



CSPDC

Central Shenandoah Planning District Commission

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Adopted by the CSPDC Board of Commissioners

on Date TBD

Effective Date: October 1, 2023

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Central Shenandoah Planning District Commission

Objectives / Policy Statement (§26.1, 26.23)

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

It is the policy of the CSPDC to ensure that DBEs, as defined in Part 26, have an opportunity to receive and participate in DOT-assisted contracts. It is also CSPDC policy to –

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

The Executive Director of the CSPDC has been delegated as the DBE Liaison Officer. In that capacity, Bonnie Riedesel 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 CSPDC in its financial assistance agreements with the Department of Transportation.

The CSPDC has disseminated this policy statement to the Board of Commissioners and all the components of our organization. We have included this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.



Bonnie Riedesel, Executive Director



Date

SUBPART A – GENERAL REQUIREMENTS

Objectives (§§26.1, 26.23)

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

Applicability (§26.3)

The Central Shenandoah Planning District Commission (CSPDC) 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 TEA-21, Pub. L. 105-178, Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59; or Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141. This program applies to any contracts that utilize DOT financial assistance.

Definitions (§26.5)

CSPDC has adopted the definitions contained in Section 26.5 of Part 26 for this program.

Non-discrimination Requirements (§26.7)

CSPDC 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, CSPDC 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.

Record-Keeping Requirements (§26.11)

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

CSPDC will report DBE participation to the relevant operating administration – FTA- using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE Regulation.

DBE reports will be submitted on a semi-annual basis. The submissions will occur on June 1 and December 1 in TrAMS, the DBE reporting module.

Bidders List: 26.11(c)

CSPDC will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals.

The bidder list includes the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

- The Commonwealth of Virginia has a Unified Certification Program and disseminates DBE information on its website with regular updates. CSPDC uses the Commonwealth of Virginia's procurement system to reach certified DBE providers using the NAICS codes.
- A contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts;
- A notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to the recipient, etc.
- The System for Award Management (SAM) is utilized by CSPDC to obtain addresses of small businesses in the region for expanding CSPDC bidding lists. The SAM web address is: <http://sam.gov/>

Assurances (§26.13)

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

Federal Financial Assistance Agreement Assurance. As required by 49 CFR § 26.13(a):

CSPDC shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the [Recipient] 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 1983 (31 U.S.C. 3801 *et seq.*).

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

Contract Assurance: 26.13b

The CSPDC ensures 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

DBE Program Updates (§26.21)

As the recipient of an award of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Policy Statement (§26.23)

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

DBE Liaison Officer (DBELO) (§26.25)

We have designated the following individual as our DBE Liaison Officer:

Bonnie S. Riedesel, Executive Director
Central Shenandoah Planning District Commission (CSPDC)
112 MacTanly Place, Staunton, VA 24401
540-885-5174, bonnie@cspdc.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that CSPDC complies with all provisions of 49 CFR Part 26. An organization chart displaying the DBELO's 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 the program managers and other appropriate staff. 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 all departments 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) and monitors results
6. Analyzes CSPDC's progress toward goal attainment and identifies ways to improve progress
7. Participates in pre-bid meetings
8. Advises the Board of Commissioners on DBE matters and achievement
9. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts
10. Provides DBEs with information and assistance in preparing bids and obtaining bonding and insurance
11. Plans and participates in DBE training seminars
12. Acts as liaison to the Uniform Certification Process in Virginia
13. Provides outreach to DBEs and community organizations to advise them of opportunities
14. Provides CSPDC with information on certified DBEs

DBE Financial Institutions (§26.27)

It is the policy of CSPDC to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. At the current time, the Virginia DMBE does not list any financial institutions as DBEs.

Prompt Payment Mechanisms (§26.29)

Prompt Payment: 26.29(a)(b)

CSPDC will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from CSPDC. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's 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 CSPDC. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29(d)

CSPDC has established the following procedures to monitor and enforce that prompt payment and return of retainage are occurring.

1. Request verification from prime contractors that subcontractors were paid within the timeframe specified in 26.29.
2. Hold payment to the prime contractor until the subcontractor is paid.
3. If payments were still not made, CSPDC would consider any future bids non-compliant due to a lack of good faith.

