

Disadvantaged Business Enterprise (DBE) Plan

Atlanta Regional Commission

Effective October 1, 2022



Atlanta Regional Commission

ARC DBE Plan and DBE Goal-Setting Methodology

POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

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

It is the policy of ARC 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 marketplace outside the DBE Program.

The General Counsel and Chief Compliance Officer has been designated as the DBE Liaison Officer. In that capacity, the General Counsel 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 ARC in its financial assistance agreements with the Department of Transportation.

ARC has disseminated this policy statement to the organization. We have distributed this statement to DBE and non-DBE business communities that perform work for ARC on DOT-assisted contracts. ARC has provided notice of our DBE Program in the Fulton County Daily Report. The DBE Program is also available for copying or viewing at ARC Offices located at 229 Peachtree Street, NE, Suite 100, Atlanta, GA 30303 and on ARC's website at www.atlantaregional.org or <https://atlantaregional.org/about-arc/business-services-finance/arc-business-opportunities/>.



Anna Roach

Executive Director

8/31/22
Date

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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

ARC 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.

ARC is also 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.

Current transportation authorization act citation: Infrastructure Investment and Jobs Act of 2022 (IIJA), Pub. L. 117-58, 135 Stat. 429. Other recent, relevant transportation funding laws that ARC received funding from: CARES (2020) and American Recovery Plan (2021) - both authorizations administered under FTA Sec. 5307 purview.

Previous authorizations not included (SAFETEA-LU (2005), MAP-21 (2012), & FAST (2015))

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

ARC 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, ARC will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing

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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)

ARC will report DBE participation to DOT as follows:

- ARC will report DBE participation to FTA on a semi-annual basis, using the TrAMS system. These reports will reflect payments made to DBEs on DOT-assisted contracts.
- ARC will report DBE participation to FHWA upon request.

Bidders List: 26.11(c)

ARC 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 bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

ARC will collect this information in the following ways:

- ARC will request the following information be submitted in all full solicitations, including:
 - Name
 - Address of office to perform contract
 - Bid Amount
 - MBE/WBE/DBE status
 - NIGP Code, Description of Work

Section 26.13 Federal Financial Assistance Agreement

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

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Assurance: 26.13(a)

ARC 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 ARC 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

ARC 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.

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SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 D B E Program Updates

Since ARC has received a grant of \$250,000 or more in FTA planning, capital, and or operating assistance in a federal fiscal year and received grant funds from FHWA as a sub-recipient, ARC will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 P o l i c y Statement

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

Section 26.25 D B E Liaison Officer (DBELO)

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

Brittany Zwald
General Counsel/Chief Compliance Officer
Atlanta Regional Commission
229 Peachtree Street, NE, Suite 100
Atlanta, GA 30303
470.378.1494
BZwald@atlantaregional.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that ARC complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2.1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO works with the procurement team, 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.

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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 ARC's progress toward attainment and identifies ways to improve progress.
- =8. Advises the Executive Director\Board on DBE matters and achievement.
11. Provides DBEs with information and assistance in preparing bids upon request.
12. Participates in DBE training seminars.
13. Acts as liaison to the Uniform Certification Process in the State of Georgia.
15. Maintains ARC's Bidder's list in coordination with procurement staff.

Section 26.27 D B E Financial Institutions

It is the policy of ARC 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.

Periodically, ARC solicits competitively for banking services. ARC follows GAAP principles in determining when a new financial institution is necessary. ARC does not provide outside bonding or other financial assistance, and for agency stability, ARC does not frequently change its main banking institution. It is not anticipated that ARC will seek to change institutions in the period covered by this plan. ARC recently applied for a line of credit and submitted the inquiry to a qualified DBE banking institution.

Section 26.29 P r o m p t Payment Mechanisms

ARC will pay its prime contractors within 30 days from the receipt of a prime contractor's invoice. ARC will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from ARC. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for

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good cause following written approval of ARC. This clause applies to both DBE and non-DBE subcontracts.

Any contractor found not to be in compliance with this clause will be considered in breach of contract and any further payments will be withheld until corrective action is taken. If contractor does not take corrective action, contractor may be subject to contract termination.

Any dispute and appeal regarding this prompt pay provision will be handled according to ARC's Purchasing, Contracting and Procurement Policy. For more information concerning ARC's dispute and appeals process, please contact ARC's General Counsel.

Section 26.31 Directory

ARC participates in the State of Georgia Uniform Certification Program administered by the Georgia Department of Transportation (GDOT) and the Metropolitan Atlanta Rapid Transit Authority (MARTA). GDOT maintains a directory identifying all firms eligible to participate as DBEs. 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 link to the Directory may be found in Attachment 2.2 to this program document.

Section 26.33 Overconcentration

ARC has not determined an overconcentration of DBE firms in the work ARC completes. ARC receives mostly non-DBE prime contractors in RFP and Sealed Bid solicitations.

Section 26.35 Business Development Programs

ARC has not established a business development program. ARC refers DBEs and non-DBEs needing business development services to:

- Georgia Department of Transportation Supportive Services Consultant
- Atlanta Small Business Development Center at Georgia State University
- Atlanta Minority Business Development Center and/or
- SCORE Atlanta
- Georgia Tech's Procurement Assistance Center

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Section 26.37 Monitoring and Enforcement Mechanisms

ARC will provide the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. ARC 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. ARC will consider similar action under our own legal authorities, including responsibility determinations in future contracts. ARC's procurement and contracting manuals list the regulation, provisions, and contract remedies available to ARC in the events of non-compliance with the DBE regulations by a participant in our procurement activities.
3. ARC 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:
 - Tracking DBE contracts in financial tracking system on prime contractor activity and producing a report of DBE prime participation on a semi-annual basis; and,
 - Requiring prime contractors with subcontractors to submit evidence of all subcontractor performance, including DBEs, with monthly invoice and reviewable by project managers.
4. ARC will keep a running tally of actual payments to DBE firms, both prime contractors and subcontractors, for work committed to them at the time of contract award.

Section 26.39 Small Business Participation

ARC has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBE and non-DBE small businesses):

- Publish list of informal procurements normally procured by ARC each year and forecast of upcoming formal procurements for the year through the annual ARC Budget and Work Program process. These procurement opportunities will cover both sub-recipients and prime contractors.
- Ensure that small businesses are included on ARC Prospective consultant list; and,
- Encourage solicitation of at least one small business on prime and subcontracting opportunities.

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SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 S e t -asides or Quotas

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

Section 26.45 O v e r a l l Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 2.3 to this program. This section of the program will be updated every three years.

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

Following this consultation, ARC 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 ARC's offices and on ARC's website following the date of the notice and informing the public that ARC and DOT will accept comments on the goals for 30 days from the date of the notice.

ARC's proposed goal may be reviewed at and comments regarding ARC's proposed DBE goal can be sent to:

Brittany Zwald
General Counsel/Chief Compliance Officer
Atlanta Regional Commission
229 Peachtree Street, NE, Suite 100
Atlanta, GA 30303
470.378.1494
BZwald@atlantaregional.org
www.atlantaregional.org

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

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ARC will begin using the proposed overall goal on October 1 of the designated year, unless other instructions from DOT have been received. If ARC establishes 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 T r a n s i t Vehicle Manufacturers Goals

ARC, as a planning organization, does not anticipate the acquisition of transit vehicles. As such, ARC does not establish goals for Transit Vehicle Manufacturers.

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

ARC's goal is based entirely on Race Neutral participation. ARC does not utilize Race Conscious participation in its DBE program. More information about this participation can be found in Attachment 2.4 to this program.

Section 26.51(d-g) Contract Goals

ARC does not implement the use of contract goals.

Section 26.53 G o o d Faith Efforts Procedures

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

ARC does not utilize contract goals. Therefore, there is no obligation of the bidder/offeror to make good faith efforts.

Section 26.55 C o u n t i n g DBE Participation

ARC will count DBE participation towards the overall goal as provided in 49 CFR 26.55.

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SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

ARC relies upon the standards established under the Uniform Certification Program, which is administered by the Georgia Department of Transportation. The UCP 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.

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

Brittany Zwald
General Counsel/ Chief Compliance Officer
Atlanta Regional Commission
229 Peachtree Street, NE, Suite 100
Atlanta, GA 30303
470.378.1494
BZwald@atlantaregional.org

The UCP certification application forms and documentation requirements are found in Attachment 2.6 to this program.

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SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 U n i f i e d Certification Programs

ARC is a member of a Unified Certification Program (UCP) administered by the Georgia Department of Transportation. The Georgia Department of Transportation and The Metropolitan Atlanta Rapid Transit Authority (MARTA) entered into a State of Georgia Unified Certification Program (known as the GUCP agreement). All applications, affidavit of no change forms and personal net worth for certification will be sent to Georgia DOT. Each item will be logged in and date stamped for data management by the GDOT DBE Administrator.

Section 26.83 P r o c e d u r e s for Certification Decisions

Re-certifications 26.83(a) & (c)

Re-certifications are reviewed and determined by the UCP, administered by the Georgia Department of Transportation. ARC will direct all inquiries regarding recertification to the UCP.

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

ARC will direct all inquiries regarding No Change Affidavits and Notices of Change to the UCP.

Section 26.85 D e n i a l s of Initial Requests for Certification

Denials of Initial Requests for Certification are reviewed and determined by the UCP, administered by the Georgia Department of Transportation. ARC will direct all inquiries to the UCP.

Section 26.87 R e m o v a l of a DBE’s Eligibility

Removal of a DBE’s Eligibility are reviewed and determined by the UCP, administered by the Georgia Department of Transportation. ARC will direct all inquiries to the UCP.

Section 26.89 C e r t i f i c a t i o n Appeals

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Any firm or complainant may appeal a 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 UCP 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 the UCP denial of its application was erroneous).

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SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

ARC will safeguard from disclosure to third party's information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. In responding to requests for information concerning any aspect of the DBE program, ARC complies with the provisions of the Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a).

Notwithstanding any contrary provisions of state or local law, ARC 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 and Enforcement Mechanisms

ARC utilizes both Georgia Department of Transportation and the federal government enforcement mechanisms.

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; and,
3. Prosecution pursuant to 18 USC 1001.

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ATTACHMENTS

Attachment 2.1	Organizational Chart
Attachment 2.2	DBE Directory
Attachment 2.3	Overall Goal Calculation
Attachment 2.4	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 2.5	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 2.6	Regulations: 49 CFR Part 26

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Attachment 2.1

ARC Organizational Chart



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Attachment 2.2

DBE Directory and Resources

<https://www.dot.ga.gov/GDOT/pages/DBE.aspx>

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Attachment 2.3

Section 26.45: Overall Goal Calculation

Amount of Goal

ARC's overall goal for FY 2024 is the following: 16.7% of the Federal Financial assistance we will expend in DOT-assisted contracts.

Methodology used to Calculate Overall Goal

Local Market Area

The local market area or relevant market is typically established by the geographical area representing 70-80 percent of an entity's commercial activity based on bidders, vendors or awardees, with bidders being the preferred measure of determining relevant market. Zip codes provided in a firm's address information is utilized to determine its location.

Based on an analysis of the two sources below, the local market area has been determined to be Fulton County, Georgia.

- Bidder data reflects Fulton and DeKalb Counties as at the most concentrated market area at 54 percent. Bidder data was derived from all solicitations resulting in awards fully or partially funded by federal transportation dollars. This included the awarded bidders, the rejected bidders, and both prime and subcontractors listed in each proposal
- Awardee data reflects Fulton and DeKalb Counties as the local market at 93 percent. Generally, a small set of large engineering firms consistently bid and are most qualified for ARC opportunities. These national firms primarily bid and contract on ARC opportunities through their Atlanta offices. Geographic preference is a prohibited criteria in ARC bidding. However, local firms often have more familiarity with the agency work and local area in a manner integral to the project work.

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Table 1A: All Bidders by Location FY19-22

International	4	6%
Other US	22	31%
Georgia only	44	63%
Total	70	
<i>Source: Project Manager RFP files</i>		

Table 1B: Bidders within Georgia FY19-FY22

Cobb County	3	4%
Gwinnett County	3	4%
DeKalb County	10	14%
Fulton County	28	40%
Total Georgia	44	63%
Fulton and DeKalb % of GA		86%
Fulton and DeKalb % Total		54%
<i>Source: Project Manager RFP Files</i>		

