



PEE DEE REGIONAL TRANSPORTATION AUTHORITY

Disadvantaged Business Enterprises Program Plan

General information about the entity.

Agency: Pee Dee Regional Transportation Authority (PDRTA)
313 S. Stadium Rd,
Florence, SC 20506

Contact Person: Cicily Shaul
DBE Liaison Officer
843-519-0077
cshaul@pdrta.org

Revised: 1 July 2023

Contents

Policy Statement	5
I. General Requirements.....	6
A. Objectives as Required - Section 26.1, 26.23	6
B. Applicability as Required - Section 26.3	6
C. Definitions - Section - 26.5	6
D. Non-discrimination Requirements - Section 26.7	6
E. Record Keeping Requirements - Section 26.11	7
1. Uniform Report of DBE Awards or Commitments and Payments: 26.11(a).....	7
2. Bidders List: 26.11(c)	7
F. Assurances	7
1. General Assurances - Section 26.13(a).....	7
2. Contract Assurance: 26.13(b)	7
II. Administrative Requirements	7
A. DBE Program Updates - Section 26.21.....	7
B. Policy Statement - Section 26.23	8
C. DBE Liaison Officer (DBELO) - Section 26.25.....	8
D. DBE Financial Institutions - Section 26.27	8
E. Prompt Payment Mechanisms - Section 26.29	8
1. Prompt Payment: 26.29(a)	8
2. Retainage: 26.29(b).....	9
F. Directory - Section - 26.31.....	9
G. Overconcentration - Section 26.33.....	10
H. Business Development Programs - Section 26.35	10
I. Monitoring and Enforcement Mechanisms - Section 26.37.....	10
J. Small Business Participation - Section 26.39	10
III. Goals, Good Faith Efforts, and Counting	10
A. Set-asides or Quotas - Section 26.43	10
B. Overall Goals - Section 26.45	10
C. Shortfall Analysis - Section 26.47	12
D. Transit Vehicle Manufacturers Goals - Section 26.49	12
E. Meeting Overall Goals/Contract Goals - Section 26.51	12

F.	Good Faith Efforts Procedures - Section 26.53	13
1.	Award of Contracts with a DBE Contract Goal: 26.53(a)	13
2.	Evaluation of Good Faith Efforts: 26.53(a) & (c).....	13
3.	Information to be Submitted: 26.53(b)	13
4.	Administrative Reconsideration: 26.53(d).....	13
G.	Good Faith Efforts when a DBE is Replaced on a Contract - Section 26.53(f).....	13
H.	Counting DBE Participation - Section 26.55	14
IV.	SUBPARTS D & E– CERTIFICATION.....	14
A.	Certification Process - Section 26.61 – 26.73	14
B.	Unified Certification Programs - Section 26.81	14
C.	Procedures for Certification Decisions - Section 26.83-26.91	14
V.	SUBPART F – COMPLIANCE AND ENFORCEMENT	15
A.	Information, Confidentiality, Cooperation - Section 26.109	15
VI.	OTHER HELPFUL INFORMATION.....	15
VII.	ATTACHMENTS.....	16
	Attachment 1: Appendix B	16
	Attachment 2: Organizational Chart	22
	Attachment 3: SCDOT’s DBE Directory.....	23
	Attachment 4: DBE Monitoring & Enforcement Mechanisms.....	24
	Attachment 5: Goals & Methodology	25
	Attachment 5a: Tips for DBE Goal Setting	27
	Attachment 6: Sample Public Notice	39
	Attachment 7: Form 1 & 2 Demonstration of Good Faith Efforts.....	40
	Attachment 7: PDRTA DBE Good Faith Effort Documentation.....	42
	Attachment 8: US DOT Certification Forms	44
	Attachment 9: DBE Regulation, 49 CFR Part 26	45

(Page Intentionally Left Blank)

Policy Statement

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

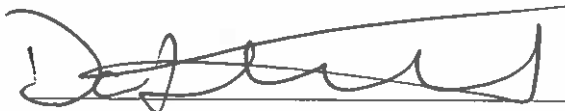
It is the policy of PDRTA to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. This policy applies to all PDRTA employees administering CFR 49 Part 26 contracts.

It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by recipients;
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program and
8. To provide appropriate flexibility to recipients of Federal Financial Assistance in establishing and providing opportunities for DBEs.

Cicily Shaul has been delegated as the DBE Liaison Officer. In that capacity, Cicily Shaul is responsible for implementation and overall responsibility of the DBE program. Implementation and execution of the DBE program is accorded the same priority and compliance with all other legal obligations incurred by PDRTA in its financial assistance agreements with the South Carolina Department of Transportation (SCDOT).

PDRTA has disseminated this policy statement to the PDRTA Board of Directors, Executive Director, Assistant Executive Director, DBE Liaison Officer, and all other individuals responsible for purchasing and initiating contracts as defined in Part 26. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. This statement will initially be distributed with payment methods to our current vendors and thereafter this statement will be mailed, faxed, or emailed to potential vendors and/or contractors. When significant changes are made PDRTA will redistribute.



Don Strickland

Executive Director

6-29-23

Date

General Requirements

A. Objectives as Required - Section 26.1, 26.23

It is PDRTA's intention to achieve objectives of the South Carolina Department of Transportation (SCDOT) DBE Program, as stated in our Policy Statement. PDRTA will make good faith efforts through solicitation and notice to bid for any DBE Certified Contractors that would fit the scope of work that PDRTA may contract for.

The policy must be signed and dated by the Executive Director, and circulated throughout the organization and to the DBE and non-DBE business communities that work on PDRTA's DOT assisted contracts. This process must occur each time PDRTA hires a new Executive Director and/or any time there are changes to this policy. Furthermore, PDRTA must provide SCDOT updates representing significant changes in the program.

