



## HOT SPRINGS INTRACITY TRANSIT DBE PROGRAM

### POLICY STATEMENT

#### Section 26.1, 26.23

#### Objectives/Policy Statement

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

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


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

The **current Deputy City Manager position** has been delegated as the DBE Liaison Officer (DEBLO) by the authority of the City Manager, the Chief Executive Officer for the City of Hot Springs, AR. In that capacity, the **Deputy City Manager** is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the HSIT in its financial assistance agreements with the Department of Transportation.

HSIT will disseminate this policy statement to the appropriate officials of the City of Hot Springs and all of the components of our organization. We will distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts and any participating non-profit agencies. Distributions include Arkansas Department of Transportation, Hot Springs Transit Advisory Committee, local media and local minority-based media. This distribution will also be accomplished by publishing on the City's web page, distributing it to the City of Hot Springs Finance and Purchasing Department and making it available at the HSIT office and the Hot Springs City Hall.

  
\_\_\_\_\_  
The Current, Deputy City Manager

1-4-2021  
Date

  
\_\_\_\_\_  
Mr. Bill Burrough, City Manager

01-04-2021  
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**

The Hot Springs Intracity Transit (HSIT) is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

### **Section 26.5 Definitions**

The HSIT will adopt the definitions contained in Section 26.5 for this program.

### **Section 26.7 Non-discrimination Requirements**

HSIT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement.

In administering its DBE program, the HSIT 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 DOT: 26.11(b)

We will report DBE participation to DOT as follows:

HSIT will report DBE participation on a semi-annual basis using the UNIFORM REPORT OF DBE COMMITMENTS/AWARDS AND PAYMENTS. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

#### Bidders List: 26.11(c)

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

We will collect this information in the following way: a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on contracts and subcontracts to report information directly to the recipient.

### **Section 26.13 Federal Financial Assistance Agreement**

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

#### Assurance: 26.13(a)

HSIT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

#### Contract Assurance: 26.13b

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

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

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since the HSIT has received a grant of \$650,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

### **Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:  
Current Deputy City Manager, 133 Convention Blvd., Hot Springs AR 71901, (501) 321-6860

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the HSIT complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City of Hot Springs' City Manager 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 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 HSIT'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. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Arkansas.

12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the HSIT's updated directory on certified DBEs.

### **Section 26.27 DBE Financial Institutions**

It is the policy of the HSIT 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. We have made the following efforts to identify and use such institutions: Contact annually the Hot Springs Chamber of Commerce. We will re-evaluate the availability of DBE financial institutions every 18 months.

To date we have identified the following such institutions: N/A

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

### **Section 26.29 Prompt Payment Mechanisms**

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from HSIT. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the HSIT. This clause applies to both DBE and non-DBE subcontracts.

The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the HSIT. This clause applies to both DBE and non-DBE subcontracts.

The HSIT has established a schedule on all payments to ensure prompt payment. Dispute resolution mechanism is listed in the City of Hot Springs' Purchasing Manual 4.16.1, section F.

### **Section 26.31 Directory**

The HSIT uses the State of Arkansas' Uniform Certification Program (UCP) directory in identifying all eligible DBE firms. The (UCP) 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. The State of Arkansas revises the UCP Directory at least annually. The UCP Directory is available as follows: [Disadvantaged Business Enterprise \(ardot.gov\)](https://www.ardot.gov/ucp/). The Directory may also be found in Attachment 2 to this program document.

### **Section 26.33 Overconcentration**

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

### **Section 26.35 Business Development Programs**

HSIT has not established a business development program at this time. We will re-evaluate the need for such a program every 18 months.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

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

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal

prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.

2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by monitoring work through on-site interviews.
4. We will maintain records of actual payments to DBE firms for work committed to them at the time of contract award.

### **Section 26.39 Fostering small business participation**

HSIT will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.39.

