

GREATER NORTHSIDE MANAGEMENT DISTRICT DBE PROGRAM

Section 26.1, 26.23 Objectives/Policy Statement

The Greater Northside Management District (“GNMD”) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR part 26. GNMD has received federal financial assistance from the DOT, and as a condition of receiving this assistance, GNMD has signed an assurance that it will comply with 49 CFR part 26.

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

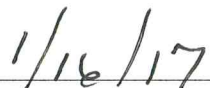
1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level-playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms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

Rebecca C. Reyna, Executive Director, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO 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 GNMD in its financial assistance agreements with the DOT.

GNMD Board of Directors has adopted this policy statement and has disseminated it to all the components of our organization. GNMD have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. GNMD will post this policy on the GNMD’s website and GNMD’s office. Information will be available in Spanish, when requested.



Rebecca C. Reyna, Executive Director



Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

GNMD is the recipient of FTA funds authorized by Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and all extensions, Moving Ahead for Progress in the 21st Century Act (MAP-21) and all extensions, and the Fixing America's Surface Transportation (FAST) Act and all extensions.

Section 26.5 Definitions

GNMD accepts the definitions contained in 49 CFR Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

GNMD 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, GNMD 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 FTA

GNMD will report DBE participation to FTA on a biannual basis using the Uniform Report of DBE Awards or Commitments and Payments Form.

Bidders List

GNMD will create a bidders list, consisting of information about all DBE, Small Business Enterprise (SBE), and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE, SBE, or non-DBE status, age, and annual gross receipts of the firms.

GNMD will collect this information through the procurement process requiring prime respondent, bidder, or contractor to report the name, address, DBE, SBE, or non-DBE status, age, and annual gross receipts of all firms who propose or bid on procurement.

Section 26.13 Federal Financial Assistance Agreement

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

Every financial assistance agreement GNMD signs with the DOT will include the following assurance.

The recipient shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any DOT-assisted contract, 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 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 DOT may impose sanctions 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.).

Each contract GNMD signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) or sub-recipient must include the following assurance:

The contractor, subcontractor or sub recipient shall not discriminate on the basis of race, color, sex, or national origin 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, subcontractor or sub recipient to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since GNMD has received a grant of \$250,000 or more in FTA capital assistance in a single federal fiscal year, GNMD will continue to carry out this program until all funds from DOT financial assistance have been expended. GNMD will provide to DOT updates representing significant changes in the program on an as needed basis.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

GNMD has designated the following individual as our DBE Liaison Officer:

*Rebecca Rayna, Executive Director
Greater Northside Management District
5305 Irvington Blvd.
Houston, Texas 77009
Telephone: (713) 229-0900
E-mail: Rc.reyna@greaternorthside.org*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that GNMD complies with all provision of 49 CFR part 26. The DBELO has direct, independent access to GNMD's Directors, 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 has professional and technical staff/consultants to assist in the administration of the program. The duties and responsibilities include the following:

1. Advises the organization on matter regarding DBE matters and achievements.
2. Supervises and coordinates activities of DBE/compliance program managers and technicians.
3. Participates on GNMD DBE Task Forces.
4. Serves as mediator when appropriate for issues that require escalation.
5. Works with all staff to set overall annual goals.
6. Ensures that bid notices and request for proposals are available to DBEs in a timely manner.
7. Identifies contracts and procurements so that DBE goals area included in solicitations (both race-neutral methods and contract specific goals attainment) and identifies ways to improve progress.
8. Participates in pre-bid meetings.
9. Plans and participates in DBE training seminars.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Texas.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

13. Oversees the maintenance of GNMD's updated directory on certified DBEs
14. Maintains GNMD's updated directory on certified DBEs.
15. Analyzes shortfall if the overall goal is not reached. If required, will develop a corrective action plan and submit the plan to DOT.

Section 26.27 DBE Financial Institutions

It is the policy of GNMD to annually 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.

GNMD will use the list of DBE owned financial institutions located at <http://www.federalreserve.gov/releases/mob>.

Section 26.29 Prompt Payment Mechanisms

GNMD will include the following clauses in each DOT-assisted prime contract:

Prompt Payment

The Contractor shall pay all subcontractors performing work related to this contract for satisfactory performance of that work no later than 10 days after the Contractor's receipt of payment from GNMD for that work.

After 10 days, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is equal to the sum of one (1) percent and the prime rate, as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. The rate of interest is stated on the Texas Comptroller of Public Accounts' Prompt Payment Overview of Requirements,

https://fm.xcpa.state.tx.us/fm/pubs/purchase/prompt_pay/index.php?section=overview&page=rate.

