

**Carson Area Metropolitan Planning Organization
and
Regional Transportation Commission
of Carson City, Nevada**

**DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM**

For Submission To:

**FEDERAL TRANSIT ADMINISTRATION
REGION IX
201 Mission Street, Suite 1650
San Francisco, CA 94105**

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STATEMENT OF POLICY

The Carson Area Metropolitan Planning Organization (CAMPO) and the Carson City Regional Transportation Commission (RTC) are committed to carrying out all of the Disadvantaged Business Enterprises (DBE) requirements of 49 CFR Part 26. The procedures contained in the DBE program will assure that all contracts and procurements are administered without discrimination on the basis of race, color, sex or national origin, and DBEs have an equal opportunity to compete for and participate in the performance of all agreements, contracts and subcontracts awarded by CAMPO and RTC.

It is the policy of CAMPO and RTC to ensure nondiscrimination on the basis of race, color, sex, ethnicity or national origin in the award and administration of federally funded contracts. It is the intention of CAMPO and RTC to allow DBEs to compete fairly for agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements and purchase orders.

To ensure adherence to this policy, CAMPO and RTC have assigned the coordination of the DBE program to the Transportation Manager. The Transportation Manager has delegated this responsibility to the Transit Coordinator and the Transit Coordinator will serve as the DBE Liaison Officer. The DBE Liaison Officer will be responsible for development, implementation and monitoring of the DBE program. It is the expectation of CAMPO and RTC that the provisions of this DBE program will be adhered to, both in the spirit and letter by all personnel.

This DBE program is intended to implement the federal requirements pertaining to the DBE program, including but not limited to 49 CFR Part 26. In the event of any inconsistencies between the terms of the CAMPO and RTC DBE Program and the terms of 49 CFR Part 26, the latter will prevail.

This policy will be circulated to corporate employees and community and business organizations that perform work on federally funded contracts issued by CAMPO and RTC. CAMPO and RTC will provide further information regarding this program, including a copy of the overall annual DBE goal analysis, to the public or any individual requesting such information.

I. OBJECTIVES

The objectives of this DBE Program are to:

1. Ensure nondiscrimination in the award and administration of federally funded contracts.
2. Allow DBEs to compete fairly for federally funded contracts.
3. Help remove barriers to DBE participation in the bidding, award, and administration of CAMPO and RTC contracts.
4. Assist in the development of DBE firms that can compete successfully in the market place outside of the DBE Program.
5. Ensure that only firms that fully meet the eligibility standards of 49 CFR Part 26 are permitted to participate as DBEs.
6. Ensure that the DBE Program is narrowly tailored in accordance with applicable law.
7. Identify business enterprises that are qualified as DBEs and are qualified to provide CAMPO and RTC with required materials, equipment, supplies and services; and to develop a good rapport with the owners and management of those enterprises.
8. Develop communication programs and procedures which will acquaint prospective DBEs with CAMPO and RTC's contract procedures, activities and requirements and allow DBEs to provide CAMPO and RTC with feedback on existing barriers to participation and effective procedures to eliminate those barriers.
9. Administer the DBE Program in close coordination with the various departments within CAMPO and RTC so as to facilitate the successful implementation of this Program.

II. APPLICABILITY

Pursuant to 49 CFR Part 26, Subpart B, § 26.21, FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year are required to implement a DBE Program meeting the requirements of this part. The DBE Program outlined herein applies to all CAMPO and RTC contracts that are funded, in whole or in part, by FTA.

In the administration of the DBE Program, CAMPO and RTC will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of this DBE Program with respect to individuals of a particular race, color, sex or national origin.

III. DEFINITION OF TERMS

The Code of Federal Regulations (CFR) Title 49, Part 26.5, provides definitions of terms used in this program as well as terms used in Part 26 *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*.

This program adopts the definitions contained in Part 26.5 for this program.

IV. RESPONSIBILITY FOR DBE PROGRAM IMPLEMENTATION AND ADMINISTRATION

A. CAMPO and RTC

CAMPO and RTC are ultimately responsible for establishing DBE policy and ensuring that the DBE Program has a high priority.

B. Transportation Manager

The Transportation Manager is responsible for seeing that CAMPO/RTC policies are implemented and that the DBE Liaison Officer has adequate support to enable timely completion of duties.

C. DBE Liaison Officer

The Transit Coordinator has been designated as the DBE Liaison Officer as referenced in 49 CFR Part 26. The DBE Liaison Officer is responsible for overseeing the DBE Program, recommending DBE policy, development and implementation of a written DBE program, and internal and external communication procedures. The DBE Liaison Officer shall have direct and independent access to the Transportation Manager.

The DBE Liaison Officer is the primary person responsible for all aspects of this Program, and he/she will work closely with other departments, contractors and consultants of CAMPO and RTC, which are responsible for making decisions relative to CAMPO/RTC agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements and purchase orders.

In accordance with 49 CFR Part 26, § 26.25, the specific duties and responsibilities of the DBE Liaison Officer or his/her designee will include but not be limited to the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall three-year 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) and monitors results.
6. Analyzes CAMPO and RTC progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises CAMPO and RTC and the Transportation Manager on DBE matters and achievement.

9. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

V. ADMINISTRATIVE REQUIREMENTS

A. DBE Financial Institutions

Pursuant to 49 CFR Part 26, §26.27, the DBE Liaison Officer will explore the full extent of services offered by banks and other financial institutions that qualify as DBEs in the Carson City and Reno/Sparks metropolitan area and determine areas in which CAMPO and RTC may reasonably utilize their services. CAMPO and RTC will also encourage its prime contractors to use the services of DBE financial institutions.

B. DBE Directory

Pursuant to 49 CFR Part 26, §26.31, the DBE Liaison Officer will refer all interested persons to the DBE Directory available from the Nevada Department of Transportation and the website at www.nevadadbe.com.

C. Over concentration

Pursuant to 49 CFR Part 26, §26.33, if the DBE Liaison Officer determines that DBE participation is so over concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBE Liaison Officer will develop appropriate measures to address the over concentration. The DBE Liaison Officer will seek approval from FTA, and once approved, the measures will become part of this Program. Currently, CAMPO and RTC are unaware of any types of work that have a burdensome over concentration of DBE participation.

D. Small Business Participation

CAMPO and RTC are committed to fostering small business participation in the DBE program by structuring contracting requirements to facilitate competition by small businesses. CAMPO and RTC will take all reasonable steps to eliminate obstacles to DBE participation that may preclude small business participation in procurements as prime contractors or subcontractors. Strategies that CAMPO and RTC may utilize include, but are not limited to, the following:

- Unbundling of large contract requirements (breaking down contracts) to allow small business participation in procurements as prime contractors or subcontractors
- On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved
- To meet the race-neutral portion of overall agency goal, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform

CAMPO and RTC shall actively employ the following steps to increase small business participation in contracting opportunities:

1. Update website information with the latest activities and announcements pertaining to small businesses and DBEs in the local project areas.
2. Provide access to DBE-related contact information and directories on the website.
3. Hold Pre-Bid meetings introducing and instructing prospective bidders and proposers on reaching out and utilizing small businesses and DBEs.
4. Coordinate with Carson City Procurement and Contracts Division to provide small business organizations with notifications and bid assistance on current contracting opportunities.

This section shall be implemented and fully operational within nine (9) months of approval by FTA.

E. Business Development Programs, Outreach and Mentor-Protégée Programs

CAMPO and RTC do not have a business development or mentor-protégée program. If the CAMPO and RTC identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted for approval.

F. Hearing Officer

In accordance with 49 CFR Part 26, § 26.53(d)(2) and 26.87(e), all proceedings by CAMPO and RTC in connection with the removal of certification or reconsideration of a determination that a bidder has not met the DBE goal or used good faith efforts will be made by an outside independent hearing officer selected in accordance with CAMPO and RTC procedures.

G. Unified Certification Program

CAMPO, as the designated recipient of FTA Section 5307 funds to the Carson City urbanized area, is signatory to the Nevada Unified Certification Program (UCP). All certifications will be performed by the UCP and are binding on CAMPO and RTC.

H. Transit Vehicle Manufacturer Certification

CAMPO and RTC will require that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR Part 26, §26.49.

VI. DBE GOALS

Pursuant to 49 CFR Part 26, §26.45, CAMPO and RTC will establish overall three-year goals according to the procedures expressed in Appendix A, based on the FTA schedule for three-year goal submittal. The overall three-year goals will be submitted to FTA for review by August 1 preceding the Federal fiscal year in which the goal submission is due. The overall three-year goals will be expressed as a percentage of the total amount of FTA funds that CAMPO and RTC anticipates expending in any of the three Federal fiscal years.