Directory (§26.31)

CSPDC utilizes the Commonwealth of Virginia's Department of Minority Business Enterprise (DMBE) directory identifying all firms eligible to participate as DBEs. The directory is online and lists the firm's name, address, phone number, certification number, and the type of work the firm has been certified to perform as a DBE. The online directory is updated as applications are received and approved. The State makes the directory available at – <https://www.sbsd.virginia.gov/directory/> CSPDC will ensure that DBE eligibility is verified in the directory.

Overconcentration (§26.33)

CSPDC has not identified that overconcentration exists in the types of work that DBEs perform. CSPDC will continue to evaluate the DBE Program to determine if overconcentration exists.

Business Development Programs (§26.35)

CSPDC has not elected to establish a specific business development program as part of the DBE Program.

Monitoring and Enforcement Mechanisms (§26.37)

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

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by a written certification that the CSPDC has reviewed contracting records and monitored work sites on which DBEs are performing, and will occur for each contract/project on which DBEs are participating.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award, and compare these payments (attainments) to DBE commitments under the contract.

Small Business Participation (§26.39)

The goal of the CSPDC is to facilitate competition by small business concerns by taking reasonable steps to eliminate obstacles to their participation in CSPDC contracting opportunities per 49 CFR Part 26 Section 39.

CSPDC is committed to encouraging small business participation in bidding contracts for DOT-assisted projects. In implementing this element of 49 CFR Part 26, CSPDC will use the definition of small business as defined in 13 CFR Part 121 Small Business Size Regulations.

All aspects of CSPDC's program to foster participation in contracting opportunities will be race-neutral.

To facilitate competition by small business concerns, CSPDC will make efforts to expend a portion of DOT-assisted contracts with small businesses, per 49 CFR Part 26 Section 39, using the following strategy:

- CSPDC will ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
- CSPDC will avoid unnecessary or unjustified bundling of contract requirements that may place a contract outside the size for participation by small businesses and structure a reasonable number of prime contracts to be of a size that small businesses can perform.
- CSPDC has limited subcontracting opportunities because of its relatively small size. However, where feasible, staff will work with contractor(s) to ensure that they are aware of both the DBE and Small Business elements of our program to make sure that sub-contracting opportunities are identified.

Outreach

An important part of CSPDC's small business program is its outreach activities. The relatively small size of the CSPDC transit and transportation service lends itself well to Small Business Participation. Our outreach efforts include active, effective steps to increase small business participation:

- Soliciting bids/proposals from small businesses, by responding to requests for information, and inviting participation at pre-bid and pre-proposal meetings.
- Posting bid information on the CSPDC website, and relevant locality website(s).
- Advertising solicitations in the two local newspapers; Staunton News Leader and the Waynesboro News Virginian.
- Posting CSPDC bid opportunities for RFP's and ITB's on EVA- Virginia's Total Electronic Procurement System website: <https://eva.virginia.gov>
- Through the "unbundling" of larger contracts, opportunities will be created for contracting with small businesses.
- Complete and detailed records will be maintained of all outreach efforts to small businesses.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas (§26.43)

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

Overall Goals (§26.45)

In accordance with Section 26.45, CSPDC will submit its triennial overall DBE goal to FTA on August 1 of each third year specified by FTA.

CSPDC will establish project-specific DBE goals as directed by FTA. If directed, the project goal will cover the entire length of the project to which it applies.

The process generally used by CSPDC to establish overall DBE goals is as follows:

Step 1: CSPDC begins the goal-setting process by determining a base figure for the relative availability of DBEs. CSPDC is in an area that has a limited number of DBEs.

Using the DBE Directories and Census Bureau Data, determine the number of ready, willing, and able DBEs in the market from the DMBE DBE directory. Using the Census Bureau's County Business Pattern (CBP) database, determine the number of all ready, willing, and able businesses available in the market that perform work in the same NAICS codes. Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in our market.

Step 2. Once CSPDC has calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal.

Evidence to be considered when adjusting the base figure:

- Availability of DBEs and the current capacity of DBEs to perform work in our DOT-assisted contracting program, as measured by the volume of work DBEs may have performed in recent years.

CSPDC's overall goal will be expressed as a percentage of all FTA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that CSPDC will expend in FTA-assisted contracts in the three forthcoming fiscal years. CSPDC is required to submit an overall goal to FTA. The overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

CSPDC will include a description of the methodology used to establish the goal, including the base figure and the evidence with which it was calculated, the adjustments made to the base figure, and the evidence CSPDC relied on for the adjustments, with the overall goal submission.

