

**Johnson County Transit
Disadvantage Business Enterprise (DBE)
Program Overview**

December 2012

Section 26.1, 26.23 Objectives/Policy Statement

Johnson County Transit (JCT) operates public transportation services, The JO, The JO-Special Edition and Sheltered Workshop Industrial Fixed Transit (SWIFT). Johnson County Transit, through a third party contract is involved in operating, capital improvements, and technical study grants, which require financial assistance from the Department of Transportation.

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

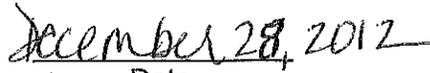
It is the policy of Johnson County Transit to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

The Grants and Projects Manager has been delegated as the DBE Liaison Officer. In that capacity, the Grants and Projects Manager 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 Johnson County Transit in its financial assistance agreements with the Department of Transportation.

JCT has disseminated this program statement to the Johnson County Transportation Council and the Board of County Commissioners and all the components of our organization. This program will be disseminated throughout JCT as posted on our website at www.thejo.com and to disadvantaged, female, non-minority and business organizations through public notices in local newspapers.


Alice M. Amrein, Transportation Director


Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program. The statement is signed and dated by Alice M. Amrein, Transportation Director, and will be circulated throughout the organization and to the DBE and non-DBE business communities that work on JCT's DOT assisted contracts. This process will occur each time there is a change in law, a revision to the program, or a change in staffing.

Section 26.3 Applicability

Johnson County Transit is the recipient of federal funds authorized by 49 U.S.C. 47101, *et seq.*

Johnson County Transit is the recipient of federal –aid highway funds authorized under Titles I and V 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 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

Johnson County Transit 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

Johnson County Transit will adopt the following definitions contained in Section 26.5 of Part 26 for this program. JCT will ensure that all definitions from the regulations are included and correct; (2) will add and include any new/amended definitions as they are provided by USDOT; and (3) will not include any definitions for terms not included in the definitions found in Section 26.5 of Part 26.]

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly: (i) One concern controls or has the power to control the other; or (ii) A third party or parties controls or has the power to control both; or (iii) 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. Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

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

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

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

Department or DOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged Business Enterprise or DBE means a for-profit small business concern--
(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

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.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-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.

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. [[Page 5128]]

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 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 four digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site (www.ntis.gov/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 and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

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. 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 implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in Sec. 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 is--

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged: (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa; (ii) "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; (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; (iv) "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 U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong; (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; (vi) Women; (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

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 (i.e., 'You must do XYZ' means that recipients must do XYZ).

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

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

JCT will report DBE participation to the Federal Transit Administration using the following:

JCT will report DBE participation on a quarterly basis to the Federal Transit Administration, using DOT Form 4630 Uniform Report of DBE Awards or Commitments and Payments found in Appendix B to the DBE regulation. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

The County has never compiled a bidders list in the past. JCT proposes to obtain the relevant data by requiring a contract clause requiring prime bidders to report the names/DBE status, addresses, age of firm and annual gross receipts of all firms who quote to them on subcontracts.

JCT will also utilize the bidders list compiled by the Kansas City Area Transportation Authority (KCATA), consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

JCT will request a copy of the bidders list on an annual basis from the KCATA's DBELO.

JCT in conjunction with the County Procurement Department utilize two methods to distribute the lists as follows: For bids and requests for proposals that are over the \$50,000 threshold all bidders are directed to the Public Purchase website <http://www.publicpurchase.com> and Demand Star website (<http://www.demandstar.com>). The lists are also published in local newspapers for construction bids over 50,000.00.

JCT will also utilize the Missouri Regional Unified Certification Committee (MRCC) database to solicit DBE firms as potential bidders on projects.

Section 26.13 Assurances

JCT has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance: 26.13(a)

JCT 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. JCT shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. JCT'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 JCT of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for

enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13(b)

Johnson County Transit will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

Johnson County Transit has designated the following individual as our DBE Liaison Officer:

Grants and Projects Manager
1701 West 56 Highway
Olathe, Kansas 66061
(913) 715-8364

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Johnson County Transit complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Transportation Director concerning DBE program matters. An organization chart displaying the DBELO's name and position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.

2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with the department to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes Johnson County Transit's progress toward attainment and identifies ways to improve progress.
7. Advises the CEO\governing body on DBE matters and achievement.
8. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
9. Participates in pre-bid meetings.
10. Works with County Purchasing Department and consultants to provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

JCT utilizes the Kansas City Area Transportation Authority and the Kansas Department of Transportation for assistance with the certification of DBEs and the updated directory on certified DBEs. JCT and the KCATA also recognize and accept certifications from the City of Kansas City, Missouri, and the states of Kansas and Missouri.

Other Support Personnel

JCT's Transit Director or her designee and Project Manager's in conjunction with the County's Procurement Department share the responsibility for ensuring the effective implementation of the DBE Program. They shall give full cooperation and active support to the DBELO and designees in this effort.