Table 1C: Local Market Area based on Award Dollars FY19-22

International	\$ 325,000.00	4%
Other US	\$ 303,500.00	3%
Within Georgia		
Cobb County	\$ 14,700.00	0%
DeKalb County	\$ 519,865.00	6%
Fulton County	\$ 7,640,035.52	87%
Total Dollars	\$ 8,803,100.52	
Fulton and DeKalb Counties	\$ 8,159,900.52	93%
<i>Source: ARC Contract files</i>		

Anticipated Federally Funded Contracts for FY 2022-FY2024

ARC anticipates contracting activity in the amount of \$23,050,000 for FY 2022 through FY 2024. These dollars represent only contracting activity where there are meaningful opportunities for DBE participation and are funded by USDOT funding, specifically from FTA or FHWA. The activity listed below falls into the following NAICs codes:

- 541320- City Planning, Land Use Planning Services, Urban Planner's Offices and Urban Planning Services, Landscape Architectural Services
- 541330- Engineering Consulting Services
- 541511- Applications Software Programming Services, Custom Computer
- 541611- Administrative Management and General Management Consulting Services

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- 541613- Marketing Consulting Services
- 541614- Process, Physical Distribution, and Logistics Consulting Services, Transportation Management Consulting Services
- 541690- Other Scientific and Technical Consulting Services
- 541820- Public Relations Agencies

Table 2A: Anticipated Projects for FY22-24		
Description	Total Dollars	NAICS Code
Regional Ridematching System/APP	\$300,000	511210
Regional Carbon Reduction Plan	\$600,000	541320
Regional Resiliency Plans (PROTECT)	\$600,000	541320
Regional Electrification Plan	\$500,000	541330
PLANIT Database Update	\$400,000	541511
Land Use Model (PECAS) Consultant Assistance	\$175,000	541511
Customer Relationship Management System (CRM)- Salesforce	\$100,000	541511
GCO Evaluation Program	\$500,000	541611
GCO Outreach and Marketing	\$16,000,000	541613
IIJA Assistance	\$500,000	541613
Regional Freight Plan	\$1,500,000	541614
HST Plan	\$1,000,000	541614
ABM Consultant Assistance	\$550,000	541690
RTP Engagement	\$325,000	541820
TOTAL	\$23,050,000	
<i>Source: ARC Strategic Plan</i>		

Table 2B: FY22-24 Anticipated Funding by NAICS Code	
NAICS Code	Project Funds
541320	\$ 1,200,000.00
541330	\$ 500,000.00
541511	\$ 975,000.00
541611	\$ 500,000.00
541613	\$ 16,500,000.00
541614	\$ 2,500,000.00
541690	\$ 550,000.00
541820	\$ 325,000.00
Total	\$ 23,050,000.00

Baseline Availability

DOT measures availability by including firms who are ready, willing, and able to provide services to an agency. Ready, willing and able are those firms that exist and actively seek to do business with ARC and have the capacity

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to perform on ARC's federal-assisted transportation-related contracts. DOT allows agencies to calculate availability based on five different methodologies. The methodology utilized here is the Census-based availability analysis of comparing by NAICS code, the relative availability of DBEs, based on the Georgia Department of Transportation DBE Directory, to the total pool of available contractors, as represented in the U.S. Census County Business Patterns for the identified local market area. In order to properly reflect the impact of each project on the overall availability calculation, the percentage of total work is established. Multiplying the project percentage of work by the DBE/CBP availability calculation results in a weighted availability measure. The resulting baseline availability is 14.9 percent.

Table 3: Baseline Availability of Ready, Willing, and Able DBEs in the Local Market Area

NAICS Code	Total Dollars	% of Work	UCP DBEs	Census Business Profile	% RWA	Weighted Availability
541320	\$ 1,200,000.00	5%	29	77	38%	1.96%
541330	\$ 500,000.00	2%	65	472	14%	0.30%
541511	\$ 975,000.00	4%	79	1011	8%	0.33%
541611	\$ 500,000.00	2%	237	1300	18%	0.40%
541613	\$ 16,500,000.00	72%	76	811	9%	6.71%
541614	\$ 2,500,000.00	11%	40	101	40%	4.30%
541690	\$ 550,000.00	2%	51	198	26%	0.61%
541820	\$ 25,000.00	1%	31	160	19%	0.27%
Total Dollars	\$ 23,050,000.00			Baseline Availability		14.9%

Source: Unified Certification Plan Directory, 2020 US Census Data

Adjusted Availability

In considering whether to adjust the baseline availability calculation of 14.9 percent, ARC Past Participation for the last three years was considered.

Over the past three years, ARC had a goal of 17.61 percent. However, its average DBE participation for the same period was 31 percent, and the median DBE participation was 22.9 percent. ARC exceeded its goal every year of the preceding three-year period. For the purposes of adjusting the baseline availability measure, ARC will utilize ARC's Historical DBE Participation based on the median from the last three years.

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Table 4: Median Participation FY19-FY21				
	June Report	December Report	Year Total	Goal for the Year
2019	39.1 %	25.4 %	32.2 %	15.64 %
2020	18.2 %	18.7 %	18.4 %	17.61 %
2021	21.9 %	14.0 %	17.9 %	17.61 %
		Median	18.4%	
Source: TrAMS DBE Reporting				

Calculation of the 2022 DBE Goal

ARC calculates the 2022 DBE Goal as outlined below:

- Baseline availability: 14.9 percent
- Adjustment factor to be used with baseline availability: 18.4 percent
- Adjusted DBE Goal calculation: $(14.9+18.4)/2= 16.7\%$

Consultation and Public Participation

ARC's Strategic Planning Manager organized the consultation and public participation processes. ARC presented the proposed DBE goal at a consultation and public engagement event hosted at the ARC offices on June 22, 2022, with options for virtual attendance.

Goals and Objectives of the DBE Consultation Event

The goal of the DBE consultation event was specifically related to obtaining information relevant to the DBE plan development process.

The objective was to gain a better understanding of attendees' experience with three things:

1. The availability of disadvantaged and non-disadvantaged businesses.
2. The effects of discrimination on opportunities for DBEs; and
3. Establishment of level playing field for the participation of DBEs

The outreach approach was designed to be broad-reaching and inclusive of demographic groups which have historically been underrepresented in transportation business opportunities. The list of partner organizations was compiled with that objective in mind. Organizations contacted include:

- **Women's Transportation Seminar (WTS)**– invite emailed to DBE partners/members from Charlotte Weber, Chair of DBE Committee.

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- **COMTO** – invite emailed to all members from Board Member, Kenya Smiley. Invite also posted on the Atlanta Chapter webpage.
- **Georgia Planning Association** – Invitation and announcement included in GPA June Newsletter.
- **ACEC –Diversity and Inclusion Task Force members and Small Firm Forum**, Special invitations extended to Emmanuella Myrthil, Chair of the Inclusion and Diversity Task Force and Mae Whiteside, Chair of the Small Firm Forum, and invitation disseminated to the task force and forum by Chandler Baker, ACEC diversity and inclusion staff.
- **Atlanta Business League** – invite sent to President and CEO, Leona Barr Davenport, who agreed to forward it to potentially interested members.
- **GA Hispanic Chamber of Commerce** – Invite sent to Aisah Gayle, a former employee of ARC who is the Vice President of Operations, along with request to disseminate.
- **Atlanta Black Chambers** – Invitation and contact information posted on Open Forum site of the Atlanta Black Chamber website.
- **GA State African American Chamber of Commerce** – Invite and announcement sent to Executive Director.
- **US Pan Asian American Chamber of Commerce Education Foundation - Southeast Region**. Invitation and contact information sent via contact us form on website.

Invitation posted on ARC website and social media channel, 6/15. Additional social post posted on Monday, June 20.

Three Question Areas

1. Opportunities

- Is our goal realistic?
- What are your thoughts about DBE availability, and more specifically, our goal for DBE participation on anticipated contracts during 2022-2024 work?

2. Challenges

- What are your challenges as a DBE?
 - Are there challenges to teaming up with other firms?
 - Are you constricted in any way that might be perceived as discrimination?
 - What challenges do you face as your business grows?

3. Level-Playing Field

- Are you aware of ARC contracting opportunities?
- In your opinion, is there a level playing field for DBEs that offer consulting services in transportation?

Consultation Discussion

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Darrell Stallings, Buildsmart Enterprises, asked about anticipated contracts, specifically the 72% of total dollars related to work for Georgia Commute Options.

Mike Alexander, ARC COO, responded that this program included specific outreach work on behalf of the Georgia Commute Options program, which represents generally less technical planning work that is often typical of ARC contracts. He noted that this may be an area where ARC could increase the share of DBE participation

Danielle Crowe, A-Line Strategies, asked if ARC did any disaggregated analysis of contracting opportunities, specifically awards for DBEs by race, ethnicity and gender. She stated that she was curious to know if there were plans to look at where there are lower award levels by race and gender, specifically to boost participation of black/minority women. She added a request to do further outreach to those entities and some capacity building, since the Biden Harris administration has taken the action of having federal agencies report the disaggregated numbers to improve transparency and show their commitment to Black owned businesses.

Brittany Zwald, General Counsel and Disadvantaged Business Enterprise Liaison Officer stated that the specifics on who participated as a DBE with ARC varied from year to year and project to project. She also noted that there were some periods when there was a significant majority that was white female lead, but there's enough variation that it doesn't appear that way when you look at the whole 3-year reporting period, and sometimes not even for a one-year reporting period.

Jordache McCray, LoKnows Aerial Solutions, introduced himself and stated that his company provides drone services for aerial data collection. After working for a larger company, he started his own business and got DBE certified as of October last year. His comment was that it can be hard trying to bid on some of these larger projects as a smaller business. It's a challenge to team up with other firms and get oneself situated within the community. Is there anything that the ARC is doing as far as outreach to help the smaller businesses?

Laura Cook, JAT Consulting Services, offered a response. She stated that JAT is a female-owned DBE. We've been in business for over 25 years. JAT runs DBE programs for various agencies in the metro Atlanta. She explained that you can't wait for proposal opportunities to be advertised. Rather, teams are formed two years in advance. So, you can't wait. We often find that people go into business because they are technically savvy. But some of the things that we've encountered are the operational things, the things that normally the firms that you worked for handled, whether it's marketing, HR, insurance, risk, contract law. All those different things are normally handled by different entities or people within either large firms or medium sized firms. So, yes – it's hard trying to find out those types of things that can help your firm grow. It takes years and even if you do have those relationships, it's still whatever government agency it is, it takes them time. And scouting out opportunities in advance.

There might be a DBE readily available but I'm seeing issues with capacity of established firms. There's a lot of work for them right now but where is the opportunity for putting a handout to bring up these new firms that could take on a component of the work. Are there some job training opportunities or incentives for existing DBEs to mentor new DBEs?

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There can be sub-tier levels of a contract. So where are those opportunities to reach down where are we trying to say it's OK you know we can give you more work cause right? We all want work. I mean that's just the reality of it to make profit. Larger firms are currently meeting their capacity to contract DBE work to the seasoned firms. There's just no way there's enough DBEs to help right now, especially with all the transportation infrastructure work under the IIJA. There just aren't enough people here in this region in Georgia to meet those needs. It's just not humanly possible. And we're only talking transportation, you know, looking at aviation, you're not looking at watershed.

Mike Alexander, COO, pointed to Haley Berry, as she handles procurement for transportation at ARC. But first, he noted that ARC staff have very limited ability to communicate once an RFP is issued.

And with respect to what ARC is doing to help smaller companies, we have said in the procurement, yes, big firm we want you, but we would like to see you partner with a local transportation from a small local transportation firm. We can say that in our solicitations and in some cases we have. Haley then added information about the ARC Committee process and explained that it is a great way to get connected to the transportation community.

Darrel Stallings then spoke up to respond to the topic of partnering and some of the challenges smaller firms have with partnering larger firms. In his DBE experience, he has seen over municipalities sometimes have an evaluation factor – in addition to scoring the technical approach – that focuses on relevant experience or financials, etc. So, if you're a new firm, that's challenging. But one thing I've also seen is an evaluation criterion related to the firms' plan for utilizing DBEs, their DBE plan for the project. That way, an agency can put a weight to that which lets the industry know that it matters to you as the client. This can help because if prime owner doesn't make it a priority, then to them there's no reason for them to share fee. There's no reason for them to share profit because it's not a primary method by which they will be selected. He asked if that might be realistic thing.