1. We will structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.
2. We will in a multi-year design-build contracts or other large contracts requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
3. On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
4. We will actively implement program elements to foster small business participation, including working with the Hot Springs Chamber of Commerce.
5. We will have the small business element in full operation within six months of approval.
6. We will use the definition of small business concerns set out in 49 CFR 26.5.
7. If participation by a small business will result in a tangible advantage for a firm (e.g., getting a contract via a small business set-aside program), verification will be made to ensure that a firm is in fact a small business concern and to minimize fraud and abuse.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The HSIT 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 calculations can be found in Attachment 4 to this program. This section of the program will be updated annually.

HSIT will consult with the persons or groups including: Hot Springs Chamber of Commerce to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the HSIT's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that HSIT and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 or each year in the Sentinel Record, El Latino and the Arkansas Democrat Gazette. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

#### **Section 26.47 Goal Setting and Accountability**

If the awards and commitments shown on HSIT's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Revisions will be considered regarding the need for contract goals following each annual review.

#### **Section 26.49 Transit Vehicle Manufacturers Goals**

HSIT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, HSIT 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 ARDOT 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 5 to this program. This section of the program will be updated when the goal calculation is updated.

#### **Section 26.51(d-g) Contract Goals**

The HSIT will use contract goals to meet any portion of the overall goal HSIT does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

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

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

#### **Section 26.53 Good Faith Efforts Procedures**

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Attachment 6.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

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

##### Information to be submitted (26.53(b))

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

Each solicitation for which a contract goal has been established will require the bidders/offerors 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 contractor's commitment and
6. If the contract goal is not met, evidence of good faith efforts.

#### Administrative reconsideration (26.53(d))

Within 15 days of being informed by HSIT that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Lance Spicer, 133 Convention Blvd., Hot Springs AR 71901, (501)321-6860, lspicer@cityhs.net. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

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

In this situation, we will require the prime contractor to obtain our 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, our 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 HSIT to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 1.61 percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

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

## **Section 26.55 Counting DBE Participation**

We 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**

HSIT is a member of and uses the Arkansas Uniform Certification Disadvantaged Business Enterprise Directory to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. ARDOT makes the certification decisions based on the facts as a whole.

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

Arkansas Department of Transportation  
Disadvantaged Business Enterprise Program  
10324 Interstate 30, PO Box 2261  
Little Rock, AR 72203-2261  
(501)569-2259

ARDOT certification application forms and documentation requirements are found through a web link in Attachment 7 to this program.

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

HSIT is the member of a Unified Certification Program (UCP) administered by ARDOT. The UPC will meet all of the requirements of this section. The following is a description of the UCP: “The ARDOT is charged with the responsibility of certifying firms for the purpose of maintaining a database of certified DBEs for the United States Department of Transportation (U.S. DOT) grantees in the state of Arkansas. This is pursuant to the Final Rule 49 Code of Federal Regulations (CFR) Part 26 that requires U.S. DOT recipients to take part in a statewide uniform certification process.”

### **Section 26.83 Procedures for Certification Decisions**

#### Re-certifications 26.83(a) & (c)

ARDOT Office of Civil Rights will review the eligibility of DBEs that are certified under former Part 23, to make sure that they will meet the standards of Subpart E of Part 26. ARDOT will complete this review no later than three years from the most recent certification date of each firm.

For firms that are have certified or reviewed and found eligible under Part 26, ARDOT will again review their eligibility every three years. These reviews will or may include the following components: on-site review, filling out a new application or determinations on a case-by-case basis.

#### “No Change” Affidavits and Notices of Change (26.83(j))

ARDOT requires all DBEs to inform us, 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 ARDOT application for certification.

ARDOT will require all owners of all DBEs ARDOT has certified to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 26.83(j). The test of this affidavit is the following:

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 ARDOT 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 \$16.6 million.

ARDOT requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

ARDOT will notify all currently certified DBE firms of these obligations by letter. 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 ARDOT deny a firm's application or decertify it, it may not reapply until 12 months have passed from our action.