The Transit Director's designee or the assigned Project Manager in conjunction with the County's Procurement Department shall:

1. Incorporate DBE aspirational goal and appropriate DBE language and provisions into IFBs and RFPs.
2. Inform the DBELO of any changes to IFBs and RFPs.
3. Forward copies of bids to the DBELO for evaluation and compliance with DBE requirements.
4. Allocate appropriate resources to participate with the DBELO at major trade fairs targeted to DBEs.
5. Alert the DBELO of any potential problems concerning DBE utilization during contract administration.
6. Ensure that RFPs do not contain unnecessary requirements which could unduly restrict or eliminate small businesses from competition.

Section 26.27 DBE Financial Institutions

It is the intent of Johnson County and the Johnson County Transportation Council to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, and to make reasonable efforts to use these institutions and to encourage prime contractors on DOT-assisted contract to make use of these institutions. To identify and use such institutions, JCT will consider DBE financial institutions during the County's procurement process for financial institutions owned, controlled and managed by socially and economically disadvantaged individuals and assess the viability of such institutions. The Johnson County Board of County Commissioners authorizes the financial institutions to be used by the County on an annual basis. JCT utilizes the Missouri Regional Certification Committee's (MRCC) database of DBE firms, as well as the Federal Reserve's list of minority owned banks (www.federalreserve.gov/releases/mob/current/default.htm). JCT will provide access to the MRCC database on its website at www.modot.mo.gov/ecr/index.htm. Liberty Bank & Trust Company is the only minority-owned financial institution currently in the Kansas City area. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

JCT 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. JCT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. JCT's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement.

Section 26.29 Prompt Payment Mechanisms

Prompt Payment Section 26.29 (a)

JCT 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 or any billable portion thereof, in accordance with the timing set forth in any applicable laws or no later than thirty days from the receipt of each payment the prime contract receives from JCT. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval by JCT. This clause applies to both DBE and non-DBE subcontracts.

Retainage: 26.29 (b)

The prime contractor agrees further to return retainage payments to each subcontractor in accordance with the timing set forth in any applicable laws or within thirty 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 Johnson County Transit. This clause applies to both DBE and non-DBE subcontracts.

Subcontractor Completion of Work: 26.29(c)

For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime

contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Monitoring and Enforcement: 26.29(d)

The following language is included in each DOT-assisted prime contract, and applies to both DBE and non-DBE subcontractors.

The Contractor shall certify on each payment request to the JCT that payment has been or will be made to all subcontractors. Lien waivers may be required for the Contractor and its subcontractors. The Contractor shall notify JCT on or before each payment request, of any situation in which scheduled subcontractor payments have not been made.

If a subcontractor alleges that the Contractor has failed to comply with this provision, the Contractor agrees to support any JCT investigation, and if deemed appropriate by JCT, to consent to remedial measures to ensure that subcontractors are properly paid as set forth herein.

The participation of the DBE subcontractor or supplier will not be credited toward the Prime Contractor's DBE achievement unless and until the amount being counted toward the goal has been paid to the DBE.

If the Contractor fails to comply in the time specified our contract officer will issue an order stopping all payments until satisfactory action has been taken.

Section 26.31 Directory

JCT utilizes the directory established and maintained by the Kansas Department of Transportation (KDOT), the Missouri Department of Transportation (MoDOT) and the Kansas City Area Transportation Authority (JCT). The directories identify all firms eligible to participate as DBEs and include the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform. The directories are revised annually. A copy of the JCT, MoDOT and KDOT directories are available to interested persons for review at Johnson County Transit located at 1701 West 56 Highway in Olathe, Kansas or on JCT, MoDOT and KDOT websites.

JCT makes the directories available or provides the link to the MoDOT and KDOT directories on its website at <http://www.thejo.com/about.shtml#dbe>. A copy of the directories can also be provided by JCT's DBE Liaison identified in JCT's organizational chart.

KDOT's website is located at <http://www.ksdot.org/divadmin/civilrights/>, and MoDOT's website is located at www.modot.mo.gov/ecr/index.htm.

Johnson County Transit makes information available to the public via public notices, bid solicitation notices and information to the minority business associations(s) etc. If information is requested by a DBE related to service, potential solicitations for services or other miscellaneous issues, the DBE Liaison Officer will provide information as available or put the person in touch with the County Purchasing Department for further information on bid proposals.

Section 26.33 Overconcentration

Johnson County Transit has not identified that overconcentration exists in the types of work that DBEs perform. JCT will re-evaluate for overconcentration every two years.

JCT will analyze overconcentration by comparing the number of DBE's in construction, services and professional services work to non-DBE's who are performing work in the same categories. The review will examine those who are actually performing work for JCT in these categories over the past year, and will review the firms in these categories in the JCT service area. This analysis will occur on an annual basis to determine whether there is an overconcentration of DBE's in either category. If it is determined that DBE firms are over concentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, JCT will devise appropriate measures to address this overconcentration. These measures may include the use of incentives, technical assistance, business development programs and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which JCT determines that non-DBEs are unduly burdened.

JCT will obtain the approval of the Federal Transit Administration (FTA) for its determination of overconcentration and the measures JCT will devise to address it. Once approved, the measures will become a part of JCT's DBE program.

Section 26.35 Business Development Programs

JCT has not established a business development or mentor protégé' program. JCT will re-evaluate the need for these programs on an annual basis.

