



PROGRAMAS FEDERALES

MUNICIPIO AUTÓNOMO DE GUAYNABO
CIUDAD CINCO ESTRELLAS

Municipality of Guaynabo DBE PROGRAM – 49 CFR PART 26

August, 2024

<http://osdbuweb.dot.gov/programs/dbe/newkit.html>



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787-720-4040



PO BOX 7885, GUAYNABO, PR 00970



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MUNICIPALITY OF GUAYNABO

DBE POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

The Municipality of Guaynabo 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 Municipality of Guaynabo has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Municipality of Guaynabo has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Municipality of Guaynabo to ensure that DBEs are 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 **Director for Planning and Federal Programs** has been delegated as the DBE Liaison Officer. In that capacity the **Director for Planning and Federal Programs** 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 Municipality of Guaynabo in its financial assistance agreements with the Department of Transportation.

The Municipality of Guaynabo has disseminated this policy statement to the Municipal Legislature of Guaynabo and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT- assisted contracts through the publication of a notice on a wide circulating newspaper and posting of a Notice at the Guaynabo City Hall and on the Guaynabo website, <https://www.guaynabocity.gov.pr/>.



Edward A. O'Neill Rosa
Mayor

August 27, 2024

Date

MUNICIPALITY OF GUAYNABO

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 Municipality of Guaynabo is the recipient of federal –aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

The Municipality of Guaynabo 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 Municipality of Guaynabo will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The Municipality of Guaynabo 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 based on race, color, sex, or national origin.

In administering its DBE program, the Municipality of Guaynabo 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:

We will report DBE participation on a semester basis, using the Uniform Report of Awards provided in TrAMS – Civil Rights.. These reports will reflect payments made to DBEs on DOT-assisted contracts and all required information regarding bidding opportunities for FTA funded projects in accordance with regulations.

Bidders List: 26.11(c)

The Municipality of Guaynabo will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement

is to allow use of the bidder's list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

There will be a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

The Municipality shall submit the Bidders List to USDOT, once its reporting system is complete and no later than Dec. 1 following the fiscal year in which the relevant contract was awarded. In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan, the data must be entered no later than Dec. 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

The Municipality of Guaynabo shall not discriminate based on 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 Municipality of Guaynabo 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 based on 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.

This language is to be used verbatim, as it is stated in 26.13(b).

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the Municipality of Guaynabo has received several grants exceeding \$250,000 in FTA Federal Programs 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 <http://osdbuweb.dot.gov/programs/dbe/newkit.html>

provide DOT 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)

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

Ada Bones
Planning and Federal Programs Director
Municipality of Guaynabo
P.O. Box 7885
Guaynabo, P.R. 00970-7885
Tel. 787-720-7040
abones@guaynabocity.gov.pr

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Municipality of Guaynabo complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor 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 a staff of 10 persons to assist in the administration of 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 Guaynabo'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. Acts as liaison to the Uniform Certification Process in Puerto Rico].
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the Municipality of Guaynabo's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the Municipality of Guaynabo 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, particularly Credit Unions
<http://osdbuweb.dot.gov/programs/dbe/newkit.html>

and Financial Cooperatives.

To date we have identified the following such institutions:

1. **Pen Fed Credit Union**
2. **Caribe Federal Credit Union**
3. **CooPACA**
4. **Cooperativa de Ahorro y Crédito Jesús Obrero**
5. **Cooperativa de Ahorro y Crédito de Las Piedras**
6. **MuniCoop**
7. **Cooperativa de Ahorro y Crédito Sagrada Famiia**

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

Section 26.29 Prompt Payment Mechanisms

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

Section 26.31 Directory

The Municipality of Guaynabo maintains a directory identifying all firms eligible to participate as DBEs. This Directory is Prepared and revised annually by the Department of Transportation and Public Works (DTPW)/ Highway and Transportation Authority (HTA) - Civil Rights Office. 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. The DTPW makes the Directory available as follows:

1. *The DTPW website: <https://act.dtop.pr.gov/derechos-civiles/>*
2. *DTPW_ Civil Rights Office
Centro Gubernamental Minillas – Torre Sur
Ave De Diego, Santurce, PR 00940\
Tel. - (787) 721-8787 Ext. 51740
derechosciviles@dtop.pr.gov*

The Directory may be found in Attachment 2 to this program document.