#### **Section 26.87 Removal of a DBE's Eligibility**

In the event ARDOT proposes to remove a DBE's certification, ARDOT will follow procedures consistent with 26.87. Attachment 8 to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, ARDOT has determined that Steven Thomas, Dwayne Cale, and Angela Evans will serve as the decision-makers in de-certification proceedings. ARDOT has established an administrative "firewall" to ensure that none of the above listed individuals will 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 State of Arkansas Civil Rights Office decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation  
Attn: Departmental Office of Civil Rights  
1200 New Jersey Ave, S.E.  
Washington, DC 20590  
United States

Phone: 202-366-4648  
Fax: 202-366-5575  
TTY/Assistive Device: 202-366-9696  
Business Hours:  
8:30am-5:00pm ET, M-F

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

#### **Section 26.109 Information, Confidentiality, Cooperation**

HSIT and ARDOT will safeguard from disclose to any third-party information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

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

#### **Monitoring Payments to DBEs**

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

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

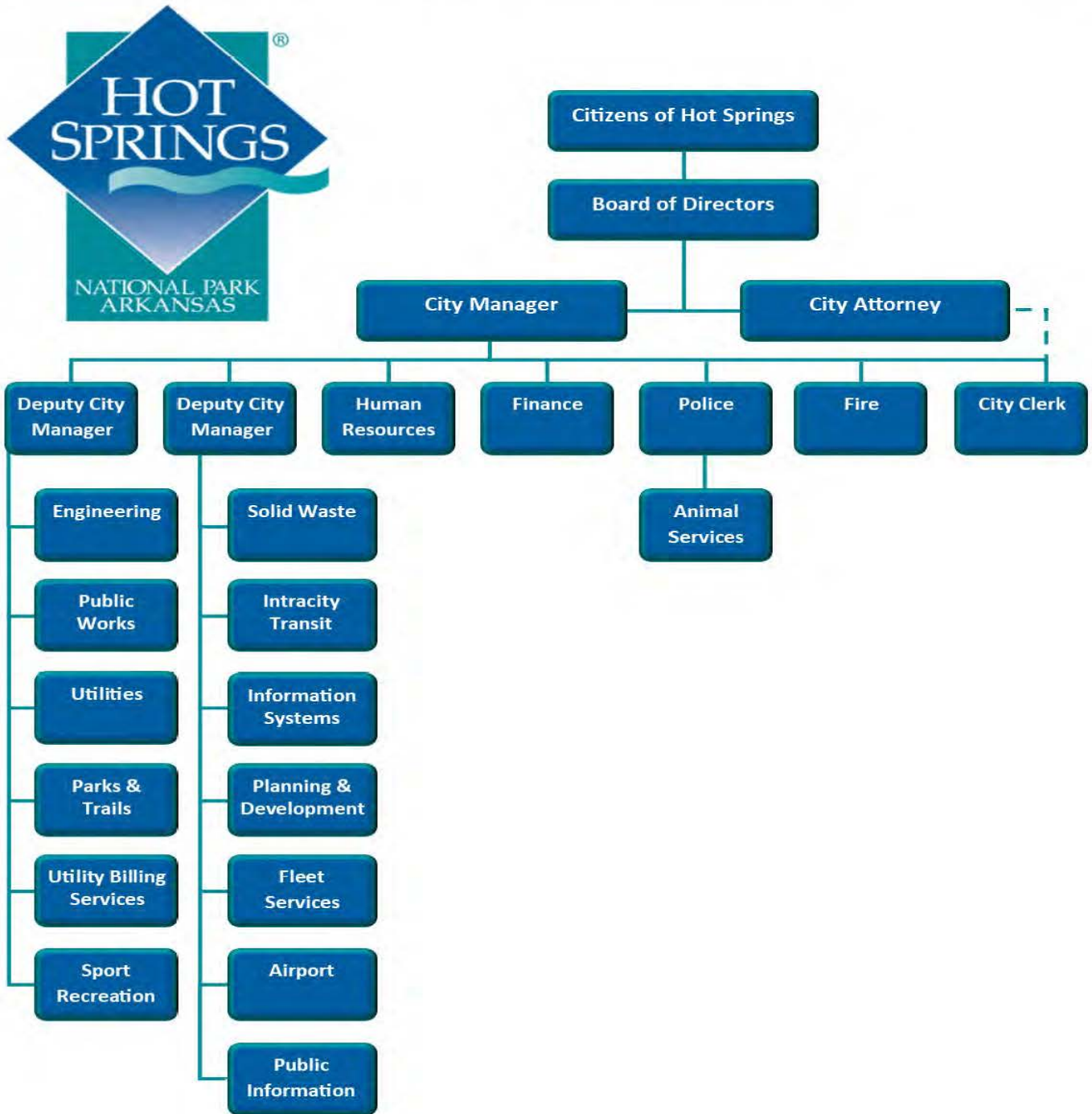
## **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculation
Attachment 5	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of DBE's Eligibility
Attachment 9	Regulations: 49 CFR part 26
Attachment 10	Unified Certification Program

