

# City of Winston-Salem

## **DBE PROGRAM POLICY STATEMENT**

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

It is the policy of the City of Winston-Salem to ensure that DBEs as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

The Compliance Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Winston-Salem, the WSUAMPO and the WSTA in its financial assistance agreements with the US Department of Transportation (USDOT), Federal Highway Administration (FHWA), Federal Transit Authority (FTA) or North Carolina Department of Transportation (NCDOT).

The City of Winston-Salem has disseminated this policy statement to the WSTA Board of Directors, the Transportation Advisory Committee and all of the components of our organization. This policy is posted on our website ([cityofws.org](http://cityofws.org)) and copies will be made available, upon request, by contacting the Compliance Officer at the City of Winston-Salem, Department of Transportation Office at 100 East First Street, Winston-Salem, NC 27101.

---

Lee D. Garrity, City Manager

Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1, 26.23 Objectives**

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

### **Section 26.3 Applicability**

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

### **Section 26.5 Definitions**

The City of Winston-Salem, the WSUAMPO and the WSTA will adopt the definitions contained in Section 26.5 for this program.

### **Section 26.7 Non-discrimination Requirements**

The City of Winston-Salem, the WSUAMPO and the WSTA will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. In administering its DBE Program, The City of Winston-Salem will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex or national origin.

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT: 26.11 (b)**

We will report DBE participation to DOT as follows:

We will report DBE participation on a bi-annual basis. These reports will reflect payments actually made to DBE's on DOT assisted contracts.

Bidders List: 26.11 ©

The City of Winston-Salem, the WSUAMPO and the WSTA 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 bidder's list in calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

- The Compliance Officer will collect this information in the following ways: Contracts requires all prime bidders to report the names/addresses and possibly other information, of all firms who quote them on subcontracts.

### **Section 26.13 Assurances**

The City of Winston-Salem has signed the following assurances, applicable to all DOT-assisted contracts and their administration.

#### Federal Financial Assistance Agreement Assurance: 26.13(a)

The City of Winston-Salem, the WSUAMPO and the WSTA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Winston-Salem, the WSUAMPO and the WSTA 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 in financial assistance agreements with sub-recipients.

#### Contract Assurance: 26.13b

The City of Winston-Salem, the WSUAMPO and the WSTA will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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

## **SUBPART B – ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since the City of Winston-Salem and thereby the WSUAMPO and WSTA has received grants of 250,000 or more in FTA planning capital, and (or) operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

## **Section 26.25 Compliance Officer**

We have designated the following individual as our Compliance Officer:

Marlene Davis  
Compliance Officer  
City of Winston-Salem Department of Transportation  
PO Box 2511  
Winston-Salem, NC 27101  
[marlenedg@cityofws.org](mailto:marlenedg@cityofws.org)

In that capacity, the Compliance Officer is responsible for implementing all aspects of the DBE program and ensuring that The City of Winston-Salem, the WSUAMPO and WSTA complies with all provision of 49 CFR Part 26. The Compliance Officer is also responsible for administering the Title VI and EEO programs.

The Compliance Officer is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The Compliance Officer currently does not have any other staff assigned to them at this point but has administrative support from other staff in the department of transportation and at WSTA.

The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Review third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBE's in a timely manner.
5. Identifies contracts and procurements so the DBE goals are included in solicitation (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes The City of Winston-Salem, the WSUAMPO and the WSTA progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the City Manager/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in North Carolina.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Other duties with Title VI and EEO programs.

## **Section 26.27 DBE Financial Institutions**

It is the policy of The City of Winston-Salem, the WSUAMPO and WSTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. There are no programs identified at this point.

Information on the availability of such institutions can be obtained from the Compliance Officer

## **Section 26.29 Prompt Payment Mechanisms**

### Prompt Payment: 26.29 (a)

The City of Winston-Salem, the WSUAMPO and WSTA will include the following clause in each DOT –assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contract receives from The City of Winston-Salem (or the WSUAMPO or WSTA). Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of The City of Winston-Salem, the WSUAMPO and WSTA. This clause applies to both DBE and non-DBE subcontracts.