Section 26.33 Overconcentration

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

Section 26.35 Business Development Programs

The Municipality of Guaynabo has a business development program under its Economic Development Office. The rationale for the program is promoting the economic development of small businesses in the Municipality of Guaynabo. It provides guidance on creating a new business, preparing business plans, technical development and financing strategies. All entrepreneurs interested in setting up shop in this municipality are welcome to participate.

Section 26.37 Monitoring and Enforcement Mechanisms

The Municipality of Guaynabo 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 the legal authority of DTPW/HTA, 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 performed by the DBEs. This will be accomplished by verifying the DBE is currently enrolled in the DBE Program for the task they will perform, confirming they hold title to the equipment they use on site and interviewing the employees that perform the work to assure they are employed directly by the DBE.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award and the prompt payment requirement is met.

Section 26.39 Small Business Participation

The Municipality of Guaynabo has incorporated the following non-discriminatory element to its DBE program, to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

1. Removal of unnecessary and unjustified bundling of contract requirements
2. Race-neutral small business set-asides for prime contracts below \$200,000.
3. Reducing bonding requirements for projects under \$200,000.
4. Requiring bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Municipality of Guaynabo 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.

In accordance with Section 26.45(f) the Municipality of Guaynabo will submit its overall goal to DOT on August 1 of every third year. Before establishing the overall goal each of the next three years, the Municipality of Guaynabo will consult with the DTPW/HTA, and the General

Contractors Association, the Engineers' Association (Colegio de Ingenieros) and the Municipal Registered Bidders List to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Municipal Government'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 the Guaynabo City Hall – Office of Federal Programs for 30 days following the date of the notice, and informing the public that the Municipality 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 of each year. 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 26.49 Transit Vehicle Manufacturers Goals

The Municipality of Guaynabo 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, the Municipality of Guaynabo 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. The Municipality will notify Within 30 days of becoming contractually required to procure a transit vehicle, an FTA recipient must report to FTA: (1) the name of the TVM that was the successful bidder; and (2) The Federal share of the contractual commitment at that time.

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 annually when the goal calculation is updated. **The Municipality will not set race conscious participation goals for the general program or specific contracts, given that over 95% of the firms doing business in Puerto Rico are either certified DBEs or Small Businesses owned by Hispanics.**

Section 26.51(d-g) Contract Goals

The Municipality of Guaynabo will use contract goals to meet any portion of the overall goal Municipality of Guaynabo 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 using 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 Appendix A to Part 26.

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 responsive.

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))

The Municipality of Guaynabo treats bidder/offers' 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/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.

In the case of a "design-build" contracting situation subcontracts may be solicited throughout the contract period and the contractor must notify the DBE Liaison Officer the name of the DBE subcontractor, work to perform and subcontract amount.

Administrative reconsideration (26.53(d))

Within 5 Municipal working days of being informed by Municipality of Guaynabo 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: Legal Division, Municipality of Guaynabo, P.O. Box 7885 Guaynabo, P.R. 00970. 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 so. 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 Transpiration.

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

The Municipality of Guaynabo 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

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contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. Prime contractor's written notice to terminate a DBE must provide DBEs five (5) workdays to respond.

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 within seven (7) days with the possibility of an additional seven (7) day extension.

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 Municipality of Guaynabo 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 ten percent (10%) has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), 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

The Municipality of Guaynabo will use the certification standards of Subpart D 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 Municipality will rely entirely on determinations made by the DTPW/HTA which makes certification decisions based on the facts as a whole.

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

Lcda. Yomarie Pacheco Sánchez
DTPW/HTA – Civil Rights
PO Box 40269
San Juan, PR 00940-1269
derechosciviles@dtop.pr.gov Tel. 787721-8787 Ext. 51740

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

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Municipality of Guaynabo is a member of a Unified Certification Program (UCP) administered by the DTPW/HTA. The UPC will meet all of the requirements of this section. The following is a description of the UCP: the UCP for Puerto Rico is comprised of all the Municipalities which are located in urbanized areas and are part of an MPO.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

The DTPW/HTA will review the eligibility of DBEs that it certified under former part 23, to make sure that they will meet the standards of Subpart E of Part 26. They completed this review no later than three years from the most recent certification date of each firm. This process has been completed.

For firms that the DTPW/HTA certified or reviewed and found eligible under part 26, they will again review their eligibility every three years. These reviews will include the following components: A full review of all documentation.

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

The DTPW/HTA require all DBEs to inform, 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 their application for certification.