Timely submission and operating administration approval of the overall goal is a condition of eligibility for DOT financial assistance.

Public Participation

In establishing an overall goal, CSPDC must provide for public participation.

Before establishing the overall goal, CSPDC may consult with the minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.

Following this consultation, CSPDC will publish a notice in local newspapers of the proposed overall goals, 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 CSPDC and FTA, Regional Civil Rights Officer, will accept comments on the goals for 45 days from the date of the notice. The notice will be published in print newspapers in the region in which the CSPDC operates the BRITE transit system.

Our overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

Transit Vehicle Manufacturers Goals (\$26.49)

CSPDC does not currently procure or purchase transit vehicles directly.

If this changes and the CSPDC does procure transit vehicles, the CSPDC 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, CSPDC 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.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (§26.51)

CSPDC will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. CSPDC uses the following race-neutral means to increase DBE and other Small Business participation:

1. CSPDC will consider breaking down contracts into smaller parts, where economically feasible, prorating payments and delivery schedules.
2. CSPDC will use the least complicated bid forms appropriate to each procurement solicitation and will consider adjusting time, whenever feasible, in order to minimize bidding constraints.
3. CSPDC will work closely with financial institutions, insurance and bonding companies, and prime contractors in an effort to alleviate financial barriers to participation. We will consider waiving or reducing bonding and insurance where legally possible.
4. CSPDC will provide information on business opportunities for DBEs and other Small Business participation through the use of local newspapers and other media and by periodically informing DBEs of such opportunities.
5. CSPDC will encourage the formation of joint ventures among Small Businesses, DBEs, and between disadvantaged and non-disadvantaged firms, which will provide the opportunity for Small Businesses and DBEs to gain experience.
6. CSPDC will offer information on its organization and contractual needs.
7. CSPDC will provide DBEs and Small Businesses with the opportunity to review and evaluate similar successful bid documents.
8. CSPDC will make available the DMBE directory through electronic means to the widest feasible universe of prime contractors.
9. CSPDC will hold pre-bid conferences on all major contracts to provide firms with the opportunity to have questions answered, and to provide CSPDC an opportunity to explain DBE and Small Business requirements.

Contract Goals (§26.51)(d-g)

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

CSPDC 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.)

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

Good Faith Efforts Procedures (§26.53)

Information to be submitted

CSPDC treats bidder/offers' compliance with good faith efforts requirements as a matter of responsibility. Each solicitation for which 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 participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of Good Faith Efforts

The obligation of the bidder/offers is to make good faith efforts. The bidder/offers can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The CSPDC designates the **Executive Director** as the person responsible for determining whether a bidder/offers who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

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

Administrative Reconsideration

Within five (5) days of being informed by CSPDC that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offers may request administrative reconsideration. Bidder/offers should make this request in writing to the following reconsideration official:

Program Support Specialist
112 MacTanly Place
Staunton, VA 24401
540-885-5174

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

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

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals

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

In this situation, we will require the prime contractor to obtain our approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of the payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of CSPDC to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

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

Counting DBE Participation (§26.55)

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

SUBPARTS D & E– CERTIFICATION STANDARDS AND PROCESS

Certification Process (§26.61 – 26.91)

CSPDC relies on the Virginia Department of Minority Business Enterprise to use the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

The Certification Service Area of Virginia Department of Minority Business Enterprise is responsible for the certification of eligible small, woman-, and minority-owned businesses to participate in the SWaM Procurement Initiative. This service also certifies Disadvantaged Business Enterprises (DBEs) for participation under the Virginia Unified Certification Program (as part of the federal DBE Program). Service-Disabled Veterans are also able to obtain SWaM certification upon receipt of their certification by the Department of Veterans Services and by meeting the eligibility requirements of the SWaM Program.

Certification application forms and documentation requirements can be found at www.dmbv.virginia.gov

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

Virginia Department of Small Business and Supplier Diversity (SBSD)
101 N. 14th Street, 11th Floor
Richmond, Virginia 23219
(804) 786-6585

Or visit their website at <https://www.sbsd.virginia.gov>

Unified Certification Programs (§26.81)

CSPDC is a member of a Unified Certification Program (UCP) administered by the Commonwealth of Virginia. The UCP will meet all the requirements of this section. CSPDC will use and count for DBE credit only those DBE firms certified by the Virginia UCP.