### Retainage: 26.29 (b)

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above reference time frame may occur only for good cause following written approval of from the Compliance Officer. This clause applies to both DBE and non-DBE subcontracts.

### Monitoring and Enforcement: 26.29 (d)

The City of Winston-Salem, the WSUAMPO and the WSTA has established the following mechanism to monitor and enforce prompt payment and return of retainage.

The City of Winston-Salem, the WSUAMPO and the WSTA will require the prime contractor to submit copies of all invoices from and payments to subcontractors in order to ensure that the prime contractor is in compliance with this clause. Failure of the prime contractor to pay subcontractors for satisfactory work or return retainage payments within the allotted time will

result in The City of Winston-Salem, the WSUAMPO and the WSTA withholding payment on all pending and/or future invoices.

### **Section 26.31 Directory**

The City of Winston-Salem, the WSUAMPO and the WSTA uses the statewide Uniform Certification Program directory which identifies all firms eligible to participate as DBE's. The directory lists the firm's name, address, phone number, date of the most recent certification and type of work the firm has been certified to perform as a DBE. The directory is available at <https://connect.ncdot.gov/business/SmallBusiness/Pages/Become%20a%20Certified%20DBE%20Business.aspx>

### **Section 26.33 Overconcentration**

The City of Winston-Salem, the WSUAMPO and the WSTA has not identified that overconcentration exists in the types of work that DBEs perform.

### **Section 26.35 Business Development Programs**

The City of Winston-Salem, the WSUAMPO and the WSTA has not established a business development program. We will re-evaluate the need for such a program every 3 years.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

The City of Winston-Salem, the WSUAMPO and the WSTA will adopt the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so the DOT can take the steps (e.g., referral to the Department of Justice from criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 6 lists the regulations, provisions, and contract remedies available to you in the event of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBE's at contract award is actually performed by the DBE's. This will be accomplished by the DBE staff through site visits, participating in pre-contract meetings, contract progress meetings, punch list inspection meetings, and final contract meetings. In addition, contractors will be required to report on DBE participation (including any payments to DBE's in all contract reports).
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

### **Section 26.39 Small Business Participation**

Effective immediately the City of Winston-Salem, the WSUAMPO and the WSTA will incorporate the following non-discriminatory element in its DBE program, in order to facilitate competition on DOT/FTA funded projects nu small business concerns, open to both DBE and non-DBE small business owners. This element gives opportunities to smaller businesses with an annual gross income less than 1.5 million, (excluding materials) to bid on City of Winston-Salem Contracts.

Small businesses must meet definitions outlined in section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 26.65. Small business is defined as business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry size, standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over three year period.

Small Business owners must be certified using the North Carolina Unified Certification Program. Businesses that are currently Disadvantaged Business Enterprises (DBE) certified with the state of North Carolina must apply separately for Small Business Certification.

In multi-year design-build contracts or other large contracts requiring bidders on the prime contract, The City of Winston-Salem, the WSUAMPO and the WSTA will specify elements of the contract or specific subcontractors that are of a size that small businesses, including DBE's, can reasonably perform.

Additionally, The City of Winston-Salem, the WSUAMPO and the WSTA will ensure that a reasonable number of prime contracts are a size that small businesses, including DBE's, can reasonably perform.

Forms for the SBE Program may be obtained from the website address <https://connect.ncdot.gov/business/SmallBusiness/Pages/Become%20a%20Certified%20DBE%20Business.aspx> or through the SBE and Mobility Officer at 919-707-4800, 1-877-650-0130, once you have completed the form and received your certification you can bid on City of Winston-Salem contracts as a Small Business supplier.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The City of Winston-Salem, the WSUAMPO and the WSTA does not use quotas in any way in the administration of this DBE program.