Brittany Zwald responded with the comment that ARC does not currently establish a contract goal for each individual project. So, for as long as we have an overall goal, all we could say is here's our plan and we expect you to fill it out. And if you fill it out and submit it blank, we will be looking at it and we will know that you filled it out and submitted it blank where this other proposal filled it out and submitted it with an actual percentage. And so, we will know you didn't put any efforts into it, but we can't request good faith efforts documentation unless we implemented a program with individual contract goals.

Mike Alexander added that even if this recommendation is outside the scope of our current program, ARC will take it to heart. He suggested that there might be a way to have conversations with our local governments about this as well as other best practices for this work.

Danielle Crowe said that she wanted to echo some of the sentiments shared about both the goal and the challenges faced by minority owned firms. The concerns being expressed by ARC speaks to the fact that in some ways there are two different discussions to be had. First, there's the matter of compliance and that is responsible for some of the challenges that you all are speaking about in terms of the goal, but a second discussion is about culture. You can have the goal, but if it's not effectively imparted to the primes that are being awarded these contracts, then they will not make it a priority. I believe there is additional encouragement that could happen there. I'd like to think that the DBE goal is just the door, not the ceiling for

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qualified firms. And I agree that it's very important to consistently communicate this commitment to the larger firms that are earning this work.

George Gamble, Powerhouse Energy 360, stated that his firm is a clean energy company- including Solar power, solar battery storage, and EV infrastructure installation. Mr. Gamble stated that he was privileged to be on a committee with the Department of Energy with the same very topic. You know, what can we do better to increase minority participation? What are some of the challenges? And he also sat on the committee with his sister cities of Metro Atlanta, East Point College Park, Union City and City of South Fulton on the same, on the same topics. And the things that are challenging relate to bonding and financial commitment.

Mike Alexander, COO, noted that, ARC - as a planning agency who doesn't actually do construction, wouldn't have any bonding requirements. Rather, ARC would be interested in the expertise and specialty knowledge that could help develop a plan for future construction.

In closing, Anna Roach, ARC Executive Director, thanked participants for the candid conversation. She said that information gathered today would inform the updated DBE plan. She acknowledged Dana Lemon, GDOT Board member and thanked her for attending the session. Mike Alexander, COO, added his appreciations, stating that it was very gratifying to see so many people committed to diversity and inclusion in ARC's work. From ARC's perspective, this is taken very seriously. ARC's expectation when we put work out for RFP is that there will be DBE participation. And we expect DBE participation in everything that we do. But as he also noted, ARC is always trying to do more. So, the ideas about other ways we can support you helps us identify where to focus our efforts. We'll have some follow up conversations and, hopefully, at the back end of this public comment period, you'll recognize some of the things we're committed to implementing. Brittany Zwald added that ARC will take seriously any comments received, noting that she wants to hear them because that's the only way we can try to improve things, even within existing constraints. One of the things we have to do better is figure out how to create a community of minority businesses. We will figure out how to stay in touch with you in a in a very concerted kind of way. Thank you again

Stacy Key, GDOT Board Member for the 5th Congressional District, then jumped in to say that she was on the call. She offered GDOT as a resource to help as well. Anna Roach expressed appreciation to Stacy Key and adjourned the meeting.

List of Firms and Attendees

Name	Company	Notes	Attended via Teams or at ARC
Stacy Key, GDOT Board Member	GDOT Board	District 5	T
Dana Lemon, GDOT Board Member	GDOT Board	District 13	T
Melodii Peoples	GDOT District 7 Communications Officer	District 7	ARC Office

