19901018	33188	NM	FDIC	A	8	NEW YORK	1,469,466	
UNITED ORIENT BANK	NEW YORK	NY	19810409	23373	NM	FDIC	A	3	NEW YORK	90,416	
NOAH BANK	ELKINS PARK	PA	20060717	58196	NM	FDIC	A	3	NEW YORK	418,176	
UNITED BANK OF PHILADELPHIA	PHILADELPHIA	PA	19920323	33568	NM	FDIC	B	1	NEW YORK	49,592	
BANCO SANTANDER PUERTO RICO	SAN JUAN	PR	19721002	20828	NM	FDIC	H	7	NEW YORK	5,300,320	
FIRSTBANK PUERTO RICO	SANTURCE	PR	19490117	30387	NM	FDIC	H	7	NEW YORK	12,367,251	
ORIENTAL BANK	SAN JUAN	PR	19650325	31469	NM	FDIC	H	7	NEW YORK	6,542,596	
SCOTIABANK DE PUERTO RICO	SAN JUAN	PR	19790907	22946	NM	FDIC	H	7	NEW YORK	3,915,721	
AMERICAN CONTINENTAL BANK	CITY OF INDUSTRY	CA	20031006	57444	NM	FDIC	A	3	SAN FRANCISCO	235,541	

BANK OF HOPE	LOS ANGELES	CA	19860318	26610	NM	FDIC	A	8	SAN FRANCISCO	15,397,827
CALIFORNIA BUSINESS BANK	IRVINE	CA	20051101	58037	NM	FDIC	A	3	SAN FRANCISCO	87,827
CALIFORNIA PACIFIC BANK	SAN FRANCISCO	CA	19801016	23242	NM	FDIC	A	3	SAN FRANCISCO	75,759
CATHAY BANK	LOS ANGELES	CA	19620419	18503	NM	FDIC	A	3	SAN FRANCISCO	17,092,633
COMMERCIAL BANK OF CA	IRVINE	CA	20030515	57417	NM	FDIC	H	2	SAN FRANCISCO	965,477
COMMUNITY COMMERCE BANK	CLAREMONT	CA	19761001	26363	NM	FDIC	H	2	SAN FRANCISCO	266,794
CTBC BANK CORP USA	LOS ANGELES	CA	19650427	19416	NM	FDIC	A	8	SAN FRANCISCO	3,523,435
EASTERN INTERNATIONAL BANK	LOS ANGELES	CA	19850226	32277	NM	FDIC	A	3	SAN FRANCISCO	104,161
EVERTRUST BANK	PASADENA	CA	19950503	34010	NM	FDIC	A	8	SAN FRANCISCO	909,574
FIRST COMMERCIAL BANK USA	ALHAMBRA	CA	19970520	34496	NM	FDIC	A	8	SAN FRANCISCO	574,055
FIRST GENERAL BANK	ROWLAND HEIGHTS	CA	20051013	58060	NM	FDIC	A	3	SAN FRANCISCO	954,328
HANMI BANK	LOS ANGELES	CA	19821215	24170	NM	FDIC	A	8	SAN FRANCISCO	5,566,398
MEGA BANK	SAN GABRIEL	CA	20080205	58401	NM	FDIC	A	3	SAN FRANCISCO	355,438
METROPOLITAN BANK	OAKLAND	CA	19830901	25869	NM	FDIC	A	3	SAN FRANCISCO	179,460
OPEN BANK	LOS ANGELES	CA	20050610	57944	NM	FDIC	A	3	SAN FRANCISCO	1,077,117
PACIFIC ALLIANCE BANK	ROSEMEAD	CA	20061227	58234	NM	FDIC	A	3	SAN FRANCISCO	277,742
PACIFIC CITY BANK	LOS ANGELES	CA	20030918	57463	NM	FDIC	A	3	SAN FRANCISCO	1,717,717
PREFERRED BANK	LOS ANGELES	CA	19911223	33539	NM	FDIC	A	3	SAN FRANCISCO	4,329,691
ROYAL BUSINESS BANK	LOS ANGELES	CA	20081118	58816	NM	FDIC	A	8	SAN FRANCISCO	2,977,247
UNITED PACIFIC BANK	CITY OF INDUSTRY	CA	19820511	23805	NM	FDIC	A	3	SAN FRANCISCO	138,449
UNITI BANK	BUENA PARK	CA	20011217	57120	NM	FDIC	A	3	SAN FRANCISCO	329,339
US METRO BANK	GARDEN GROVE	CA	20060915	58310	NM	FDIC	A	3	SAN FRANCISCO	450,752
ANZ GUAM INC	HAGATNA	GU	19910111	33316	NM	FDIC	A	8	SAN FRANCISCO	317,682
BANK OF GUAM	HAGATNA	GU	19721211	20884	NM	FDIC	A	3	SAN FRANCISCO	1,921,554
BANKPACIFIC LTD	HAGATNA	GU	19530101	30692	SL	FDIC	A	3	SAN FRANCISCO	142,922
FINANCE FACTORS LTD	HONOLULU	HI	19520514	25158	NM	FDIC	A	3	SAN FRANCISCO	579,736
OHANA BANK	HONOLULU	HI	20060601	58231	NM	FDIC	A	3	SAN FRANCISCO	161,576
ONEUNITED BANK	BOSTON	MA	19820802	23966	NM	FDIC	B	1	SAN FRANCISCO	670,225
EAGLE BANK	POLSON	MT	20060725	58282	NM	FDIC	N	4	SAN FRANCISCO	66,749
UNIBANK	LYNNWOOD	WA	20061101	58407	NM	FDIC	A	3	SAN FRANCISCO	316,670
CITIZENS TRUST BANK	ATLANTA	GA	19210618	8033	SM	FED	B	1	ATLANTA	403,920
PACIFIC GLOBAL BANK	CHICAGO	IL	19951109	34089	SM	FED	A	3	CHICAGO	216,454