## **Section 26.45 Overall Goals**

In accordance with Section 26.45, The City of Winston-Salem, the WSUAMPO and the WSTA will establish overall DBE goals for participation of DBEs in USDOT-assisted projects. The City of Winston-Salem, the WSUAMPO and the WSTA is part of the Group A goal setting cycle with triennial DBE goals to Federal Transit Administration (FTA) on August 1<sup>st</sup> of the year specified by FTA. Goals will be calculated tri-annually using a methodology that is narrowly tailored, tied to local market situations and intended to attain a goal that is rationally related to the relative availability of DBEs, that is identified using the U.S. Census Bureau data and resource directories, within the study area.

### **The Method for Calculating this Goal:**

1. In order to calculate the relative availability of DBE's (base figure) for "Step 1" of the process, we used the data from the most recent Economic Census. This data provided the total number of minority-and women-owned firms in the local area using the North American Industry Classification System (NAICS) that The City of Winston-Salem, the WSUAMPO and the WSTA will likely use. For example; Transportation, Utilities and Communication, Wholesale Trade, Retail Trade, Manufacturing, Finance, and Service Industries.
2. We then take number of minority women owned firms and divide by the total available firms in the NAICS local area that The City of Winston-Salem would most likely use during the fiscal year. This will give you relative availability percentage of disadvantaged firms.
3. In order to adjust the base figure above (Step 2) we have looked at our history of DBE goal achievements, past purchasing lists from The City of Winston-Salem, the WSUAMPO and the WSTA, the types of firms in the NAICS, and the actual contracting opportunities for the coming fiscal year.

Adjust the base figure by averaging the past five years goal to the relative available percentage then divide by 6.

Using the criteria above we adjusted the base figure percentage to reflect our possible DBE participation using both race neutral and race conscious participation.

### **Consultations and Public Participation**

In addition to the steps listed above in the Methodology, the City of Winston-Salem, the WSUAMPO and the WSTA consults with a variety of resource agencies and persons in developing the overall goal. These agencies have included, but are not limited to local minority, women's and general contractors' agencies/groups.

**B. Breakout of Estimated Race-Neutral and Race-Conscious Participation**

The City of Winston-Salem, the WSUAMPO and the WSTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation.

The City of Winston-Salem uses the following race-neutral to increase DBE participation.

1. Participation in Business Fairs including M/WBE Business Fairs
2. Personal/Professional Contact
3. Media & Communications
4. Other outreach programs as they develop

**C. Process**

Before establishing the 3 year goal, the City of Winston-Salem, the WSUAMPO and the WSTA will consult with various departments to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's, and the City of Winston-Salem's effort to establish a level playing field for the participation of DBEs.

This notice will be published 30 days in advance in Que Pasa and The Chronicle, both local minority newspapers, as well as the Winston-Salem Journal. The notice informs the public of the proposed goal and the opportunity to inspect the rationale during normal business hours at the City of Winston-Salem for 45 days following date of publication. The notice will include the address where the proposal may be reviewed.

Our overall goal submission to DOT 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 this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

We will begin using our overall goal once approved and on October 1 of the following specified years, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established by DOT, FTA, FHWA.

**Section 26.47 Goal Setting and Accountability**

If the awards and commitments shown on The City of Winston-Salem, the WSUAMPO and the WSTA's Uniform Reports of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the accrual awards/commitments
2. Establish specific steps and milestones to correct the problems identified in the analysis;
3. Keep on file the analysis and milestones

#### **Section 26.49 Transit Vehicle Manufacturers Goals**

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

#### **Section 26.51 Meeting Overall Goals/Contract Goals**

The City of Winston-Salem, the WSUAMPO and the WSTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation.

In order to do so, The City of Winston-Salem, the WSUAMPO and the WSTA will:

1. Make bids attractive to DBE's
2. Simplify and reduce bonding requirements,
3. Provide technical assistance,
4. Make DBE's aware of opportunities, and
5. Distribute, DBE directory to prime contractors.