- To ensure nondiscrimination in the award and administration of contracts.
- To create a level playing field on which DBEs can compete fairly for contracts.
- To ensure that the PDRTA's DBE program is narrowly tailored in accordance with applicable law.
- To ensure that only firms that fully meet this the eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in contracts.
- To promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by recipients.
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The PDRTA DBE program applies to all types of firms working on USDOT-funded contracts:

- Contractors and consultants
- Professional Service Agreements (training, computer, etc.)
- Architectural/Engineering Contracts

B. Applicability as Required - Section 26.3

PDRTA is a sub-recipient of federal transit funds authorized by Titles I, III, V, and/or VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

C. Definitions - Section 26.5

PDRTA will adopt the definitions contained in Section 26.5 of Part 26 for this program.

D. Non-discrimination Requirements - Section 26.7

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

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

E. Record Keeping Requirements - Section 26.11

1. Uniform Report of DBE Awards or Commitments and Payments: 26.11(a)

PDRTA will report DBE participation to the SCDOT using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation. See Attachment 1. Appendix B can also be found at <https://www.fta.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-forms>. A digital form of Appendix "B" shall be made available to the DBE Liaison Officer.

2. Bidders List: 26.11(c)

PDRTA will utilize the SCDOT DBE bidder's list as determined and certified by the State of South Carolina EEO office. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information in the following ways: 1) Implementing a contract clause requiring prime bidders to report names, addresses, and DBE certification status of all firms who provide quotes on subcontracts, 2) Notice in all solicitations requesting responding firms to report DBE participation.

F. Assurances

1. General Assurances - Section 26.13(a)

PDRTA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the PDRTA of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

This language will appear in financial assistance agreements with sub-recipients.

2. Contract Assurance: 26.13(b)

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate which may include, but is not limited to:

- a. Withholding monthly progress payments.
- b. Assessing sanctions.
- c. Liquidated damages; and/or
- d. Disqualifying the contractor from future bidding as non-responsible.

II. Administrative Requirements

A. DBE Program Updates - Section 26.21

Since PDRTA has received a grant of \$250,000 or more in FTA planning capital, and our operating assistance in a federal fiscal year, PDRTA will continue to carry out this program until all funds from DOT financial

assistance have been expended. PDRTA will provide SCDOT updates representing significant changes in the program.

B. Policy Statement - Section 26.23

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

C. DBE Liaison Officer (DBELO) - Section 26.25

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

Cicily Shaul
313 S. Stadium Rd
Florence, SC 20506
843-519-0077

In this capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that PDRTA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 of this program. The DBELO is responsible for continuing developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials.

The duties and responsibilities include the following:

- a. Gathers and reports statistical data and other information as required by SCDOT.
- b. Reviews third party contracts and purchase requisitions for compliance with this program.
- c. Works with all departments to set overall annual goals.
- d. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- e. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
- f. Analyzes PDRTA's progress toward attainment and identifies ways to improve progress.
- g. Participates in pre-bid meetings.
- h. Advises the Executive Director\governing body on DBE matters and achievement.
- i. Participates in pre-bid meetings.
- j. Plans and participates in DBE training seminars.
- k. Provides outreach to DBEs and community organizations to advise them of opportunities.
- l. Seeks out SCDOT's updated directory on certified DBEs on a regular basis.

D. DBE Financial Institutions - Section 26.27

It is the policy of PDRTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and make reasonable efforts to use these institutions. At this time, PDRTA has not identified any financial institutions that are owned and controlled by socially and economically disadvantaged individuals in the PDRTA service area.

E. Prompt Payment Mechanisms - Section 26.29

1. Prompt Payment: 26.29(a)

PDRTA 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 (completion and acceptance) no later than 30 days from the receipt of each payment the prime contract receives from PDRTA. The prime contractor agrees further to return **retainage** payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of PDRTA. This clause applies to both DBE and non-DBE subcontracts.

2. Retainage: 26.29(b)

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

What is retainage?

Withholding a certain percentage of payment that the recipient owes the prime (or the prime owes the subcontractor), typically until all the work of the prime contractor (or subcontractor) has been satisfactorily completed.

Prime contractors are not permitted to hold retainage from subcontractors until the end of project when the recipient has made final payment to the prime.

Regulations provide three retainage models:

- a. Recipient may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
- b. Recipient may decline to hold retainage from prime contractors and have a contract clause that requires a prime to release retainage to subcontractor within 30 days after the subcontractor's work is satisfactorily completed.
- c. The recipient may withhold retainage from prime and release a percentage of the retainage incrementally as portions of the contract are completed and accepted, e.g., monthly progress payments.

Recipient requires prime contractors to release all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after recipient pays prime (could be the portion that is included in the prime's payment)

Prime and subcontractors must submit required documentation to the recipient or prime contractor, respectively, to begin payment process.

F. Directory - Section - 26.31

PDRTA will utilize SCDOT's directory of certified DBE firms identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. SCDOT has made the Directory available at the following website: <http://dbwappsp.scdot.org/dbesearch/>. The Directory is listed at the above-mentioned website (Attachment 3) and a digital copy shall be distributed to the Executive Director and the DBE Liaison Officer. SCDOT's directory includes North American Industry Classifications codes (NAICS). The illustration below is an example of codes used in the repair of buses used in transportation.

336390	Air filters, automotive, truck, and bus, manufacturing
336320	Alternators and generators for internal combustion engines manufacturing
336350	Assembly line rebuilding of automotive, truck, and bus transmissions
336120	Assembly plants, heavy trucks, and buses on chassis of own manufacture
336350	Automatic transmissions, automotive, truck, and bus, manufacturing
336330	Automotive, truck and bus steering assemblies and parts manufacturing
336330	Automotive, truck and bus steering assembly and parts manufacturing
336330	Automotive, truck and bus suspension assemblies and parts (except springs) manufacturing
336330	Automotive, truck and bus suspension assembly and parts (except springs) manufacturing

G. Overconcentration - Section 26.33

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

H. Business Development Programs - Section 26.35

As a sub recipient, PDRTA will utilize the SCDOT business development program.

I. Monitoring and Enforcement Mechanisms - Section 26.37

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

1. PDRTA will bring to the attention of SCDOT any false, fraudulent, or dishonest conduct in connection with the program, so that SCDOT can take the steps provided in 26.109.
2. PDRTA will consider similar action under our own legal authorities, including responsibility determinations in future contracts. See Attachment 4
3. PDRTA will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by payroll submissions, site visits on the job-sites, and will occur for each contract/project in which DBEs are participating.
4. PDRTA will keep a running tally of actual payments to DBE firms for work committed to them at the time of the contract award.
5. PDRTA will keep a log of these activities for documentation purposes.