ALLNATIONS BANK	CALUMET	OK	19010101	4051	SM	FED	N	4	DALLAS	50,628
BANK 2	OKLAHOMA CITY	OK	19030101	11521	SM	FED	N	4	DALLAS	182,286
BANK OF CHEROKEE COUNTY	HULBERT	OK	19081201	2327	SM	FED	N	4	DALLAS	112,266
FIRSTBANK	ANTLERS	OK	19010101	14331	SM	FED	N	4	DALLAS	336,153
UNITED BK EL PASO DEL NORTE	EL PASO	TX	20010501	57119	SM	FED	H	2	DALLAS	238,049
PINNACLE BANK	MARSHALLTOWN	IA	19270505	252	SM	FED	N	4	KANSAS CITY	199,118
BANCO POPULAR NORTH AMERICA	NEW YORK	NY	19990102	34967	SM	FED	H	7	NEW YORK	9,585,097
ASIAN BANK	PHILADELPHIA	PA	19990609	34759	SM	FED	A	3	NEW YORK	215,534
BANCO POPULAR DE PUERTO RICO	HATO REY	PR	19990102	34968	SM	FED	H	7	NEW YORK	38,773,000
BANK OF THE ORIENT	SAN FRANCISCO	CA	19710317	20387	SM	FED	A	3	SAN FRANCISCO	855,584
COMMONWEALTH BUSINESS BANK	LOS ANGELES	CA	20050303	57873	SM	FED	A	3	SAN FRANCISCO	1,177,572
EAST WEST BANK	PASADENA	CA	19720101	31628	SM	FED	A	8	SAN FRANCISCO	42,071,305
FIRST CHOICE BANK	CERRITOS	CA	20050818	57966	SM	FED	A	3	SAN FRANCISCO	1,651,443
COMMONWEALTH NATIONAL BANK	MOBILE	AL	19760219	22229	N	OCC	B	1	ATLANTA	48,583
CONTINENTAL NATIONAL BANK	MIAMI	FL	19740510	21578	N	OCC	H	2	ATLANTA	478,545
EXECUTIVE NATIONAL BANK	MIAMI	FL	19720607	20711	N	OCC	H	2	ATLANTA	451,913
INTERAMERICAN BANK A FSB	MIAMI	FL	19760823	31823	SB	OCC	H	2	ATLANTA	202,101
EMBASSY NATIONAL BANK	LAWRENCEVILLE	GA	20070305	58413	N	OCC	A	3	ATLANTA	112,900
QUANTUM NATIONAL BANK	SUWANEE	GA	19951227	34110	N	OCC	A	3	ATLANTA	498,452
TOUCHMARK NATIONAL BANK	ALPHARETTA	GA	20080128	58687	N	OCC	A	3	ATLANTA	422,732
GN BANK	CHICAGO	IL	19340101	29399	SB	OCC	B	1	CHICAGO	140,288
NATIVE AMERICAN BANK NA	DENVER	CO	19870727	27026	N	OCC	N	4	DALLAS	119,954
FIRST NATIONAL BANK&TRUST CO	SHAWNEE	OK	19841029	25738	N	OCC	N	4	DALLAS	250,373
AMERICAN FIRST NATIONAL BANK	HOUSTON	TX	19980518	34656	N	OCC	A	3	DALLAS	1,678,456
GOLDEN BANK NATIONAL ASSN	HOUSTON	TX	19850503	26223	N	OCC	A	3	DALLAS	915,200
LONE STAR NATIONAL BANK	PHARR	TX	19830124	24347	N	OCC	H	2	DALLAS	2,292,845
SOUTHWESTERN NATIONAL BANK	HOUSTON	TX	19971103	34319	N	OCC	A	3	DALLAS	473,395
TEXAS NATIONAL BANK	MERCEDES	TX	19201126	3337	N	OCC	H	2	DALLAS	284,581
UNITY NB OF HOUSTON	HOUSTON	TX	19850801	26351	N	OCC	B	1	DALLAS	95,894
ZAPATA NATIONAL BANK	ZAPATA	TX	19611116	18454	N	OCC	H	2	DALLAS	82,292
WOODLANDS NATIONAL BANK	HINCKLEY	MN	19081001	1417	N	OCC	N	4	KANSAS CITY	200,574
LEADER BANK NATIONAL ASSN	ARLINGTON	MA	20020508	57134	N	OCC	A	3	NEW YORK	1,378,884
CITY NB OF NEW JERSEY	NEWARK	NJ	19730611	21111	N	OCC	B	1	NEW YORK	155,922
KEB HANA BANK	FORT LEE	NJ	19860916	26790	N	OCC	A	3	NEW YORK	216,335
ABACUS FEDERAL SAVINGS BANK	NEW YORK	NY	19841129	32257	SB	OCC	A	3	NEW YORK	348,956
CARVER FEDERAL SAVINGS BANK	NEW YORK	NY	19480101	30394	SB	OCC	B	6	NEW YORK	565,873
CHINATOWN FSB	NEW YORK	NY	19840427	32209	SB	OCC	A	3	NEW YORK	135,850
EASTBANK NATIONAL ASSN	NEW YORK	NY	19841126	25749	N	OCC	A	3	NEW YORK	192,730
PONCE DE LEON FEDERAL BANK	BRONX	NY	19600331	31189	SB	OCC	H	7	NEW YORK	1,032,056
AMERICAN PLUS BANK N A	ARCADIA	CA	20070808	58469	N	OCC	A	3	SAN FRANCISCO	540,355
ASIAN PACIFIC NATIONAL BANK	SAN GABRIEL	CA	19900725	33013	N	OCC	A	3	SAN FRANCISCO	55,580
BANK OF WHITTIER NA	WHITTIER	CA	19821220	24211	N	OCC	A	3	SAN FRANCISCO	61,160