Retainage

The Contractor shall return retainage payments to each subcontractor no later than 10 days after receipt of incremental retainage payments from GNMD. Any delay or postponement of payment from this time frame may occur only for good cause following written approval of GNMD. This clause applies to DBE, SBE and non-DBE subcontracts.

Reporting

The Contractor shall report DBE and SBE participation on a monthly basis on the Contractor Payment Report Form, **Attachment 4**.

Monitoring and Enforcement

See **Attachment 3**, Monitoring and Enforcement.

Section 26.31 Directory

GNMD provides instructions to potential bidders to access the State of Texas's online Uniform Certification Program Directory (TUCP), which identifies all firms eligible to participate as DBEs, and TxDOT's Small Business Enterprise Program Directory, which identifies all firms eligible to participate as SBEs. These directories list 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.

The TUCP Directory is incorporated by web addresses in **Attachment 2**.

Section 26.33 Overconcentration

There is an undue burden on non-DBEs if there is an overconcentration of in a certain type of work opportunity. If an overconcentration is present, GNMD will develop the appropriate, FTA-approved measures to address the issue. Currently, GNMD has not identified that overconcentration exists in the types of work that DBE subcontractors perform.

Section 26.35 Business Development Programs

GNMD has not established a business development program. GNMD will re-evaluate the need for a business development program every three years.

Section 26.37 Monitoring and Enforcement Mechanisms

See **Attachment 3**, Monitoring and Enforcement.

Section 26.39 Small Business Provision

GNMD is dedicated to fostering small business participation in its procurements. Participation of SBEs is incorporated into this DBE program in accordance with 49 CFR part 26 and is intended to meet an overall SBE program goal of meeting the maximum feasible portion of a goal through race-neutral means of obtaining DBE and non-DBE small business participation (49 CFR part 26.51). GNMD will implement the small business participation in its next procurement.

GNMD uses the same standards certification and verification processes as the Texas Department of Transportation (TxDOT), which requires businesses to meet the US Small

Business Administration (SBA) size standards and filling out a TxDOT application. All SBEs listed on the TxDOT Small Business Enterprise Program Directory will be considered as a SBE. GNMD will include TxDOT's Certified SBEs in its SBE Directory that is included in all procurements and kept on file with GNMD.

Due to the limited FTA-funded projects, GNMD will use the following strategies to promote SBE participation:

- On larger contracts, GNMD will strongly encourage the prime contractor to specify elements of the contract or specific subcontracts that are of a size that SBEs can reasonably perform. An example of this would be encouraging a prime contractor of a large construction contract to use a SBE subcontractor for elements such as poured concrete or electrical work.
- On prime contracts not having DBE contract goals, GNMD can require the prime contractor to provide subcontracting opportunities of a size that SBEs can reasonably perform, rather than self-performing all the work involved. An example would be requiring an SBE to perform the landscape architecture portion of an engineering contract for a streetscape design.
- When possible, GNMD will unbundle contracts to make the separate smaller projects that a SBE could become the prime contractor on. This also includes the removal of unnecessary and unjustified bundling of contract requirements.
- GNMD will implement other types of strategies to encourage SBE participation when possible for procurement opportunities, such as keeping a reasonable number of projects a size that a SBE can reasonably perform as a prime contractor; simplifying or reducing bonding requirements, when applicable; and encouraging SBEs in joint opportunities on contracts.

GNMD's Small Business Participation will include outreach to SBEs, including but not limited to: soliciting bids or proposals from SBEs when the contract sizes allow them to have a SBE as a prime contractor; encouraging participation in pre-bid and pre-proposal meetings for subcontracting opportunities when contract sizes are larger; including a SBE Directory in all procurements to provide prime contractors with the names and contact information of available SBEs; inviting SBEs to DBE Public Participation meetings; and providing information on becoming TxDOT SBE Certified when requested.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

GNMD does not use set-asides and/or 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 calculations can be found in the DBE Goal Setting Documentation. This documentation will be updated every three years.

In accordance with Section 26.45(f) GNMD will submit its overall goal to FTA by August 1 at three year intervals based on a schedule specified by FTA. GNMD may adjust the three-year overall goal during the three-year period to reflect changed circumstance, but FTA must review and approve the change.

Before establishing the overall goal every three years, GNMD will consult with local agencies and organizations, trade groups, and local contractors to determine the availability of DBEs, SBEs and non-DBEs, the effects of discrimination on opportunities for DBEs, and GNMD's efforts to improve the participation of DBEs and SBEs.