J. Small Business Participation - Section 26.39

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

PDRTA will make every attempt to remove unnecessary and unjustified bundling of contract requirements; race-neutral small business set-asides for prime contracts below a certain value; requiring bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation; development of acquisition strategies and structuring procurements to facilitate bids by and awards to small business consortia or joint ventures; letting prime contracts of a size that small businesses can reasonably compete for and perform.

III. Goals, Good Faith Efforts, and Counting

A. Set-asides or Quotas - Section 26.43

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

B. Overall Goals - Section 26.45

In accordance with Section 26.45, PDRTA will cooperate with SCDOT, and their needs related to their triennial overall DBE goals.

Every third year PDRTA will also establish its own project-specific DBE goals as appropriate, and/or establish project specific DBE goals as directed by SCDOT and/or the FTA. In accordance with Section 26.45, PDRTA will submit its triennial overall DBE goal to FTA via SCDOT no later than August 1 of the

year specified by SCDOT and/or the FTA. The PDRTA DBE Goal and Methodology (Attachment 5) covers the federal fiscal years of October 1, 2023, to September 30, 2026. It is anticipated that the DBE goal will be resubmitted by August 1, 2023.

The process used by PDRTA to establish overall DBE goals follows “The FTA’s Tips for DBE Goal Setting”. These tips can be found in Attachment 5b and at the website listed below.

<https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>

Note: PDRTA will conform with the options described in Section 26.45 of the DBE regulation and will be based on the demonstrable evidence of DBE firms ready, able, and willing to participate/performance contracting opportunities derived from your DOT assisted projects/contracts. As a general matter, goals are most often set based on the Department’s “Step 1, Step 2” process established in Section 26.45(c)-(d), whereby PDRTA and/or SCDOT will establish a base figure of the relative availability of DBEs to perform work on PDRTA’s DOT-assisted contracts, then adjust the goal as necessary based on additional market information in its service area. Please note that disparity studies, while acceptable, must be reasonably current and reflective of PDRTA’s specific market conditions in order to be used as a full replacement for the “Two-Step” goal setting process established by the regulation.

Before establishing the overall goal every third year, PDRTA will consult with SCDOT to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and PDRTA’s efforts to establish a level playing field for the participation of DBEs.

Note: The consultation should include, but not necessarily be limited to, minorities, women’s and general contractor groups, community organizations, and other officials or organizations.

Following this consultation, PDRTA will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that PDRTA and SCDOT will accept comments on the goals for 30 days from the date of the notice.

PDRTA will use its standard forms of media to issue the notice. PDRTA will attempt to ensure that the notice is made available to minority focus media. PDRTA may also display the notice on the website: <https://pdrtatx.org/business/disadvantaged-business-enterprise>. PDRTA will issue this notice by July 1 of each year that necessitates a public notice (every third year). The notice must include addresses to which comments may be sent and addresses (including offices and/or websites) where the proposal may be reviewed. A sample public notice can be found in Attachment 4.

PDRTA’s overall goal submission to SCDOT will include:

1. the goal (including the breakout of estimated race neutral and race-conscious participation, as appropriate);
2. a copy of the methodology, worksheets, etc., used to develop the goal;
3. a summary of information and comments received during this public participation process with PDRTA’s responses; and
4. proof of publication of the goal in media outlets listed above.

PDRTA will begin using its overall goal on October 1 of the specified year, unless PDRTA have received other instructions from SCDOT. If PDRTA establishes a goal on a project basis, PDRTA will begin using its goal by the time of the first solicitation for a DOT-assisted contract for the project. PDRTA's goal will remain effective for the duration of the three-year period established and approved by SCDOT and/or the FTA.

C. Shortfall Analysis - Section 26.47

If the awards and commitments shown on PDRTA'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, PDRTA 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. Create and retain a corrective action plan, and maintain information/records regarding the analysis and efforts made; and
4. Submit the plan to SCDOT within 90 days of the end of the affected fiscal year.

D. Transit Vehicle Manufacturers Goals - Section 26.49

PDRTA 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, PDRTA may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program. Do not include FTA Assistance used in TVM procurements in the base amount from which your overall goal is calculated.

PDRTA is required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

E. Meeting Overall Goals/Contract Goals - Section 26.51

PDRTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. PDRTA's specified efforts regarding race-neutral measures must not be passive; rather, the race-neutral measures taken will be an active component of PDRTA's DBE program.

PDRTA will use contract goals to meet any portion of the overall goal PDRTA does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

PDRTA will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

PDRTA will express contract goals as a percentage of the total amount of a DOT-assisted contract or the Federal share of a DOT-assisted contract.

F. Good Faith Efforts Procedures - Section 26.53

1. Award of Contracts with a DBE Contract Goal: 26.53(a)

If PDRTA and SCDOT enter into an agreement where a contract-specific DBE goal is included in a procurement/solicitation, SCDOT will not award the contract to PDRTA if PDRTA does not either: (1) meet the contract goal with verified, countable DBE participation; or (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 PDRTA to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

2. Evaluation of Good Faith Efforts: 26.53(a) & (c)

PDRTA will be held accountable to document sufficient good faith efforts that demonstrate that our efforts are responsive and/or responsible. PDRTA must ensure that all information is complete and accurate and that it adequately documents PDRTA's good faith efforts so that SCDOT will commit to our performance of the contract.

3. Information to be Submitted: 26.53(b)

PDRTA treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

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

- a. The names and addresses of DBE firms that will participate in the contract;
- b. A description of the work that each DBE will perform;
- c. The dollar amount of the participation of each DBE firm participating;
- d. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- e. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and
- f. If the contract goal is not met, evidence of good faith efforts.