Section 26.37 Monitoring and Enforcement Mechanisms

Johnson County Transit will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This is accomplished by requiring that Prime Contractors submit lien waivers, copies of all subcontractors' certified payrolls (if applicable), and/or copies of paid invoices from DBE subcontractors with each application for payment. The Subcontractor Utilization form captures payment information for all DBE and non-DBE subcontractors and is also required with each pay application. JCT performs on-site interviews with DBE subcontractors during the project performance to determine that the DBE is performing a commercial useful function as defined in 26.55. JCT also conducts job-site interviews regarding Davis Bacon/Prevailing Wage compliance. JCT performs periodic reviews of the agreements between the Prime Contractor and its subcontractors, as well as subcontractor invoices to the Prime Contractor and from its suppliers.
2. The following language is included in JCT's Contracts:
 - a. The Contractor 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 this DOT-assisted contract. 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 JCT deems appropriate. Each subcontract the Contractor signs with the subcontractor must include the assurance in this paragraph (see 49 CFR Part 26.13(b)).

3. JCT maintains records of actual payments to DBE firms for work committed to them at the time of contract award, and compares these attainments to commitments. JCT provides information for both commitments and attainments on its required reports to FTA.
4. JCT 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.
5. JCT will consider similar action, including responsibility determinations in future contracts.

Section 26.39 Small Business Program

Johnson County Transit is committed to meeting its overall goal by using a mixture of race conscious and race neutral means of facilitating DBE participation. Any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contract that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts) it is considered race neutral.

Small Business Definition

JCT uses the Small Business Administration's (SBA) definition and size standards (as it may be amended from time to time) to define a small business:

"... a small business concern is one 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."

To actively implement the small business program JCT has partnered and collaborated with local, regional and national partners' initiatives that are encouraging greater collaboration to form strong partnerships with small businesses.

The program will be implemented and monitored by JCT's DBELO in cooperation with the Procurement Department. The program will become effective six months after it is approved by the Federal Transit Administration.

JCT's Small Business Enterprise Program is included as Attachment 10.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set Asides or Quotas

JCT 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, JCT will submit its triennial overall DBE goal to the Federal Transit Administration (FTA) on August 1 of the year specified by FTA. JCT's is currently assigned to FTA's DBE Group B. The active goal expiration date is September 30, 2014 that covers fiscal years 2012-2014. The next goal due date is August 1, 2014 that will cover Fiscal Years 2015-2017. Future DBE goals are due every three years.

JCT will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by FTA.

The DBE goal notice is published in the Kansas City Star or Olathe local newspapers, The Call, Dos Mundos or any other newspaper available to minority-focus media, and on JCT's website at www.thejo.com. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Methodology for Calculating JCT's Overall DBE Goal

A critical element in the success of JCT's DBE Program is the development of a sound methodology for establishing DBE goals for JCT's contracting projects. It is important that a specific methodology be developed to ensure that DBEs are reasonably matched with contract opportunities. The methodology must be flexible to allow for such variables as contractor qualifications, new DBE availability, and contract performance standards. The methodology must also be definitive enough to ensure that the goals established are reasonably attainable in relationship to JCT's construction and procurement requirements.

In accordance with federal regulations, overall goals must be set for DBE participation in Department of Transportation assisted contracts. 49 CFR Part 26 provides that the overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs to participate on DOT – assisted contracts. The goal must reflect a determination of the level of DBE participation that would be expected absent the effects of discrimination.

JCT reviews the contracting opportunities that are derived from its capital projections for the applicable federal fiscal years and estimates funding from federal sources – FTA Section 5307 formula funds, operating funds for CMAQ, JARC, and ARRA.

JCT generally follows the two-step process for developing the overall goal established by the DOT regulations established in Section 26.45(c)-(d) as follows:

1. A determination of a base figure for the relative availability of DBE's to perform the work
2. An examination of all evidence available in the jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal.

In determining the base figure for the relative availability of DBE's, JCT will establish a percentage by dividing the number of ready, willing and able DBEs in the market by the total number of ready, willing and able businesses in the same market.

To determine the number of ready, willing and able DBEs, JCT will include the DBE firms that are registered with the JCT's Vendor Information System in various trades and professions. JCT's list also includes firms that are certified with the City of Kansas City, Missouri as reflected in the City of Kansas City Disadvantaged Minority and Woman Business Enterprise Directory. In addition, the above lists are also supplemented by the State of Kansas DBE Directory, the Kansas City Minority Supplier Council's DBE Directory, the National Minority Business Directory, the Kansas City Hispanic Association Contractor Enterprise, Women in Construction, the Black Economic Union, the Hispanic Chamber of Commerce and the Black Pages Business Directory. To determine the most accurate listing of DBEs available to participate on JCT's projects, JCT will filter the various vendor lists to include only businesses that provide services that the JCT requires.

To determine the total number of ready, willing and able businesses in the market, JCT will utilize data from the Census Bureau's County Business Pattern (CPB) database. From the CBP database, JCT will only include businesses with the Kansas City market area that perform work in the areas required.

Once the base figure has been calculated, JCT will examine all evidence available in the market area to determine what adjustments, if any, need to be made to the base figure in order to arrive at the overall goal.

The following is a summary of the method JCT used to calculate this goal:

JCT staff determines what contracting opportunities would be let or monitored during the fiscal year and further established an estimate of participation in each category. This estimate is based on JCT's previous experience in various contracting opportunities.