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Richard Oden, Principal, and Kai Oden	Alexander Atta	Former Chair, Rockdale County, ARC Board Member, and Chair of Community Resource Committee https://alexander-atta.com/	T
Michele Hixon	MiJoy Industrial	https://www.mijoyind.com	
Neville Anderson	Basha Services, LLC	https://www.bashaservices.com/	T
Andrea Foard, AICP	Cincar Consulting Group	itsc2g.com	ARC
Cicely Peace-Edouard	The Simple Vue	https://www.thesimplevue.com/	
Heather Collins	Blue-Cypress Consulting	https://bluecypress-consulting.com/	T
Charlotte Weber	Lumenor Consulting	https://lumenorconsulting.com/	ARC
Amie Blystone	R2tinc.com	https://r2tinc.com/	T
Daniel Taylor	Practical Design Partners	https://www.practicaldesignpartners.co m/	T
Ian Maxfield			T
Laura Cook	JAT Consulting, Inc.	https://www.jatconsulting.net/	ARC
Yvonne Douglas	Trimble, Inc.	https://www.trimble.com/	
Kimberly Steele	CERM	https://www.cerm.com/	T
Tomika Culpepper- Ranshaw	The Cios Group and A.O.T. Inc	https://www.theciosgroup.com/ https://www.aothauling.com	T
Otha Hilson III	OHilson-3 Corp	https://opencorporates.com/companies/ us_ga/21116526	
Nykita Hurt, DiversityProgram	HNTB	https://www.hntb.com	ARC
Harold Cox	Traffic Troopers, Inc	Traffictroopersinc.com	
Danielle Crow and Johnafel Crowe	Alliance Strategies	Allianceswin.com	T
			ARC
Davida White	NV 5	https://www.nv5.com/	T
Jordache McCray	LoKnows Drones Aerial Solutions LLC.	https://loknewsdrones.com/	ARC
Parul Benders, DBE Liaison	Intellectual Concepts	https://intellectualconcepts.com	ARC
George Gamble	Powerhouse Energy 360	https://phe360.com	ARC
Scott Jordon	Southeastern Engineering	https://southeasternengineering.com	T
Nicole McGhee Hall	Nickel Works	https://nickelworks.net	T

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Public Comment

A 30-day public comment period opened on July 14, 2022 and closed following the vote on the program at the ARC Board meeting on August 13, 2022. The following notice was posted in the Fulton Daily Report, and on ARC's website:

NOTICE OF PROPOSED THREE-YEAR DBE GOAL

The Atlanta Regional Commission (ARC), in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, hereby announces its draft Three Year DBE goal, to be effective October 1, 2022, of 16.7% for Disadvantaged Business Enterprise (DBE) participation on contracts assisted by the DOT. The DBE Program and Goal is designed to: (1)ensure nondiscrimination in the award and administration of DOT-assisted contracts;(2)create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;(3)ensure that the DBE Program is narrowly tailored in accordance with applicable law;(4) ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;(5)help remove barriers to the participation of DBEs in DOT-assisted contracts;(6) assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The draft goal is available to review at <https://atlantaregional.org/about-arc/business-services-finance/arc-business-opportunities/>. Written comments will be accepted by ARC for 30 days following the publication of this notice. Questions and comments should be directed to Brittany Zwald, General Counsel and DBE Liaison Officer, 229 Peachtree Street, NE, Suite 100, Atlanta, GA 30303, or by email at bzwald@atlantaregional.org.

There were no comments received from the public notice posting.

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Attachment 2.4

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

ARC will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Contract goals will not be utilized to meet the ARC goal.

ARC uses the following race-neutral means to increase DBE participation:

- Encourage prime contractors to subcontract portions of their work that they would normally perform in-house.
- Encourage local governments and non-profits receiving ARC sub-grants on which they will utilize consultants to include DBEs in the pool of potential vendors from which they solicit services.
- Ensure that the ARC website is updated with available opportunities for DBE-owned and other small business firms in the community.
- Conduct pre-bid seminars for DBE and small business firms on contracts that have a high degree of specialized technology.
- Outreach to DBEs to register on ARC's Prospective Consultants List and to meet with the DBE Liaison Officer to discuss their services and experiences.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals, ARC will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)). ARC will also track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

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Attachment 2.5

Forms 1 & 2 for Demonstration of Good Faith Efforts

These forms will be included in a Title VI and DBE Attachment to all ARC bids and proposals.

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FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

DBE UTILIZATION PLAN (Complete this form for each DBE firm participating in this proposal.

This plan will be included in a Title VI and DBE Attachment to all USDOT funded ARC bids and proposals.

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, all representations in this DBE Utilization Plan shall be null and void. **PLEASE ATTACH PROOF OF GEORGIA CERTIFICATION.** (Submit this page for each DBE subcontractor)

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Attachment 2.6

Regulations: 49 CFR Part 26

<https://gov.ecfr.io/cgi-bin/text-idx?SID=c2cba0bcff04d50a483c8bc884625223&mc=true&node=pt49.1.26&rgn=div5>