
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Cape Fear Public Transportation Authority

Wave Transit

August
2024

TABLE of CONTENTS

POLICY STATEMENT		3
Section 26.1, 26.23	Objectives/Policy Statement	3
SUBPART A – GENERAL REQUIREMENTS		4
Section 26.1	Objectives	4
Section 26.3	Applicability	4
Section 26.5	Definitions	4
Section 26.7	Non-discrimination Requirements	4
Section 26.11	Record Keeping Requirements	4
Section 26.13	Federal Financial Assistance Agreement	5
SUBPART B - ADMINISTRATIVE REQUIREMENTS		6
Section 26.21	DBE Program Updates	6
Section 26.23	Policy Statement	6
Section 26.25	DBE Liaison Officer (DBELO)	6
Section 26.27	DBE Financial Institutions	7
Section 26.29	Prompt Payment Mechanisms	7
Section 26.31	Directory	7
Section 26.33	Overconcentration	7
Section 26.35	Business Development Programs	7
Section 26.37	Monitoring and Enforcement Mechanisms	8
Section 26.39	Fostering Small Business Participation	8
SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING		9
Section 26.43	Set-asides or Quotas	9
Section 26.45	Overall Goals	9
Section 26.47	Goal Setting and Accountability	9
Section 26.49	Transit Vehicle Manufacturers Goals	10
Section 26.51(a-c)	Breakout of Estimated Race-Neutral & Race-Conscious Participation	10
Section 26.51(d-g)	Contract Goals	10
Section 26.53	Good Faith Efforts Procedures	10
Section 26.55	Counting DBE Participation	13
SUBPART D – CERTIFICATION STANDARDS		13
Section 26.61 – 26.73	Certification Process	13
SUBPART E – CERTIFICATION PROCEDURES		14
Section 26.81	Unified Certification Programs	14
Section 26.83	Procedures for Certification Decisions	14
Section 26.85	Interstate Certification	15
Section 26.87	Removal of a DBE’s Eligibility	15
Section 26.89	Certification Appeals	15
SUBPART F – COMPLIANCE AND ENFORCEMENT		16
Section 26.109	Information, Confidentiality, Cooperation	16
ATTACHMENTS		16

UNITED STATES DEPARTMENT OF TRANSPORTATION

DBE PROGRAM-49 CFR PART 26

Cape Fear Public Transportation Authority
for **Wave Transit**
Wilmington NC

POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

The Cape Fear Public Transportation Authority (hereafter 'Wave Transit') has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26. Wave Transit has received Federal financial assistance from USDOT, and as a condition of receiving this assistance, Wave Transit has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Wave Transit to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-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 USDOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Jonathan Dodson, Deputy Director Director, Wave Transit, 505 Cando Drive Wilmington, NC 28405, (910)-202-2057 has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Director of Planning and Development 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 Wave Transit in their financial assistance agreements with the US Department of Transportation.

Wave Transit has disseminated this policy statement to its board members and all of the components of the organization. Wave Transit will distribute this statement to DBE and non-DBE business communities that perform work for Wave Transit on USDOT-assisted contracts in the following manner:

1. *This Policy statement will be made available at pre-bid conferences, and/or outreach meetings conducted by Wave Transit.*
 2. *Copies of the Policy statement will be mailed to all of the agencies/organizations consulted during the development of the DBE goal methodology. This will make Wave Transit's policy available to additional small, minority, and women business development agencies.*
-
-

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

Wave Transit is a recipient of federal transit funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

Wave Transit will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

Wave 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, Wave 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

Reporting to USDOT: 26.11(b)

Wave Transit will report DBE participation to USDOT as follows:

Wave Transit will submit bi-annually the Uniform Report of DBE Awards or Commitments and Payments, as modified for use by FTA recipients. Submission of the first half of the report (10/1 - 3/31) is due June 1 and the second half of the report (4/ 1- 9/30) is due December 1.

Bidders List: 26.11(c)

Wave Transit will create and maintain a bidders' list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

Wave Transit will collect this information in the following ways:

- a. *Include a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.*
- b. *Include a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report the approved information directly to the DBELO for inclusion in the bidder's list.*
- c. *Request the above information from all potential bidders who contact Wave Transit seeking bid information, and/or who attend pre-bid meetings, conferences, etc., at Wave Transit.*

Section 26.13 Federal Financial Assistance Agreement

Wave Transit has signed the following assurances, applicable to all USDOT-assisted contracts and their administration:

Assurance: 26.13(a)

The Cape Fear Public Transportation Authority (hereafter 'Wave Transit') shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract; or in the administration of its DBE Program or the requirements of 49 CFR Part 26. Wave Transit shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. Wave Transit's DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, 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 Wave Transit of its failure to carry out its approved program, the Department may impose sanction as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