BROADWAY FEDERAL BANK FSB	LOS ANGELES	CA	19470226	30306	SB	OCC	B	1	SAN FRANCISCO	418,878
CALIFORNIA INTERNATIONAL BANK, N.A.	WESTMINSTER	CA	20051130	57974	N	OCC	A	3	SAN FRANCISCO	45,068
GATEWAY BANK FSB	OAKLAND	CA	19900608	33103	SB	OCC	A	3	SAN FRANCISCO	103,330
MISSION NATIONAL BANK	SAN FRANCISCO	CA	19820216	23749	N	OCC	A	3	SAN FRANCISCO	253,759
NEW OMNI BANK NATIONAL ASSN	ALHAMBRA	CA	19800212	23086	N	OCC	A	3	SAN FRANCISCO	457,597
UNIVERSAL BANK	WEST COVINA	CA	19541117	30722	SB	OCC	A	3	SAN FRANCISCO	401,853
HAWAII NATIONAL BANK	HONOLULU	HI	19600916	18296	N	OCC	A	3	SAN FRANCISCO	629,477
<b>Total</b>			<b>Count</b>	<b>148</b>						<b>237,788,507</b>

<u>Count</u>	<u>Minority Status</u>
22	<b>B</b> - Black or African American
35	<b>H</b> - Hispanic American
73	<b>A</b> - Asian or Pacific Islander American
18	<b>N</b> - Native American or Alaskan Native American
0	<b>M</b> - Multi-racial American

<u>Class</u>	<u>Definitions of Class Types</u>
95	<b>NM</b> - State bank, not a member of the Federal Reserve
15	<b>SM</b> - State bank, member of the Federal Reserve
27	<b>N</b> - National bank
2	<b>SL</b> - State or Federal savings and loan association
9	<b>SB</b> - State or Federal savings bank

<u>Regulator</u>	<u>Definitions of Primary Regulating Agency</u>
97	<b>FDIC</b> - Federal Deposit Insurance Corporation
36	<b>OCC</b> - Office of the Comptroller of the Currency
15	<b>FED</b> - Federal Reserve

<u>Count</u>	<u>Minority Status</u>
19	1 - Black or African American
26	2 - Hispanic American
63	3 - Asian or Pacific Islander American
18	4 - Native American or Alaskan Native American
0	5 - Multi-racial American
3	6 - Minority Board and Serving African American Community
9	7 - Minority Board and Serving Hispanic Community
10	8 - Minority Board and Serving Asian or Pacific Islander Community
0	9 - Minority Board and Serving Native American or Alaskan Native American Community
0	10 - Minority Board and Serving Multi-Racial Community

[Big Radius Tool](#)

[About the Data](#)



# Big Radius Tool

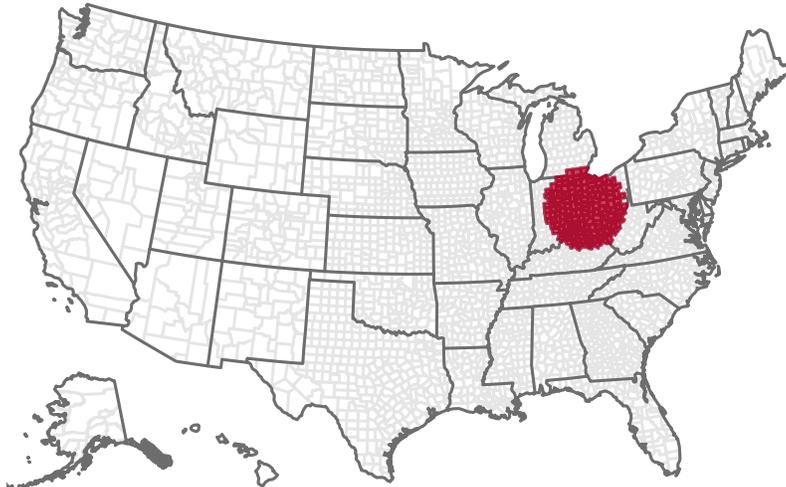
Begin typing your city, county or metro area and then choose a location from the list of available geographies. Select a radius of any value from 25 to 500 miles using the slider.

Note: Counties are included if their center of population point falls within the selected radius. The whole county is included and the data are not apportioned to exclude the portions falling outside of the radius.

## Select center location (enter city or county name):

Springfield, OH Metro Area

Set radius size in miles: **150**



## 150-Mile Radius Report for Springfield, OH Metro Area

This region includes **175 counties**: Adams, IN; Allen, IN; Bartholomew, IN; Blackford, IN; Boone, IN; Brown, IN; Cass, IN; Clark, IN; Clinton, IN; Dearborn, IN; Decatur, IN; DeKalb, IN; Delaware, IN; Fayette, IN; Franklin, IN; Fulton, IN... plus 159 more counties.