Process

JCT submits its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, JCT will consult with county staff, the Kansas City Area Transportation Authority, the County Economic Research Institute, and minority business associations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses; the effects of discrimination on opportunities for DBEs, and JCT's efforts to establish a level playing field for the participation of DBEs.

Publication

Following this consultation, JCT will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that JCT and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, JCT will endeavor to issue this notice by June 15 of each year. The notice will include an address to which comments may be sent and an address where the proposal may be reviewed.

The notice will be published in the Kansas City Star, Olathe local newspapers, The Call (Minority-owned), Dos Mundos (Minority-owned) or any other newspaper available to minority-focus media, and on JCT's website at www.thejo.com. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

JCT's 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.

JCT will begin pursuing our overall goal on October 1 of the specified year, unless we have received other instructions from FTA. 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. JCT's goal will remain effective for the duration of the three-year period established and approved by FTA.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on JCT's Uniform Report 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 actual awards/commitments; and
2. Establish specific steps and milestones to correct the problems identified in the analysis.

Since JCT is not a state DOT, one of the largest 50 transit authorities as determined by FTA, or an Operational Evolution Partnership Plan airport or other airport designated by FAA, submission of the plan to FTA is not required. However, JCT will still perform the analysis, establish and implement a corrective action plan, and maintain information/records regarding the analysis and efforts made in its files.

Section 26.49 Transit Vehicle Manufacturers Goals

JCT in conjunction with the Kansas City Area Transportation Authority 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, JCT 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.

To ensure that the regulations are complied with as a condition of determining responsiveness JCT will review the FTA's eligible to bid list for TVMs.

Section 26.51 Meeting Overall Goals/Contract Goals

JCT will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a

prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

In an effort to facilitate race-neutral participation, JCT's efforts include, but are not limited to, the following:

1. Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contracts to subcontract portions of work that they might otherwise perform with their own forces);
2. Provide technical assistance and other services;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate; and
4. Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

JCT will use contract goals to meet any portion of the overall goal JCT 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.

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

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

If planned projects or DBE availability changes significantly, the goal will be re-evaluated and adjusted accordingly.

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, JCT 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. 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: Section 26.53(a) and (c)

JCT assures that the Project Manager in cooperation with the County Purchasing Department for the specific project will be 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 or responsible.

In those instances where “good cause” exists to terminate a DBE’s contract, JCT will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer and Purchasing Department immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

The process used to determine whether good faith efforts have been made by a bidder are as follows:

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

Johnson County Transit will ensure that all information is complete and accurate and adequately documents the bidder/offer’s good faith efforts before Johnson County Transit commits to the performance of the contract by the bidder/offeror.

Information to be submitted (Section 26.53(b)):

JCT treats bidder/offers’ compliance with good faith efforts’ requirements as a matter of responsibility.

Each solicitation, whether or not a contract goal has been established, will require the bidders/offers to submit the following information:

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

In evaluating good faith efforts, JCT will consider whether the Bidder has performed the following, along with any other relevant factors:

1. 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.
2. 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.

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.

1. Negotiating in good faith with interested DBEs.
 - a) 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.
 - b) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, include 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.
2. 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.
3. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the JCT or contractor.

4. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
5. 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

In determining whether a bidder has made good faith efforts, JCT may take into account the performance of other bidders in meeting the contract goals. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, JCT 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 obtain by other bidders, JCT may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

JCT has developed forms to capture this information; see Appendix A. These forms are to be included in the bidder/offerors' bid submittals.

Administrative Reconsideration (26.53(d))

JCT will closely review a bidder's showing of good faith efforts and bidders shall have the opportunity to have JCT reconsider a determination that the bidder's good faith efforts were insufficient.

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

Deputy Director
Office of Treasury and Financial Management
111 South Cherry, Suite 2400
Olathe, Kansas, 66061
Phone: (913) 715-0525

The reconsideration official will not have played any role in the original determination that the bidder/respondent did not make sufficient good faith efforts.

As part of this reconsideration, the bidder/respondent will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/respondent will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. JCT/county will send the bidder/respondent 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)

A prime contractor cannot terminate, release, or substitute a listed or approved DBE subcontractor without prior written consent from JCT. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

JCT will provide written consent only if the prime contractor has demonstrated good cause to terminate the DBE firm, as established by Section 26.53(f)(3) of the DBE regulations. Good cause includes the following circumstances:

1. The listed DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. JCT has determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides written notice of its withdrawal to the prime contractor and/or JCT;
8. The listed DBE is ineligible to receive DBE credit for the type of work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
10. Other documented good cause that JCT determines compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

The prime contractor must submit a "Request for Subcontractor Modification, Replacement or Termination of Disadvantaged Business Enterprise (DBE) Project Participation" form and include any supporting documentation that demonstrates good cause for the request. This form is included in Attachment 9.

Before submitting its request to terminate or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to JCT, of its intent to request to terminate and/or substitute, and the reason for the request. The DBE has five days to respond to the prime contractor's notice and advise JCT and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why JCT should not approve the prime contractor's action.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions and/or substitutions of DBE firms put forward by bidders/offerors in negotiated procurements.

If the prime contractor fails or refuses to comply with the procedures specified, JCT's contracting officer will issue an order stopping all or part of payment/work until satisfactory action has been taken.