VII. CONTRACT-SPECIFIC DBE GOALS

In accordance with the procedures expressed in Appendix B, CAMPO and RTC will establish contract-specific DBE goals on contracts with subcontracting opportunities to the extent that CAMPO and RTC cannot achieve its overall three-year goals with race-neutral measures. Where a contract-specific DBE goal has been established, the bidder or proposer must meet the contract-specific goal or demonstrate that it made good faith efforts to do so. A bidder will be ineligible for award if it does not meet the goal or demonstrate good faith efforts.

VIII. REMEDIES FOR NONCOMPLIANCE

Non-compliance consists of failure or refusal to implement, meet or satisfy the applicable governmental requirements related to DBE participation, including but not limited to 49 CFR Part 26 and related federal guidelines. CAMPO and RTC may impose any remedies for non-compliance authorized by the federal, state and local regulations and CAMPO and RTC contract specifications, including withholding of progress payments, liquidated damages and termination of the contract in whole or in part.

IX. REQUIRED CONTRACT PROVISIONS

CAMPO and RTC agrees to include the following provisions in all federally funded contracts, where appropriate:

A. Nondiscrimination Assurance

Each federally funded contract CAMPO and/or RTC signs with a contractor, and each subcontract the prime contractor signs with a subcontractor, will include the following statement:

"The contractor, subrecipient 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 CAMPO and/or RTC deems appropriate.

B. Prompt Payment Policy and Provisions

Each federally funded contract CAMPO and/or RTC signs with a contractor will include the following provision:

"The prime contractor must pay subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of payment made to the prime by CAMPO and/or RTC. Prompt return of retainage payments from the prime contractor to the subcontractor will be made within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment among the parties may take place only for good cause and with CAMPO and/or RTC's prior written approval. If the prime contractor determines the work of the subcontractor to be unsatisfactory, it must notify CAMPO and/or RTC's project manager and DBE Liaison Officer immediately in writing and state the reasons. Failure by the prime contractor to comply with this requirement will be construed to be a breach of contract and may be subject to sanctions as specified in the contract or any other options listed in 49 CFR Part 26, §26.29."

X. CONTRACT COMPLIANCE AND REPORTING

Pursuant to 49 CFR Part 26, §26.37, CAMPO and RTC will implement appropriate mechanisms to ensure compliance with the DBE Program by all program participants under federal, state and local law.

The following efforts shall be employed to ensure compliance:

- Completion of a FTA Disadvantaged Business Enterprise (DBE) Race Neutral Goal form, documenting DBE commitment and monitoring efforts, by contractors submitting a bid (See Appendix D)
 - The form is required to be completed by the contractor and submitted with the bid, prior to bid opening. The form requires the following information be provided by the contractor:
 - The names and addresses of DBE firms that will participate in the contract
 - A description of the work that each DBE will perform
 - The dollar amount of the participation of each DBE firm participating
 - Written documentation of the bidder/offeror's commitment to use the DBE subcontractor(s)
 - Written confirmation from each DBE that is participating in the contract as provided in the prime contractor's commitment (confirmation can be obtained upon bid award)

- During construction, monitoring efforts will be employed to monitor the contractor and subcontractors for compliance with applicable DBE commitments contained within the contract award and FTA Disadvantaged Business Enterprise (DBE) Race Neutral Goal form:
 - The form includes an office only portion that will be used by staff to document DBE firm participation
 - A site visit is required to be completed at least once for each participating DBE firm

XI. PUBLIC PARTICIPATION/CONSULTATION

CAMPO and RTC will provide for public participation in establishing overall three-year DBE goals which includes: consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that may have information concerning the availability of DBE and non-DBE firms; the effects of discrimination on DBE opportunities, and efforts to establish a level playing field for DBE participation.

Starting four months prior to expiration of CAMPO's overall program goal, the DBE Liaison will consult with local DBEs in Carson City, Douglas County, and Lyon County and the Nevada Department of Transportation's DBE Liaison to gain information concerning the availability of DBE and non-DBE firms. CAMPO's DBE Liaison will consult with contractors who were recently awarded contracts with Carson City and other available minority trade professionals to gauge the availability of DBE and non-DBE firms in the Carson City market. The consultation process will include the use of e-mail, phone calls, mailings, and meetings to communicate with agencies and trade professionals.

CAMPO and RTC will publish a notice announcing proposed overall DBE goals informing the public that the proposed goal and its rationale are available for inspection during normal business hours at CAMPO and RTC's principal office for 30 days following the date of the notice, and that CAMPO and RTC and USDOT will accept comments on such goals for 45 days from the date of the notice. The notice will include the CAMPO and RTC's address and will be published in general circulation media, minority/women focus media, and trade association publications. (49 CFR Part 26, § 26.45(g))

XII. UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS

CAMPO, as the designated recipient of FTA funds, will submit a Uniform Report of DBE Awards or Commitments and Payments semi-annually in TEAM-Web. The report addresses the contracting opportunities of CAMPO and its subrecipients, and includes information on awarded and completed contracts; those that included DBE participation; and those that did not include DBE participation. Reports are due by June 1 (for the period covering October 1 – March 31) and by December 1 (for the period covering April 1 – September 30).

XIII. MISCELLANEOUS

A. Program Review

The DBE Program will be reviewed every five (5) years, or more frequently as necessary at the sole discretion of CAMPO and RTC to ensure that elements of the DBE Program are tailored to address any discrimination that may exist in the industries relevant to CAMPO and RTC's contracting activities and to ensure that the DBE Program does not disproportionately impact any particular group.

B. Severability

Should any part, term, provision or element of this DBE Program be decided by the courts to be illegal or in conflict with any law of the United States or of the State of Nevada or otherwise rendered unenforceable or ineffective, the validity of the remaining parts, terms, provisions, or elements shall not be affected.

**THE APPENDICES ARE PART OF THE DBE PROGRAM.
THE APPENDICES MAY BE SUBJECT TO REVISION, SUBSTITUTION,
DELETION OR ADDITION BY THE OFFICE OF CIVIL RIGHTS WITHOUT
BOARD REVISION OF THE DBE PROGRAM OR APPROVAL OF
CHANGES.**

APPENDIX A

Procedures for determining the overall three-year DBE goals

Pursuant to 49 CFR Part 26, §26.45 and subject to the approval of CAMPO and RTC, the DBE Liaison Officer will establish overall three-year goals for the participation of DBEs in contracts utilizing USDOT federal financial assistance, based on the FTA schedule for three-year goal submittal. The overall three-year goals will be submitted to FTA for review by August 1 preceding the Federal fiscal year in which the goal submission is due. The overall three-year goals will be expressed as a percentage of the total amount of USDOT funds that CAMPO and RTC anticipates expending in any of the three Federal fiscal years. The CAMPO/RTC overall three-year goal is reflective of the amount of ready, willing and able DBEs that are available to participate in contracting opportunities and is reflective of the amount of DBE participation CAMPO and RTC would expect absent the effects of discrimination. CAMPO and RTC intend to meet this goal to the maximum extent feasible through the race-neutral measures described below. The DBE Liaison Officer will use the following procedures for establishing overall three-year DBE goals:

A. Projecting Federally Funded Contract Expenditures

Overall three-year agency goals are required of FTA grantees receiving planning, capital and/or operating assistance that project contracting opportunities (excluding transit vehicle purchases) exceeding \$250,000 with those funds in any of the three Federal fiscal years. The DBE Liaison Officer will conduct a thorough analysis of the projected number, types of work and dollar amounts of contracting opportunities that will be funded, in whole or in part, by USDOT federal financial assistance for the three-year period for which the goal submission is due.

B. Establishing a Base Figure

Pursuant to 49 CFR Part 26, §26.45, CAMPO and RTC will develop a base figure to express the availability of DBEs as a percentage of all contractors, subcontractors, manufacturers and suppliers in the relevant contracting markets. CAMPO and RTC will follow one of the methodologies provided in 49 CFR Part 26, but reserves the right to choose an alternative methodology. Generally, CAMPO and RTC expects to use the same data source in establishing the base figure for both available businesses and available DBE firms.

1. **Analyzing Total Available Businesses in Relevant Contracting Market**
The DBE Liaison Officer, in conjunction with the appropriate CAMPO and RTC departments, will conduct a thorough analysis of the relevant contracting markets. This analysis will include the relevant geographic market for the types of work to be contracted, the relevant standard industry codes (SICs) for the types of work to be contracted and any other indicators that CAMPO and RTC determines to be relevant to defining its contracting markets for the fiscal year. The DBE Liaison Officer will then determine the total number of available businesses for the relevant contracting markets. The DBE Liaison Officer will consult a variety of sources, which may include, but are not limited to, Census Bureau data, appropriate private business databases, and relevant disparity studies.

2. **Analyzing Available DBEs in the Relevant Contracting Markets**
The DBE Liaison Officer will conduct a similar analysis to determine the number of DBEs that are available to participate as contractors, subcontractors, manufacturers and suppliers in the projected contracts for the three-year period. This analysis will include the relevant geographic market for the types of work to be contracted, the SICs for the types of work to be contracted, and any other factors as described above. CAMPO and RTC will consult a variety of sources which may include, but are not limited to, the Minority Business Patterns Database, Census Bureau data and relevant disparity studies.

3. **Calculating the Base Figure**
The DBE Liaison Officer will compare the number of available DBEs in the relevant contracting markets for the three-year period to the total number of available businesses in the relevant contracting markets for the three-year period. The calculation of the base figure for available DBEs will be expressed as a percentage of the total relevant contracting markets.

C. Adjusting the Base Figure

Pursuant to 49 CFR Part 26, §26.45(d), CAMPO and RTC will adjust the base figure based on demonstrable evidence indicating that the availability of DBEs for federally funded contracts for the three-year period may be higher or lower than the base figure indicates. At a minimum, the DBE Liaison Officer will analyze the current capacity of DBEs, evidence from disparity studies conducted anywhere within Carson City and Washoe County (to the extent that they are not accounted for in the base figure), evidence from related fields that affect the opportunities for DBEs to form, grow and compete, such as data on employment, education and training, statistical disparities in the ability of DBEs to obtain financing, bonding and insurance and the effects of past discrimination.

Based on the evaluation of the above factors, evaluation of data (if any) regarding over-concentration, and other necessary adjustments (e.g. duration of individual projects), a goal will be set at the level of DBE participation expected absent the effects of discrimination.

A description of the methodology used to establish the overall three-year goals, including the base figure and the evidence with which it was calculated and the adjustments made to the base figure and the evidence relied on for the adjustments will be included with the overall three-year DBE goals submission to FTA. The submission will also include CAMPO and RTC's projection of the portions of the three-year goals that will be met through race-neutral and race-conscious measures.

D. Projection of Percentage of Overall Goal to be Achieved Through Race-Neutral and Race-Conscious Measures

CAMPO and RTC intend to use race-neutral methods to achieve their overall three-year goals. This is in keeping with the Ninth Circuit Court decision that affects DBE programs in the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington [*Western States Paving Co. vs. State of Washington Dept. of Transportation*, 407 F. 3d 983 (9th Cir. 2005)]. For grantees in these states a disparity analysis must be completed before race conscious goals can be established.

DBE participation that is obtained on contracts that have no specific DBE goal, or where prime contractors use a strictly competitive bidding process or do not consider the DBE's status as a DBE in awarding a subcontract will be considered race-neutral DBE participation. In addition, CAMPO and RTC will use the following measures as appropriate:

1. unbundling large contracts;
2. assisting in overcoming limitations in bonding and financing;
3. providing technical assistance;
4. providing outreach and communications programs to DBEs;
5. distributing the DBE Directory electronically and otherwise as requested.

The DBE Liaison Officer will review and analyze the adjusted base figure to determine the amount of the three-year goals that can be met through race-neutral measures and the type(s) of contracts to be selected unless review of information obtained during the three-year period demonstrates that an adjustment is appropriate. CAMPO and RTC will review that portion of the overall three-year DBE goals being met through race-neutral measures on an annual basis. As part of the review, CAMPO and RTC will verify compliance with the DBE Program and DBE goal attainment.

The DBE Liaison Officer will monitor and adjust the use of contract-specific goals in accordance with 49 CFR Part 26, §26.51(f). When projecting the percentage of the overall three-year goals to be achieved through establishing contract-specific goals, the DBE Liaison Officer will analyze the actual achievement of the overall three-year goals through race-neutral methods in the previous two years. When establishing contract-specific goals during the current fiscal year, the DBE Liaison Officer will analyze the progress towards achieving the overall three-year goals and increase or reduce the use of contract-specific goals accordingly. DBE contract goals will be established so as to cumulatively result in meeting that portion of the CAMPO and RTC's overall goal that is not projected to be met through race-neutral means.

E. Adjustment of Contract Goals

Pursuant to 49 CFR Part 26, §26.51(f) (1) - (4), CAMPO and RTC will adjust the use of contract goals to ensure that the Program continues to be narrowly tailored.

1. If the Report indicates that CAMPO and RTC can meet its entire overall three-year goals for any given year through race-neutral means, CAMPO and RTC will implement its Program without setting contract goals during that year.
2. If during the course of the year, CAMPO and RTC is using contract goals and determines that it will exceed its overall three-year goals, CAMPO and RTC must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If CAMPO and RTC determines that it will fall short of the overall goal, CAMPO and RTC must make appropriate modifications in the use of race-neutral goals in order to meet the overall goal.
3. If CAMPO and RTC meets or exceeds its overall annual goals for two (2) consecutive years using only race-neutral means, CAMPO and RTC will not set contract goals on any contracts in the next year. CAMPO and RTC will continue using only race-neutral means to meet its overall three-year goals unless and until it does not meet its overall three-year goal for a year.
4. If CAMPO and RTC's DBE participation exceeds the overall three-year goal in two (2) consecutive years through the use of contract goals, CAMPO and RTC must reduce the use of contract goals proportionately in the following year.

F. Adopting and Publishing the Overall Annual DBE Goal

Upon completion of the analysis described above, the DBE Liaison Officer will prepare a Report that documents the analysis and methodology as well as the proposed goal and estimate to be achieved through race-neutral measures. The Report will be furnished to the Transportation Manager. Upon the Transportation Manager's recommendation, the DBE Liaison Officer will publish the proposed goals for public comment.

1. Public Participation/Consultation

Starting four months prior to expiration of CAMPO's overall program goal, the DBE Liaison will consult with local DBEs in Carson City, Douglas County, and Lyon County and the Nevada Department of Transportation's DBE Liaison to gain information concerning the availability of DBE and non-DBE firms. CAMPO's DBE Liaison will consult with contractors who were recently awarded contracts with Carson City and other available minority trade professionals to gauge the availability of DBE and non-DBE firms in the Carson City market. The consultation process will include the use of e-mail, phone calls, mailings, and meetings to communicate with agencies and trade professionals.

2. Publication of Proposed Overall Three-Year Goals

Pursuant to 49 CFR Part 26, §26.45(g), the DBE Liaison Officer will publish the proposed overall three-year goals in general circulation, DBE-oriented and trade industry media. The notice will include a statement that the methodology and proposed goal are available for inspection by the public for 30 days from the date of publication. The notice will also include a statement that CAMPO and RTC will accept public comments to the proposed goal and methodology for a period of 45 days from the date of publication and provide instructions for the submission of comments. Upon receipt of public comments, the DBE Liaison Officer will prepare a summary report analyzing the public comments received, if any, to the Transportation Manager.

3. Adoption of Total Overall Annual Goal

Following the review of the Report and consideration of any comments received during the public comment period, CAMPO and RTC will adopt an overall three-year goal for DBE participation which will include a projection of the portion of that goal that can be achieved through race-neutral measures. Unless otherwise directed, the Report will be submitted to FTA for approval by August 1 preceding the Federal fiscal year in which the goal submission is due.

APPENDIX B

Overall three-year goals development process/base figure calculation

The CAMPO/RTC overall three-year goal for Disadvantaged Business Enterprise (DBE) participation in U.S. Department of Transportation (USDOT) assisted contracts is based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses that are ready, willing, and able (49 CFR Part 26, §26.45) to participate on USDOT assisted projects. The goal is derived from the Base Figure calculation. The Base Figure is a ratio of the number of DBE certified firms to all firms within a particular market area and for a particular business function.

For the purposes of the Base Figure Calculation, CAMPO and RTC assume that DBEs are those firms that have been certified by the Nevada Unified Certification Program (UCP). Each potential DBE was individually screened to determine whether they provide the types of goods and services used by CAMPO and RTC. Other applicable criteria for the inclusion of DBE and non-DBEs in the Base Figure calculation are:

1. Certified DBE firms included in Nevada UCP DBE directory.
2. Professional service firms physically located in Carson City and Washoe County.