The City of Winston-Salem, the WSUAMPO and the WSTA will use contract goals to meet any portion of the overall goal that The City of Winston-Salem, the WSUAMPO and the WSTA does not project being able to meet using race-neutral means.

Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goal will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of *the Federal share of DOT-assisted contract*.

## **Section 26.53 Good Faith Efforts Procedures**

### Award of contracts with a DBE Contract Goal: 26.53 a

In those instances where a contract-specific DBE goal is included in a procurement/solicitation the City of Winston-Salem, the WSUAMPO and the WSTA will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

### Evaluation of good faith efforts (26.53(a) & (c))

The Compliance Officer along with the Project Manager and Purchasing Manager are responsible for determining whether a bidder/offeror, who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. Bidders/offerors will be required to denote what actions they took in order to use certified DBE firms to meet the contract goal. Example of good faith efforts are found in Appendix A to 49CFR Part 26. The bid of bidders/offerors failing to show good faith efforts to subcontract with DBE firms will be deemed non-responsive

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

### Information to be Submitted: 26.56(b)

The City of Winston-Salem, the WSUAMPO and the WSTA treats bidders/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

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

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

### Administrative Reconsideration: 26.53(d)

Within days of being informed by the Compliance Officer or Purchasing Department that the bid is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration official:

Toneq' McCullough, PE  
Director of Transportation  
City of Winston-Salem  
PO Box 2511  
Winston-Salem, NC 27101  
336-727-6867  
[toneqm@cityofws.org](mailto:toneqm@cityofws.org)

The reconsideration official will not have played a role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument within 15 days; concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

**Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals: 26.53(F)**

The City of Winston-Salem, the WSUAMPO and WSTA requires that prime contractors not terminate a DBE subcontractor listed on the bid/contract without prior written consent from City of Winston-Salem.

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

In this situation, the City of Winston-Salem, the WSUAMPO and WSTA will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of the new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been

taken. If the contractor still fails to comply, the contracting officer may convene a “termination for default” proceeding.

### Sample Bid Specification

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of The City of Winston-Salem to practice nondiscrimination based on race, color, sex, or national origin in the award of 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 bidders/offerors, including those who qualify as a DBE. A DBE contract goal of \_percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information:

- (1) The names and addresses of DBE firms that will participate in the contract;
- (2) A description of the work that each DBE firm will perform;
- (3) The dollar amount of the participation of each DBE firm participating
- (4) Written documentation of the bidder/offeror’s commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

### **Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55

## **SUBPARTS D & E- CERTIFICATION**

### **Section 26.81 Unified Certification Programs**

The City of Winston-Salem is the member of a Unified Certification Program (UCP) administered by the North Carolina Department of Transportation. The UCP will meet all of the requirements of this section. The City of Winston-Salem, WSUAMPO and WSTA will use and count for DBE credit on those DBE firms certified by the North Carolina UCP.

The purpose of the UCP is to provide “one-stop shopping” for the applicants to apply for DBE certification, such that an applicant is required to apply only once for a DBE certification that and it will be honored by all agencies that are recipients of Federal DOT funding in the state.

State and local recipients of Federal Department of Transportation money often set DBE participation goals on their contracts. Prime bidders must either meet or make good faith effort to meet these goals. When a DBE is certified through the UCP, it is included in the UCP Directory. Prime bidders needing to perform outreach to DBEs for their bid can use the UCP Directory to locate potential DBE subcontractors and suppliers.

Information the UCP and certification can be found at

<http://connect.ncdot.gov/business/SmallBusiness/Pages/UCP%20Certification%20Processes%20for%20DBE%20firms.aspx>

### **Section 26.89 Certification Appeals**

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

U.S. Department of Transportation  
Office of Civil Rights Certification Appeals Branch  
1200 New Jersey Ave. SE  
West Building, 7<sup>th</sup> Floor  
Washington, D.C. 20590

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

We will not disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

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

#### Monitoring Payments to DBEs

We will require prime contractors to maintain records and document 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 certified DBE subcontractor.

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