[Download County-level Detail Data](#)

Population in 2018:

**15,198,772**

10-Year Growth:

**3.9 %**

### Largest Counties by Population in 2018

County (Metro/City)	Size
---------------------	------

Franklin, OH (Columbus)	1,310,300
Marion, IN (Indianapolis-Carmel-Anderson)	954,670
Hamilton, OH (Cincinnati)	816,684
Summit, OH (Akron)	541,918
Montgomery, OH (Dayton)	532,331
Lucas, OH (Toledo)	429,899
Butler, OH (Cincinnati)	382,378
Allen, IN (Fort Wayne)	375,351
Stark, OH (Canton-Massillon)	371,574
Hamilton, IN (Indianapolis-Carmel-Anderson)	330,086

### Counties with Greatest 10-Year Growth

County (Largest City)	Growth
Hamilton, IN (Carmel)	26.0 %
Scott, KY (Georgetown)	24.1 %
Delaware, OH (Delaware)	22.9 %
Boone, IN (Zionsville)	22.6 %
Hendricks, IN (Plainfield)	18.7 %
Shelby, KY (Shelbyville)	18.2 %
Franklin, OH (Columbus)	14.8 %
Boone, KY (Florence)	14.1 %
Johnson, IN (Greenwood)	14.1 %
Union, OH (Marysville)	13.7 %

Labor Force in August 2019:

**7,693,118**

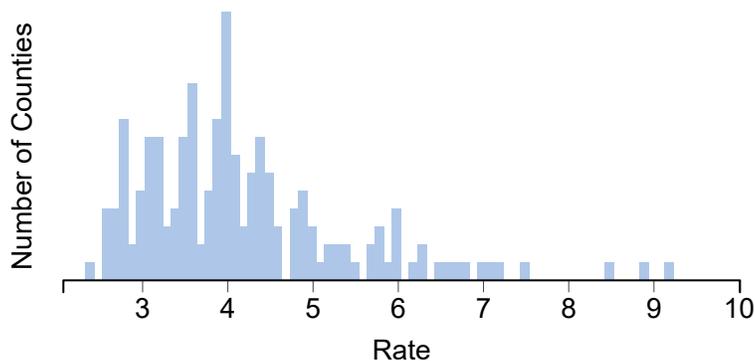
Employment:

**7,399,572**

Unemployment Rate:

**3.8**

### Unemployment Rate Distribution by County



Total Covered Employment in Qtr 1 2019:

**6,691,957**

Avg Earnings per Job (annualized):

**\$51,817**

### Largest 2-digit NAICS Industries by Employment in Qtr 1 2019

2-Digit NAICS	Employment	% of Total	Annualized Earnings per Job	Relative to Total
00 Total	6,691,957	100.0 %	\$51,817	100.0 %
31-33 Manufacturing	953,938	14.3 %	\$69,005	133.2 %
62 Health Care and Social Services	937,439	14.0 %	\$49,531	95.6 %
44-45 Retail Trade	710,597	10.6 %	\$28,828	55.6 %
72 Accommodation and Food Services	602,340	9.0 %	\$16,821	32.5 %
56 Admin. & Support & Waste Mgt. & Rem. Services	381,302	5.7 %	\$34,714	67.0 %
61 Educational Services	330,085	4.9 %	\$41,787	80.6 %
48-49 Transportation & Warehousing	327,579	4.9 %	\$51,304	99.0 %
54 Professional, Scientific, and Technical Services	287,140	4.3 %	\$74,187	143.2 %
23 Construction	273,977	4.1 %	\$57,515	111.0 %
92 Public Administration	262,287	3.9 %	\$58,226	112.4 %



StatsAmerica is a service of the [Indiana Business Research Center](#) at Indiana University's Kelley School of Business. This initiative is funded in part by the U.S. Commerce Department's [Economic Development Administration](#).

City of Springfield Disadvantaged Business Enterprise Program for FTA-Assisted Contracts  
Attachment 3

City of Springfield, Ohio  
Disadvantaged Business Enterprise (DBE) Program  
Affidavit of Subcontractor Payment

The Code of Federal Regulations 49, 26.37(b), requires the City of Springfield to monitor and verify that work subcontracted to Disadvantaged Business Enterprise (DBE) firms is actually performed by the DBEs. Additionally, the City is required to report the DBE participation on each project. Therefore, it is the City's responsibility to discern whether payments are made to DBE firms. The following affidavit is to be completed and signed by the contractor within 15 days of the completion of the project. The affidavit seeks to verify actual payments made to DBE firms on the project. Each DBE firm must verify the actual payment amount.

Payment Period: \_\_\_\_\_ Project No. \_\_\_\_\_

► **Interim**  Interim affidavits must be submitted for each DBE firm at the end of each fiscal year for multi-year projects.

► **Final**  Final affidavits for each DBE firm must be submitted within 15 days of the completion of the project.

Prime Company Name \_\_\_\_\_

DBE Subcontractor/ \_\_\_\_\_ Payment \_\_\_\_\_  
Non-DBE Subcontractor \_\_\_\_\_ All amounts indicated must be cumulative

DBE Sub-Subcontractor \_\_\_\_\_ Payment \_\_\_\_\_  
(If applicable) \_\_\_\_\_ All amounts indicated must be cumulative

By signing below, the noted firms agree that the payment amounts recorded above are true and accurate as of the payment time period noted above. Furthermore, by signing, the noted firms attest to the fact that the DBE listed above has performed a "commercially useful function" and abided by all other requirements of the DBE Program as defined in Title 49 of the United States Code of Federal Regulations Part 26.