Following the consultation, GNMD will publish a notice of the proposed overall goal on the GNMD's website. The notice will inform the public about the proposed goal, the rationale for establishing the goal, a location where the proposed goal and rationale can be reviewed for a significant portion of time following the date of the notice and an address where comments can be sent. GNMD will accept comments about the goal and rationale. GNMD's goal submission to FTA will include the comments received during the public comment process and GNMD's responses, if needed. GNMD will begin using the overall goal on October 1 of the year adopted unless GNMD receives other instructions from FTA.

Section 26.49 Transit Vehicle Manufacturers Goals

Not Applicable – GNMD does not operate transit service or procure transit vehicles.

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

The breakout of estimated race-neutral participation can be found in the DBE Goal Setting Documentation. This documentation will be updated every three years when the goal calculation is updated.

For Race-Neutral participation, GNMD procurements will include the following documentation to respondents, bidders, or contractors.

The respondent, bidder, or contractor shall not discriminate on the basis of race, color, sex, or national origin in the performance of this contract. The respondent, bidder, or contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the respondent, bidder, or 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 GNMD deems appropriate. Each subcontract the

respondent, bidder, or contractor signs with a subcontractor must include the assurance in this paragraph.

*Award of this contract is conditioned on submission of the following information (included in **Attachment 4**):*

- *The names and addresses of subcontractors that will participate in the contract;*
- *A description of the work that each subcontractor will perform;*
- *Whether the firm is a DBE, SBE, or non-DBE;*
- *The ethnic code, as described in the form;*
- *The age of the firm;*
- *The annual gross receipts from the firm;*
- *The dollar amount of the participation of each DBE firm participating; and*
- *Written and signed documentation of commitment to use a DBE subcontractor.*

Written and signed confirmation from the DBE or SBE that it is participating in the contract as provided in the prime contractors commitment

Section 26.51(d-g) Contract Goals

GNMD does not intend to use contract goals to meet any portion of the overall goal.

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.

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

Section 26.53 Good Faith Efforts Procedures

Since GNMD does not intend to use contract goals for DBE participation, the following good faith efforts will only be used if contract goals are established.

Demonstration of good faith efforts

GNMD will deny award of a contract to a respondent, bidder, or contractor that does not either: (1) meet the contract goal with verified, countable DBE and/or SBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE and/or SBE contract goal, even though it was unable to do so. It is the obligation of the respondent, bidder, or contractor to demonstrate it has made sufficient good faith efforts prior to

submission of its bid. The DBELO is responsible for determining whether a respondent, bidder, or contractor who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

Information to be Submitted

For all FTA assisted contracts with a contract goal, GNMD will require the respondent, bidder, or contractor to submit the following information:

- The names and addresses of subcontractors that will participate in the contract;
- A description of the work that each subcontractor will perform;
- Whether the firm is a DBE, SBE, or non-DBE;
- The ethnic code, as described in the form;
- The age of the firm;
- The annual gross receipts from the firm;
- The dollar amount of the participation of each DBE firm participating;
- Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written and signed confirmation from the DBE or SBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts must be provided.

Administrative Reconsideration

Within 15 days of being informed by GNMD that it is not responsive because it has not documented sufficient good faith efforts, a respondent, bidder, or contractor may request administrative reconsideration. Respondents, bidders, or contractors should make this request in writing to the following Reconsideration Official:

Jeanne H McDonald, P.C.
2277 Plaza Drive, Suite 280
Sugar Land, TX 77479

Office: 281-313-2213
Email: jhmcdonald@jhmlaw.net

The Reconsideration Official will not have played any role in the original determination that the respondent, bidder, or contractor did not document sufficient good faith efforts.

As part of this reconsideration, the respondent, bidder, or contractor 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 respondent, bidder, or contractor will have the opportunity to meet in person with the GNMD's

Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. GNMD will send the respondent, bidder, or contractor a written decision on reconsideration, explaining the basis for finding that the respondent, bidder, or contractor 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 FTA or DOT.