4. Administrative Reconsideration: 26.53(d)

If PDRTA determines that the apparent successful bidder/offeror has failed to meet the requirements of 26.53 (a), PDRTA must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

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

G. Good Faith Efforts when a DBE is Replaced on a Contract - Section 26.53(f)

PDRTA will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, PDRTA will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

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

H. Counting DBE Participation - Section 26.55

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

IV. SUBPARTS D & E– CERTIFICATION

A. Certification Process - Section 26.61 – 26.73

PDRTA is not a certifying entity. Please see the next section for South Carolina's Unified Certification Program (UCP).

B. Unified Certification Programs - Section 26.81

PDRTA recognizes the South Carolina Unified Certification Program (UCP) which is a cooperative effort by all of the U.S. Department of Transportation recipients in the state to provide a one-stop shop for all DBE firms and those looking to do business with DBE certified firms. The South Carolina UCP will meet all of the requirements of this section. PDRTA will use and count for DBE credit toward the goal only those DBE firms certified by the South Carolina UCP.

The following is contact information for the State of South Carolina UCP:

- Phone number: SCDOT 803-737-7372
- Email: BDECertification@scdot.org
- Website: <https://www.scdot.org/business/bus-development-dbe-certification.aspx>

The above contact information will be shared with firms and individuals interested in becoming a South Carolina certified DBE. SCDOT will continue to be PDRTA's primary contact for the South Carolina UCP.

C. Procedures for Certification Decisions - Section 26.83-26.91

PDRTA does not participate in the South Carolina DBE certification process and therefore is not required to include the procedures of the certification process.

The state of South Carolina encourages firms to submit their certification application online. New applications and the required documents can be submitted at:

<https://www.scdot.org/business/bus-development-dbe-certification.aspx>

V. SUBPART F – COMPLIANCE AND ENFORCEMENT

A. Information, Confidentiality, Cooperation - Section 26.109

PDRTA will safeguard from disclosure to third parties' information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Please reference South Carolina Freedom of Information Act laws at <https://www.scstatehouse.gov/code/t30c004.php> , and for information regarding disclosure of information to third parties. Federal laws regarding confidentiality can be found at <https://foia.state.gov/>.

Monitoring Payments to DBEs, PDRTA is required as a prime contractor 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 SCDOT, South Carolina UCP or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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

VI. OTHER HELPFUL INFORMATION

What is a contracting opportunity? It is a contract with a vendor or contractor including procurement by purchase order or purchase by credit card or any other contract entered into with SCDOT or a sub-recipient which is financed with FTA assistance.

PDRTA's goals and methodology should be based on where the substantial amounts of contracting dollars are spent.

Separate goals are mandated for construction projects.

Records must be retained for 3 years after the close of applicable grant periods.

May 1st and November 1st are the due dates for the mandated semi- annual reporting to SCDOT. Reporting must be done even if there is no DBE participation. The reporting will include information regarding items purchased using FTA funds, identification of DBE and their current certifications, actual amounts of FTA funds paid to each DBE, break downs by ethnicity and gender, certification of accuracy of reported information, and confirmation of hired DBE's performing work.

VII. ATTACHMENTS

Attachment 1: Appendix B

Appendix B to Part 26-Uniform Report of DBE Awards or Commitments and Payments Form
INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE
AWARDS/COMMITMENTS
AND PAYMENTS

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/instructions-completing-uniform-report-dbe>

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or federal Transit Administration (HA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.
2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet
3. Specify the Federal fiscal year (i.e., October 1 - September 30) in which the covered reporting period falls.
4. State the date of submission of this report
5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1 - March 31. If this report is due December 1, data should cover April 1 - September 30. If the report is due to the FAA, the data should cover the entire year.
6. Provide the name and address of the recipient
7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include gender-conscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

Section A: Awards and Commitments Made During This Period

The amounts in items 8(A) - 10(1) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the total dollar amount for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the total number of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the dollar amount awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts subcontracted to other firms.

8(D). From the total number of prime contracts awarded in Item 8(B), specify the number of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the dollar amount awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded during this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentages to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A) - 9(I) are derived in the same way as items 8(A) - 8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar number of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar number of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract

amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(6). Provide the total number of all subcontracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of subcontracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs.

9(D). From the total number of subcontracts awarded or committed in item 9(B), specify the number of subcontracts awarded or committed to DBEs.

9(E). From the total dollar amount of subcontracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of subcontracts awarded or committed to DBEs this period, provide the number of subcontracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of subcontracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of subcontracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded during this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentages to the nearest tenth.

Line 10: Total contracts awarded or committed during this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)- 10(B). These fields are unavailable for data entry.

10(C - H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded during this reporting period, calculate the percentage going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentages to the nearest tenth.

Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs This Period

11-17. Further breakdown of the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DSEs in 10(C). Likewise, the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The "Non-Minority" category is reserved for any firms whose owners are not members of the presumptively disadvantaged groups already listed, but who are either "women" OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

Section C: Payments on Ongoing Contracts

Line 18(A - E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period,

18(C). From the total number of contracts provided in 18(A) provides the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F). Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in 18(B). Round percentage to the nearest tenth.

Section D: Actual Payments on Contracts Completed This Reporting Period

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(8) to derive this percentage. Round to the nearest tenth.

20(A) - 20(E). Items 21(A) - 21(E) are derived in the same manner as items 19(A) - 19(E), except these

figures should be based on contracts completed using Race Neutral measures.

20(C). This field is closed.