\_\_\_\_\_  
Prime's Signature/Title

**NOTE: This affidavit must be notarized.**

Sworn or affirmed and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Signature \_\_\_\_\_

\_\_\_\_\_  
DBE Subcontractor/Subcontractor Signature/Title

**NOTE: This affidavit must be notarized**

Sworn or affirmed and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Signature \_\_\_\_\_

(If applicable) DBE Sub-subcontractor Signature/Title

**NOTE: This affidavit must be notarized**

Sworn or affirmed and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Signature \_\_\_\_\_

## City of Springfield, Ohio

### Disadvantaged Business Enterprise Program for FTA-assisted Projects

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## GOOD FAITH EFFORTS

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On City of Springfield FTA-assisted projects that have an established DBE Contract Goal, the Prime Contractor must make sufficient Good Faith Efforts (GFEs) to meet the goal. The Prime Contractor can meet this requirement in either one or two ways. First, the Prime Contractor can meet the required goal with sufficient DBE participation. Second, the Prime Contractor can document adequate GFEs to meet the DBE goal on the project. Both ways require the City's review and approval. CFR Title 49, Part 26, Appendix A states that the City's determination concerning the sufficiency of the Prime Contractors GFEs is a judgement call and the City is not permitted to make the determination using quantitative formulas.

#### **Demonstration of GFEs**

A Prime Contractor must show that it took all necessary and reasonable steps to achieve a DBE goal which could reasonably be expected to obtain sufficient DBE participation, even if it was not successful. The documentation should reflect that the Prime Contractor was actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not an acceptable demonstration of a Prime Contractor's GFEs in meeting the DBE contract goal.

A Prime Contractor selecting portions of work to be performed by DBEs will increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (i.e. 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.

#### **Documentation of GFEs**

Evidence of GFEs should include, but are not limited to, a list of names, a number of contact attempts, how firms were contacted (i.e. copies of email, letters, etc.), 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 agreements could not be reached for DBEs to perform the work. Please note that documentation provided may be subject to audit by the City. Attached is City's GFE Contractor Template to be submitted to the City to document a Prime Contractor's GFEs.

#### **Additional Considerations**

The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Prime Contractor's failure to meet the contract DBE goal, as long as such costs are reasonable.

The ability or desire of a Prime Contractor to perform the work of a contract with its own organization does not relieve the Prime Contractor of the responsibility to make GFEs.

Prime Contractors are not required to accept higher quotes from DBEs if the price difference is excessive or unreasonable. It should be noted that excessive or unreasonable will be evaluated by the City on a case by case basis while reviewing the Prime Contractor's GFEs submittal.

In the event of a substitution or a replacement of a DBE on a project, a Prime Contractor's inability to find a replacement DBE at the original price is not alone sufficient to demonstrate GFEs.

Prime Contractors should select DBE firms that have been DBE certified with the proper NAICS codes for the work the DBE will be performing. Conversely, DBE firms should not commit to work that they do not have the property NAICS codes to perform.

## Good Faith Efforts

<b>Date:</b>	<b>Authorized Representative:</b>		
<b>Prime Contractor</b>			
<b>Sub-Recipient</b>	<b>Project Number</b>		
<b>Original Contract Amount</b>			
<b>DBE Goal Percentage</b>			
<b>DBE Goal Amount</b>			
<b>DBE Shortfall</b>			

<b>ORIGINAL APPROVED DBE PLAN</b>	
<b>DBE Subcontractor</b>	<b>Amount</b>
	\$
	\$
	\$
	\$
	\$
<b>Total DBE Plan</b>	\$

<b>Project Description</b>	
<b>Work Begin Date</b>	
<b>Substantial Work Completion Date</b>	

<b>Reason for Shortfall</b>
*

\*Provide explanation for shortfall including dates of notifications (i.e. work non-performed, quantities estimated vs actual, plan changes etc.).

**Good Faith Efforts**

**		
<b>Subcontractor Contacted</b>	<b>Amount/Date of Bid</b>	<b>Work Items</b>
***		
***		
***		
***		
***		

\*\* Provide a description of overall Good Faith Efforts to mitigate shortfall.

\*\*\*Provide explanation of why the replacement firm (DBE, Non-DBE, or Self Performance) was/was not used in the spaces provided. If unable to reach the DBE firm, detail how you attempted to reach the DBE firm and the number of times you attempted to reach the DBE firm.

**Summary**

Please attach appropriate documentation (i.e. e-mail chains, letters of non-acceptance, phone logs, copies of replacement subcontracts, etc.) of the Good Faith Efforts listed above.

## City of Springfield, Ohio

### Disadvantaged Business Enterprise Program for FTA-assisted Projects

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# GOOD FAITH EFFORTS SANCTIONS

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1st Step: Letter of Reprimand

2nd Step: If a pattern of paying liquidated damages persists or the Contractor has falsified, misrepresented or withheld information, the City can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

1. The magnitude and the type of offense
2. The degree of the Contractor's culpability
3. Any steps taken to rectify the situation
4. The Contractor's record of performance on other projects including, but not limited to:
  - a. Annual DBE participation
  - b. Annual DBE participation on projects without goals
  - c. The number of complaints the City has received regarding the contractor
  - d. The number of times the Contractor has been previously sanctioned by the City of Springfield or Ohio Department of Transportation.

## City of Springfield, Ohio

### Disadvantaged Business Enterprise Program for FTA-assisted Projects

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# COMMERCIALLY USEFUL FUNCTION (CUF) PROCEDURES

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## Table of Contents

### 1.0 Monitoring

- 1.1 General Overview
- 1.2 Department and Division Responsibilities
- 1.3 Considerations in Determining CUF
- 1.4 DBE Manufacturers and Suppliers
- 1.5 Counting the Value of the Work
- 1.6 DBEs Subcontracting Work to Others and Joint Ventures
- 1.7 CUF Monitoring of Professional Services Companies
- 1.8 Contractor Records for CUF Verification

### 2.0 DBE Forms

CUF Form

CUF DBE Monitoring Report

# 1.0 Monitoring

## 1.1 General Overview

The City of Springfield (hereinafter “the City”) is administering the Disadvantaged Business Enterprises (DBE) Program to assist businesses owned and controlled by socially and economically disadvantaged individuals participating in City FTA-assisted contracts. The objectives of the DBE program are:

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

### Monitoring Commercially Useful Functions (CUF) plays a vital role in the success of the City’s DBE program.

In keeping with normal contract requirements, it is the primary responsibility of the prime contractor to ensure that the DBE is performing a CUF. The city, as the contracting agency, has oversight responsibility to ensure that the prime contractor has effectively met this responsibility under its contract with the City.