Attachment 1

Organizational Chart

# ORGANIZATIONAL CHART



**Attachment 2**

**DBE Directory**

Arkansas Unified Certified Disadvantaged Business Enterprise Directory

<http://dbesearch.ardot.gov/>

### **Attachment 3**

#### **Monitoring and Enforcement Mechanisms**

The Hot Springs Intracity Transit has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Arkansas Code Annotated § 4-1-101, et seq.

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

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

**Attachment 4**

**Section 26.45: Overall Goal Calculation**

The methodology used to calculate the HSIT FFY 2021-2023 DBE goal was based on the information provided in 49 CFR Part 26 and specifically Part 26.45 for goal setting information. Other related information was obtained from website search activities.

HSIT provides fixed route and paratransit public transportation for the Hot Springs area. HSIT uses federal grant assistance in conjunction with local matching funds to facilitate the operating and capital needs for the public transportation program. HSIT made concerted efforts in the past and will continue to work in concert with the Arkansas Department of Transportation and local officials to encourage business entrepreneurs to seek application and qualification from ARDOT's DBE program. However, it is widely known across the state and by officials at ARDOT that despite cooperative efforts to identify minority contractors for certification as disadvantage enterprises, the number of certified DBE contractors remains limited.

**Amount of Goal**

Hot Springs Intracity Transit Authority's overall goal for the following time period 2021-2023 is the following: 1.61% of the Federal financial assistance we will expend in DOT-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

**Methodology used to Calculate Overall Goal**

26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBE's was calculated as follows:

$$1.61\% \text{ Base figure} = \frac{48 \text{ Ready, willing, and able DBEs}}{2,995 \text{ All firms ready, willing and able}}$$

The data source or demonstrable evidence used to derive the numerator was: ARDOT DBE list.

The data source or demonstrable evidence used to derive the denominator was: HSIT's past vendors used and the City of Hot Springs business/occupation licensing list.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 1.61%

**Public Participation**

Due to the COVID-19 pandemic, all public events have been cancelled.

HSIT will publish a notice in both English and Spanish announcing the proposed overall goal on the departmental website and published as outlined below. Comments will be accepted for a period of forty-five (45) days from the date of the notice. Comments received will be taken under advisement for adjustments to the overall goal.

We will publish our goal information in these publications:

- Sentinel Record (local daily newspaper)
- Arkansas Democrat Gazette (state daily newspaper)
- El Latino (state Hispanic daily newspaper)

## PUBLIC NOTICE

### HOT SPRINGS INTRACITY TRANSIT DISADVANTAGED BUSINESS ENTERPRISE GOAL FY2021-2023

The City of Hot Springs has proposed a goal of 1.61% for the participation of Disadvantaged Business Enterprise (DBE) in the provision of goods and services to the public transit operation. The goal and information regarding the DBE Program are available for review at Hot Springs City Hall, 133 Convention Blvd., Hot Springs, AR 71901 during normal business hours or can be accessed at [www.cityhs.net](http://www.cityhs.net) under the Intracity Transit page. Comments regarding the DBE Program will be accepted for a period of forty-five (45) days following the publication of this notice. Comments may be directed to Hot Springs Intracity Transit, 100 Broadway Ter., Hot Springs, AR, 71901 or by calling 501-321-2020.

