

## Disadvantaged Business Enterprise (DBE) Program and Goals for LSCOG

Lower Savannah Council of Governments has an overall goal of DBE participation for the three federal fiscal years of 2017-2019 (beginning October 1, 2016 to September 30, 2019) of **1%** . This goal reflects the expected level of participation in FTA-assisted contracts; exclusive of the purchase of transit vehicles.

### A. Methodology Used to Calculate Overall Goal – Step One

Part of Step One goal methodology is a measurement of the relative availability of DBE firms (both prime and sub) that are ready, willing, and able to compete for contracts LSCOG intends to offer during the three year reporting period. The Step One base figure is calculated using the number of DBE firms ready, willing and able to bid divided by the total of all firms ready, willing and able to compete (both DBE and non-DBE), based on the intended type of contracts to be offered.

Step One Base Figure Methodology =  $\frac{\text{DBE firms}}{\text{All firms (DBE \& Non-DBE)}}$

LSCOG Step One Base Figure =  $\frac{5}{189} = \underline{\underline{3\%}}$

### Service Area Under Consideration and Data Sources

The local geographical area(s) include Aiken County, SC and Richmond County, GA for the Best Friend Express transit service. The local geographic area under consideration for possible contracting firms can be expanded beyond the transit service area. Also, FTA does not allow local geographic preferences in its procurement policies for grantees and their third party contractors. Based on the practice of advertising all procurement opportunities in the South Carolina Business Opportunities (SCBO) publication, the entire State of South Carolina will be considered for data sources for certain contracting opportunities. The proximity and size of Augusta, GA makes its vendor market an opportunity to explore, as well.

The US Census Bureau and South Carolina Department of Transportation Unified Certification Program (SCUCP) DBE directory were researched to support the Step One base figure.

### Step Two - Adjustments to the Step One Base Figure

Past participation of DBE activity in FTA-assisted contracts has been low. LSCOG has been under a DBE waiver the last two years when it was discovered at a DBE training event that LSCOG did not meet the threshold of \$250,000 in contract opportunities using federal funds and subsequently, a waiver was applied for and awarded in 2014. The utilization of MAP-21 special

rule operating assistance for the first time has opened the public transit system in Aiken County to more federal financial assistance and impacted the LSCOG contracting threshold.

The SCUCP in 2016 revealed only three DBE mass transit providers who were certified as DBEs and they were from Maryland, Michigan and Texas. The Best Friend Express system, while being funded as a “5307 large urban” system by FTA, is actually a small program with three routes and approximately 25,000 fixed route passenger trips per year. It is the proximity to Augusta, GA as a large urban system and MPO that has afforded Aiken County an opportunity for FTA funding for public transportation in the urbanized portion of the county. It has been historically difficult to attract any bidders for operational contracts for fixed route and ADA paratransit because of the small amount of the contract award and the low density of population in Aiken County.

Other contracting opportunities from LSCOG for the Best Friend Express are limited to printing and office supply and one-time technology purchases like radios and GPS equipment. There will be an upcoming contracting opportunity surrounding a planning study needed for the transit system and it will be the only consulting contract expected over the next three years. Because the proportion of contracting dollars available for these types of contracting opportunities verses the much larger transit operations contract opportunity, there should be a weighted calculation for any DBE goal emphasizing the transit operational vendors available for contract; tempered by the past history of their lack of interest in a small contract award compared to other large urban mass transit operational opportunities in the country (as all three DBE transit providers were outside the state).

As a result of past participation, the lack of DBE transit providers and the limited expectation of future contracting opportunities, the Step One base figure has been **adjusted to 1 %**.

## **B. Race Neutral Measures**

LSCOG and the Best Friend Express will use race neutral means of facilitating DBE participation. LSCOG will use the following methods to foster participation:

- Inform DBEs and small business participants of contracting opportunities available through solicitations and LSCOG procurement policies
- Provide technical assistance, or make referrals for such technical assistance, in applying for DBE certifications available in various state departments of transportation
- Ensure the inclusion of DBEs, and other small businesses, on any bidders list development
- Attend DBE workshops or training events which may help foster a working relationship with organizations with programs to assist firms with their possible DBE participation.

### C. Small Business Participation

In 2012, LSCOG included Fostering Small Business Participation (49 CFR Part 26.39) into its Disadvantaged Business Enterprise (DBE) Program.

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses; Lower Savannah Council of Governments (LSCOG) seeks to implement a small business element into its current DBE policy in accordance with applicable law. LSCOG is including this element to facilitate competition by, and expand opportunities for, small businesses. LSCOG is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors.

A. LSCOG will meet its objectives using a combination of the following methods and strategies:

1. **Unbundling:** LSCOG, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. LSCOG will conduct contract reviews on each FTA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, LSCOG will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses. A determination on whether a future FTA-assisted contract could be unbundled will be made during the earlier procurement process as well.
2. **Outreach and technical assistance:** LSCOG will seek opportunities to participate in existing outreach and training events offered for small businesses wanting to do business with government funders as those events take place in the state, as well as participate in procurement training events which highlight small and minority-owned businesses for procurement processes and practices.

B. Definitions

1. **Small Business:**  
Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration (SBA) regulations implementing it (13 CFR Part 121). *A small business is a 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 a three-year period.

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration).

-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;

-Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) as described in 49 CFR Part 26. The current PNW cap is \$1.32 million.

-Whose average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$22.41 million;

-Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and

-Has been certified as a DBE by the South Carolina Department of Transportation (SCDOT) in accordance with 49 CFR Part 26. For the purposes of the small business element of the LSCOG DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FTA-assisted contracts.

### Certification and Verification Procedures

FTA Guidance on Small Business Participation programs states recipients of FTA funds should not allow firms to self-certify/verify as small businesses (with the exception of a micro purchase). LSCOG will accept certification for participation in the small business element of the LSCOG DBE Program when the business can be found, but not limited to, the directories of the following programs:

1. SCDOT DBE Certification- DBE Certification by the Department of Transportation, which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by SCDOT. Certified SCDOT DBE participating businesses will be listed on the SCDOT DBE directory.
2. Office of Small and Minority Business Assistance (OSMBA) directory.

3. Assurances

LSCOG makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;

3. There are no geographic or local preferences or limitations imposed on FTA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE program.
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage that minority and women owned firms participating in the small business element of the DBE Program, that are eligible, to become SCDOT DBE certified.

#### **D. Public Participation for the DBE Program**

Lower Savannah Council of Governments posts the DBE Policy Statement and Goal Methodology to the Best Friend Express website at [www.bestfriendexpress.com](http://www.bestfriendexpress.com). The DBE goal and invitation to review the DBE program and offer comment over a 45 day period will be published in the two local newspapers serving the Best Friend Express service area upon final concurrence of the goal methodology by the Federal Transit Administration.

When the public participation plan for a planning study (Transit Development Plan) is implemented this upcoming federal fiscal year, the contracted consultants performing the public outreach activities will also be instructed to collect any public feedback they may encounter from minority and small business owners expressing an interest in contracting opportunities for the Best Friend Express.

Any comments received from the public during the 45 comment period and public outreach events will be documented and brought to the attention of the DBELO for possible refinement of DBE goal methodology moving forward.