Contract Assurance: 26.13b

Wave Transit will ensure that the following clause is placed in every USDOT-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 USDOT 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

Wave Transit will continue to carry out this program until all funds from USDOT financial assistance have been expended, and will provide to USDOT 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)

Wave Transit has designated the following individual as its DBE Liaison Officer:

Jonathan Dodson, Deputy Director, Wave Transit, 505 Cando Drive, Wilmington, NC 28405, (910)-202-2057

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Wave Transit complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to Wave Transit concerning DBE program matters. 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 other appropriate officials. The DBELO will administer the program. 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 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 attainment) and identifies ways to improve progress.*
- 6. Analyzes Wave's progress toward attainment and identifies ways to improve progress.*
- 7. Participates in pre-bid meetings.*
- 8. Advises the CEO\governing body on DBE matters and achievement.*
- 9. Chairs the DBE Advisory Committee.*
- 10. Participates in pre-bid meetings.*
- 11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.*
- 12. Plans and participates in DBE training seminars.*
- 13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform*

Certification Process in North Carolina.

14. Provides outreach to DBEs and community organizations to advise them of opportunities

15. Maintains Wave Transit's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of Wave Transit 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 contract to make use of these institutions.

Section 26.29 Prompt Payment Mechanisms

Wave Transit utilizes the Finance Department to process all invoices and payments. Wave has staff dedicated solely to the payment of contractor and the tracking of retainage. The staff makes use of finance software (Macola) with accounts payable modules that track this information. Additionally, project managers are assigned to all projects, who track retainage payments and invoices within their departments.

Wave Transit will include the following clause in each USDOT-assisted prime contract:

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

Section 26.31 Directory

Wave Transit uses the North Carolina Unified Certification Program (NC UCP) DBE Directory, maintained by the North Carolina Department of Transportation (NCDOT). The Directory lists 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 as a DBE. In addition, the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The North Carolina Department of Transportation updates the Directory at least annually, and periodically, as necessary. The Directory is available for review by contacting: **Jonathan Dodson, Wave Transit, 505 Cando Drive Wilmington, NC 28405, (910)-202-2057**. The Directory may be found at <https://www.ebs.nc.gov/VendorDirectory/default.html>.

Section 26.33 Overconcentration

Wave Transit has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

Wave Transit has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

Wave Transit will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. Wave Transit will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. Wave Transit will consider similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulations, provisions, and contract remedies available to Wave Transit in the event of non-compliance with the DBE regulations by a participant in procurement activities.
3. Wave Transit will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. This will be accomplished by the following means:
 - a. *Review bid package documentation thoroughly, obtaining clarification, if necessary.*
 - b. *Review monthly reports regarding employment as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.*
 - c. *Monitor progress of payments to DBEs through monthly reports from prime contractors.*
 - d. *Monitor progress of DBEs' work through on-site visits and communication with DBEs.*
4. Wave Transit will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculation(s) can be found in Attachment 4 to this program. This section of the program will be updated on at least a triennial basis.

In accordance with Section 26.45(f), Wave Transit will submit its triennial overall goal to USDOT on August 1 of each goal year. Before establishing its overall goal, Wave Transit will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Wave Transit's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, Wave Transit will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection and comment during normal business hours at Wave Transit for 30 days following the date of the notice. Normally, Wave Transit will issue this notice by June 1 of the reporting period of the goal. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Wave Transit's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and responses, if any comments are received.

Wave Transit will begin using the overall goal on October 1 of the reporting period, unless it has received other instructions from USDOT. If Wave Transit establishes a goal on a project basis, it will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goals

Wave Transit will require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid on DOT/FTA assisted transit vehicle procurements, to certify that they have complied with the requirements of this section. Alternatively, Wave Transit may, at its discretion and with FTA approval, establish project specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program as part of Wave Transit's overall goal calculation. This section of the program will be updated when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

Wave Transit will use contract goals to meet any portion of the overall goal it 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 the overall goal that is not projected to be met through the use of race-neutral means.

Wave Transit will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. Wave Transit 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).

Wave Transit will express their contract goals as a percentage of the federal share of a USDOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder is to make good faith efforts to meet the DBE goal. The bidder 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 49 CFR Part 26.

The DBELO is responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

Information to be submitted (26.53(b))

Wave Transit treats bidders' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders 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.*

This information will be collected using the forms found in Attachment 5.