The City’s DBE program encompasses FTA-assisted programs and all projects and contracts associated with these programs.

DBE certification does not guarantee that the City will count the firm’s work on a project toward the City’s DBE goal. In order for services performed by a DBE to count toward the City’s goal, the firm must perform a CUF and its work must be in the NAICS code for which the DBE is certified.

All bidders responding to FTA-assisted invitations to bid or other procurement solicitations with established contract goals are required to submit a DBE Utilization Plan at the time of bid, setting forth specific information demonstrating how the bidder plans to achieve the DBE goal. By submitting a DBE Utilization Plan, the bidder is affirming that it will be using the DBE firms identified in the Utilization Plan to meet the DBE contract goal.

The Apparent Low Bidder on FTA-assisted invitations to bid or other procurement solicitations will ensure the DBE firms being utilized to meet the DBE goal affirm their participation in the bid within five calendar days after the bid opening. A DBE Affirmation Form will be utilized as written confirmation from each listed DBE firm that it is participating in the contract or professional services agreement in the kind of work provided in the bidder’s DBE Utilization Plan. The Apparent Low Bidder will submit a separate DBE Affirmation Form for each DBE it is utilizing to meet the DBE goal. All other bidders will submit a DBE Affirmation Form(s) if notified that the

information is required in order for the City to complete its bid assessment. Bidders have five calendar days from the date of notification to submit all required DBE Affirmation Forms.

In determining the portion of DBE work on a project that will count toward the DBE goal, the list below will be used. This list is not an exhaustive list; the City may request additional information from the prime contractor and/or DBE firm to determine the portions of work the City will count as DBE participation.

- 1 The DBE firm is performing a CUF
- 2 The work is in the NAICS code for which the DBE is certified.
- 3 The work is performed by the DBE's own workforce.
- 4 Supplies and equipment purchased or leased by the DBE that are not affiliated with the prime contractor.
  - 4.1 The cost of supplies and materials obtained by the DBE for the work is counted including purchases and leased equipment.
- 5 Reasonable fees or commissions charged by a DBE for providing a bona fide service, or for providing bonds or insurance required for performance of a City contract may be counted. Examples of bona fide services include professional, technical, consultant, or managerial services.
- 6 The work a DBE subcontracts to others is counted only if the work is subcontracted to another DBE. Work subcontracted to non-DBEs does not count.

## **1.2 Department and Division Responsibilities**

The FTA Project Manager must monitor the progress of the project and the DBE participation. The FTA Project Manager has daily contact with the contractor and subcontractors, monitoring monthly payments. The FTA Project Manager may work with a Contract Compliance Representative (CCR) to complete both the CUF Form and Prevailing Wage (PW) Interview Forms with DBE contractors and subcontractor employees. Together, observations by the FTA Project Manager and CCR should be recorded on Work Survey Reports. The FTA Project Manager, with the assistance of the CCR, will complete the CUF Forms and PW Forms for the DBE subcontractors. The FTA Project Manager and CCR will confirm the prime is utilizing an identified DBE and if the DBE subcontractor is providing a CUF as required by 49 CFR, Subtitle A, Part 26.55, while comparing the forms to the Certified Payroll and Work Reports. Only the FTA Project Manager will utilize the Commercially Useful Function DBE Monitoring Report (CUF Report) to document this process. If problems are identified, the FTA Project Manager shall discuss the problems with the Finance Director for further disposition and review.

The FTA Project Manager is responsible for the following:

- 1 Ensuring that a CUF Form is completed each month for each DBE for the first three active months (if the size of the project allows) of the DBE on the project. If a DBE subcontractor has not performed at least 30% of the total value of the contract at the end of the first three active months, a CUF Report must be conducted to assess performance.
  - 1.1 For contracts lasting more than one year, ensuring item 1 above is completed, and then ensuring that a CUF Form is completed each quarter following the first three active months of the project. If a DBE subcontractor has not performed at least 25% of the contract at the end of the quarter, a CUF Report must be conducted to assess performance.

- 1.2 For contracts lasting less than three months, ensuring that a CUF Form is completed no more the midpoint of the contract term. If a DBE subcontractor has not performed at least 50% of the total value of the contract at the end of the midpoint, a CUF Report must be conducted to assess performance.
- 2 A CUF Analysis must be completed on all projects with a DBE goal. The FTA Project Manager will be responsible for this analysis, and may engage a CCR to assist. The analysis will be completed by compiling and analyzing all CUF Forms, CUF Reports, PW Interviews, Certified Payroll and Daily Work Reports (if applicable), and other documentation as required to make a determination if CUF was met or not met. The Final CUF Analysis will be a formal report, signed by the FTA Project Manager.
- 3 The FTA Project Manager will submit the CUF Analysis and all supporting documentation to the Finance Director for review and certification.
- 4 Each signed and certified CUF Analysis will be delivered to the DBELO no later than the end of the month the analysis was completed.
- 5 The DBELO may engage the Finance Director with any follow-up research or additional reviews, if necessary.
- 6 The Finance Director, with the assistance of finance department staff, will verify that all affirmed DBE subcontractors listed on the DBE Utilization Plan are performing work in the area for which they have an active certification. If DBEs are performing work in an area in which they are not certified, the prime contractor will not receive credit for the DBE participation.
- 7 The FTA Project Manager is responsible for reporting to the CCR, Finance Director, and DBELO when the DBEs are working on the project.