The following is a description of the UCP:

The Uniform Certification Program for the Commonwealth was developed to bring effectiveness and efficiencies to the various certification programs underway by state agencies and institutions. For greater customer convenience, the programs were merged and housed within the DMBE. DMBE continues to enter into various agreements to provide DBE certification to the counties, airports, cities, and other recipients of U.S. DOT funds.

Procedures for Certification Decisions (§§26.83-26.91)

CSPDC will follow the certification process of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. Virginia's UCP's certification procedures are available at <https://www.sbsd.virginia.gov> at the DBE Certification tab.

Any firm or complainant may appeal Virginia's 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

CSPDC will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation (§26.109)

Confidentiality

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

The Virginia Freedom of Information Act (Virginia Code 2.2-3700, et seq.) provides that public records are generally available for inspection and copying. However, Virginia Code 2.2-5232 provides that "trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction" are not subject to the Virginia Freedom of Information Act. The bidder, offeror or contractor must (i) invoke these protections prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

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

Monitoring Payments to DBEs

We 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 CSPDC or FTA or US DOT. This reporting requirement also extends to any certified DBE subcontractor.

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

ATTACHMENTS

Attachment 1: CSPDC Organization Chart

Attachment 2: Forms 1 & 2 for Demonstration of Good Faith Efforts

Attachment 3: Bidder's List Information

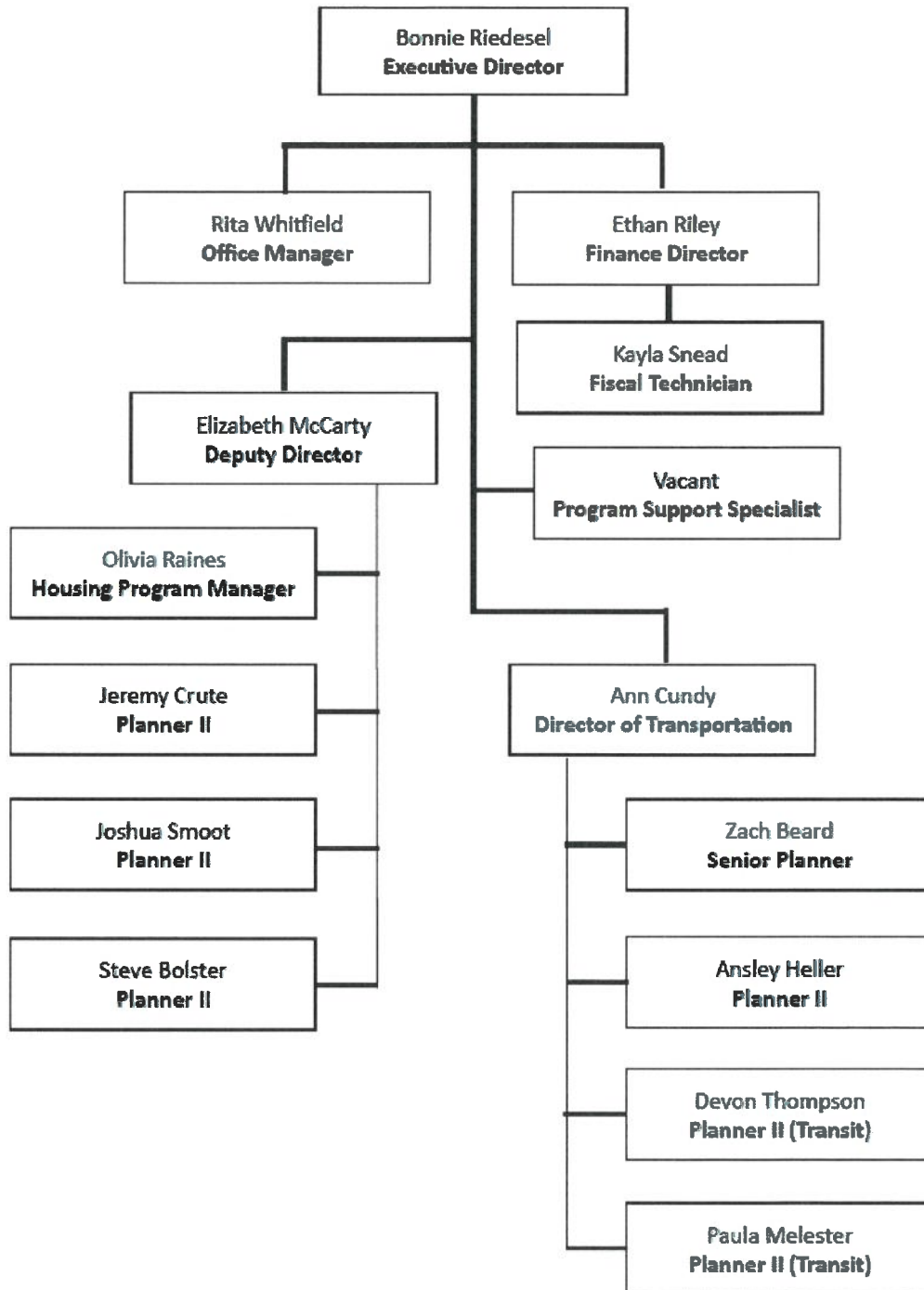
Attachment 4: Overall Goal Calculation

Attachment 5: Resolution from CSPDC Board of Commissioners

DBE Regulation, 49 CFR Part 26: Federal regulations setting out the Department of Transportation's DBE requirements in their entirety can be viewed online on the DOT website at [49 CFR Part 26](#)

ATTACHMENT 1

CSPDC Organizational Chart
(Effective July 1, 2023)



ATTACHMENT 2

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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 _____
(Signature)

(Title)

FORM 2: LETTER OF INTENT

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)

ATTACHMENT 3

CSPDC Bidder List Information