Relevant Market Area

The criteria requires firms to be physically located in Carson City and Washoe County is based upon the definition of the relevant market area. The relevant market area for CAMPO and RTC is a region of the country which best reflects CAMPO and RTC's purchasing practices using FTA funding. CAMPO and RTC buy goods and services from a variety of firms, some of which are located outside the State of Nevada. The question then becomes which geographic area (national, regional, or local), for the purpose of calculating the base figure, is most reflective of CAMPO and RTC's purchasing practices and best reflects the relative availability of DBEs. A national market area tends to be the least reflective of CAMPO and RTC's purchasing practices.

Most out-of-state professional service firms which have bid or received contracts from CAMPO and RTC are located in western states. Professional service firms include engineers, planners, and management consulting firms. Use of out-of-state professional firms occurs periodically, and is typically non-recurring (e.g., there is no one single western state or region outside Nevada which consistently provides professional services to CAMPO and RTC). Therefore, it is difficult to define a region outside Nevada as part of the relevant market area.

Other factors which influence the determination of the relevant market area include:

1. Over 80 percent of firms contained in CAMPO and RTC's relevant market area were located in Carson City/Washoe County.
2. With the exception of large general engineering and general building contractors, most construction firms perform work locally.
3. Inclusion of out-of-state firms creates a situation where the relevant market area is difficult to define. A count of out-of-state DBE and non-DBE firms would have to be included in the Base Figure calculation.
4. Only a limited number of out-of-state firms have bid on CAMPO and RTC projects.

For these reasons CAMPO and the RTC has limited the relevant market area to Carson City and Washoe County.

Base Figure Calculation

All of the purchasing and contracting opportunities with CAMPO and RTC, utilizing FTA funds typically falls into the professional services category. This category represents the primary business sectors utilized by CAMPO and RTC.

Professional Services

This category includes firms providing expertise in engineering, architecture, planning, consulting, transit management, etc. The Base Figure for Professional Services is calculated by dividing the total number of Carson City/Washoe County DBEs by the sum of all Carson City/Washoe County firms which have North American Industry Classification System (NAICS) code 5413 (architectural, engineering, and related services), and 5416 (management, scientific and technical consulting services). The classification of firms by NAICS codes was done in the course of developing the U.S. Census Bureau's 1997 County Business Patterns. The County Business Patterns database is one of the only available sources of business classifications. Using NAICS codes yields the following ratio:

DBE Professional Services Firms / Total firms with corresponding NAICS codes X 100 = Professional Services Base Figure

APPENDIX C

Guidance concerning good faith efforts

When CAMPO and/or RTC establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

In any situation in which a contract goal has been established, Part 26 requires the good faith efforts mechanism of this part. CAMPO and RTC will make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. CAMPO and RTC will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. CAMPO and RTC recognize that the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

CAMPO and RTC will not require that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract.

The following is a list of types of actions which CAMPO and RTC will consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

- B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

APPENDIX D

FTA Disadvantaged Business Enterprise (DBE) Race Neutral Goal Form Example

Office Use Only: Contract #: _____	
Disadvantaged Business Enterprise (DBE) Race Neutral Goal 0.34%	
<u>To be filled out by contractor:</u>	
Title of Project: _____	Advertised Bid #: _____
Base Bid/Proposal Amount: \$ _____	
_____ Contractor's Signature	_____ Date
DBE Firm Name: _____	
Confirmation of DBE Participation: _____ (signature can be obtained after bid award is determined)	
% of Base Bid: _____ % Approximate Amount of DBE's Portion: \$ _____	
Firm Address: _____	
DBE Certification # & Expiration: _____	
Contact Person: _____	Phone #: _____
Scope of work: _____	

Office Use Only	
Site Monitor: _____	Site Monitor Initials: _____
Site Visit Date (s): _____	
DBE Certification Verified: Yes or No	
1. Does it appear the DBE firm is performing described scope the work? Yes _____ No _____	
2. Does it appear the DBE contractor is managing their scope of the project & using their employees? Yes _____ No _____	
3. Does it appear the DBE contractor is providing the equipment for their scope of work? Yes _____ No _____	
Duplicate form for additional DBE Firms	