Administrative reconsideration (26.53(d))

Within five (5) days of being informed by Wave Transit that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following reconsideration official: **Mark Hairr, Executive Director, Wave Transit, 505 Cando Drive Wilmington, NC 28405, (910)-202-2035**. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder 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 will have the opportunity to meet in person with Wave Transit's administrative reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. Wave Transit will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the US Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

Wave Transit requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without Wave Transit's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to Wave Transit its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to Wave Transit prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise Wave Transit of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, Wave Transit 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. Wave Transit 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, Wave Transit will require the prime contractor to obtain prior 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, Wave Transit's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may 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 the Cape Fear Public Transportation Authority, as owner of Wave Transit, 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, including those who qualify as a DBE. A DBE contract goal of _____ percent has been established for this contract. The bidder shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder 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'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);
- (6) If the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

Wave Transit will refer all matters pertaining to certification to the North Carolina Department of Transportation in accordance with the North Carolina UCP program. The North Carolina Department of Transportation will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The North Carolina Department of Transportation will make all certification decisions based on the facts as a whole.

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

North Carolina Department of Transportation

Contractual Services Unit

1509 Mail Service Center

Raleigh, NC 27699 (919) 733-5616

<http://www.ncdot.gov/business/ocs/dbe/>

The certification application forms and documentation requirements are found in Attachment 6 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

Wave Transit is a member of the North Carolina Unified Certification Program (UCP) administered by the North Carolina Department of Transportation. The UCP will meet all of the requirements of this section. North Carolina's UCP program uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT/FTA-assisted contracts. Under the North Carolina UCP Program, only North Carolina Department of Transportation will conduct DBE certifications. To be certified as a DBE, a firm must meet all certification eligibility standards.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

Under the North Carolina UCP, the North Carolina Department of Transportation will review the eligibility of DBEs every three years, on a case-by-case basis, to make sure that they meet the standards of Subpart D of Part 26.

"No Change" Affidavits and Notices of Change (26.83(i))

Under the UCP, the North Carolina Department of Transportation requires all DBEs, every year on the anniversary of the date of the DBE's certification, to inform them, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the firm's application for certification.

The North Carolina Department of Transportation also requires all DBEs it has certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is below:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the North Carolina UCP under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$22.41 million.

The North Carolina Department of Transportation requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

The North Carolina Department of Transportation will notify all currently certified DBE firms of these obligations prior to their renewal by mail. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Denials of Initial Requests for Certification

If we deny a firm’s application or decertify it, we will follow NC guidance, which follows federal guidance. As of January 1, 2012, the North Carolina Department of Transportation will accept DBE certifications obtained by DBEs in their home states, unless it finds good cause not to accept them. If the North Carolina Department of Transportation finds good cause not to accept the certification of a DBE in its home state, the North Carolina Department of Transportation will follow the procedures as outlined in Section 26.85.

Section 26.87 Removal of a DBE’s Eligibility

In the event Wave Transit proposes to remove a DBE’s certification, Wave Transit will follow procedures consistent with 26.87. Attachment 7 to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, Wave Transit has determined that the North Carolina Department of Transportation will serve as the decision-maker in de-certification proceedings. Wave Transit has established an administrative “firewall” to ensure that the North Carolina Department of Transportation will not have participated in any way in the de-certification proceeding against the firm (including in the decision to initiate such a proceeding).

Section 26.89 Certification Appeals

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

US Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington DC 20590

The North Carolina UCP will promptly implement any USDOT certification appeal decisions affecting the eligibility of DBEs for USDOT-assisted contracting.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

Wave Transit 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, Wave Transit will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.

Monitoring Payments to DBEs

Wave Transit will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Wave Transit or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

Wave 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 states in the schedule of DBE participation.

Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.
2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet.
3. Specify the Federal fiscal year (i.e., October 1-September 30) in which the covered reporting period falls.
4. State the date of submission of this report.
5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1-March 31. If this report is due December 1, data should cover April 1-September 30. If the report is due to the FAA, data should cover the entire year.
6. Provide the name and address of the recipient.
7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include genderconscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

Section A: Awards and Commitments Made During This Period

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services,

construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the total dollar amount for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the total number of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the dollar amount awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

8(D). From the total number of prime contracts awarded in item 8(B), specify the number of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the dollar amount awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this

period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all sub contracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of sub contracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs.

9(D). From the total number of sub contracts awarded or committed in item 9(B), specify the number of sub contracts awarded or committed to DBEs.

9(E). From the total dollar amount of sub contracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of sub contracts awarded or committed to DBEs this period, provide the number of sub contracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of sub contracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of sub contracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C-H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs This Period

11-17. Further breakdown the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DBEs in 10(C). Likewise the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The “Non-Minority” category is reserved for any firms whose owners are not members of the presumptively disadvantaged groups already listed, but who are either “women” OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

Section C: Payments on Ongoing Contracts

Line 18(A-E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period.

18(C). From the total number of contracts provided in 18(A) provide the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F). Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in 18(B). Round percentage to the nearest tenth.

Section D: Actual Payments on Contracts Completed This Reporting Period

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts, and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(B) to derive this percentage. Round to the nearest tenth.