If CUF is determined to be met for a project, the Finance Director will submit the Final CUF Analysis documentation to the DBELO for records and tracking purposes.

If CUF was not met for a project, the Finance Director will submit the Final CUF Analysis package, with recommendations, to the DBELO. Together, the DBELO and Finance Director will determine Good Faith Efforts and further disposition with the prime contractor.

The FTA Project Manager will review documentation to determine if the contractor has supplied the required subcontractor payment data and report any discrepancies to the Finance Director. The FTA Project Manager will notify the prime contractor in writing if payments have not been posted.

The CCR and/or the FTA Project Manager and Finance Director of any contractor refusing to report subcontractor payments as required by the contract.

### **1.3 Considerations in Determining CUF**

Expenditures to a DBE contractor can be counted toward DBE goals only if the DBE is performing a CUF on that contract. Considerations in determining CUFs include the following:

- 1 A DBE performs a CUF when the DBE is responsible for execution of the work and is actually performing, managing, and supervising the work involved. To perform a CUF, 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 CUF, the City must evaluate the amount of work subcontracted, industry practices, whether the amount the DBE 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.

- 2 The City must presume a DBE is not performing a CUF if the DBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to create the appearance of DBE participation. In determining whether a DBE is such an extra participant, the City must examine similar transactions, particularly those in which DBEs do not participate.
- 3 If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of the DBE's contract with its own workforce, 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, the City must presume that the DBE is not performing a CUF.
- 4 When a DBE is presumed not to be performing a CUF as stated in paragraphs 2 and 3, the DBE may present evidence to rebut this presumption. The city may determine that the DBE is performing a CUF given the type of work involved and normal industry practices.

### **1.4 DBE Manufacturers and Suppliers**

Considerations in determining if expenditures by a DBE for materials or supplies may be counted for DBE utilization include the following:

- 1 A manufacturer/fabricator produces merchandise for use or sale using labor and machines, tools, chemical and biological processing, or formulation. If the materials or supplies are obtained from a DBE manufacturer/fabricator, count 100% of the cost of the materials or supplies toward DBE participation.
- 2 A regular dealer is a DBE firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. If the materials or supplies are purchased from a DBE regular dealer, count 60% of the costs of the materials or supplies toward DBE participation.
- 2.1 To be a regular dealer, the DBE firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale of the products in question.

- 2.2 A DBE firm may be a regular dealer in bulk items such as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis.
- 2.3 Packagers, brokers, manufacturer's representatives, or other persons who arrange or expedite transactions are not regular dealers.

### **1.5 Counting the Value of Work**

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted as DBE participation.

Only the portion of a construction contract that is performed by the DBE's workforce is counted. Also included are the costs of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate(s)).

The entire amount of fees or commissions charged by a DBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a FTA-assisted contract with the City, can be counted toward a DBE goal if the fees are reasonable and not excessive when compared with fees customarily allowed for similar services.

Contractors should be contacted for verification that the DBE commitments are being achieved. The FTA Project Manager will be responsible for tracking the final DBE commitments for the end of the Federal Fiscal Year for inclusion in the City's reports regarding DBE utilization on FTA-assisted contracts. A report is to be delivered to the DBELO and Finance Director no later than 15 days after the end of the fiscal year.

### **1.6 DBEs Subcontracting Work to Others and Joint Ventures**

When a DBE subcontracts part of the DBEs work to another firm, the value of the subcontracted work is counted only if the work is subcontracted to another DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

When a DBE performs as a participant in a joint venture, DBE credit will be counted only for work that is clearly defined in the contract that the DBE performs with the DBE's own workforce.

### **1.7 CUF Monitoring of Professional Service Companies**

The City will monitor all agreements with Professional Service Companies.

## **1.8 Contractor Records for CUF Verification**

The CCR will advise the contractor at the Pre-Construction Meeting, or first meeting held prior to implementing the work to be performed under agreement, to maintain and make available to the City, when so requested, records substantiating the performance of a CUF by a DBE contractor and supplier as part of the contract's compliance. Contractor records which may be reviewed to substantiate CUF include, but are not limited to:

- 1 Contracts, subcontracts, or rental agreements
- 2 Delivery tickets
- 3 Invoices
- 4 Bills of Landing
- 5 Lease agreements
- 6 Hauling tickets
- 7 Canceled checks
- 8 Bank records
- 9 Equipment titles of ownership
- 10 Material/supply agreement
- 11 Payroll records

City records that will be reviewed to confirm CUF include, but are not limited to:

- 1 DBE commitments made in the DBE Utilization Plan and DBE Affirmations
- 2 FTA Project Manager Reports
- 3 Subcontract Payments
- 4 CUF Reports completed by the City
- 5 CUF Forms and PW Interviews
- 6 Payroll Records
- 7 DBE Directory information
- 8 NAICS website information

When conducting an assessment of a CUF, copies of invoices should be requested based on the following factors:

- 1 The DBE is a material supplier, manufacturer, or regular dealer on a project.
- 2 There is a concern that the DBE is not performing a CUF and invoices are needed for further verification.

When a DBE is presumed not to be performing a CUF, the DBE may present evidence to rebut this presumption. Decisions regarding CUF determinations are subject to review by the FTA. However, CUF decisions are not appealable to USDOT as such are considered to be contract administration issues.