A sample bid specification is included in Appendix A, Attachment 15.

Section 26.55 - Counting DBE Participation

Johnson County Transit will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

JCT 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 JCT or DOT. This reporting requirement also extends to any certified DBE subcontractor. In the event of litigation or settlement of claims, JCT requires the contractor and subcontractor to maintain these records/documents until such litigation, appeals, claims or exceptions related thereto have been concluded.

JCT 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. Prime Contractors are required to submit copies of invoices from the subcontractors and copies of certified payrolls with each application for payment.

SUBPART D and E – CERTIFICATION

Section 26.81- 26.73 Certification Process

JCT is not a certifying entity. Therefore, JCT will be utilizing the Kansas Department of Transportation (KDOT), Missouri Department of Transportation (MoDOT) and the Kansas City Area Transportation Authority (KCATA) for DBE certifications. Staff has reviewed KDOTs, MoDOT's and the KCATA's procedures to ensure that they follow the certification procedures in accordance with Appendix E of 49 CFR Part 26.

Section 26.81 Unified Certification Programs

JCT is a member of a Unified Certification Program (UCP) administered by the Kansas City Area Transportation Authority (KCATA). KCATA's UCP meets all of the requirements of this

section. JCT is also associated with the Kansas Department of Transportation (KDOT) and Missouri Department of Transportation (MoDOT) UCP and will use and count for DBE credit only those DBE firms certified by KDOT, MoDOT or the KCATA.

JCT will utilize the Kansas City Area Transportation Authority for DBE certification and for directory development. JCT will work closely with the Kansas City Area Transportation Authority's Disadvantage Business Enterprise Liaison, Ms. Denise Bradshaw Adams, to ensure that these cooperative efforts are maintained. Ms. Adams' contact information is as follows:

Ms. Denise Bradshaw Adams, Contracting/Supplier Diversity Coordinator
Kansas City Area Transportation Authority
1350 East 17th Street
Kansas City, MO 64108
(816) 346-0224
dbradshaw@kcata.org

Section 26.83-26.91 Procedures for Certification Decisions

JCT is not a certifying entity. Any firm or complainant may appeal a UCP's 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, 7th Floor
Washington, D.C. 20590

JCT will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting. Resort to this system is not a remedy a firm need exhaust before making a certification appeal to DOT under 26.89.

Section 26.85 Denials of Initial Requests for Certification

Since JCT is not a certifying entity; the Kansas Department of Transportation and the Missouri Department of Transportation, MoDOT and the Kansas City Area Transportation Authority Certification processes and therefore, Denials Policy shall apply.

Section 26.87 Removal of a DBE's Eligibility

Since JCT is not a certifying entity; the Kansas Department of Transportation and the Missouri Department of Transportation, MoDOT and the Kansas City Area Transportation Authority Certification processes and therefore, Removal Policy shall apply.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

JCT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law.

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

Monitoring Payments to DBEs

Johnson County Transit 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 Johnson County Transit or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Johnson County Transit 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.