20(A)-20(E). Items 21(A)-21(E) are derived in the same manner as items 19(A)-19(E), except these figures should be based on contracts completed using Race Neutral measures.

20(C). This field is closed.

21(A)-21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

25. Phone number of the Authorized Representative.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculation; Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 5	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 6	Certification Application Forms
Attachment 7	Procedures for Removal of DBE's Eligibility
Attachment 8	Regulations: 49 CFR Part 26

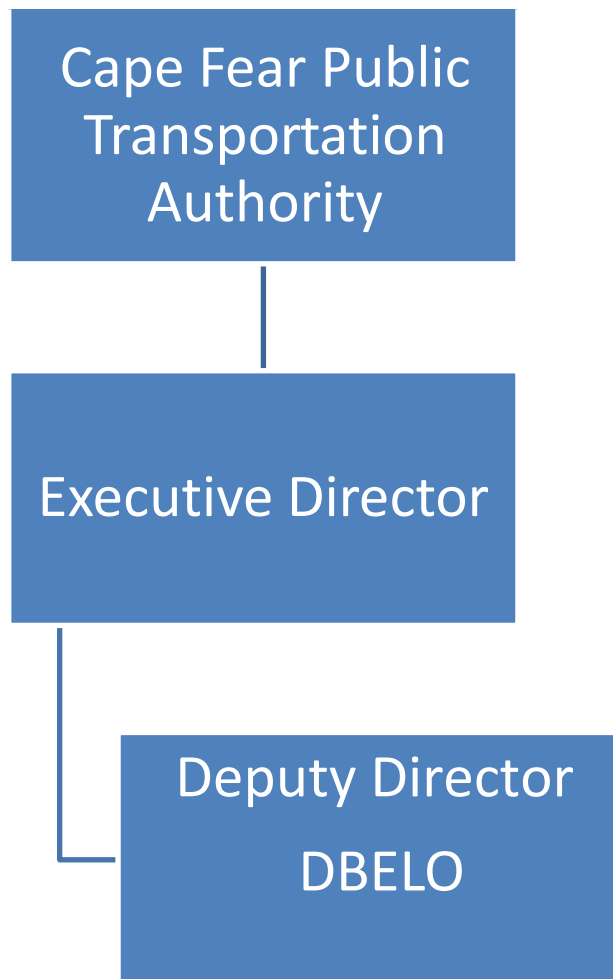
Attachment 1

Organizational Chart

Cape Fear Public Transportation Authority

Wave Transit
Wilmington, North Carolina

Organizational Chart



Attachment 2

DBE Directory

<https://www.ebs.nc.gov/VendorDirectory/default.html>

Attachment 3

Monitoring and Enforcement
Mechanisms

Cape Fear Public Transportation Authority

1. All participants are hereby notified that pursuant to Title 49 Code of Federal Regulations, United States Department of Transportation, Part 26 and the Disadvantaged Business Enterprise Participation Program for the Cape Fear Public Transportation Authority ('Wave Transit'), they must affirmatively ensure that, in any contract entered into with the Cape Fear Public Transportation Authority, DBEs will be afforded *equal* opportunity to participate in subcontracting activities. It is the policy of Wave Transit to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is further the policy of Wave Transit to ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
2. All contracts between Wave Transit and a Contractor shall contain an appropriate provision to the effect that failure by the Contractor to comply with Wave Transit's DBE Program shall constitute a breach of contract, exposing the Contractor to a potential termination of the contract or other appropriate remedy, including withholding of funds, until such time as the contractor complies with all the DBE requirements of this program. Under authority granted by North Carolina law, Wave Transit may impose liquidated damages, contract suspension, or even contract termination.
3. All documentation submitted at time of bid, as well as additional data provided by the successful bidder, is considered part of the contract documents. Any alterations, substitutions, deletions, etc., to data provided at time of submission of bid must have prior approval of Wave Transit's DBE Liaison Officer.
4. Should a DBE firm not certified by the North Carolina Unified Certification Program be proposed by a potential contractor as a part of his/her DBE plan efforts, review and certification procedures consistent with 49 CFR Part 26 must be conducted prior to award of any contract.
5. In contracts with DBE contract goals, bids submitted which do not meet the DBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered non responsive bids, and bidders will be notified of the deficiency and given opportunity to appeal to the Administrative Reconsideration Official (49 CFR 26.53). The bidder will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Official will make the determination on the sufficiency of the good faith efforts.
6. Wave Transit reserves the right to reject any or all bids, or to re-advertise for bids. Award, if made, will be to the lowest responsive and qualified bidder. A bid will not be considered responsive unless the bidder complies with Title 49 Code of the Federal Regulations, Part 26, and the Disadvantaged Business Enterprise Program of Wave Transit.