**COMMERCIALLY USEFUL FUNCTION (CUF)  
PROJECT SITE REVIEW**

**CUF FORM** Per 49 CFR 26.55, “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... A DBE does not perform a CUF 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...” This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.  
Field personnel will perform CUF reviews on DBE subcontractors. Perform a review for each DBE on a federally-assisted construction project. The review should be conducted when the DBE first begins work. Monitor compliance through the course of the project.

<b>Project No.:</b> <b>Department:</b> <b>Prime Contractor:</b> <b>DBE Superintendent/Foreman:</b> <b>DBE Start Date:</b>	<b>Reviewer:</b> <b>Reviewer Title:</b> <b>Review Date:</b> <b>DBE Anticipated Completion Date:</b>
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**DBE Name:**

Provide a brief description of the DBE’s scope of work:

<b><u>Supervision</u></b>	<b>Yes</b>	<b>No</b>
Does the DBE have a superintendent/foreman on project?	<input type="checkbox"/>	<input type="checkbox"/>
Does the superintendent/foreman work exclusively for the DBE?	<input type="checkbox"/>	<input type="checkbox"/>
If not, who does he/she work for?		
Who does the superintendent/foreman report to?		
<b><u>Employees</u></b>	<b>Yes</b>	<b>No</b>
Does the DBE have employees on the job?	<input type="checkbox"/>	<input type="checkbox"/>
Who assigns work to them?		
What is the name of the company that pays the DBE’s employees?		
<b><u>Performance</u></b>	<b>Yes</b>	<b>No</b>
Has any other contractor performed any of the DBE’s work?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, who and what work items?		
<b><u>Equipment</u></b>	<b>Yes</b>	<b>No</b>
Whose name appears on the equipment?		
Does DBE own or lease equipment?	<input type="checkbox"/>	<input type="checkbox"/>
Does DBE use prime contractor’s equipment?	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>CUF</u></b>	<b>Yes</b>	<b>No</b>
Does it appear the DBE is performing a CUF?	<input type="checkbox"/>	<input type="checkbox"/>
<b>If DBE is not performing a CUF, contact the Finance Director and/or DBELO</b>		

**COMMENTS:**



## EXHIBITS

Exhibit 1 Procedures for Completing Uniform Reports

Exhibit 2 Guidance Concerning Good Faith Efforts

## City of Springfield, Ohio

### Disadvantaged Business Enterprise Program for FTA-assisted Projects

# PROCEDURES FOR COMPLETING UNIFORM REPORTS

#### Section A: **Awards/Commitments** Made During This Period

Row 8: This will typically be all zeros since the Bus Franchise is usually the only prime contract awarded (currently First Transit), and that only happens once every 5 years. However, if the City were to award a contract for shelters, fare equipment, roof repairs, etc., it would be reported here. At the time of award, the Finance Department would record the award in the *DBE Report Backup* spreadsheet to ensure it is reported on the appropriate Uniform Report.

Cell 9A: Every month when the Finance Department receives an invoice from First Transit, it will determine which general ledger items are to be considered subcontracts (i.e., parts, fuel, some facilities expenses, etc.). This data should be input into the *DBE Report Backup* spreadsheet every month. The federal percentage will then be calculated by dividing the total First Transit federal dollars utilized that month by the total First Transit expenses for the month. That percentage will be multiplied by the subcontracts to determine the amount of subcontracts to report.

Cell 9B: After receiving the final invoice in the reporting period, the First Transit will report to the Finance Department the unduplicated number of vendors that correspond to the dollar amount from Cell 9A. This data should be input into the *DBE Report Backup* spreadsheet.

Cell 9C: First Transit provides this information by vendor. The Finance Department will create a *GL Verification of DBEs* spreadsheet to verify that the amounts First Transit provided for each vendor match their monthly general ledgers. This is completed by searching the GL tab of each invoice for each vendor First Transit provided. The *GL Verification of DBEs* spreadsheet will also be used to determine the federal amount based on which category the expense falls under.

Cell 9D: First Transit provides this information.

Cells 9E – 9H: First Transit provides whether the DBE awards were race neutral or race conscious. Generally, they should always be race neutral, unless the goal calculation and/or shortfall analysis determine that race conscious measures are necessary.

#### Section B: Breakdown by **Ethnicity & Gender** of Contracts **Awarded to DBEs**

Rows 11 – 17: When First Transit provides the DBE award information, they state the ethnicity and gender of each DBE. The Finance Department will use the federal amounts calculated in the *GL Verification of DBEs* spreadsheet for these cells.

#### Section C: Payments on **Ongoing** Contracts

Cell 18A: Typically, the only contract ongoing is First Transit. However, as mentioned in Row 8 above, if the City were to award a contract for shelters, fare equipment, roof repairs, etc., and that contract wasn't fully paid out during this period, it would be reported here.

Cell 18B: For First Transit, use the total First Transit federal dollars utilized in Cell 9A above. If there happen to be any others in process (i.e., shelters, fare equipment, roof repairs, etc.), report the Federal portion here.

Cells 18C – 18D: Usually zero since First Transit is not a DBE. If any ongoing contracts listed in 18A – 18B are DBEs, list them here (federal portion only).

#### Section D: Actual Payments on Contracts **Completed**

Rows 19-21: This section will mostly remain zeros until the end of First Transit's contract. At that time, the Total DBE Participation Dollars will be completed for the entirety of their contract. If the City awards another prime contract, it would be reported here once it is complete.

## Appendix A to Part 26

### Guidance Concerning Good Faith Efforts

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# US DEPARTMENT OF TRANSPORTATION

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#### Appendix A to Part 26 - Guidance Concerning Good Faith Efforts

I. When, as a recipient, you establish a contract goal on a DOT- assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide 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. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

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 to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

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.

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. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

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.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

Updated: Tuesday, June 25, 2013