The Central Shenandoah Planning District Commission maintains a Bidders List with information about the minority and small business status of firms bidding on/receiving contracts/purchases with the CSPDC. Please identify your business below, and then complete the Bidders List minority status and income information about your business, by checking on the applicable line. Information provided will be confidential and will be used only by the CSPDC to maintain bidders' records as required per 49 CFR Part 26.11.

Name of Business: _____

City/State of Business Location: _____

Type of Business: _____

Age of Business (years), Since Establishment: _____

1. Business owned (51% or more) by a minority? _____ Yes _____ No

(Minorities include: Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the Small Business Administration)

2. Is business certified as a Disadvantaged Business Enterprise? _____ Yes _____ No

If yes, when was the business certified, and by which agency?

3. Is business certified as a Small Business? _____ Yes _____ No

Annual Gross Income of Business

- _____ Less than \$500,000
- _____ \$500,000 to \$1 million
- _____ \$1 million to \$2 million
- _____ \$2 million to \$5 million
- _____ \$5 million to \$10 million
- _____ \$10 million to \$15 million
- _____ \$15 million to \$19.5 million
- _____ \$19.5 million to \$26.29 million

ATTACHMENT 4
Overall Goal Calculation

The Central Shenandoah Planning District Commission (CSPDC)'s overall goal for the following time period (_____) to (_____) is the following: _____% of the Federal financial assistance we will expend in DOT-assisted contracts during the time period mentioned above.

\$_____ is the dollar amount of DOT-assisted contracts that the CSPDC expects to award during Federal Fiscal Year _____. This means that the CSPDC has set a goal of expending \$_____ with DBEs during this Federal Fiscal Year.

Methodology Used to Calculate Overall Goal

Step 1: Base Figure

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

Number of ready, willing, and able DBEs in the market	
Total number of all ready, willing, and able businesses in the market (DBE and non-DBE)	

Divide total DBEs by total businesses in the market to establish the base figure.

Base Figure: _____

The data source or demonstrable evidence used to derive the numerator was:

The data source or demonstrable evidence used to derive the denominator was:

Step 2: Adjustments

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible, the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by ____%.

The data used to determine the adjustment to the base figure was:

The reason we chose to adjust our figure using this data was because:

From this data, we have adjusted our base figure to: _____

Step 3: Public Participation

We published our goal information in these publications

_____ Staunton News Leader

_____ Waynesboro Virginian

We received comments from these individuals or organizations:

Summaries of these comments are as follows:

Our responses to these comments are as follows: