

## UPTOWN HOUSTON DBE PROGRAM

### POLICY STATEMENT

#### **Section 26.1, 26.23**

#### **Objectives/Policy Statement**

The Harris County Improvement District #1 (“Uptown Houston”) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Uptown Houston has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Uptown Houston has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Uptown Houston 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.

Shannon Daniels, Finance Director has been delegated as the DBE Liaison Officer. In that capacity, Shannon Daniels 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 Uptown Houston in its financial assistance agreements with the Department of Transportation.

Uptown Houston has disseminated this policy statement to the Harris County Improvement District #1 Board of Directors and all of the components of our organization. Uptown Houston has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. Uptown Houston will also notify area contractors through direct mail, the Uptown Houston website, and newspaper advertisements soliciting comments on the district’s annual DBE goals, and the overall DBE program.

\_\_\_\_\_  
John R. Breeding, President

\_\_\_\_\_  
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**

Uptown Houston is the recipient of federal – aid highway funds authorized under Titles I (Highways), III (Public Transportation) and V (Research) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act – Legacy for Users of 2004 (SAFETEA-LU), Pub. L. 109-59.

### **Section 26.5 Definitions**

Uptown Houston will adopt the definitions contained in Section 26.5 for this program.

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

Uptown Houston will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, Uptown Houston 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)

Uptown Houston will report DBE participation to DOT as follows:

Uptown Houston will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

#### Bidders List: 26.11(c)

Uptown Houston 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 bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

Uptown Houston will collect this information in the following ways by including a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

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

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

**Section 26.13 Federal Financial Assistance Agreement**

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

Assurance: 26.13(a)

Uptown Houston 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.

[*Note: This language is to be used verbatim, as it is stated in 26.13(a).*]

Contract Assurance: 26.13b

Uptown Houston 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.

[*Note: 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 Uptown Houston has received a grant of \$250,000 or more in FTA capital assistance in a federal fiscal year, Uptown Houston will continue to carry out this program until all funds from DOT financial assistance have been expended. Uptown Houston will provide to 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)**

Uptown Houston has designated the following individual as our DBE Liaison Officer:

Shannon Daniels, Finance Director  
Uptown Houston  
1980 Post Oak Boulevard, Suite 1580  
Houston, Texas 77056  
Telephone: (713) 621-2011  
E-mail: [Sdaniels@UptownHouston.com](mailto:Sdaniels@UptownHouston.com)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Uptown Houston complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to John R. Breeding, President of Uptown Houston, 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 two (2) 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 Uptown Houston's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the President and Board of Directors on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Texas.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains Uptown Houston's updated directory on certified DBEs.
16. Analyzes shortfall if the overall goal is not reached. If required, will develop a corrective action plan and submit the plan to DOT/FTA.

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

It is the policy of Uptown Houston 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.

Uptown Houston continuously researches the availability of DBE owned financial institutions at <http://www.federalreserve.gov/releases/mob>.

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

**Section 26.29 Prompt Payment Mechanisms**

Uptown Houston will include the following clause in each DOT (FTA)-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 Uptown Houston. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Uptown Houston. This clause applies to both DBE and non-DBE subcontracts.

**Section 26.31 Directory**

Uptown Houston provides instructions to potential bidders to access the State of Texas's online Uniform Certification Program Directory and TxDOT's online Certified Firm Information Directory, which identify all firms eligible to participate as DBEs. These directories list the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE.

The State of Texas Uniform Certification Program Directory is included in Attachment 2.

**Section 26.33 Overconcentration**

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

**Section 26.35 Business Development Programs**

Uptown Houston does not have a business development program.

**Section 26.37 Monitoring and Enforcement Mechanisms**

Uptown Houston will monitor and provide written certification for every contract/project on which DBEs are participating, ensuring the DBEs are in fact performing the work. Uptown Houston will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. Uptown Houston 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. Uptown Houston 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. Uptown Houston 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 conducting monthly field reviews, and DBE-contractor interviews.
4. Uptown Houston will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

**Section 26.39 Small Business Provision**

Uptown Houston will foster small business participation in the following ways:

- Make RFPs/solicitations more attractive to small businesses
- Unbundling of contracts
- Simplify or reduce bonding requirements
- Host matchmaking events

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

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

Uptown Houston 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 every three years.

In accordance with Section 26.45(f) Uptown Houston will submit its overall goal to DOT on August 1<sup>st</sup> (of the year of update). Before establishing the overall goal every three years, Uptown Houston will consult with the FTA, local agencies and organizations, trade groups, and the local contracting community to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Uptown Houston's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, Uptown Houston will publish a notice of the proposed overall goals on the Uptown Houston website and in a daily newspaper of general circulation, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 45 days from the date of the notice.

Normally, Uptown Houston will issue this notice by June 1<sup>st</sup> of the year of update. The notice must include addresses to which comments may be sent and addresses (including offices and the Uptown Houston website) 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.

Uptown Houston will begin using our overall goal on October 1 (of the year adopted), unless Uptown Houston have received other instructions from DOT. If Uptown Houston establishes a goal on a project basis, Uptown Houston will begin using this goal by the time of the first solicitation for a DOT-assisted contract for the project.

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

N/A – Uptown Houston does not provide transit services, does not procure nor owns transit vehicles.

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

The breakout of estimated race-neutral participation can be found in Attachment 5 to this program. This section of the program will be updated annually when the goal calculation is updated.

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

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

### **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 of USC 49 CFR 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:

Robert Taube, Director of Capital Programs

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

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

Uptown Houston 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 contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

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

Within 30 days of being informed by Uptown Houston 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:

*Shannon Daniels, Finance Director*  
*Uptown Houston*  
*1980 Post Oak Boulevard, Suite 1580*  
*Houston, Texas 77056*  
*Telephone: (713) 621-2011*  
*E-mail: [Sdaniels@uptown-houston.com](mailto:Sdaniels@uptown-houston.com)*

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. Uptown Houston 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))

Uptown Houston will not allow termination for convenience. Prime contractors may not terminate DBE subcontractors from projects without "good cause" and written approval from Uptown Houston.

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

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

**CERTIFICATION STANDARDS****Certification Process – Section 26.61 – 26.73**

Uptown Houston is a member of the State of Texas's Unified Certification Program (TUCP). The TUCP will meet all of the requirements of this section of the DBE Program. The TUCP follows Federal Regulation 49 CFR, Part 26. Under the TUCP, the Uptown Houston is a participant and not a certifying agency. Uptown Houston's signed agreement was submitted to the Texas Department of Transportation on \_\_\_\_\_ 2011 effective date of \_\_\_\_\_, 2011.

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

City of Houston  
Timothy Warren  
611 Walker St.  
Houston, TX 77002  
Phone: 713-837-9035  
Fax: 713-837-9052  
[timothy.warren@cityofhouston.net](mailto:timothy.warren@cityofhouston.net)  
[www.houstontx.gov/obo/](http://www.houstontx.gov/obo/)

**SUBPART F – COMPLIANCE AND ENFORCEMENT****Section 26.109 Information, Confidentiality, Cooperation**

Uptown Houston will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Pursuant to Texas Statutes, all information submitted by applicant firms with their applications for certifications and affidavits of continued eligibility, including their personal net worth statements, are confidential and exempt from the requirements of Texas public records laws. Notwithstanding any contrary provisions of state or local law, the Uptown-Houston 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**

Uptown Houston 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 Uptown Houston or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Uptown Houston 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 1**

**Organizational Chart**

(insert actual organization chart here)

Board of Directors

President (John R. Breeding)

Robert Taube  
Capital Programs Director

Shannon Daniels, Finance Director  
DBE Liaison Officer (DBELO)

**Attachment 2**

**DBE Directory**

A copy of the Texas Unified Certification Program DBE Information Directory can be obtained on the Uptown Houston website at <http://www.dot.state.tx.us/business/tucp/default.htm> or a copy can be requested from Uptown Houston's DBE Liaison Officer.

