

FY 2023-2026

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM



DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

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I. Policy Statement

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Section 26.1, 26.23 Objectives/Policy Statement

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

It is the policy of Clemson Area Transit to ensure DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also CAT's policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
2. To create an equal opportunity that allows DBEs to 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 in the development of firms that can compete successfully in the market place outside the DBE Program.

Clemson Area Transit Budget and Grants Administrator, Heather Lollis, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO 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 CAT in its financial assistance agreements with the DOT.

Clemson Area Transit has disseminated this policy statement to the City of Clemson and all of the components of its organization. CAT will distribute this statement to DBE and non-DBE business communities that perform work for CAT on DOT-assisted contracts. Included in each Invitation for Bid, CAT notifies all bidders that CAT will affirmatively ensure that all disadvantaged business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of gender, race, color, or national origin in consideration for an award.

II. SUBPART A – GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

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The objectives are found in the policy statement on the first page of this program. Any time the position of CEO/General Manager is changed, the policy will be updated, signed, and circulated throughout the organization and to the business community that could work on DOT-assisted contracts.

Section 26.3 Applicability

Clemson Area Transit is the recipient of federal transit funds authorized by Federal transit laws in Title 49, U.S. Code and 49 CFR Part 26. See Attachment A: Access to 49 CFR Part 26.

Section 26.5 Definitions

For Clemson Area Transit's DBE program, CAT will adopt the definitions provided by USDOT in Section 26.5 of Part 26 located at www.fta.dot.gov/civilrights/12326.html found in Attachment B: Definitions.

Section 26.7 Non-discrimination Requirements

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

Uniform Report of DBE Awards or Commitments and Payments: 26.11

Clemson Area Transit will report DBE participation to the Federal Transit Administration (FTA) using the Uniform Report of DBE Award/Commitments and Payments.

Bidders List: 26.11

Clemson Area Transit will create a bidder list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assigned contracts. The purpose of this requirement is to allow use of bidder's list approach to calculate overall goals. The bidder list will include the name, address, DBE non-DBE status, and age. This information will be collected by a form through an Invitation to Bid packet.

Section 26.13 Assurances

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

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Federal Financial Assistance Agreement Assurance: 26.13

Clemson Area Transit 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 Clemson Area Transit 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 Program Fraud Civil Remedies Act of 1986(31 U.S. 3801).

Contract Assurance: 26.13

Clemson Area Transit 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, sex, or national origin 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.

III. SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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Since Clemson Area Transit has received a grant of \$250,000 or more in FTA planning capital, and/or operating assistance in a federal fiscal year, CAT will continue to carry out this program until all funds from DOT financial assistance have been expended. CAT will provide to DOT updates representing significant changes in the program.

Section 26.25 DBE Liaison Officer (DBELO)

Clemson Area Transit has designated the following individual as their DBE Liaison Officer:

Heather Lollis
200 West Lane
Clemson, SC 29631
Phone: (864) 653-2075
hlollis@cityofclemson.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Clemson Area Transit complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the CEO and General Manager of Clemson Area Transit concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment D: Organizational Chart of this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE Program, in coordination with other appropriate officials. The DBELO duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Work with all departments to set overall annual goals for DOT.
4. Ensure that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identify contracts and procurements so that DBE goals are included in solicitations
6. Analyze Clemson Area Transit's progress toward attainment and identify ways to improve progress.
7. Advise the CEO/General Manager on DBE matters and achievement.
8. Participate in DBE training seminars.
9. Maintain Clemson Area Transit's updated directory on certified DBEs.
10. Participate in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Act as a liaison to the Uniform Certification Process in South Carolina.

Section 26.27 DBE Financial Institutions

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It is the policy of Clemson Area Transit 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 contracts to make use of these institutions. The distance from the bank listed below would make it difficult for CAT to use this particular institution due to CAT's need to access bank services. On an annual schedule, CAT will utilize the Department of Treasury website to identify any other DBE Financial Institutions in CAT's community (http://www.fms.treas.gov/mbdp/current_list.html).

To date CAT has identified the following DBE financial institution in South Carolina:

SOUTH CAROLINA

South Carolina Community Bank
Contract: Miya Littlejohn, CFO
1545 Sumter Street
P.O. Box 425
Columbia, SC 29202
Routing and Transit (ABA) Number: 053905877
Phone: (803) 733-8100, Ext. 1103
Fax: (803) 733-8125
E-mail: MLittlejohn@SCCommunityBank.net
MC: 50

Section 26.29 Prompt Payment Mechanisms

Prompt Payment: 26.29

Clemson Area Transit will include the following clause in each DOT-assisted prime contract:

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

Retainage: 26.29

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor work is satisfactory completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of CAT. This clause applies to both DBE and non-DBE subcontracts. CAT may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

Monitoring and Enforcement: 26.29

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Clemson Area Transit has established the following mechanism to monitor and enforce prompt payment and return of retainage:

1. The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have already performed.
2. CAT will closely monitor vendors who have received contract bids.
3. CAT will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of CAT.

Section 26.31 Directory

Clemson Area Transit retains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, and area of work the firm has been certified to perform as a DBE. We revise the directory when updated versions are sent electronically from SCDOT. The Directory may be found in Attachment E.

Section 26.33 Overconcentration

Clemson Area Transit has not identified any areas of overconcentration in one or more types of work as it is defined in 49 CFR 26 as of the implementation of this program. In the event that any areas of overconcentration are identified, the DBELO will revise this section of the program and notify and seek approval of the DOT operating administration.

Section 26.35 Business Development Programs

Clemson Area Transit has not found it necessary to have a formalized business development program in order to reach their DBE goal and does not anticipate needing one in the near future. CAT will re-evaluate the need for such a program triennially.

Section 26.37 Monitoring and Enforcement Mechanisms

Clemson Area Transit will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26. See Attachment F: Monitoring and Enforcement Mechanisms/Legal Remedies.

1. CAT 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 steps provided in 26.109.
2. CAT will consider similar action under their own legal authorities, including responsibility determinations in future contracts.
3. CAT will provide a monitoring and enforcement mechanism to verify that work committed by DBEs at contract award is actually performed by the DBEs.
4. CAT will keep a record of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Small Business Participation

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Clemson Area Transit will incorporate the following non-discriminating element to its DBE program in order to facilitate competition in DOT-assisted public works projects by small business concerns (both DBEs and non-DBEs small businesses):

1. CAT will evaluate unbundling contract requirements into smaller contracts when possible.

Clemson Area Transit will utilize the Small Business Administration (SBA) guidelines and definitions as set out in 49 CFR Section 26.5 to verify business size. This will ensure that small businesses are allowed to participate in their DBE Program and be able to compete with similarly-sized businesses. CAT will use the SCDOT DBE Directory to verify that a certified DBE is eligible to participate in the Small Business Program. As such, self-certification/verification is not allowed under the program. CAT will implement these provisions of the Small Business Program within nine months of the approval date of the DBE Program.

Clemson Area Transit has incorporated the following strategies in order to increase opportunities for small businesses participation, and has added these elements to its DBE program in order to facilitate competition on DOT-assisted projects by small business concerns (both DBEs and non-DBE small businesses):

- 1) Requiring bidders on large contracts to identify and/or provide specific subcontracting opportunities for small business participation; and
- 2) Where feasible, remove unnecessary and unjustified bundling of contract requirements to promote participation of small businesses
- 3) CAT will actively implement these program strategies to encourage small business participation in its good-faith efforts for the DBE Program.

IV. SUBPART C – GOALS, GOOD FAITH EFFORTS, & COUNTING

Section 26.43 Set-asides or Quotas

Clemson Area Transit does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

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In accordance with Section 26.45, Clemson Area Transit will submit its triennial overall DBE goal to FTA as scheduled. See Attachment G: Overall Goal Calculations. The process that will be used by CAT to establish overall DBE goals is as follows:

Clemson Area Transit goal setting process is:

A. Step One - Establishing a Base Figure.

- a. The Base Figure represents the relative availability of ready, willing, and able DBE firms as compared to all firms ready, willing, and able to perform for CAT. Some of CAT's vendors are chosen based on contracts provided by the City of Clemson, contracts provided by the state, and vendor pricing and availability to meet CAT's specific needs. The City of Clemson provides many services CAT requires. The ratio for CAT is:

$$\frac{\text{DBEs}}{\text{Non-DBEs and DBEs}}$$

Clemson Area Transit chose to utilize the number of DBEs in the SCUCP Directory based on services CAT will need in the following three years to determine the base figure. CAT counted the number of available firms eligible to perform the services they needed.

Clemson Area Transit utilized the most recent census bureau data to determine the total number of transportation bus manufacturer, bus shelter vendors, and advertising vendors in the South Carolina market area. CAT identified 473 firms under North American Industry Classification System (NAICS) Codes 236220, 423110, and 541850. Using the data collected, CAT determined the relative availability of DBEs for public transit contracts in the market is 1%, as indicated below:

$$\frac{42 \text{ DBEs}}{3,585 \text{ Total Market Area Firms}} = 1.2\%$$

Table 1: Relative Availability DBEs by Categories of Work

<u>NAICS CODES</u>	<u>CATEGORY OF WORK</u>	<u>Certified DBEs</u>	<u>Non-DBEs and DBEs Total</u>
423110	Bus	0	7
236220	Bus Shelters	3	164
541850	Advertising	2	302

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TOTAL		5	473

B. Adjusting the Base Figure 49 CRF 26.45.

- a. CAT DBE Base Figure is the same as the last calculation, therefore an adjustment based on past participation is not available. CAT's base figure is not the goal of another recipient. The goal is independent with CAT. Upon further review, the evidence shows that CAT's base figure does not need to be adjusted.

Clemson Area Transit will establish project-specific DBE goals as appropriate for each DOT-assisted contract.

Clemson Area Transit's overall goal submission to DOT will include: the goal and a copy of worksheets used to develop the goal.

If Clemson Area Transit establishes a goal on a project basis, CAT will begin using their goal by the time of the first solicitation for a DOT-assisted contract for the project. CAT's goal will remain effective for the duration of the three-year period established and approved by FTA.

C. Contract Dollars Available

Table 2: Available Transit Contract Dollars

<u>NAICS CODES</u>	<u>CATEGORY OF WORK</u>	<u>Certified DBEs</u>	<u>Non-DBEs and DBEs Total</u>	<u>Contracting Opportunities</u>
236220	Bus Shelters	3	164	\$10,000
423110	Bus	0	7	\$1,000,000
541850	Advertising	2	302	\$5,000
TOTAL		5	473	\$1,015,000

Table 2 indicates Clemson Area Transit's possible contract opportunities for the next 3 years.

Based on the above analysis, Clemson Area Transit proposes to establish its FY 2023-2026 overall DBE transit goal of 1% to be met through race neutral measures.

The amount of contracts expected for FY 23-26 is \$1,015,000. Given this amount, CAT has set a goal of expending \$3,000 on DBE contracts during FY 2023-2026.

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See Attachment F: Overall Goal Calculations.

A. Race-Neutral Measures

Clemson Area Transit estimates that in meeting their overall goal of 1%, CAT will obtain 100% from race-neutral participation. CAT will use the following race-neutral means to increase DBE participation:

1. Training all CAT staff who are involved in procurement about the DBE program and about utilizing DBEs.
2. Soliciting new DBEs to participate in CAT procurements.
3. Assist existing providers who are eligible for DBE status to register with SCDOT.

See Attachment H: Race-Neutral Measures.

Section 26.47 Goal Setting and Accountability

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

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments
2. Establish specific steps and milestones to correct the problems identified in the analysis
3. Keep on file the analysis and milestones

Section 26.49 Transit Vehicle Manufacturers Goals

Clemson Area Transit will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, CAT may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the Transit Vehicle Manufacturers complying with this element of the program.

Section 26.51 Meeting Overall Goals/Contract Goals

Clemson Area Transit will meet the maximum feasible portion of their overall goal using race-neutral means of facilitating DBE participation. CAT need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the type and location of the work and the availability of the DBEs to perform the work of each such contract.

Clemson Area Transit will express their contract goals as a percentage of the total amount of a DOT-assisted contract. Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information as part of the bid document when the bid is due:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;

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3. The dollar amount of the participation of each DBE firm participation;
4. Written and signed documentation of the commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. A Bidder can show good faith efforts by demonstrating 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.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: DBELO. CAT will ensure that all information is complete and accurate and adequately document the bidder's/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Section 26.53 Good Faith Efforts Procedures

Award of Contracts with a DBE Contract Goal: 26.53

In those instances, where a contract-specific DBE goal is included in a procurement/solicitation, Clemson Area Transit will not award the contract to a bidder who does not either:

1. Meet the contract goal with verified, countable DBE participation.
2. Documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to a submission of its bid.

Evaluation of Good Faith Efforts: 26.53

The DBELO is responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

Clemson Area Transit has designated the following individual as their DBE Liaison Officer:

Heather Lollis
200 West Lane
Clemson, SC 29631
Phone: (864) 653-2075
hlollis@cityofclemson.org

The process used to determine whether good faith efforts have been made by a bidder are as follows:

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- CAT will make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts.
- CAT will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made.
- The determination concerning the sufficiency of the firm's good faith efforts is a judgment call: there is no quantitative formula.
- CAT will ensure that all information is complete and accurate and adequately document the bidder's good faith efforts before they commit to the performance of the contract by the bidder.

Information to be submitted: 26.53

Clemson Area Transit treats bidders' compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract.
2. A description of the work that each DBE will perform.
3. The dollar amount of the participation of each DBE firm participating.
4. Written and signed documentation of commitment to use a DBE subcontractor. Bidders will submit documentation that a contract goal was met using a DBE.
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors' commitment.
6. If the contract goal is not met, evidence of good faith efforts.

See Attachment I: Good Faith Efforts Forms 1 and 2.

Administrative Reconsideration: 26.53

Within 10 days of being informed by Clemson Area Transit that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidder should make this request in writing to the following reconsideration official:

Holly Brown
Clemson Area Transit
Office Assistant
200 West Lane
Clemson, SC 29631
Phone: (864) 654-2287
hbrown@cityofclemson.org

The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

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

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals: 26.53

Clemson Area Transit requires that prime contractors not terminate a DBE subcontractor listed on a bid contract with a DBE contract goal without CAT's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53 of the DBE regulation.

Before transmitting to Clemson Area Transit its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to CAT prior to consideration of the request to terminate. The DBE will then have 5 days to respond and advise CAT of why it objects to the proposed termination.

In those instances, where "good cause" exists to terminate a DBE's contract, Clemson Area Transit will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. CAT will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and prove reasonable documentation.

In this situation, Clemson Area Transit will require the prime contractor to obtain CAT's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, Clemson Area Transit's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

Clemson Area Transit, hereby, notifies all bidders that it will affirmatively ensure that all disadvantaged and women's business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, race, color, or national origin in consideration for an award.

Pursuant to Title 49, Code of Federal Regulations, Part 26.49, a bidder, as a condition of being authorized to respond to this solicitation, must certify by completing the form DBE Approval

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Certification that is has on file with the Federal Transportation Administration (FTA) an approved or not disapproved annual disadvantaged business enterprise (DBE) subcontracting participation goal.

The bidder/offeror will be required to submit the following information:

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

Section 26.55 Counting DBE Participation

Clemson Area Transit will count DBE participation toward overall and contract goals as proved in 49 CFR 26.55.

V. SUBPARTS D & E – CERTIFICATION

Section 26.61-26.73 Certification Process

Clemson Area Transit is not a certifying entity.

Section 26.81 Unified Certification Process

Clemson Area Transit is a member of the South Carolina's Unified Certification Program (UCP). CAT will use and count for DBE credit only those DBE firms certified by the South Carolina UCP.

Section 26.83-26.91 Procedures for Certification Decisions

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

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave SE
West Building, 7th Floor
Washington, D.C. 205090

Clemson Area Transit will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for their DOT-assisted contracting.

VI. SUBPART F- COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

Clemson Area Transit will safeguard from disclosing to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, State, and Local law.

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

Monitoring Payments to DBEs

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

Clemson Area Transit will perform audits of contract payments to DBE subcontractors. The audit will track payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

VII. ATTACHMENTS

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Attachment D: DBE Directory

Attachment E: Monitoring and Enforcement Mechanisms/Legal Remedies

Attachment F: Overall Goal Calculations

Attachment G: Race and Neutral Measures

Attachment H: Good Faith Efforts Forms 1 and 2

Attachment I: Website Posting

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Attachment A: 49 CFR Part 26 Access

Regulation 49 CFR Part 26 can be found at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl.

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Attachment B: Definitions

Affirmative Action: Taking specific steps to eliminate discrimination and its effects, to ensure non-discriminatory results and practices in the future, and to involve disadvantaged business enterprises fully in contracts and programs funded wholly or in part by the U.S. Department of Transportation.

Affiliates: Firms or companies controlled by the same person which controls a firm certified as a DBE or seeking DBE certification.

Agent: An entity that performs certification legwork for a SCUCP partner in which a MOU is formed between the two.

Agreement: The South Carolina Uniform Certification Program agreement.

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Alaska Native: means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation: any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.)

Certified: A finding of eligibility for DBE status in accordance with regulations governing this program.

Challenge: A formal filing by a third party to rebut the presumption that a particular individual is socially and economically disadvantaged.

Commercially Useful Function: Work performed by a DBE firm in a particular transaction that, in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction, i.e., the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, in the recipient's judgment, the firm (even though an eligible DBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded. Committee: The Committee that administers and implements the Uniform Certification Program.

Compliance: The condition existing when a recipient or contractor has met and implemented the requirements of 49 CFR Part 26.

Contract: A mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services and the buyer to pay for them. For the purposes of this program a lease is also a contract.

Contracting Opportunity: Any decision by a recipient or contractor to institute a procurement action to obtain a product or service commercially (as opposed to governmental actions).

Contractor: One who furnishes supplies or services through a lease or contract.

Department or DOT: The U.S. Department of Transportation, including its operating elements.

Disadvantaged Business Enterprise: A small business concern:

(a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals;

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

- (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- (c) whose personal network does not exceed \$1.32 million. It is important to note that the firm's management and daily business operations must be controlled by one or more of the eligible individuals who own it. The business owners themselves must control the operations of the business. Absentee ownership or titular ownership by an individual who does not take an active role in controlling the business is not consistent with eligibility as a disadvantaged business under this regulation.

FTA: The Federal Transit Administration, an element of the United States Department of Transportation.

Goal: A numerically expressed objective which recipients or contractors are required to make good faith efforts to achieve.

Home State: the state in which the DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate Family Member: An immediate family member would include: father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, and mother-in-law (SBA CFR 124.3).

Indian Tribe: any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides.

Joint Venture: An association of two or more businesses to carry out a single business enterprise for profit for which purpose the parties combine their property, capital, efforts, skills, and knowledge.

MOU: Memorandum of Understanding.

Native Hawaiian: any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization: any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit Native Hawaiians.

Non-Compliance: The condition existing when a recipient or contractor has failed to implement the requirements of 49 CFR Part 26.

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Partner: A direct recipient of USDOT funds who is a member of the South Carolina Uniform Certification Program (SCUCP).

Primary Industry Classification: The North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm.

Principal Place of Business: The business location where the individuals who manage the concern's day-to-day operations spend most working hours and where top management's business records are kept.

Processing Agency: The agency to which the firm applied for DBE certification

Program: Any undertaking by a recipient to use DOT financial assistance. Includes the entire activity, any part of which receives DOT financial assistance.

RFP: Request for Proposals.

IFB: Invitation for Bids.

RFQ: Request for Qualifications.

Each is a formal procurement process. For the purposes of this document, these terms and the terms bids, proposals, and quotes are used interchangeably.

Race-Conscious Program: A race-conscious program is one that focuses on and provides benefits only for DBEs. The use of contract goals is the primary example of a race-conscious measure in the DBE program.

Race-Neutral Program: A race-neutral program is one that, while benefiting DBEs, is not solely focused on DBE firms. For example, small business outreach programs, technical assistance programs, and prompt payment clauses can assist a wide variety of small business, not just DBEs.

Recipient: Any entity, public or private, to whom DOT financial assistance is extended, directly or through another recipient for any program.

Regulation: Regulation means 49 CFR Parts 23 and 26, and any of its revisions, additions, deletions, or replacement.

Secretary: The Secretary of Transportation or any person who he/she has designated to act for him/her.

Size: Small size will be adjusted from "time to time" for inflation.

Small Business Concern: A business which meets the standards of Section 3 of the

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Small Business Act and relevant regulations that implement it that also does not exceed the cap on average annual gross receipts

Socially and Economically Disadvantaged Individuals: A term that defines the persons eligible to own and control a disadvantaged business. This category includes citizens of the United States (or lawfully admitted permanent residents) who are:

- (a) certified as socially and economically disadvantaged by the SBA under the 8(a) program.
- (b) Black Americans – persons having origins in any of the black racial groups of Africa.
- (c) Hispanic Americans – persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
- (d) Native Americans – persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- (e) Asian-Pacific Americans – persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong.
- (f) Subcontinent Asian Americans – persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.
- (g) Women
- (h) Any additional groups whose members are designated by the SBA, at such time as the SBA designation becomes effective.

Tribally-Owned Concern: any concern at least 51 percent owned by an Indian tribe

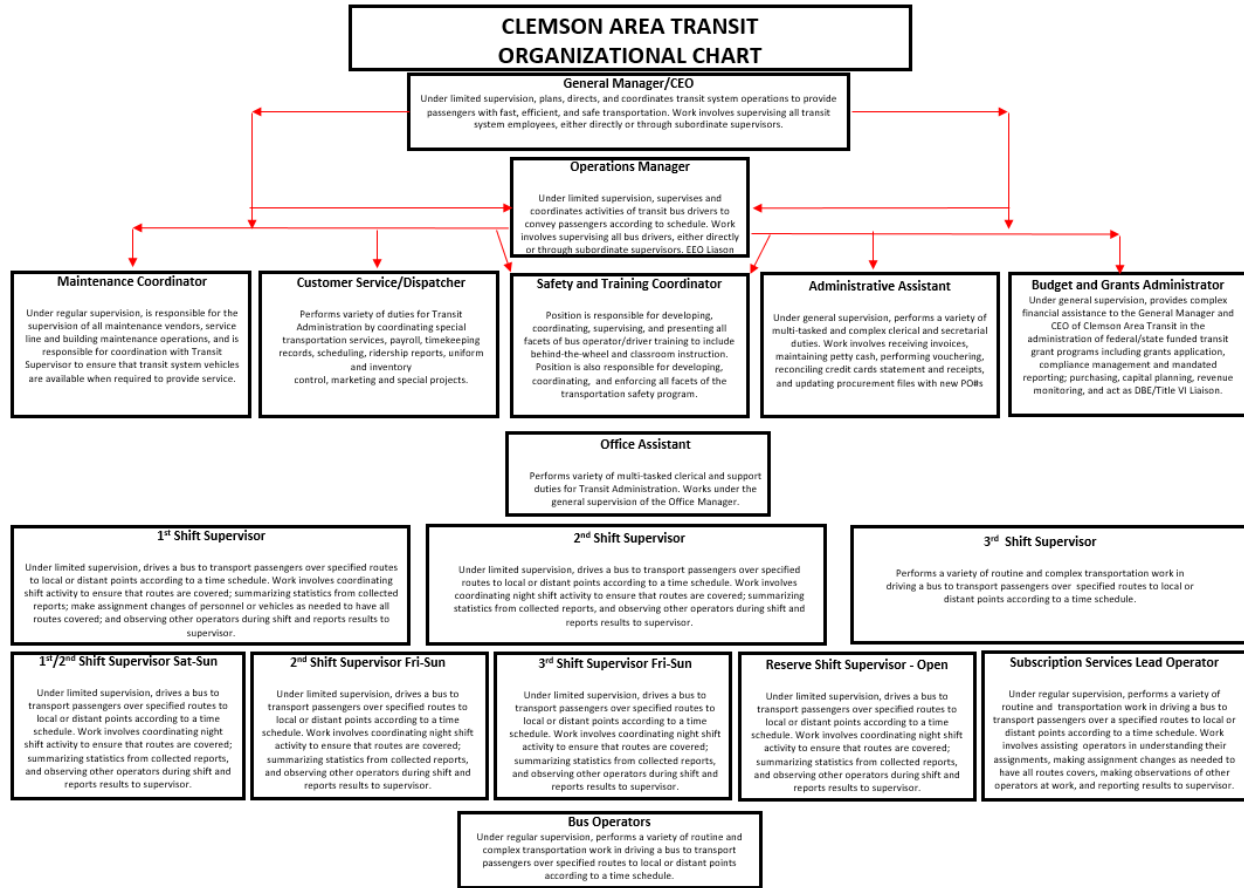
Transit Vehicle Manufacturer (TVM): A manufacturer of vehicles used by FTA recipients for the primary program purpose of mass transportation (e.g., buses, railcars, vans). The term does not apply to firms which rehabilitate old vehicles or to manufacturers of locomotives or ferry boats. The term also refers to distributors or dealers of transit vehicles.

Uniform Certification Program (UCP): the program created by the South Carolina Uniform Certification Program (SCUCP) agreement, as amended.

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Attachment C: Organization Chart

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM



Attachment D: DBE Directory

<http://dbwappsp.scdot.org/dbesearch/>

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Attachment E: Monitoring and Enforcement Mechanisms/Legal Remedies

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Monitoring and Enforcement Mechanisms/Legal Remedies

Clemson Area Transit will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. CAT will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct with the program, so that DOT can take 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. CAT will consider similar actions under our own legal authorities, including responsibility determinations in future contracts. Section VII lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. CAT will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. This will be accomplished by on site monitoring by assigned project managers, and will occur for each contract/project on which DBEs are participating.
4. CAT will also require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of CAT or DOT. This requirement also extends to any certified DBE subcontractor.
5. CAT will maintain a running tally of actual payments to DBE firms for work committed to them at the time of contract award. CAT will perform audits of contract payments to DBE subcontractors. The audit will track payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Attachment F: Overall Goal Calculations

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Overall Goal Calculation

Overall Goals

Clemson Area Transit will expend \$3,000 in DBE Contracts with a DBE Goal of 1% for FY 2023-2026.

The amount of contracts expected for FY 23-26 is \$1,015,000. Given this amount, CAT has set a goal of expending \$3,000 on DBE contracts during FY 2023-2026.

In accordance with Section 26.45, Clemson Area Transit will submit its triennial overall DBE goal to FTA as scheduled. The process that will be used by CAT to establish overall DBE goals is as follows:

Clemson Area Transit goal setting process is:

A. Step One - Establishing a Base Figure.

- a. The Base Figure represents the relative availability of ready, willing, and able DBE firms as compared to all firms ready, willing, and able to perform for CAT. Some of CAT's vendors are chosen based on contracts provided by the City of Clemson, contracts provided by the state, and vendor pricing and availability to meet CAT's specific needs. The City of Clemson provides many services CAT requires. The ratio for CAT is:

$$\frac{\text{DBEs}}{\text{Non-DBEs and DBEs}}$$

Clemson Area Transit chose to utilize the number of DBEs in the SCUCP Directory based on services CAT will need in the following three years to determine the base figure. CAT counted the number of available firms eligible to perform the services they needed. CAT identified 7 – bus manufactures, 164 –bus shelter vendors, and 302 advertising.

Clemson Area Transit utilized the most recent census bureau data to determine the total number of transportation bus ~~manufactuer~~, bus shelter vendors, and ~~advertsing~~ vendors in the South Carolina market area. CAT identified 473 firms under North American Industry Classification System (NAICS) Codes 236220, 423110, and 541850. Using the data collected, CAT determined the relative availability of DBEs for public transit contracts in the market is 3.9%, as indicated below:

$$\frac{5 \text{ DBEs}}{473 \text{ Total Market Area Firms}} = 1\%$$

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Table 1: Relative Availability DBEs by Categories of Work

<u>NAICS CODES</u>	<u>CATEGORY OF WORK</u>	<u>Certified DBEs</u>	<u>Non-DBEs and DBEs Total</u>
423110	Bus	0	7
236220	Bus Shelters	3	164
541850	Advertising	2	302
TOTAL		5	473

B. Adjusting the Base Figure 49 CRF 26.45.

- CAT DBE Base Figure is the same as the last calculation, therefore an adjustment based on past participation is not available. CAT's base figure is not the goal of another recipient. The goal is independent with CAT. Upon further review, the evidence shows that CAT's base figure does not need to be adjusted.

Clemson Area Transit will establish project-specific DBE goals as appropriate for each DOT-assisted contract.

Clemson Area Transit's overall goal submission to DOT will include: the goal and a copy of worksheets used to develop the goal.

If Clemson Area Transit establishes a goal on a project basis, CAT will begin using their goal by the time of the first solicitation for a DOT-assisted contract for the project. CAT's goal will remain effective for the duration of the three year period established and approved by FTA.

C. Contract Dollars Available

Table 2: Available Transit Contract Dollars

<u>NAICS CODES</u>	<u>CATEGORY OF WORK</u>	<u>Certified DBEs</u>	<u>Non-DBEs and DBEs Total</u>	<u>Contracting Opportunities</u>
236220	Bus Shelters	3	164	\$10,000
423110	Bus	0	7	\$1,000,000
541850	Advertising	2	302	\$5,000
TOTAL		5	473	\$1,015,000

Table 2 indicates Clemson Area Transit's possible contract opportunities for the next 3 years.

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Based on the above analysis, Clemson Area Transit proposes to establish its FY 2023-2026 overall DBE transit goal of 1% to be met through race neutral measures.

The amount of contracts expected for FY 23-26 is \$1,015,000. Given this amount, CAT has set a goal of expending \$3,000 on DBE contracts during FY 2023-2026.

D. Race-Neutral Measures

Clemson Area Transit estimates that in meeting their overall goal of 1%, CAT will obtain 100% from race-neutral participation. CAT will use the following race-neutral means to increase DBE participation:

1. Training all CAT staff who are involved in procurement about the DBE program and about utilizing DBEs.
2. Soliciting new DBEs to participate in CAT procurements.
3. Assist existing providers who are eligible for DBE status to register with SCDOT.

Attachment G: Race-Neutral Measures

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

A race-neutral program is one that, while benefiting DBEs, is not solely focused on DBE firms. For example, small business outreach programs, technical assistance programs, and prompt payment clauses can assist a wide variety of small business, not just DBEs.

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

1. Training all CAT staff who are involved in procurement about the DBE program and about utilizing DBEs.
2. Soliciting new DBEs to participate in CAT procurements.
3. Assist existing providers who are eligible for DBE status to register with SCDOT.
4. Analyzing CAT's progress towards goal attainment and identifying ways to improve progress.
5. Conducting debriefings to respond to DBE inquiries concerning unsuccessful bids.

CAT estimates that in meeting their overall goal of 1.2%, CAT will obtain 100% from race-neutral participation.

Clemson Area Transit will require that DBE's used on contracts will be selected based solely on price and quality.

The DBE program at CAT essentially consists of finding DBE's that provide the goods and services CAT consumes, making sure they understand CAT's concerns about quality, delivery times, operational and contractual issues, and then including them in the competitive procurement process with no price preference. CAT's race-neutral DBE participation is estimated to result from private sector DBE participation in contracts for which there are no DBE goals.

Attachment H: Demonstration of Good Faith Efforts Forms

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No.: _____

By: _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: Zip: _____

Name of DBE firm:

Address: _

City: State: Zip:

Telephone:

Description of work to be performed by DBE firm:

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

Affirmation

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

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

By _____


(Signature)


(Title)

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

Attachment Q: DBE Program with Proposed Goal on Website

DISADVANTAGED BUSINESS ENTERPRISES PROGRAM



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Welcome to Clemson Area Transit "CATbus"

Mission Statement - "Clemson Area Transit (CAT) is dedicated to excellence in serving everyone with safe, friendly, and reliable public transportation."

Security Matters - "Clemson Area Transit (CAT) is dedicated to excellence in serving everyone with safe, friendly, and reliable public transportation."


CATBUS NEWS AND EVENTS



SUPERUSER ACCOUNT FRIDAY, JUNE 9, 2023

July 4th Route Schedule


In observance of Independence Day, there will be NO CATbus service on Tuesday, July 4th. All buses will resume their summer schedule on Wednesday, July 5th.



SUPERUSER ACCOUNT FRIDAY, JUNE 9, 2023

Juneteenth Route Schedule - Monday June 19th

In Observance of Juneteenth, the office will be closed and the red-route will be the only route in service on Monday, June 19th. The office and all other routes will resume their summer/regular schedule on Tuesday,...



Summer Schedule 2023

5/16/2023 - 8/21/2023

New Electric Buses coming to CAT

WEDNESDAY FEBRUARY 8, 2023

CATbus News and Info

Categories

- News 33
- Awards 1
- General Information 3
- CATbus COVID-19 Info 0
- City of Clemson Public Safety 0
- Routes | Maps | Schedules 3
- Real-Time Bus Locator 1
- Route Schedule Changes 4

WHERE'S MY BUS?

REAL-TIME BUS LOCATOR