21(A) - 21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

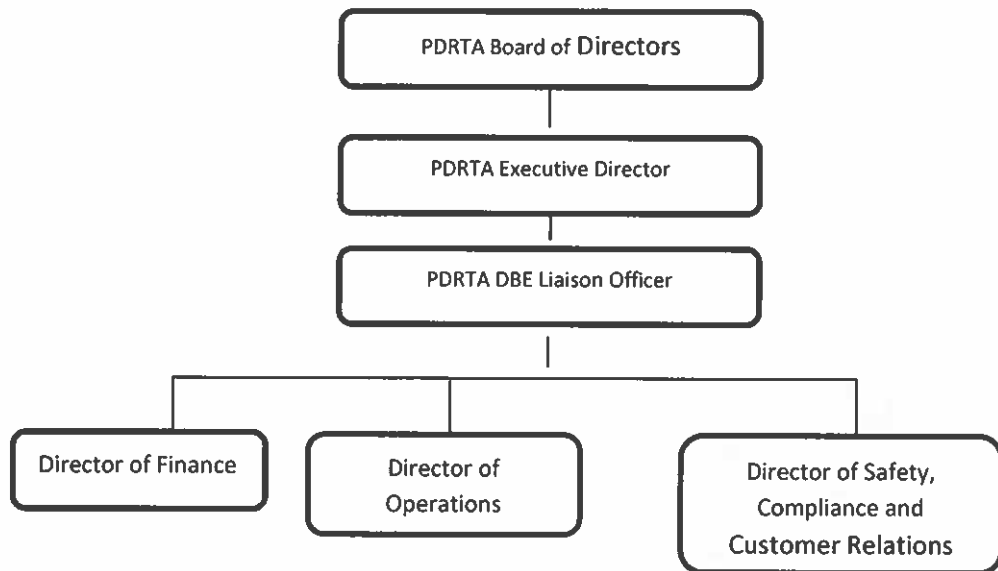
25. Phone number of the Authorized Representative.

****Submit your completed report to SCDOT.**

UNIFORM REPORT OF DBE COMMITMENTS/AWARDS AND PAYMENTS										
Please refer to the instruction sheet for directions on filling out this form										
1	Submitted to (check only one) <input checked="" type="checkbox"/> FHWA <input type="checkbox"/> FAA <input type="checkbox"/> FTA - Recipient ID Number									
2	AIP Numbers (FAA Recipients): Grant Number (FTA Recipients):									
3	Federal Fiscal year in which reporting period falls	FY 2015								
4	Date This Report Submitted:									
5	Reporting Period	<input checked="" type="checkbox"/> Report due June 2 (for period Oct 1-Mar 31) <input type="checkbox"/> Report due Dec 1 (for period April 1-Sep 30) <input type="checkbox"/> FAA annual report due Dec 1								
6	Name and address of Recipient:									
7	Annual DBE Goal(s):	Race Conscious Projection:		Race Neutral Projection:		OVERALL Goal:				
Awards/Commitments this Reporting Period										
A	AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (Total contracts and subcontracts committed during this reporting period)	A Total Dollars	B Total Number	C Total to DBEs (dollars)	D Total to DBEs (number)	E Total to DBEs/Race Conscious (dollars)	F Total to DBEs/Race Conscious (number)	G Total to DBEs/Race Neutral (dollars)	H Total to DBEs/Race Neutral (number)	I Percentage of total dollars to DBEs
8	Prime contracts awarded this period	\$ -	0	\$ -	0			\$ -	0	#DIV/0!
9	Subcontracts awarded/committed this period	\$ -	0	\$ -	0			\$ -	0	#DIV/0!
10	TOTAL			\$ -	0			\$ -	0	#DIV/0!
B	BREAKDOWN BY ETHNICITY & GENDER									
		A Total to DBE (dollar amount)			D Total to DBE (number)					
		Women	Men	Total	Women	Men	Total			
11	Black American	\$ -	\$ -	\$ -	0	0	0			
12	Hispanic American	\$ -	\$ -	\$ -	0	0	0			
13	Native American	\$ -	\$ -	\$ -	0	0	0			
14	Asian-Pacific American	\$ -	\$ -	\$ -	0	0	0			
15	Subcontinent Asian Americans	\$ -	\$ -	\$ -	0	0	0			
16	Non-Minority	\$ -	\$ -	\$ -	0	0	0			
17	TOTAL	\$ -	\$ -	\$ -	0	0	0			
Payments Made this Period										
C	PAYMENTS ON ONGOING CONTRACTS	A Total Number of Contracts	B Total Dollars Paid	C Total Number of Contracts with DBEs	D Total Payments to DBE firms	E Total Number of DBE firms Paid	F Percent to DBEs			
18	Prime and subcontracts currently in progress	0	\$ -	0	\$ -	0	#DIV/0!			
D	TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	A Number of Contracts Completed	B Total Dollar Value of Contracts Completed	C DBE Participation Needed to Meet Goal (Dollars)	D Total DBE Participation (Dollars)	E Percent to DBEs				
19	Race Conscious	0	\$ -	\$ -	\$ -	#DIV/0!				
20	Race Neutral	0	\$ -	\$ -	\$ -	#DIV/0!				
21	Totals	0	\$ -	\$ -	\$ -	#DIV/0!				
22	Submitted by:	23. Signature:			24. Phone Number:					

Attachment 2: Organizational Chart

(as related to the DBE Liaison Officer's Access to the Executive Director)