**Attachment 3****Monitoring and Enforcement Mechanisms**

Uptown Houston will monitor and provide written certification for every contract/project on which DBEs are participating, ensuring the DBEs are in fact performing the work.

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

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

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

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

## Attachment 4

### Section 26.45: Overall Goal Calculation

#### Amount of Goal

Uptown Houston's overall goal for 2011 is the following: **5.8%** of the Federal Financial assistance Uptown Houston will expend in DOT-assisted contracts, which is exclusive of FTA funds to be used for the purchase of transit vehicles.

#### 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:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs (283)}}{\text{All firms ready, willing and able (4,815)}}$$

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

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

When Uptown Houston divided the numerator by the denominator, Uptown Houston arrived at the base figure for our overall goal and that number was

#### **Base Figure Analysis**

**Market Area:** Uptown Houston has selected the Harris County area as the market area for this analysis.

##### **Sources of Data:**

The data source for identifying ready, willing and able DBEs is the Texas Unified Certification Program (TUCP) DBE Category Listing. The web address is:

<http://www.dot.state.tx.us/business/tucp/default.htm>

The data source for identifying all firms ready, willing and able is the U.S. Census Bureau North American Industry Classification System (NAICS) 2008 County Business Patterns. The web address is:

<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>

##### **Applicable North American Industry Classification System (NAICS) Codes:**

The Federal funds will be used to construct an intermodal transit and parking facility. Based on the nature of the work required to construct a transit and parking facility, Uptown Houston selected the following NAICS codes for identifying the data required to calculate the overall goal base figure. The data compiled for the market area as defined above includes ready, willing and able DBEs and all firms ready, willing and able.

*236220 Commercial and Institutional Building Construction*

This industry comprises establishments primarily responsible for the construction (including new work, additions, alterations, maintenance, and repairs) of commercial and institutional buildings and related structures, such as stadiums, grain elevators, and indoor swimming pools. This industry includes establishments responsible for the on-site assembly of modular or prefabricated commercial and institutional buildings. Included in this industry are commercial and institutional building general contractors, commercial and institutional building operative builders, commercial and institutional building design-build firms, and commercial and institutional building project construction management firms.

Harris County Ready, Willing and Able **DBEs** – 62  
Total DBEs for NAICS #236220 – 62

Harris County Ready, Willing and Able Firms - 575  
Total Firms for NAICS #236220 – 575

*237310 Highway, Street, and Bridge Construction*

This industry comprises establishments primarily engaged in the construction of highways (including elevated), streets, roads, airport runways, public sidewalks, or bridges. The work performed may include new work, reconstruction, rehabilitation, and repairs. Specialty trade contractors are included in this group if they are engaged in activities primarily related to highway, street, and bridge construction (e.g., installing guardrails on highways).

Harris County Ready, Willing and Able **DBEs** - 20  
Total DBEs for NAICS #237310 – 20

Harris County Ready, Willing and Able Firms – 84  
Total Firms for NAICS #237310 – 84

*238110 Poured Concrete Foundation and Structure Contractors*

This industry comprises establishments primarily engaged in pouring and finishing concrete foundations and structural elements. This industry also includes establishments performing grout and shotcrete work. The work performed may include new work, additions, alterations, maintenance, and repairs.

Harris County Ready, Willing and Able **DBEs** – 25  
Total DBEs for NAICS #238110 – 25

Harris County Ready, Willing and Able Firms – 169  
Total Firms for NAICS #238110 – 169

*238120 Structural Steel and Precast Concrete Contractors*

This industry comprises establishments primarily engaged in: (1) erecting and assembling structural parts made from steel or precast concrete (e.g., steel beams, structural steel components, and similar products of precast concrete); and/or (2) assembling and installing other steel construction products (e.g., steel rods, bars, rebar, mesh, and cages) to reinforce poured-in-place concrete. The work performed may include new work, additions, alterations, maintenance, and repairs.