7. Wave Transit shall require contractors to make good faith efforts to replace a DBE subcontractor that is terminated, or fails to complete its work on the contract for any reason, with another DBE subcontractor. If a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Contractor must notify Wave Transit immediately. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established contract goal. Wave Transit shall approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible DBEs.

Additional information on Wave Transit's Disadvantaged Business Enterprise Program can be obtained from the DBE Liaison Officer, **Jon Dodson, Director of Planning and Development, Wave Transit, 505 Cando Drive Wilmington, NC 28405, (910)-202-2057.**

8. Wave Transit will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBE's. This mechanism will provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. These mechanisms will include, but not be limited to, the following:
 - a. *Review bid package documentation thoroughly, obtaining clarification, if necessary.*
 - b. *Review monthly reports regarding employment as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.*
 - c. *Monitor progress of payments to DBEs through monthly reports from prime contractors.*
 - d. *Monitor progress of DBEs work through on-site visits and communication with DBEs.*
 - e. *DBE Compliance Monitoring Report is below:*



DBE Compliance Monitoring Report

Company: _____ Date: _____

Type of Work: _____

Contract Start Date: _____ Contract End Date: _____

% of Work Completed: _____ Amount Paid To Date: _____

Company

Address: _____

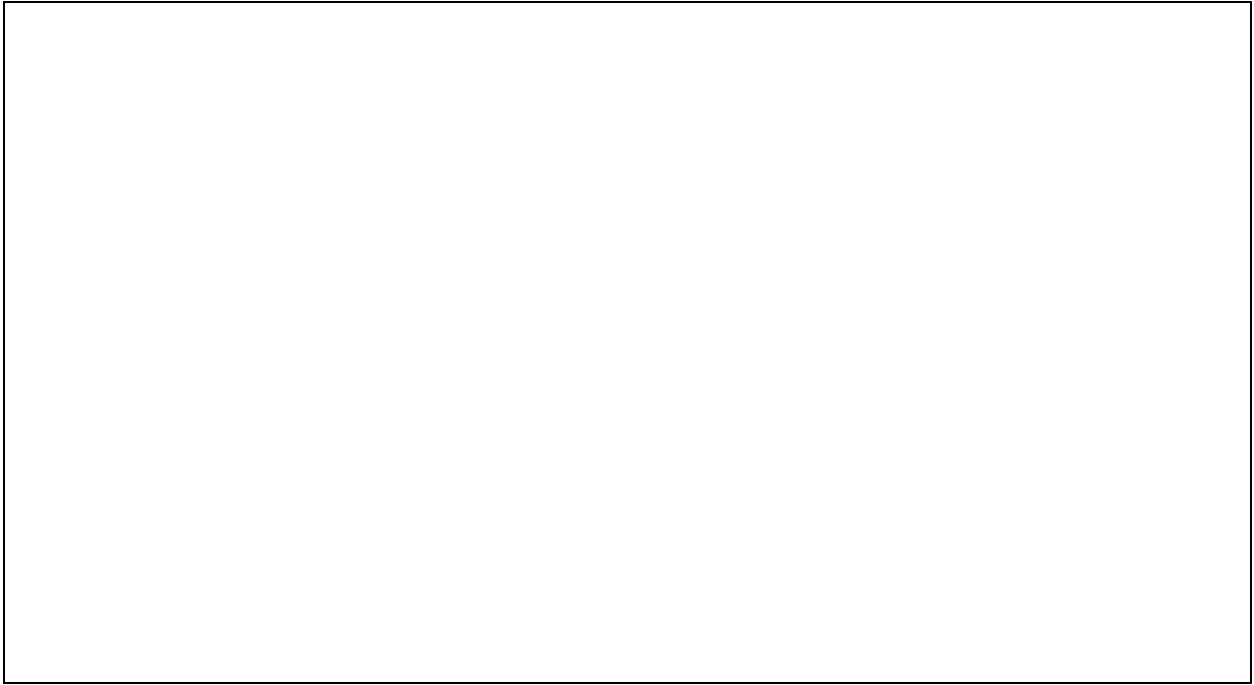
Contact

Person: _____

Contact

Number: _____

Inspector:		Location:	
Item	(O) Satisfied (X) Requires Action (N/A) Not Applicable	Comments	
Work start time			
Speed of work			
Communication with contractor during project			
Number of people working			
Safety compliant			
Type of material used to work			
Quality of work done			
Hazards signals, signs, and tags used during work			
Time work was completed			
Overall satisfaction of job done			
Please provide any additional comments in the box below.			