Good Faith Efforts when a DBE or SBE is Terminated/Replaced on a Contract

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

The prime contractor must give notice in writing to the DBE or SBE subcontractor of its intent to terminate before transmitting its request to terminate the DBE or SBE or substitute a DBE or SBE subcontractor to GNMD. A copy of this notice must be provided to GNMD prior to consideration of the request to terminate or substitute. The DBE or SBE subcontractor will then have five (5) days to respond and advise the prime contractor of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE or SBE's subcontract, GNMD will require the prime contractor to make good faith efforts to replace a DBE or SBE subcontractor that is terminated or has otherwise failed to complete its work on a contract with another certified DBE or SBE subcontractor, to the extent needed to meet the contract goal. If the prime contractor is unable to find another DBE or SBE subcontractor to perform the work, the GNMD will require the prime contractor to obtain GNMD's prior approval to substituting a non-DBE subcontractor and provide documentation of good faith efforts.

If the prime contractor fails or refuses to comply with the good faith efforts to terminate or replace a DBE subcontractor, then GNMD may take action against the prime contractor as defined in **Attachment 3**, Monitoring and Enforcement.

Sample Bid Specification:

The requirements of 49 CFR part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, apply to this contract. It is the policy of GNMD 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 responses/bids. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all respondents, bidders, or contractors, including those who qualify as a DBE. A DBE contract goal of <insert appropriate goal> has been established for this

contract. The respondent, bidder, or contractor shall make good faith efforts, as defined in Appendix A, 49 CFR part 26, to meet the contract goal for DBE and/or SBE participation in the performance of this contract.

The respondent, bidder, or contractor will be required to submit the following information:

- *The names and addresses of subcontractors that will participate in the contract;*
- *A description of the work that each subcontractor will perform;*
- *Whether the firm is a DBE, SBE, or non-DBE;*
- *The ethnic code, as described in the form;*
- *The age of the firm;*
- *The annual gross receipts from the firm;*
- *The dollar amount of the participation of each DBE firm participating;*
- *Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;*
- *Written and signed confirmation from the DBE or SBE that it is participating in the contract as provided in the prime contractors commitment; and*
- *If the contract goal is not met, evidence of good faith efforts.*

Section 26.55 Counting DBE Participation

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

CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

GNMD is not a member agency of the State of Texas's Unified Certification Program (TUCP), but intent to become a member agency within the next fiscal year. The TUCP will meet all of the requirements of this section of the DBE Program. The TUCP follows 49 CFR part 26.

All certification activities should be submitted to the TUCP certifying entity that services the Texas county in which the business' home or corporate headquarters is located. The appropriate TUCP certifying agency and contact information for businesses located in Harris County is listed below:

City of Houston
Timothy Warren
611 Walker St.
Houston, TX 77002

Phone: 713-837-9035
Fax: 713-837-9052
timothy.warren@cityofhouston.net
www.houstontx.gov/obo/

COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

Consistent with Federal, state, and local law, GNMD will safeguard third party information that may reasonably be regarded as confidential business information from disclosure. Pursuant to Texas Public Information Act, none of the information that the prime contractor and DBE, SBE, and non-DBE subcontractors submits to GNMD, under GNMD's DBE program, is confidential.

Monitoring Payments to DBEs

GNMD will require prime contractors to maintain records and documents of payments to DBEs and SBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of GNMD, FTA and/or DOT. This reporting requirement also extends to any certified DBE or SBE subcontractor.

GNMD will perform interim audits of contract payments to DBEs and SBEs. The audit will review payments to DBE and SBE subcontractors to ensure that the actual amount paid to DBE and SBE subcontractors equals or exceeds the dollar amounts stated in the Contractor Payment Report Form (**Attachment 4**).