Harris County Ready, Willing and Able **DBEs** - 10  
Total DBEs for NAICS #238120 – 10

Harris County Ready, Willing and Able Firms – 55

Total Firms for NAICS #238120 - 55

***238150 Glass and Glazing Contractors***

This industry comprises establishments primarily engaged in installing glass panes in prepared openings (i.e., glazing work) and other glass work for buildings. The work performed may include new work, additions, alterations, maintenance, and repairs.

Harris County Ready, Willing and Able **DBEs** – 4

Total DBEs for NAICS #238150 – 4

Harris County Ready, Willing and Able Firms – 68

Total Firms for NAICS #238150 – 68

***238210 Electrical Contractors***

This industry comprises establishments primarily engaged in installing and servicing electrical wiring and equipment. Electrical contractors included in this industry may include both the parts and labor when performing work. Electrical contractors may perform new work, additions, alterations, maintenance, and repairs.

Harris County Ready, Willing and Able **DBEs** – 19

Total DBEs for NAICS #238210 – 19

Harris County Ready, Willing and Able Firms– 648

Total Firms for NAICS #238210 – 648

***238220 Plumbing, Heating, and Air-Conditioning Contractors***

This industry comprises establishments primarily engaged in installing and servicing plumbing, heating, and air-conditioning equipment. Contractors in this industry may provide both parts and labor when performing work. The work performed may include new work, additions, alterations, maintenance, and repairs.

Harris County Ready, Willing and Able **DBEs** – 16

Total DBEs for NAICS #236220 – 16

Harris County Ready, Willing and Able Firms– 886

Total Firms for NAICS #238210 – 886

***238910 Site Preparation Contractors***

This industry comprises establishments primarily engaged in site preparation activities, such as excavating and grading, demolition of buildings and other structures, septic system installation, and house moving. Earth moving and land clearing for all types of sites (e.g., building, nonbuilding, mining) is included in this industry. Establishments primarily engaged in construction equipment rental with operator (except cranes) are also included.

Harris County Ready, Willing and Able **DBEs** – 28

Total DBEs for NAICS #238910 – 28

Harris County Ready, Willing and Able Firms – 205

Total Firms for NAICS #238910 - 205

***238990 All Other Specialty Trade Contractors***

This industry comprises establishments primarily engaged in specialized trades (except foundation, structure, and building exterior contractors; building equipment contractors; building finishing contractors; and site preparation contractors). The specialty trade work performed includes new work, additions, alterations, maintenance, and repairs.



Harris County Ready, Willing and Able **DBEs** – 34  
Total DBEs for NAICS #238990 – 34

Harris County Ready, Willing and Able Firms – 321  
Total Firms for NAICS #238990 – 321

*221122 Electric power distribution*

This U.S. industry comprises electric power establishments primarily engaged in either (1) operating electric power distribution systems (i.e., consisting of lines, poles, meters, and wiring) or (2) operating as electric power brokers or agents that arrange the sale of electricity via power distribution systems operated by others.

Harris County Ready, Willing and Able **DBEs** – 0  
Total DBEs for NAICS #221122– 0

Harris County Ready, Willing and Able Firms – 74  
Total Firms for NAICS #221122– 74

*323110 Commercial lithographic printing*

This U.S. industry comprises establishments primarily engaged in lithographic (i.e., offset) printing without publishing (except books, grey goods, and manifold business forms). This industry includes establishments engaged in lithographic printing on purchased stock materials, such as stationery, letterhead, invitations, labels, and similar items, on a job order basis.

Harris County Ready, Willing and Able **DBEs** – 2  
Total DBEs for NAICS #323110 – 2

Harris County Ready, Willing and Able Firms – 151  
Total Firms for NAICS #323110– 151

*453210 Office supplies and stationery stores*

This industry comprises establishments primarily engaged in one or more of the following: (1) retailing new stationery, school supplies, and office supplies; (2) retailing a combination of new office equipment, furniture, and supplies; and (3) retailing new office equipment, furniture, and supplies in combination with selling new computers.

Harris County Ready, Willing and Able **DBEs** – 5  
Total DBEs for NAICS #453210– 5

Harris County Ready, Willing and Able Firms – 107  
Total Firms for NAICS #453210– 107

*517110 Wired telecommunications carriers*

This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.