Confidentiality

JCT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

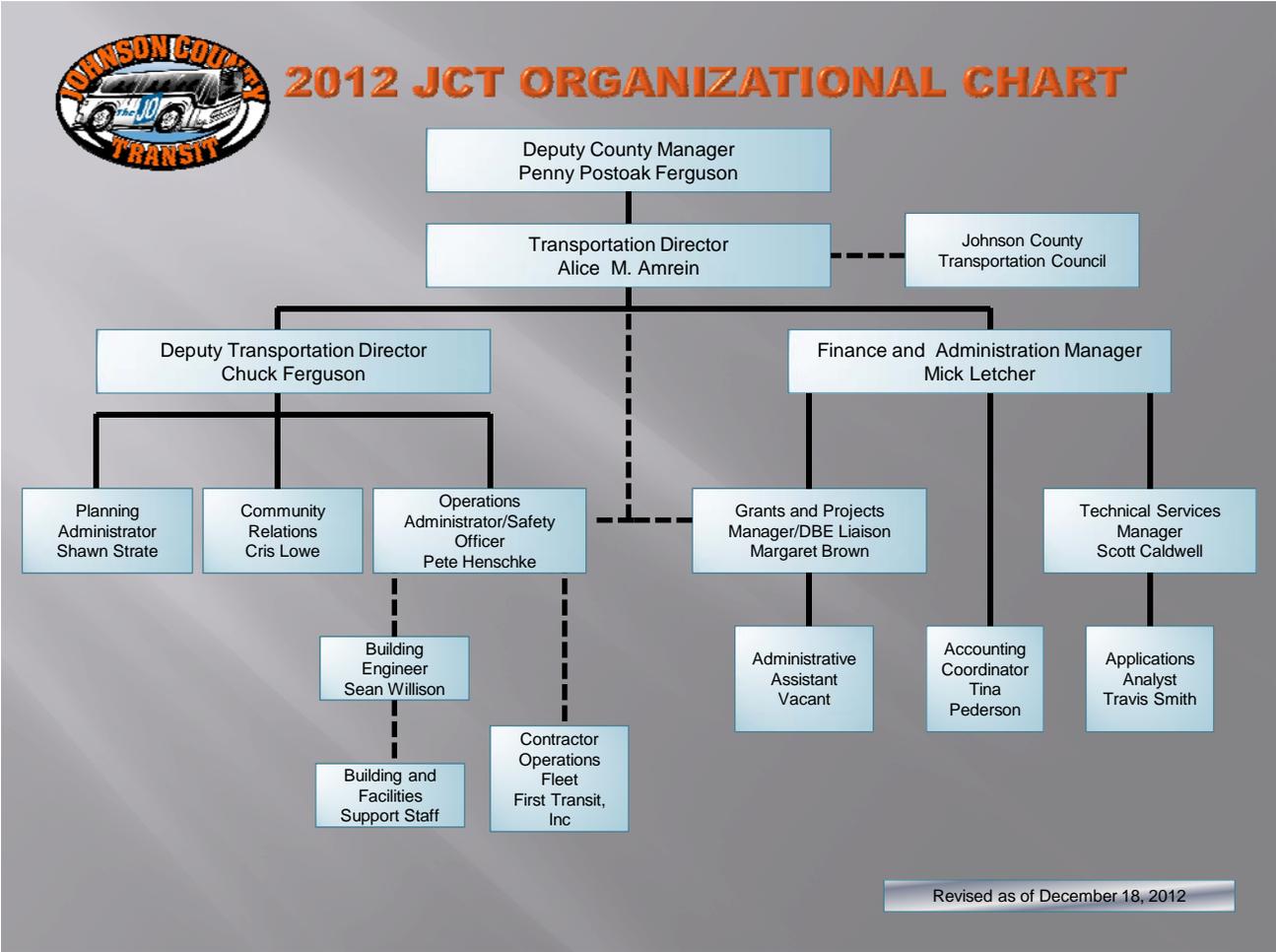
Appendix A - ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	Instructions on how to access DBE Directories
Attachment 3	Monitoring and Enforcement Mechanisms/Legal Remedies
Attachment 4	Sample Goal Setting Methodology
Attachment 5	Demonstration of Good Faith Efforts: DBE Utilization Form
Attachment 6	Demonstration of Good Faith Efforts: Letter of Intent and Affirmation
Attachment 7	Demonstration of Good Faith Efforts DBE Schedule of Participation
Attachment 8	Demonstration of Good Faith Efforts: DBE Participation Response Form
Attachment 9	Request for DBE Modification, Replacement or Termination
Attachment 10	JCT Small Business Program
Attachment 11	Small Business Enterprise Utilization Form
Attachment 12	Small Business Enterprise Letter of Intent and Affirmation
Attachment 13	Small Business Enterprise Schedule of Participation
Attachment 14	Small Business Enterprise Participation Response Form
Attachment 15	Sample Bid Specification
Attachment 16	DBE Regulation, 49 CFR Part 26

APPENDIX A

Attachment 1

Johnson County Transit
 Organization Chart



APPENDIX A

Attachment 2

DBE Directory

JCT utilizes the directory established and maintained by the Kansas Department of Transportation (KDOT), the Missouri Department of Transportation (MoDOT) and the Kansas City Area Transportation Authority (JCT). The directories identify all firms eligible to participate as DBEs and include the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform. The directories are revised annually. A copy of the JCT, MoDOT and KDOT directories are available for review at Johnson County

JCT makes the directories available or provides the link to the MoDOT and KDOT directories on its website at www.thejo.com. A copy of the directories can also be provided by JCT's DBE Liaison identified in JCT's organizational chart.

KDOT's website is located at <http://www.ksdot.org/divadmin/civilrights/> and MoDOT's website is located at www.modot.mo.gov/ecr/index.htm.

Johnson County Transit makes information available to the public via public notices, bid solicitation notices and information to the minority business associations(s) etc. If information is requested by a DBE related to service, potential solicitations for services or other miscellaneous issues, the DBE Liaison Officer will respond to their questions within two working days.

Appendix A

Attachment 3 **Monitoring and Enforcement Mechanisms/Legal Remedies**

JCT has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. County Purchasing Policy 110.220 allows for the suspension or debarment of vendors for cause in certain situations and the County would apply this policy as appropriate.
3. Termination for Cause, Convenience and Lack of Funds pursuant to the terms of the contract.

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

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001.

Appendix A

Attachment 4

Example DBE Goal Setting Methodology

Johnson County Transit (JCT) utilized the following methodology in calculating its FY 2012-2014 DBE goal.

JCT researched the number of types of ready, willing and able DBEs in the Kansas City metro area market listed in the DBE Directory provided by the Kansas City Area Transportation Authority, on the Kansas Department of Transportation Website at www.ksdot.org and on the Missouri Department of Transportation website at www.modot.state.mo.us. to arrive at a relative availability of DBEs in the Kansas City metro area market. These DBEs were listed for providing transportation and professional services, materials and supplies, and planning services for projects in Johnson County.

JCT divided the number of DBEs in the Kansas City metro area market by the number of all businesses identified as providing those services according to the Census Bureau's County Business Pattern database and local phone directory listings for Johnson and Wyandotte counties in Kansas and Clay, Jackson and Platte counties in Missouri.

Reference was made to the bidders list to determine the number of DBEs that have previously bid or quoted on DOT assisted prime contracts or subcontracts.

The county will adjust the base figure, when necessary, based on all evidence available for the Kansas City metro area.