DBE Subcontractor Compliance Monitoring Report

Date: _____ Project Month: _____

Company: _____ Amount Paid By Company: _____

Subcontractor: _____ Actual Amount Paid by Company: _____

Project: _____ Date of Payment Subcontractor: _____

Company

Address: _____

Contact

Person: _____

Contact

Number: _____

Subcontractor Name and Address: _____

For final DBE certification, prompt payment as made and all retainage was released. Yes or No

9. Wave Transit will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
10. Wave Transit also will consider similar action under its own legal authorities, including responsibility determinations in future contracts. In addition, Wave Transit will apply legal and contract remedies under state and local law. This includes, for example, applying liquidated damages, withholding payments, etc.
11. In its reports of DBE participation to the USDOT, Wave Transit will show both commitments and attainments, as required by the USDOT reporting form.

Attachment 8 contains a link to 49 CFR Part 26, which describes federal regulations, provisions, and contract remedies available to Wave Transit in the event of non-compliance by a participant.

Attachment 4

Overall Goal Calculation

FFY 2025 – FFY 2027

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM METHODOLOGY

FOR

Cape Fear Public Transportation



WAVE TRANSIT

WILMINGTON, NC

DECEMBER 2024

METHODOLOGY for Establishing the FFY 2025 – FFY 2027 Overall Disadvantaged Business Enterprise (DBE) Goal for:

*Wave Transit
Wilmington NC*

In fulfillment of the requirements of 49 CFR Part 26, the Cape Fear Public Transportation d/b/a Wave Transit (hereafter 'Wave Transit') has developed a proposed Overall Goal for FFY 2025-2027 FTA-AIP projects for Wave Transit. The methodology used in establishing this goal is described herein.

Grant Recipient: Cape Fear Public Transportation Authority

Transit Name: Wave Transit

DBELO: Jon Dodson
Deputy Director

Cape Fear Public Transportation Authority - Wave Transit

Phone: (910) 202-2057

jdodson@wavetransit.com

[Disadvantaged Business Enterprise \(DBE\) Policy Statement](#)

Wave Transit has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Wave Transit has received Federal financial assistance from the Federal Transit Administration (FTA), and as a condition of receiving this assistance, Wave Transit provides an assurance that it will comply with 49 CFR Part 26, including any updates including but not excluded to the 2014 DBE changes with the additional Small Business element.

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

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;

(f) To promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by recipients.

(g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and

(h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

I. Detailed Methodology: Specific Steps

A. Amount of Goal

Wave Transit’s FFY 2025-2027 overall goal for the Federal financial assistance it will expend in USDOT-assisted contracts is the following:

Overall Goal:	<u>1.5%</u>
Race-Neutral:	<u>1.25%</u>
Race-Conscious:	<u>0.25%</u>

Given the amount of USDOT-assisted contracts that Wave Transit expects to let from FY25-27, which is approximately \$13,236,596, means that Wave Transit has set a goal of expending approximately \$198,548.94 with DBEs during this period.

Wave Transit established the Base Figure of the relative availability of DBEs to all comparable firms (DBE and Non-DBE) available to bid or propose on Wave Transit FTA-assisted contracting opportunities projected to be solicited during the triennial goal period, Wave Transit followed the prescribed federal methodology to determine relative availability as well as put forth aspirational goals. This was accomplished by assessing the North Carolina Department of Transportation (NCDOT) Directory of Firms.

II. Adjustments to the DBE Base Figure

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

A. Adjustment Factors to Consider

The regulations further state that there are several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your USDOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

The historical overall DBE goals accomplished at Wave Transit in recent years were examined relative to the above consideration. Notice the annual DBE percent accomplishment indicated in Table 1 below:

Table 1: Wave Transit DBE Accomplishment

Report Period	DBE Goal	Race Neutral Achieved	Race-Conscious Achieved	Total DBE Achieved
FY 2016 - 1	4.50%	0.10%	0.00%	0.10%
FY 2016 - 2	4.50%	1.00%	0.00%	1.00%
FY 2017 - 1	4.50%	0.63%	0.37%	1.00%
FY 2017 - 2	4.50%	0.50%	0.00%	0.50%
FY 2018 - 1	1.75%	1.04%	0.00%	1.04%
FY 2018 - 2	1.75%	0.22%	0.00%	0.22%
FY 2019 - 1	1.75%	0.00%	0.00%	0.00%
FY 2019 - 2	1.75%	0.00%	0.00%	0.00%
FY 2020 - 1	1.75%	0.00%	0.00%	0.00%
FY 2020 - 2	1.75%	0.00%	0.00%	0.00%
FY 2021 - 1	1.75%	1.35%	0.00%	1.35%
FY2021 - 2	1.75%	3.09%	0.00%	3.09%
FY 2022 - 1	1.19%	15.53%	0.00%	15.53%
FY2022 - 2	1.19%	37.24%	0.00%	37.24%
FY 2023 - 1	1.10%	1.00%	0.00%	1.00%
FY2023 - 2	1.10%	54.99%	0.00%	54.99%
FY 2024 - 1	1.09%	20.15%	0.00%	20.15%
FY2024 - 2	1.09%	27.56%	0.00%	27.56%
Median	4.50%	1.00%	0.00%	1.00%

SOURCES:

1. Uniform Report of DBE Commitments / Awards and Payments.

The median DBE accomplishment for the periods as shown above for Wave Transit is 1.00%. This accomplishment was compared to the step 1 base figures calculated above.