The DTPW/HTA also requires all owners of all DBEs it 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 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 Municipality of Guaynabo 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 \$30.2 million or the most recent SBA limit for the respective industry.

The DTPW/HTA requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

The DTPW/HTA will notify all currently certified DBE firms of these obligations 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 the DTPW/HTA denies a firm's application or decertify it, it may not reapply until 12 months have passed from such action.

Section 26.87 Removal of a DBE's Eligibility

In the event the DTPW/HTA proposes to remove a DBE's certification, it will follow procedures consistent with 26.87. The DTPW website sets forth these procedures in detail.

Section 26.89 Certification Appeals

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

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 2104
Washington, D.C. 20590

The DTPW/HTA 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

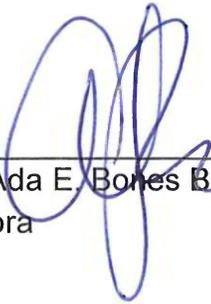
The DTPW/HTA will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, the DTPW/HTA 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

The DTPW/HTA and the Municipality of Guaynabo will require its 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 Municipality of Guaynabo 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.



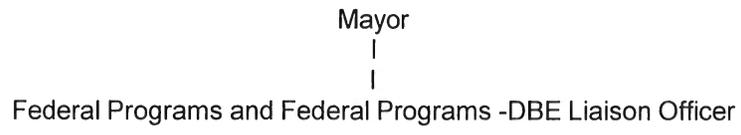
Plan. Ada E. Bones Berrios, PPL
Directora

ATTACHMENTS

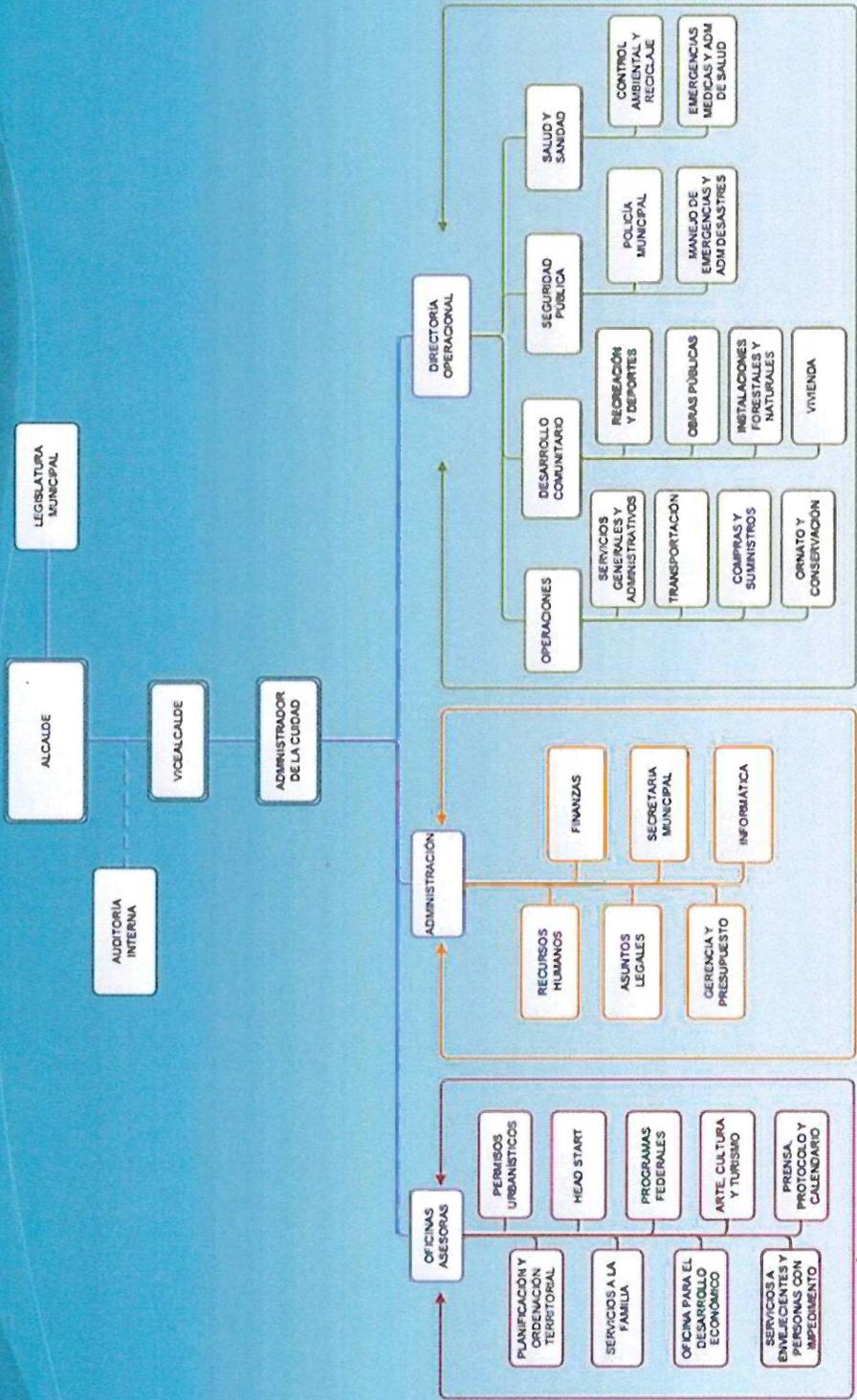
Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculations
Attachment 5	Race-Neutral & Race Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms

Attachment 1

Organizational Chart



MUNICIPIO AUTÓNOMO DE GUAYNABO



Attachment 2

DBE Directory

The DBE Directory prepared by the DTPW/HTA as the sole entity which certifies DBEs in Puerto Rico is available at the following website page.

<https://act.dtop.pr.gov/wp-content/uploads/2024/08/DBE-Business-Directory-Updated-August-2024.pdf>

Attachment 3

Monitoring and Enforcement Mechanisms

The Municipality of Guaynabo 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 Municipal Code of 2020 (Law 107 -2020).

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

Amount of Goal

1. Municipality of Guaynabo overall goal for the 2023-2025 period is the following: 10% 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.
2. \$4,763,890 is the dollar amount of DOT-assisted contracts that Municipality of Guaynabo expects to award during FFY 2023 to FY 2025. This means that the Municipality of Guaynabo has set a goal of contracting or subcontracting \$476,389 with DBEs during the next three fiscal years. This contracting amount will be procured mainly for FY 2023 and FY 2024, as grants are awarded.

Methodology used to Calculate Overall Goal

Step 1: 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:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs} = 5}{\text{All firms ready, willing and able} = 145}$$

The data source or demonstrable evidence used to derive the numerator was: the Bidders Registry of the Municipality of Guaynabo for the past 2 years.

The data source or demonstrable evidence used to derive the denominator was: the certified DBEs list of the PR Department of Transportation and Public Works (DTPW) dated August 2024.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 3.4%

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal. As a result, the goal was increased to 10% to encourage greater participation of DBEs in FTA assisted contracts. This goal is closer to that set by the state transportation agency and other Municipalities in the island. The Worksheet prepared to estimate the revised DBE participation goal is submitted under separate cover and uploaded to TrAMS under Recipient Civil Rights documents.

The Municipality will also promote enrolment of local small businesses in the DBE program through information to be provided to all bidders and the Guaynabo website, providing links to the DTPW Office of Civil Rights. The DTPW list only has 236 certified DBE's which is a small fraction of the total number of suppliers and contractors in the San Juan Metropolitan area or Puerto Rico.

Public Participation

We published our goal information in Primera HORA newspaper on August 29, 2024. Below is a copy of the text published.



Junta de Planificación
GOBIERNO DE PUERTO RICO
JUNTA DE PLANIFICACIÓN
SAN JUAN, PUERTO RICO

aviso público

AVISO SOBRE CAMBIO DE CALIFICACIÓN AUTORIZADO POR LA JUNTA DE PLANIFICACIÓN DE PUERTO RICO

Para conocimiento del público general y de conformidad con las disposiciones del Artículo 11 de la Ley Núm. 21 del 28 de junio de 1975, según enmendada, conocida como Ley Orgánica de la Junta de Planificación de PR, 23 LPRR Sec. 62 et seq., las disposiciones contenidas en la Ley Núm. 38, del 30 de junio de 2017, según enmendada, conocida como Ley de Procedimiento Administrativo Uniforme del Gobierno de PR, 3 LPRR Sec. 801 et seq. y el Artículo 6.011, de la Ley Núm. 107 de 13 de agosto de 2020, conocida como el Código Municipal de Puerto Rico, según enmendada, se informa que la Junta de Planificación de Puerto Rico, enmendó la **Moja Núm. 035** del Mapa de Zonificación Especial para la Cuenca Hidrográfica de la Laguna Tortuguero, mediante la **Resolución C-69-3**, para la siguiente petición de enmienda:

NOIA 835
2023-09-JPZ-0043 Se autoriza enmienda de un Distrito Leguna Tortuguero Área Desarrollada (L.A.D.), equivalente a un Distrito Área Rural Desarrollada (ARD) a un Distrito Comercial Intermedio (C.I) de un solar con cabildo de 1,074.329 metros cuadrados, equivalente a 0.2733 cuerdas, localizado en la Carre. Estatal PR 2, Km. 43.3, Barrio Algarobos del Municipio de Vega Baja con número de propiedad, según el Centro de Recaudaciones de Ingresos Municipales 035-072-063-85. Esta petición fue discutida en Vista Pública celebrada el 17 de mayo de 2024 y autorizada por la Junta el 26 de junio de 2024 de un Distrito E1-4D (ARL) a un Distrito C-1.

Esta enmienda entrará en vigor a los quince (15) días contados a partir de la fecha de publicación del presente edicto. Cualquier parte afectada por esta determinación podrá acudir en revisión judicial ante el Tribunal de Apelaciones dentro de un término de treinta (30) días contados a partir de la fecha en que entró en vigor la referida enmienda a tenor con la sección 2.7 de la Ley 838, según citada.


EDGARDO VÁZQUEZ RIVERA
Secretario


JULIO LASSO RUIZ, LL.M., M.P., PPL
Presidente

AVISO PAGADO POR EL PETICIONARIO
Autorizado por la Oficina del Contralor Electoral OCE-SA-2024-03634



ESTADO LIBRE ASOCIADO DE PUERTO RICO
MUNICIPIO AUTÓNOMO DE MAYAGÜEZ
DIVISION DE SUBASTAS

AVISO PÚBLICO SOLICITUD DE PROPUESTA
AÑO FISCAL 2024-2025

Propuestas en **idiotex citadas**, en ORIGINAL, UNA (1) COPIA Y UNA (1) COPIA DIGITAL EN FORMATO PDF se recibirán por la Honorable Junta de Subastas del Municipio Autónomo de Mayagüez, Puerto Rico, cuando serán abiertas y leídas públicamente, en el Salón de Conferencias, de la División de Subastas, ubicado en la Calle de Diego #36 Este, segundo piso del Edificio Albizu, en Mayagüez, Puerto Rico, para la siguiente:

RFP Número	Propósito	Período de Preguntas y Respuestas	Fecha límite y Hora de Entrega
2025-062	SELECCIÓN DE FIRMA QUE REALICE PROCESO COMPETITIVO PARA LA SELECCIÓN DE OPERADOR DEL CENTRO DE GESTIÓN ÚNICA (CAG) DE ABASTACIMIENTO DE DESAGÜO DEL MUNICIPIO DE MAYAGÜEZ LAS MARIAS	Preguntas: 9-13 de septiembre de 2024 Respuestas: 16-20 de septiembre de 2024	1 de octubre de 2024 10:00 a.m.

Los licitadores interesados podrán obtener los pliegos de especificaciones e instrucciones, así como los requisitos y la documentación requeridos en la División de Subastas, ubicada en la Calle de Diego #36 Este, segundo piso del Edificio Albizu en Mayagüez, Puerto Rico, en horas laborales 8:00 am a 12:00pm y 1:00pm a 4:00 pm, a partir de la publicación del aviso.

El licitador deberá cumplir con todos los reglamentaciones federales, con un número UEI (Unique Entity Identifier) y contar con un número DUNS y estar registrado en SAMSGOV. El incumplimiento en la presentación de cualquiera de los documentos requeridos en el pliego de condiciones y especificaciones, requisitos obligatorios para participar en la subasta, será motivo para la descalificación de la oferta presentada, por parte de la Junta de Subastas.

En sustitución de los documentos podrán someter la Certificación del Registro Único de Licitadores de la Administración de Servicios Generales (RUL), Certificación de Deuda del Municipio de Mayagüez y Certificación de Deuda donde radica el negocio.

De tener duda deberá estar acopiado a un plan de pago o haber notificado revisión administrativa de la misma y tendrá que presentar evidencia. Además, de no tener las certificaciones al día, deberá presentar copia de cheque cancelado o de los planillas sometidas para el periodo de tiempo que no refleja la certificación y de acuerdo con el término del tiempo solicitado.