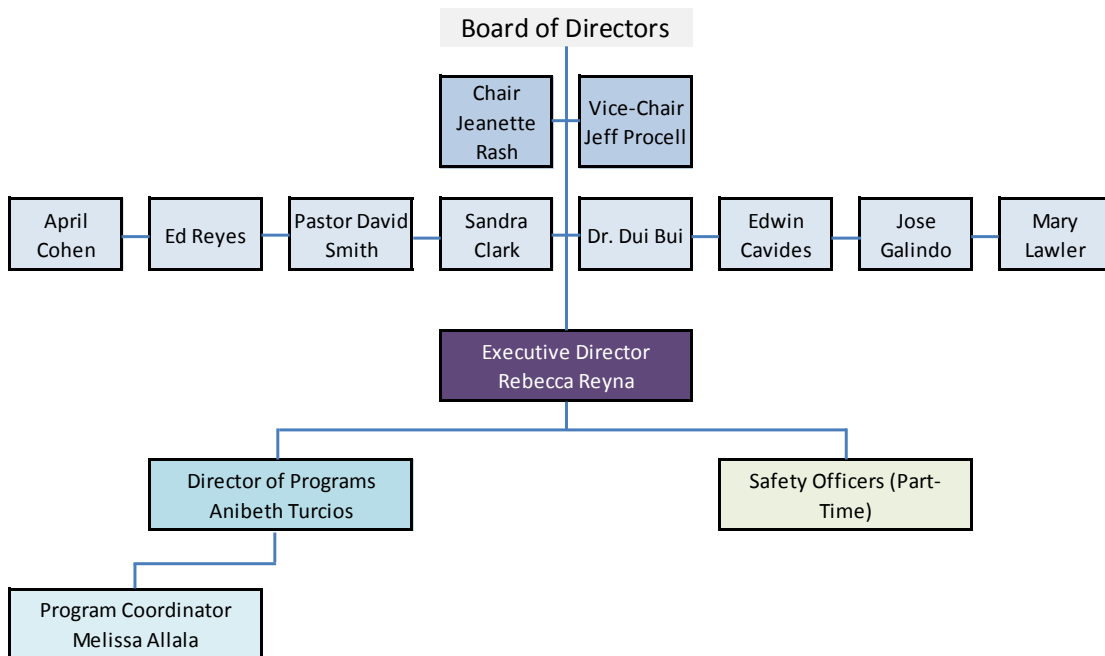
ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	DBE Forms 1 & 2 and Reporting Form
Attachment 5	Certification Application Forms
Attachment 6	Procedures for Removal of DBE's Eligibility
Attachment 7	Regulations: 49 CFR part 26

Attachment 1

Organizational Chart

***Greater Northside Management
District Organizational Chart***



Attachment 2

DBE and SBE Directories

A copy of the Texas Unified Certification Program DBE Information Directory can be obtained on the website, <https://txdot.txdotcms.com/Default.asp>, or a copy can be requested from GNMD's DBELO.

A copy of the TxDOT SBE Directory can be obtained on the website, <https://txdot.txdotcms.com/Default.asp>, or a copy can be requested from GNMD's DBELO.

Attachment 3

Monitoring and Enforcement Mechanisms

GNMD will monitor and provide written certification for every contract/project on which DBEs are participating, ensuring the DBEs are in fact performing the work. GNMD will monitor DBE participation through reporting forms and verification of payment amounts.

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

1. The suspension of any payment or part thereof until such time as the issues concerning compliance are resolved;
2. Work stoppage;
3. Termination, suspension, or cancellation of the contract in whole or in part; and/or
4. In the event that a respondent or bidder fails to achieve the DBE goals of this program, after contract completion, the respondent's or bidder's eligibility to receive any future GNMD contract will be conditioned upon the respondent or bidder making up the deficit in DBE participation in such future contracts by having DBEs perform equal to double the dollar value of the deficiency in the DBE requirement in the prior contract.

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

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

GNMD will monitor prompt payment from the contractors to subcontractors through the following methods:

1. Review Contractor Payment Report Form, which will be included with each pay application until final payment of the contract has been made (**Attachment 4**); and
2. Perform periodic checks with subcontractors to ensure Contractor Payment Report Form matches payment.

Attachment 4

Forms 1 & 2 for DBE Participation and Contractor Payment Report Form

FORM 1 - RESPONDENT/BIDDER/CONTRACTOR CERTIFICATION

Instructions: The **prime** Respondent/Bidder/Offeror shall complete this form by listing 1) Names of **ALL** proposed subcontractors, whether or not the subcontractor is a DBE or SBE, 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Status as a DBE or non-DBE, 5) Ethnic Code of firm, 6) Gender code of owner, 7) Age of the firm, 8) Annual gross receipts of the firm, and 9) % or \$ amount of Total Contract. Those contractors which are listed on this form as DBEs must have current certification as a DBE with a participating TUCP certifying agency. The DBE certification must be complete by the time the proposals are submitted. Additionally, those (sub) contractors which are listed on this form as DBEs must complete **DBE SUBCONTRACTOR CERTIFICATION**, agreeing to the information listed here.

RESPONDENT/ BIDDER/CONTRACTOR: _____
 PROJECT NAME: _____

ETHNIC CODES

- | | | |
|--|----------------------------------|------------------------------|
| A) Black American | B) Hispanic American | C) Native American |
| D) Sub-continental Asian American | E) Asian-Pacific American | F) Non-Minority Women |
| G) Other | | |

GENDER CODES

- | | | |
|----------------|------------------|----------------------------------|
| A) Male | B) Female | C) Choose Not to Disclose |
|----------------|------------------|----------------------------------|

1) Name of subcontractor	2) Address, Telephone # of DBE Firm (Including name of contact person)	3) Description of Work, Services Provided	4) DBE, SBE or non-DBE	5) Ethnic Code	6) Gender Code	7) Age of Firm	8) Annual Gross Receipts	9) DBE % or \$ amount of Total Contract

THIS SCHEDULE MUST BE COMPLETED AS INSTRUCTED ABOVE AND INCLUDE EVERY SUBCONTRACTOR PROPOSED ON THIS PROJECT. USE ADDITIONAL FORMS AS NEEDED.