B. Adjustment to Step 1 DBE Base Figures: Wave Transit, FFY 2025 - FFY 2027

With the adjustment factors considered to this point, Wave Transit will not adjust the Step 1 base figures as calculated in tables 1 above.

**Table 2: Wave Transit
FFY 2025 – FFY 2027 Overall Goal**

Table 5: Wave Transit FY2025 - FY2027 Overall Goal

Federal Fiscal Year	Project	Step 1	Step 2 Adjustment	Overall Goal	Total Project Costs
FY25	Operating and PM Expenses	2.25%	0.75%	1.50%	\$ 4,070,032.00
	Customer Service Desk Enclosure	2.25%	0.75%	1.50%	\$ 90,000.00
	Bus Wash Infrastructure	2.25%	0.75%	1.50%	\$ 48,367.00
	Generators	2.25%	0.75%	1.50%	\$ 261,750.00
	Support Trucks and Vans	2.25%	0.75%	1.50%	\$ 234,802.00
	Communications Equipment	2.25%	0.75%	1.50%	\$ 85,245.00
	Bus Shelter Install	2.25%	0.75%	1.50%	\$ 32,522.00
FY25 Total				1.50%	\$ 4,822,718.00
FY26	Operating and PM Expenses	2.25%	0.75%	1.50%	\$ 4,080,032.00
	Paratransit Vehicles	2.25%	0.75%	1.50%	\$ 243,814.00
FY26 Total				1.50%	\$ 4,323,846.00
FY27	Operating and PM Expenses	2.25%	0.75%	1.50%	\$ 4,090,032.00
FY27 Total					\$ 4,090,032.00
FY25-27 Overall Goal					\$ 13,236,596.00

The total DBE goal in dollars was divided by the total project costs to derive the overall DBE goal of 1.5% for FFY 2025 - FFY 2027.

III. Process

Wave Transit will normally submit its overall goal to the FTA on August 1 of each goal year.

Before establishing the overall goal this year, Wave Transit consulted with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Wave Transit's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, Wave Transit published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for review and comment during normal business hours at Wave Transit's administrative office for 30 days following the date of the notice. The notice, published on Wave Transit's website, included an address (including offices) to which comments could be sent and an address where the proposed goal could be reviewed. This process was used to establish the goals for FFY 2025 to FFY 2027.

Wave Transit's overall goal submission to the FTA will include a summary of information and comments received during this public participation process and our responses.

Wave Transit will begin using the overall goal on October 1 of each goal year, unless Wave Transit has received other instructions from DOT/FTA (or, if the goal is established on a project basis) by the time of the first solicitation for a DOT/FTA-assisted contract for the projects.

IV. Breakout of Estimated Race-Conscious/Race-Neutral Participation

Wave Transit will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Wave Transit will use a combination of the following race-neutral means to increase DBE participation:

1. *Arranging 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, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);*
2. *Disseminating information communications 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).*

Wave Transit proposes a race-conscious goal of **0.25%** and a race-neutral goal of **1.25%**, for a total of **1.50%**. The reason for this breakout is that the projects from previous years show that the median race-neutral achievement is **1.00%** (see **Table 1**). Therefore, it is projected that **1.25%** of adjusted goal will be achieved using race neutral means and the remainder of **0.25%** will be achieved using race conscious means.

Wave Transit will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (26.51(f)) and it will track and

report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

VI. Contract Goals

Wave Transit will use contract goals to meet any portion of the overall goal that Wave Transit 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 the overall goal that is not projected to be met through the use of race-neutral means.

Wave Transit will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. Wave Transit 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).