## NOTICIA PÚBLICA

### TRÁNSITO DE INTRACIDAD DE AGUAS TERMALES OBJETIVO DE EMPRESAS COMERCIALES DESVENTAJAS FY2021-2023

La Ciudad de Hot Springs ha propuesto una meta de 1.61% para la participación de Empresas Comerciales Desfavorecidas (DBE) en la provisión de bienes y servicios a la operación de transporte público. El objetivo y la información sobre el programa DBE están disponibles para su revisión en Hot Springs City Hall, 133 Convention Blvd., Hot Springs, AR 71901 durante el horario laboral normal o se puede acceder a [www.cityhs.net](http://www.cityhs.net) en la página de Intracity Transit. Los comentarios sobre el Programa DBE serán aceptados por un período de cuarenta y cinco (45) días después de la publicación de este aviso. Los comentarios pueden dirigirse a Hot Springs Intracity Transit, 100 Broadway Ter., Hot Springs, AR, 71901 o llamando al 501-321-2020.

**Attachment 5**  
**Section 26.51: Breakout of Estimated**  
**Race-Neutral & Race Conscious Participation**

Hot Springs Intracity Transit, HSIT, will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The HSIT uses the following race-neutral means to increase DBE participation.: Maintains active status with the UCP committee; contacts with the minority community through the Hot Springs Chamber of Commerce, utilizing press releases and sending them to the regional newspaper and local minority papers, local radio stations and the local TV station and the city's web site.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: The estimate was derived from DBE participation in local procurement programs in which there are no DBE contract goals. We extend to all minority and/or women owned businesses the opportunity to bid on contracts. We have minority and/or women owned businesses in the area whom we do business but whom do not wish to be certified due to the administrative process.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals, we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we 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 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.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.



**Attachment 6**

**Forms 1 & 2 for Demonstration of Good Faith Efforts**

These forms will be used for contract opportunities when applicable.

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

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

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

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

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_ Title \_\_\_\_\_  
(Signature)

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

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

**Affirmation**

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

By \_\_\_\_\_  
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

## **Attachment 7**

### **Certification Application Forms**

The City of Hot Springs utilizes the Certification Program of the Arkansas Department of Transportation (ARDOT) for all certifications and recertifications. ARDOT 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 DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The City of Hot Springs will make our certification decisions decision based on the facts as a whole.

[DBE Application.pdf \(ardot.gov\)](#)

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

Arkansas Department of Transportation  
Disadvantaged Business Enterprise Program  
10324 Interstate 30, PO Box 2261  
Little Rock, AR 72203-2261  
(501)569-2259  
Natasha Halbert  
DBE Program Specialist  
Email: Natasha.Halbert@ardot.gov

## **Attachment 8**

### **Procedures for Removal of DBE's Eligibility**

For information about the removal of DBE's eligibility, please review Chapter 9, Section 5 of ARDOT DBE Program accessed at the following link: [2018 DBE Manual Update.pdf \(ardot.gov\)](#) or contact:

Arkansas Department of Transportation  
Disadvantaged Business Enterprise Program  
10324 Interstate 30, PO Box 2261  
Little Rock, AR 72203-2261  
(501)569-2259  
Natasha Halbert  
DBE Program Specialist  
Email: Natasha.Halbert@ardot.gov

## **Attachment 9**

### **Regulations: 49 CFR Part 26**

Instead of attaching a copy of the regulations, here is a web link to the Federal Transit Administration DBE and Electronic Code of Federal Regulations websites respectively:

<https://www.transit.dot.gov/dbe>

[Electronic Code of Federal Regulations \(eCFR\)](#)

## **Attachment 10**

### **Arkansas Unified DBE Certification Program**

[Arkansas Unified DBE Certification Program.pdf \(ardot.gov\)](#)