Attachment 3: SCOT's DBE Directory

Sample of list located at <http://dbwappsp.scdot.org/dbesearch/>

Company Name	DBE Name	Local Address	Phone	Fax	Email	Web	Date Certified	Area of Work	NAICS	Small Business
1st and Coal Heating, Inc.	Debra Marshall	121 Blue Clay Bay Road Arlene, NC 28540	(919) 340-1344		debra.marshall@earthlink.net		3/17/2013	Heating (1) Ducts, Milling, Asphalt, Concrete, Rock, and Road Construction Material.	484111, 484220	Yes No
1st Resource Solutions, LLC	Barry Sanders	6019 West Wilson Drive Mooresville, NC 28053	(703) 686-8800 / (703) 693-5217		psanders@firstresourcesolutions.com	www.1stresourcesolutions.com	4/23/2013	Supplier of construction supplies	42399	Yes No
1st Design, Inc.	Adelene Scott, John	Post Office Box 3475 Columbia, SC 29209	(803) 734-4060	(803) 734-4062	adelene@1stdesign.com	www.1stdesign.com	12/16/2013	Architecture, Interior Design, and Planning	541010	Yes No
24th Heating, Inc.	Alison Pierre Bell	2555 Blue Road Trenton, NC 28686	(704) 712-1187		24thheating@gmail.com		3/21/2013	Heating (2) Construction Materials (local)	484111, 484220	Yes No
35 Chemical Solutions, LLC	Alan Shipman	Post Office Box 888 Aldobrook, AL 35007	(205) 880-1767 / (205) 530-2148		wschipman@35chemicalsolutions.com	www.35chemicalsolutions.com	12/29/2013	Broker of industrial, maintenance, and industrial-grade products	423910, 424990	Yes No
40 Construction	James Brown	Post Office Box 805 Macon, NC 28541	(704) 315-7556		The40Construction@earthlink.net		1/14/2013	Rebar Placement	238120	Yes No
41 Heating, LLC	Madeline Hix	623 Peridot Lane Bechtelville, SC 29617	(803) 330-7102		madelhix@earthlink.net		3/17/2013	Heating (4) Construction Materials (local)	484111	Yes No
A & A Consultants, Inc.	Effendi M. Ahmed	1800 Pine Hollow Road Suite 4A Micklen, NC 28116	(412) 223-2200 / (412) 333-2200		ahmed@aacconsultants.com	www.aacconsultants.com	3/26/2013	Consultants Structural Engineering, Geotechnical Engineering, Construction Management, Material Testing Laboratory, and Distribution of paint and paint supplies	237110, 541020, 541200	Yes Yes
A & A Premium Paint Distributors	Alfred D. Swales	1041 Third Street NE #23 Washington, DC 20011	(202) 406-5173 / (202) 772-7794		ahmed@aacpremiumpaint.com	www.aacpremiumpaint.com	3/19/2013	Construction in Consulting and Civil Engineering Services	541230	Yes No
A & S Engineering, LLC	Reesa Smith	Post Office Box 7413 Greensboro, NC 27409	(760) 824-6322		reesa@aes-eng.com	www.aes-eng.com	7/27/2012	Specialties in Consulting and Civil Engineering Services	541230	Yes No
A & S Heating, LLC	Harold Murphy	Post Office Box 393 St. Matthews, NC 28155	(803) 341-1111 / (803) 334-4359		amurphy@asheating.com		4/5/2013	Heating (3) Ind. and Res. and Equipment	484220	Yes No
A & T Hospital Seal Coat & Seal Systems, LLC	Timothy Orr	P.O. Box 2538 Lumberton, NC 28011	(803) 356-5555		timothy@atseal.com	www.atseal.com	6/14/2012	Asphalt - Parking lot repairs, striping, and maintenance	272110, 28090	Yes No
A Celebration of Life, LLC	Debrae Swadlow	5153 Hickory Lane Eden, NC 28624	(866) 315-6264		dswadlow@celebrationoflife.com	www.celebrationoflife.com	11/6/2013	Sealing and Finishing	312310, 310990, 315210	Yes No
A Customer's Point of View, Inc.	Joseph Lantieri	1883 Macdonald Rd., Suite 1008 Hempstead, NY 11028	(718) 286-1177		jlanteri@customerspointofview.com	www.aspoint.com	9/15/2013	Medical Shopping, Customer Service Evaluations, and Private Investigations	541011, 541013, 541014	Yes No
A James Global Services, Inc.	David A. James	1800 S. Ardmore Rd., Suite C Columbia, SC 29210	(803) 312-3446		djames@jamesglobal.com	www.jamesglobal.com	7/14/2012	Asphalt - Paving maintenance, heating renovations, and general service, and parking	238120, 238990, 541110, 541720, 541730	Yes No
A More Heart Drive Service Care, LLC	Scott Scott	3200 Mill St., Unit 300 Spartanburg, SC 29305	(803) 538-5288 / (803) 531-6333		scott@amoreheartdrive.com		9/27/2012	House Health Care/Transportation for the Elderly and Persons with Disabilities	809110, 821010, 841220	Yes No
A Travel, Inc.	David Henry	3721 New Market Road, Suite 200-113	(811) 361-7251 / (811) 361-7252		shide@attravel.com		12/17/2012	Consulting Services for Transportation, Utility	541030	Yes Yes

Attachment 4: DBE Monitoring & Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to South Carolina Code 15

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

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

Attachment 5: Goals & Methodology

Amount of Goal

1. PDRTA's overall goal for FY 20__ is the following: ____% of the Federal Financial assistance we will expend in DOT-assisted contracts. [FTA recipients add: exclusive of FTA funds to be used for the purchase of transit vehicles.]

or

1. PDRTA's overall goal for the following time period 20__ - 20__ is the following: ____% of the Federal financial assistance we will expend in DOT-assisted contracts. [FTA recipients add: exclusive of FTA funds to be used for the purchase of transit vehicles.]

2. \$_____ is the dollar amount of DOT-assisted contracts that [Recipient] expects to award during FFY20__. This means that [Recipient] has set a goal of expending \$_____ with DBEs during this fiscal year/project.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBE's was calculated as follows:

Ready, willing, and able DBEs

Base figure = _____

All firms ready, willing and able

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

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

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

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible, the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by ____%.

The data used to determine the adjustment to the base figure was: _____

The reason we chose to adjust our figure using this data was because: _____

From this data, we have adjusted our base figure to: _____

Public Participation

We published our goal information in these publications: _____

We received comments from these individuals or organizations: _____

Summaries of these comments are as follows: _____

Our responses to these comments are: _____

Attachment 5a: Tips for DBE Goal Setting

Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program

Introduction

A number of DOT recipients have requested that we develop additional written guidance on goal-setting and on how to determine what portion of their goal should be race/gender-neutral and what portion should be race/gender-conscious. This document is intended as a response to these requests. It incorporates the experience and best practices culled by DOT officials and recipients over the first year of implementation of the goal-setting portions of the new DBE rule (49 CFR Part 26). This is not intended to represent an exhaustive list of techniques for goal-setting. As always, one hallmark of the new DBE rule is flexibility and therefore we will, and you should, continue to be on the lookout for new and innovative goal-setting processes. Nor is this an exhaustive explication of all of the subjects related to goal-setting covered in the rule. This document is intended only to provide you with some additional guidance as you set goals. It should always be used in conjunction with the rule itself and other relevant, previously issued guidance such as the Questions and Answers About 49 CFR Part 26, found at <http://osdbu.dot.gov>.

The General Counsel of the Department of Transportation has reviewed this document and has approved it as consistent with the language and intent of 49 C.F.R. part 26.