Wave Transit will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Appendix A: Resource Listing

A. Resource Documents:

1. North Carolina UCP DBE Directory
2. 2019 County Business Patterns, Census Bureau

Attachment 5

Form 1 & 2 for Demonstration
of Good Faith Efforts

Cape Fear Public Transportation Authority

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder's firm: _____

State Registration No. _____

By _____
(Signature) Title

Cape Fear Public Transportation Authority

FORM 2: LETTER OF INTENT

Name of bidder'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 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 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 6

Certification Application Forms

<https://connect.ncdot.gov/business/SmallBusiness/Pages/default.aspx>

Attachment 7

Procedures for Removal of a
DBE's Eligibility

I. Procedures for removing a DBE's eligibility.

A. Ineligibility complaints.

1. Any person may file with the North Carolina Unified Certification Program (NC UCP) a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. Confidentiality of complainants' identities will be protected. However, general allegations or anonymous complaints will not be accepted.
2. NC UCP will review its records concerning the firm, any material provided by the firm and the complainant, and other available information. The NC UCP may request additional information from the firm or conduct any other investigation that it deems necessary.
3. If the NC UCP determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, it will provide written notice to the firm that the NC UCP proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If the NC UCP determines that such reasonable cause does not exist, it will notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

B. NC UCP-initiated proceedings. If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, the NC UCP determines that there is reasonable cause to believe that a currently certified firm is ineligible, the NC UCP will provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause will specifically reference the evidence in the record on which each reason is based.

C. Hearing. When the NC UCP notifies a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (A) or (B) of this section, the NC UCP will give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

1. The NC UCP will maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing.
2. The firm may elect to present information and arguments in writing, without going to a hearing.

- D. Separation of functions.** The NC UCP will ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.
1. NC UCP's method of implementing this requirement will be made part of its DBE program.
 2. The decision-maker will be an individual who is knowledgeable about the certification requirements of your DBE program and this part.
- E. Grounds for decision.** The NC UCP will not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the NC UCP at the time of its certification of the firm. Rather, such decision will be based on one or more of the following:
1. Changes in the firm's circumstances since the certification of the firm by the NC UCP that render the firm unable to meet the eligibility standards of this part;
 2. Information or evidence not available to the NC UCP at the time the firm was certified;
 3. Information that was concealed or misrepresented by the firm in previous certification actions by the NC UCP;
 4. A change in the NC UCP's certification standards or requirements since the firm was certified; or
 5. A documented finding that the NC UCP's determination to certify the firm was factually erroneous.
- F. Notice of decision.** Following the NC UCP decision, the NC UCP will provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of the NC UCP's decision and of the availability of an appeal to the United States Department of Transportation shown below in Section II. The NC UCP will send copies of the notice to the complainant in an ineligibility complaint.

G. Status of firm during proceeding.

1. A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.
2. The firm does not become ineligible until the issuance of the notice provided for in paragraph (F) of this section.

H. Effects of removal of eligibility. When the NC UCP removes a firm's eligibility, the NC UCP will take the following action:

1. When a prime contractor has made a commitment to using the ineligible firm, or Wave Transit has made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before the NC UCP will issue the decertification notice provided for in paragraph (F) of this section, the ineligible firm does not count toward the contract goal or overall goal. Prime contractor are directed to meet the contract goal with an eligible DBE firm or demonstrate to Wave Transit that it has made a good faith effort to do so.
2. If a prime contractor has executed a subcontract with the firm before the NC UCP has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the NC UCP issued the notice of its ineligibility shall not count toward Wave Transit's overall goal, but may count toward the contract goal.
3. Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, Wave Transit may continue to count its participation on that contract toward overall and contract goals.

I. Availability of appeal. When the NC UCP makes an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the United States Department of Transportation in accordance with Section II of this document.

II. USDOT Certification Appeals Process

- A.** If you are a firm which is denied certification or whose eligibility is removed by the NC UCP, you may make an administrative appeal to the USDOT.
- B.** If you are a complainant in an ineligibility complaint to the NC UCP (including the concerned operating administration in the circumstances provided in paragraph (C), you may appeal to the USDOT if the NC UCP does not find reasonable cause to propose

removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

C. Send appeals to the following address:

United States Department of Transportation
Office of Civil Rights
400 7th Street SW, Room 2401
Washington DC 20590

Attachment 8

Regulations: 49 CFR Part 26

§ 26.47 Can recipients be penalized for failing to meet overall goals?

(a) You cannot be penalized or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.

(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.

(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;

(3)

(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or a CORE 30 airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval. If the operating administration approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

(5) You may be regarded as being in noncompliance with this Part, and therefore subject to the remedies in § 26.103 or § 26.105 of this part and other applicable regulations, for failing to implement your DBE program in good faith if any of the following things occur:

(i) You do not submit your analysis and corrective actions to FHWA, FTA, or FAA in a timely manner as required under paragraph (c)(3) of this section;

(ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or

(iii) You do not fully implement the corrective actions to which you have committed or conditions that FHWA, FTA, or FAA has imposed following review of your analysis and corrective actions.

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

<http://www.ecfr.gov/cgi-bin/text-idx?region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=14e071f96d5d61cb9d2410ed56c59d3d;q1=dbe;rgn1=Section%20Heading;op2=and;rgn2=Section;op3=and;rgn3=Section;view=text;idno=49;node=49%3A1.0.1.1.20;rgn=div5>