The undersigned will enter into a formal agreement with DBE contractors for work listed in this schedule upon execution of a contract with the Owner. The Contractor agrees to the terms of this schedule by signing below and submitting the **DBE SUBCONTRACTOR CERTIFICATION**, as completed by the DBE subcontractor(s).

DATE: _____

SIGNATURE: _____

RESPONDENT/BIDDER/
OFFEROR: _____

TITLE: _____

FORM 2 - DBE AND SBE SUBCONTRACTOR CERTIFICATION

NOTE: In accordance with 49 CFR part 26 and Board policy, DBE and SBE firms participating in the DBE or SBE Program must have "current" certification status with a TUCP Certifying Agency by the due date established for this RFP.

1. TO: (Respondent/Bidder/Contractor): _____
2. The undersigned is either currently certified under the Texas Unified Certification Program (TUCP) as a DBE, SBE or will be at the time this solicitation is due.
3. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both)

_____.
4. The DBE or SBE subcontractor should complete this section only if the DBE or SBE is subcontracting any portion of its subcontract.

Any and all DBE or SBE subcontractors who a DBE or SBE subcontractor uses must be listed on Form 1 and must also be DBE or SBE certified.

DATE: _____ DBE/SBE FIRM: _____

SIGNATURE: _____

PRINT NAME: _____

PHONE NUMBER: _____

DATE: _____ RESPONDENT/BIDDER/
PRIME CONTRACTOR: _____

SIGNATURE: _____

PRINT NAME: _____

PHONE NUMBER: _____

CONTRACTOR PAYMENT REPORT FORM

TO BE INCLUDED WITH EACH PAY APPLICATION UNTIL FINAL PAYMENT OF THE CONTRACT HAS BEEN MADE.

INCLUDED FOR REFERENCE ONLY

CONTRACTOR PAYMENT REPORT FORM							
<p>Instructions: Contractors are required to complete and submit this report, as specified in the contract or as requested, until final payment of the contract has been made. Failure to comply with the DBE provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with the Owner in the future in accordance with the procedures set forth in the DBE Program. This report must be submitted with each invoice. Instructions for completing this report can be found on the following page.</p>							
1. Contract Number, if applicable	2. Invoice Number	3. Reporting Period From: _____ To: _____		4. Contractor's Business Name	5. Contact Person	6. Address	
7. Telephone Number	8. Date of Contract Award	9. Schedule Date of Completion	10. Original Contract Amount \$ _____	11. Current Contract Modifications \$ _____	12. Total Amount Received to Date \$ _____	13. Total Amount Owed \$ _____	
14. Committed DBE %	15. Actual DBE Participation to date \$ _____	16. Actual DBE % to Date #VALUE!					
17	18	19	20	21	22	23	24
Name of DBE Subcontractor	Description of Work	Amount of payments made during current invoice period	Date of payments made during current invoice period	Subcontract Dollars	Amount paid to date	Percent Paid to Date	Amount of this invoice allocated to DBE subcontractor
<i>(Add rows to the table, as needed, to complete this section)</i>							
By completing this form, the Contractor acknowledges the Owner's prompt payment policy, which requires the Contractor to pay all subcontractors within 30 days of receiving payment from the Owner.							
Signature		Date Signed	Name and Title of Individual Completing Report				

Attachment 5

Certification Application Forms

The Texas Unified Certification Program (TUCP) website potential certified DBE Firms, <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>, and SBE Firms, http://www.dot.state.tx.us/business/business_outreach/sbe.htm, with applications and instructions

Attachment 6

Procedures for Removal of DBE's Eligibility

The TUCP maintains their Standard Operating Procedures, including DBE eligibility removal, on their website, <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>.

Attachment 7

Regulations: 49 CFR part 26

A copy of 49 CFR part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, can be viewed at <http://www.gpo.gov/fdsys/pkg/CFR-2010-title49-vol1/pdf/CFR-2010-title49-vol1-part26.pdf> or requested from the DBELO.