I. In General

As we have stressed before, it is extremely important to include all of your calculations and assumptions in your submission. In other words, you must "show your work." When you submit your overall goals (and the race/gender-neutral and race/gender-conscious portions of your goals), it is important that we can follow your thinking process. Set out explicitly what your data sources were, what assumptions you made, how you calculated each step of the process, etc. Along these lines, you should make sure that your goal submission contains a clear description of your public participation process, a good summary of the comments received during that process and a summary of what if any changes were made based on those comments. Without this information, it is difficult for anyone to evaluate the actual goal you have selected. Goal submissions that are not accompanied by a written explanation of how the goal was derived will be sent back for additional explanation.

II. Step One

The most important thing to remember about Step One of the goal setting processes is that you are attempting to come up with a measurement of the actual relative availability of DBEs to perform the types of contracts (both prime and sub) that you intend to let. To say this another way, you are trying to determine what percentage DBEs (or firms that could be certified as DBEs) represent of all firms that are ready, willing, and able to compete for DOT-assisted contracting. This percentage is calculated by dividing the number of DBEs ready, willing, and able to bid for the types of work you will fund this year, by the number of all firms (DBEs and non-DBEs) ready, willing, and able to bid for the types of work you will fund this year. That is, the number of DBEs will be in the numerator, and the number of all firms (DBEs and non-DBEs) will be in the denominator. This is true regardless of the type of data you are employing to

measure the relative availability (e.g., bidders list, census data and DBE directory, disparity study, alternate method, etc.) In other words, whatever data is used, the ratio would be:

$$\text{Step One Base Figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing, and able (including DBEs and non-DBEs)}}$$

To give a more specific example, if your work for the year involves both heavy construction and trucking, then: where there are 44 DBEs in heavy construction and 14 in trucking, and 300 firms (DBEs and non-DBEs together) in heavy construction and 150 firms (DBEs and non-DBEs together) in trucking, the ratio would look like this:

$$\frac{\begin{array}{l} 44 \text{ DBEs in heavy construction} \\ + 14 \text{ DBEs in trucking} \end{array}}{\begin{array}{l} 300 \text{ firms in heavy construction} \\ + 150 \text{ firms in trucking} \end{array}} = \frac{58}{450} = 12.8\%$$

The following points will assist you in calculating this percentage:

A. It is Not Acceptable to Use Past Participation as Your Step One Base Figure. This Step One Base Figure must not be simply a restatement of your past history of participation. Instead, it must represent an attempt to measure the availability of firms that are ready, willing, and able to compete, not just those who have won contracts in the past. For example, assume that after performing the calculations above, you come up with a Step One Base Figure of 12%. Assume also that in the past you have achieved 20% DBE participation. You may not simply substitute 20% for your Step One Base Figure. The appropriate method for the consideration of past participation is discussed below in the portions of this guidance dealing with Step Two of the goal setting process.

B. Use the Most Refined Data Available. When using census and other data organized by SIC codes or the NAICS codes (which will eventually replace the SIC system), try to use the most refined data available. This will help you to focus more precisely on the firms with which you or your prime contractors will actually be doing business and help you to avoid overestimating the number of firms in either the numerator or the denominator. For both SIC and NAICS, the data becomes more refined in the codes with higher numbers of digits. You should take steps to filter out businesses that are not relevant to your calculations where possible. For instance, if you are using a bidders list, and you are aware that some of the firms on that list do not perform the type of work you will contract out, then exclude those firms from your calculation. If you are interested in further information on the NAICS system, you may want to visit the Census Bureau website www.census.gov and look under the header for business and find the link for the NAICS system.

C. Look to Relevant Data Sources to Supplement Your DBE Directory. You should do everything you can to ensure that your goal setting process truly reflects the actual availability of ready, willing, and able DBEs

in your local market area. Toward this end, if you are using your DBE Directory and census data in goal setting and you are concerned that your DBE Directory does not accurately reflect the number of potential DBEs in your area, you should seriously consider supplementing the number of firms in your DBE Directory for the purposes of goal-setting. This is especially important because the census data represents all firms in your area whether or not they are ready, willing and able to perform DOT-assisted contracts. If you do not take extra steps to ensure your list of DBEs and potential DBEs is accurate, you may seriously underestimate the actual relative availability of DBEs. You may do this by carefully examining lists of other DBEs and MBE/WBEs (Minority Business Enterprises/Women Business Enterprises) from other sources, such as other state or local transportation agencies (if the contracting opportunities are comparable), to determine whether they contain firms which should be considered ready, willing, and able DBEs. You should also examine your own data bases such as vendor data bases, bidders lists, pre-bid or pre-proposal conference attendance lists and outreach session attendance lists to determine whether these sources might reveal firms that should be included in your list of ready, willing, and able DBEs. Of course, you must be careful not to double count firms by including them on your list more than once. You also must remember that you are checking these other sources for the purpose of goal setting only. In order to actually be included in your DBE Directory, an otherwise eligible firm must take the additional steps of going through the certification process.

D. Explain How You Determined Your Local Market Area. Remember, the local market area is not necessarily the same as the political jurisdiction in which you are geographically located. Instead, your local market area is the area in which the substantial majority of the contractors and subcontractors with which you do business are located and the area in which you spend the substantial majority of your contracting dollars. It is important that you specify in your submission how you determined the boundaries of your local market area.

E. Ensure That Your Percentage Reflects an "Apples to Apples" Calculation. Whenever you are calculating ratios, make absolutely certain that the DBE firms in the numerator and denominator are as similar as possible to the DBEs and non-DBE firms in the denominator. For instance, if you include DBEs that do trucking in the numerator, make sure to include DBEs and non-DBEs that do trucking in the denominator. Likewise, if you are using a bidders list, make certain that you use it for both your numerator and your denominator. In other words, if you are limiting your denominator to only those firms who have actually provided bids or quotes on past contracting opportunities, then be certain that your numerator is similarly limited to only those DBEs that have actually provided bids or quotes in the past. Finally, if you are using a bidders list, remember that it must include all DBE and non-DBE bidders and quoters whether they are prime or subcontractors and whether or not they were actually awarded a contract or a subcontract.