The goal as a percentage of all DOT funds - 13.94%

Johnson County Transit will strive to achieve the 13.94% figure for the Fiscal Years 2012-2014. Adjustments will be made at the end of the year according to the ability of achieving the 13.94% goal.

Johnson County Transit (JCT) estimates that, in meeting its overall goal of 13.94, it will obtain 13.94% through race conscious measures. JCT based those figures on our recent experience in FTA funded projects and the level of DBE participation.

Appendix A

Attachment 5

Disadvantaged Business Enterprise Utilization Form

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to a minimum of _____ % DBE utilization on this contract.

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

Appendix A

Attachment 6

Letter of Intent and Affirmation

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Appendix A

Attachment 7

Schedule of Participation by DBE Firm

DBE Firm #1

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Description of Work _____

Dollar Value

Confirmation by DBE Firm #1

Firm Name: _____

Signature: _____

Title: _____

Date: _____

Telephone: _____

DBE Firm #2

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Description of Work _____

Dollar Value

Confirmation by DBE Firm #2

Firm Name: _____

Signature: _____

Title: _____

Appendix A

Attachment 8

DBE Participation Response Form

We will participate in this contract. By signing below, we acknowledge that this form will confirm our participation in the contract if selected by Johnson County or its designee for this project.

TYPE OF SERVICE OR SUPPLIES: _____

We cannot participate in this contract.

Company Address: _____

Phone Number: _____ Fax Number: _____

E-mail: _____

Print Name of Business Owner

Signature of Business Owner

DATE: _____

Please fax your completed form by (date) _____ with a copy of your DBE Certification to Alice M. Amrein, Transportation Director at (913) 715-2475.

Appendix A

Attachment 9

**REQUEST FOR MODIFICATION, REPLACEMENT OR TERMINATION
OF DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROJECT PARTICIPATION**

This form must be submitted to request substitutions for a DBE listed in the Schedule of Participation By Contractor and Subcontractors form submitted as part of Contractor's Bid Documents as amended by any Change Orders or previously approved Requests for Modification/Substitution. This executed document shall be an amendment to the Contractor's DBE utilization plan.

CONTRACTOR _____

ADDRESS _____

PROJECT NUMBER AND NAME _____

- 1. As the duly authorized representative of the above Contractor, I am authorized to request this substitution or modification on behalf of the Contractor and hereby request that the Johnson County Transit (JCT) recommend or approve:

_____ SUBSTITUTION OF DBE FIRM

Name of Current DBE Firm to Be Removed _____

Scope of Work _____

Contracted Amount \$ _____ Amount of Work Completed To Date \$ _____

Name of Proposed DBE Firm _____

Scope of Work _____

Amount of Proposed Work \$ _____ Date Scheduled To Begin Work _____

_____ MODIFICATION OF THE AMOUNT OF WORK BY DBE FIRM

Name of DBE Firm _____

Current % of Contract Commitment _____ Changed % of Contract Commitment _____

- 2. This Substitution/Modification is necessary because (check all applicable)

_____ The DBE Subcontractor failed or refuses to execute a written contract.

_____ The DBE Subcontractor failed or refuses to perform the work of its normal industry standards without good cause and that failure or refusal of the DBE is not a result of bad faith or discriminatory action of the Contractor.

- _____ The DBE Subcontractor failed or refuses to comply with reasonable, non-discriminatory bonding requirements.
- _____ The DBE Subcontractor has become bankrupt, insolvent, or exhibits credit unworthiness (supporting documentation is attached).
- _____ The DBE Subcontractor has committed a material default or breach of its contract.
- _____ The DBE Subcontractor has voluntarily withdrawn from the project (DBE's written notice of withdrawal is attached).
- _____ The DBE owner has died or has become disabled and is unable to complete its work on this Project.
- _____ A Change Order and/or Amendment of the Project was issued that modifies the amount Contractor is to be compensated and correspondingly impacts the amount of compensation due to the DBE Subcontractor.

3. I affirm that written notice has been given to the DBE Subcontractor of Contractor's intent to request a substitution or modification (copy attached) and the DBE Subcontractor has been given five (5) business days to respond to the notice (a copy of DBE firm's response is attached).

EXCEPTION: If required in a particular case as a matter of public necessity (e.g., safety) the response period may be shortened.

4. The following is a narrative summary of Contractor's good faith efforts (as listed in JCT's Bid Documents) exhausted in attempts to substitute the DBE firm named above with other qualified, certified DBE firms for the listed scope of work or any other scope of work on the project. Supporting documentation is attached.

5. Contractor hereby affirms that it has not intentionally attempted to evade the requirements of the Contract or the DBE Program and it is in JCT's best interest to approve this Request for Substitution or Modification. Additional documentation will be presented when requested by JCT in order to make its determination.

Submitted By:

Approved By:

 Contractor's Authorized Representative

 Johnson County Transit's Authorized Representative

 Title

 Title

 Date

 Date

Appendix A

Attachment 10

Johnson County Transit

SMALL BUSINESS ENTERPRISE (SBE) PROGRAM

A. Objective (49 CFR Part 26.39)

Johnson County Transit is committed to meeting its overall goal by using a mixture of race conscious and race neutral means of facilitating DBE participation. Any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contract that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts) it is considered race neutral.