Harris County Ready, Willing and Able **DBEs** – 1  
Total DBEs for NAICS #517110 – 1

Harris County Ready, Willing and Able Firms – 339  
Total Firm for NAICS #517110– 339

*517210 Wireless telecommunications carriers*

This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.

Harris County Ready, Willing and Able **DBEs** – 3  
Total DBEs for NAICS #517210 – 3

Harris County Ready, Willing and Able Firms – 195  
Total Firms for NAICS #517210– 195

*541618 Other management consulting services*

This U.S. industry comprises establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.

Harris County Ready, Willing and Able **DBEs** – 21  
Total DBEs for NAICS #541618– 21

Harris County Ready, Willing and Able Firms – 286  
Total Firms for NAICS #541618– 286

*561621 Security systems services (except locksmiths)*

This U.S. industry comprises establishments primarily engaged in (1) selling security alarm systems, such as burglar and fire alarms, along with installation, repair, or monitoring services or (2) remote monitoring of electronic security alarm systems.

Harris County Ready, Willing and Able DBEs – 4  
Total **DBEs** for NAICS #561621– 4

Harris County Ready, Willing and Able Firms – 88  
Total Firms for NAICS # 561621– 88

*561710 Exterminating and pest control services*

This industry comprises establishments primarily engaged in exterminating and controlling birds, mosquitoes, rodents, termites, and other insects and pests (except for crop production and forestry production). Establishments providing fumigation services are included in this industry.

Harris County Ready, Willing and Able **DBEs** – 4  
Total DBEs for NAICS #561710– 4

Harris County Ready, Willing and Able Firms – 156  
Total Firms for NAICS #561710– 156

*561720 Janitorial services*

This industry comprises establishments primarily engaged in cleaning building interiors, interiors of transportation equipment (e.g., aircraft, rail cars, ships), and/or windows.

Harris County Ready, Willing and Able **DBEs** – 25  
Total DBEs for NAICS #561720– 25

Harris County Ready, Willing and Able Firms – 408  
Total Firms for NAICS #561720– 408

Overall Goal Base Figure Calculations for Harris County

Total Harris County Ready, Willing and Able DBEs (numerator) - 283

Total for Firms Ready, Willing and Able (denominator) – 4815

Base Figure – **5.8%**

**Step 2:**

This is the first time Uptown Houston has ever had an officially adopted DOT/FTA DBE Program, so there are no statistics on past DBE participation. **As a result, Uptown Houston will use the base figure of 5.8% as the overall goal.**

**Public Participation (To be completed after 45 day public comment period – also see draft goal advertisement)**

Uptown Houston published our goal information in these publications: Houston Chronicle

Uptown Houston received comments from these individuals or organizations:

Summaries of these comments are as follows:

Our responses to these comments are:

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

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

Uptown Houston estimates that, in meeting our overall goal of **5.8%**, Uptown Houston will obtain 5.8% from race-neutral participation and 0% from race-conscious participation.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

Uptown Houston's program will be implemented with entirely race-neutral means. In order to ensure that Uptown Houston's DBE program will be narrowly tailored to overcome the effects of discrimination, if Uptown Houston uses contract goals, Uptown Houston will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and Uptown Houston will communicate this change to the program to FTA. If Uptown Houston revise its program and use contract goals, Uptown Houston 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.

Uptown Houston does not intend to achieve any DBE participation by using contract goals.

**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**

*[Include in this attachment a copy of the certification forms that you require the DBE to fill out. Also make sure to include the affidavit of personal net worth.]*

**Attachment 8**

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

*[Set out the procedures in 26.87 for the removal of DBE's eligibility in this attachment.]*

**Attachment 9**

**Regulations: 49 CFR Part 26**

*[Uptown Houston recommends that you attach a copy of the regulations to your program so that the public users to whom you send copies can have it handy.]*

*[You may attach other documents as you see necessary to make your program as complete as possible. The current list of attachments is an example and can be modified at your convenience.]*