Los licitadores deberán cumplir con todos los requisitos y regulaciones federales establecidos en la Ley de Oportunidad y de Inclusión en la Fuerza Laboral (WIOA) por sus siglas en inglés, las guías uniformes bajo el 2 CFR 200 y cualquier otro aplicable para esta solicitud.

Las Propuestas pueden ser enviadas por correo a: Heni Jimé de Subastas Municipio Autónomo de Mayagüez, Apartado 447 Mayagüez Puerto Rico 00681-0447 o pueden ser entregadas en la División de Subastas, ubicada en la calle de Diego #36 Este, segundo piso del Edificio Albizu en Mayagüez, Puerto Rico, en o antes de la hora y fecha de celebración de la subasta a la que quiere participar.

El Título VI del Acto de restauración de los Derechos Civiles del 1987, y los estatutos relacionados que prohíben la discriminación en programas asistidos federalmente, requieren que ninguna persona en los Estados Unidos de América, ya sea por raza, color, origen, nacionalidad, sexo, edad o incapacidad, sea excluida de participar en programas o actividad que reciba asistencia financiera federal en parte o en su totalidad, ni se le negará el goce de los beneficios o será sometido a la discriminación bajo el mismo. Se prohíbe la participación de licitadores/certificadores como Minority Business Enterprise (MBE), Woman's Business Enterprise (WBE) y "Disadvantaged Business Enterprise" (DBE) o la subcontratación de dichas organizaciones y/o empresas.

El Municipio Autónomo de Mayagüez se reserva el derecho de rechazar una o todas las proposiciones y de adjudicar bajo cualquier condición que estime más conveniente a los mejores intereses del Municipio Autónomo de Mayagüez, independientemente del precio más bajo, igualmente se reserva el derecho de adjudicar total o parcialmente (s) subasta(s).

MUNICIPIO AUTÓNOMO DE MAYAGÜEZ
Autorizado por la Oficina del Contralor Electoral OCE-SA-2024-01042



PROGRAMAS FEDERALES
MUNICIPIO AUTÓNOMO DE GUAYNABO
CIUDAD CINCO ESTRELLAS

GOBIERNO MUNICIPAL DE GUAYNABO
AVISO METAS DE PARTICIPACIÓN
DE EMPRESAS EN DESVENTAJA ECONÓMICA (DBE)

El Municipio Autónomo de Guaynabo notifica al público en general y a las empresas y otras entidades interesadas que hemos determinado las metas de participación de Empresas en Desventaja Económica (DBE por sus siglas en inglés) para los años fiscales federales de 2025 al 2027 de acuerdo a los reglamentos del Departamento de Transportación Federal según el 49CFR Parte 26.

La meta de participación de DBE para los años FY 2025 a FY 2027 es de 10% de las subastas con fondos de la Administración Federal de Transporte Colectivo (FTA por sus siglas en inglés).

Copia de la metodología para determinar estas metas y del Plan de Participación DBE del Municipio de Guaynabo estarán disponibles para inspección de 8:30 am a 3:45 pm durante los próximos 30 días a partir de la publicación de este AVISO en la Oficina de Planificación y Programas Federales del Municipio de Guaynabo. El Municipio recibirá comentarios durante los próximos 45 días sobre estos documentos, los cuales deben enviarse a:


Plan. Ado E. Bienes Berrios, PPL
Directora
Oficina de Planificación y Asesoría Federales
jbuenos@guaynabopr.gov
Municipio Autónomo de Guaynabo
PO BOX 7885
GUAYNABO PR 00970-7885

"Autorizado por la Oficina del Contralor Electoral OCE-SA-2024-11207"

We received comments from any individuals or organizations:
COMMENTS NOT RECEIVED YET>

Summaries of these comments are as follows:

Our responses to these comments are:

PRIMERA HORA, Jueves, 29 de agosto de 2024 305

Attachment 5

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

The Municipality of Guaynabo will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Municipality of Guaynabo uses the following race-neutral means to increase DBE participation:

- (1) Providing technical assistance and other services;
- (2) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (3) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- (4) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (5) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (6) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

We estimate that, in meeting our overall goal we will obtain 100% from race-neutral participation.

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

[Forms 1 and 2 should be provided as part of the solicitation documents.]

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:

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

All forms and pertinent information may be obtained from the DTPW/HTA, which makes all DBE Certification determinations, at the following link:

<https://act.dtop.pr.gov/derechos-civiles/empresas-en-desventaja-social-y-economica-disadvantaged-business-enterprise/>