JCT's Small Business Enterprise (SBE) Program is a race-neutral program for projects funded by the Federal Transit Administration (FTA). The following strategies will be implemented to obtain race neutral participation.

1. Unbundling. The JCT, where feasible, will continue to "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The JCT will continue to review DOT-funded solicitations to determine whether portions of the project could be "unbundled" or bid separately. Similarly, JCT will encourage its prime contractors or prime consultants, where feasible, to unbundle contracts to facilitate participation by small businesses.
3. Business Development Opportunities. JCT in conjunction with the Kansas City Area Transportation Authority (KCATA) works closely with the Missouri Regional Certification Committee (MRCC), metropolitan minority/women organizations and local agencies to coordinate outreach activities to assist DBEs in accessing Prime Contractors and to educate small and minority businesses on how to do business with JCT and notify them of any upcoming opportunities.
4. In addition, JCT electronically communicates bid proposals to all bidders including minority/small business community organizations, trade organizations, area Chambers of Commerce, and known DBE firms on its bidder's list and those found in the MRCC database.
5. Encourage prime contractors to subcontract portions of work normally done by their own forces, when subcontractors submit a lower quote.
6. Select solicitations, times for the presentation of bids, quantities and specifications, and delivery schedules to facilitate small business participation.
7. Circulate a pamphlet to SBEs at outreach activities that discloses upcoming contracting opportunities.

8. Utilize the directory of SBEs that will be developed by MODOT and posted on their website. JCT will include the link to this directory on its website and include it in bid solicitation documents, outreach pamphlets, etc.

B. Definitions

1. *Small Business.* 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. 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).
2. *Disadvantaged Business Enterprise.* A for-profit small business as defined by the SBA –
 - 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) described in 49 CFR Part 26. The current PNW cap is \$1.32 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 Missouri Regional Certification Committee (MRCC) under the regulations in 49 CFR Part 26.

For the purposes of the small business element of JCT's 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 DOT-assisted contracts.

C. Certification and Verification Procedures

Firms must meet the small business requirements established under the Small Business Administration (SBA) size standards, contained in 13 CFR Part 21.101-201. Specifically, JCT accepts the SBA size standards as outlined in www.sba.gov. The JCT will accept the following certifications for participation in the small business element of the Authority's DBE Program with applicable stipulations:

- i. MRCC DBE Certification. DBE certification by the MRCC 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 a Certifying Partner of the Missouri Regional Certification Committee under the policy and procedures established by the Missouri Unified Certification Program (UCP). These firms will not need to submit a SBE application.

- ii. MRCC Small Business Enterprise (SBE) Program Declaration of Certification. Other firms seeking certification as a SBE must submit this form. This notarized certification shall be accompanied by copies of the corporate tax returns for the most recent three-year period indicating gross receipts. JCT shall review and make eligibility determinations based on the Declaration of Certification.
- iii. SBA 8(a) Business Development Certification. This certification, as described in 13 CFR Parts 121 and 124, will require submittal of three years of business tax returns.
- iv. A small business that provides evidence at the time of a solicitation submittal that it qualifies as a small business concern for the specific task to be performed. Such evidence can be provided by either of the appropriate following means:
 1. A copy of business tax returns for the most recent three-year period indicating the gross receipts; or
 2. If the SBA uses the number of employees to determine small business eligibility, a copy of the firm's payroll statement indicating the average annual employment for the most recent year.

D. Outreach Efforts

The JCT is committed to minimizing the barriers to participation in JCT's contracts to all small business concerns. To provide support to the small business concerns, JCT will

1. Promote small business opportunities at public events hosted by community organizations advocating small and minority businesses.
2. Notify small businesses of upcoming bid opportunities through postings on its website at www.thejo.com to known small business concerns, area chambers of commerce and community organizations.
3. Partnering with other MRCC partners in their small business programs to maximize available personnel and resources.

E. Implementation Schedule

JCT's program will be implemented and monitored by JCT's DBELO in cooperation with the County Purchasing Manager and JCT's Project Managers. The JCT will implement this small business element within six months after approval of the program by the Federal Transit Administration (FTA).

F. Assurances

The JCT makes the following assurances:

1. JCT's 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 DOT-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 those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.

Appendix A

Attachment 11

Small Business Enterprises

Small Business Enterprise (SBE) Utilization Form

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to a minimum of _____ % SBE utilization on this contract.

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____

(Signature)

Title

Appendix A

Attachment 12

Letter of Intent Form

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of SBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by SBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.
(Submit this page for each SBE subcontractor.)

Appendix A

Attachment 13

Schedule of Participation by Small Business Firm

Small Business Firm #1

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Description of Work _____

Dollar Value

Confirmation by Small Business Firm #1

Firm Name: _____

Signature: _____

Title: _____

Date: _____

Telephone: _____

Small Business Firm #2

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Description of Work _____

Dollar Value

Confirmation by Small Business Firm #2

Firm Name: _____

Signature: _____

Title: _____

Appendix A

Attachment 14

Small Business Enterprise Response Form

Date: _____

Telephone: _____

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each small business firm subcontractor.)

Appendix A

Attachment 15
Sample Bid Specification

Appendix A

Attachment 16

Disadvantage Business Enterprise (DBE)
Regulation, 49 CFR Part 26