F. Wherever Possible, Use Weighting. Weighting can help ensure that your Step One Base Figure is as accurate as possible. While weighting is not required by the rule, it will make your goal calculation more accurate. For instance, if 90% of your contract dollars will be spent on heavy construction and 10% on trucking, you should weight your calculation of the relative availability of firms by the same percentages. In other words:

$$\left[.9 \left(\frac{\# \text{ heavy construction DBEs}}{\# \text{ heavy construction firms}} \right) + .1 \left(\frac{\# \text{ trucking DBEs}}{\# \text{ all trucking firms}} \right) \right] \times 100 = \text{Step One Base Figure, weighted by type of work to be performed}$$

If you were using the number of firms in the example presented in the opening paragraph of this section, the equation you would use would be:

$$\left[.9 \left(\frac{44 \text{ heavy construction DBEs}}{300 \text{ heavy construction firms}} \right) + .1 \left(\frac{14 \text{ trucking DBEs}}{150 \text{ trucking firms}} \right) \right] \times 100 = \left[.9 \left(\frac{44}{300} \right) + .1 \left(\frac{14}{150} \right) \right] \times 100 =$$

$$\left[.9 (.1467) + .1 (.0933) \right] \times 100 = \left[.1320 + .0093 \right] \times 100 = 14.13$$

In this example, therefore, your Step One Base Figure would be 14.13%. Of course, in your actual goal setting process you will likely have many more than just two categories of contractors. Keep in mind the comments in paragraph "B" above and remember that it is preferable to break down your work into the most refined categories of contractors available and then perform your weighting calculations for each of those categories.

G. Address the Effects of Desertification in Step One. If you have, or will imminently, decertify a firm (e.g., for exceeding the Personal Net Worth (PNW) cap, or for other reasons) you should address the decertification of that firm in Step One of the processes by excluding the firm from the numerator of the ratio, but not from the denominator. Likewise, if you know that a firm (DBE or non-DBE) has gone out of business or is no longer bidding for DOT-assisted contracts, then that firm should be excluded from both the numerator and the denominator of your ratio. Remember: in the vast majority of cases, it is not appropriate to make adjustments based on the number of firms that have been decertified because of PNW or other reasons in Step Two of the goal setting process. Instead, these adjustments should be made in Step One.

H. Do Not Make Adjustments Based Solely on Changes in the Amount of Federal Assistance You Expect to Receive. It is never appropriate to adjust your measurements of relative DBE availability, either in Step One or in Step Two, solely because the size of your contracting program will change in the next fiscal year. For example, if you assume that non-DBEs will be able to expand to compete for a large influx of new program dollars, you should make the same assumption about DBEs, absent specific evidence to the contrary. Of course, if the type of work for which you expect to contract changes dramatically, this may impact your goal regardless of changes in the level of funding you receive.

I. Feel Free to Suggest Other Ways to Calculate Availability. It is important to remember that the examples listed in the rule are just those - examples. You may propose alternative methods of calculating Step One; just make sure that any such alternative operates to measure the actual relative availability of DBEs.

III. Step Two

Step Two of the goal setting calculation process is intended to adjust your Step One Base Figure to make it as precise as possible. Under the rule, you must consider all evidence available in your jurisdiction to

determine whether such an adjustment is necessary. In this context, there are several factors you must consider in making your Step Two adjustments if there is relevant and reliable data available. These factors include:

past participation (the volume of work DBEs have performed in recent years) or other measure of demonstrated capacity;

evidence from disparity studies conducted in your market area (including relevant studies commissioned by other contracting agencies in your market area);

statistical disparities in the ability of DBEs to get financing, bonding and insurance;

data on employment, self-employment, education and training, union apprenticeship programs; and

any other data that would help to better measure the percentage of work that DBEs would be likely to obtain in the absence of discrimination.

Remember: while you must consider making adjustments to the base figure for all of the factors listed here, you are not required to make such an adjustment. If the evidence does not suggest such an adjustment is necessary, then no adjustment should be made. Moreover, if the evidence suggests that an adjustment is warranted, it is critically important to ensure that there is a rational relationship between the data you are using to make the adjustment and the actual numerical adjustment made. A clear explanation of which information sources you considered, how you made your Step Two adjustment - or why you determined that no adjustment was warranted - is a very important part of your overall submission.

A. Adjustments Based on Past Participation

A number of questions have arisen with respect to Step Two adjustments based on past participation. Below, we address the questions we have heard most frequently.

1. What if, in the past, you were in noncompliance with the DBE regulations such that past levels of DBE participation present either an unfairly high or unfairly low picture of DBE capacity? If, in the past, your DBE program was implemented in noncompliance with the regulations in place at the time, it may be inappropriate to make adjustments for past participation. If the noncompliance resulted in DBEs receiving either an unfairly high or unfairly low percentage of contracts, you should not make an adjustment for past participation based on any year in which the program was administered in noncompliance.

2. What if the Step One Base Figure and past participation figure are very similar? If your records suggest levels of past participation very similar to the number you calculated in Step One, then it is not necessary to make any adjustment for past participation. For instance, assume that your Step One Base Figure is 21% and your past participation figure is 22.4%. In that case, you do not need to make an adjustment for past participation. Nevertheless, you must explicitly state that the reason you are not making an adjustment for past participation is that your past participation has been very similar to your Step One Base Figure.

3. Are decertification's ever relevant in Step Two? As stated in Part II above, it is almost never appropriate to consider the decertification of DBEs in the Step Two adjustment process. There is one exception, however. Decertification may constitute a reason not to make an adjustment based on past participation where the newly decertified firms account for all, or the overwhelming majority, of past DBE participation and you have good reason to believe that other DBE firms will not be ready, willing, and able to participate in the contracts you intend to let. For example, assume that your Step One Base Figure calculations establish that there are 15 DBE firms that perform the type of work for which you expect to contract this year and that two of those firms will imminently be decertified. Then, as stated above, you must exclude those two firms from the numerator of the ratio established in Step One. In addition, if those two firms were responsible for all or the overwhelming majority of your past participation, and there are no DBE firms poised to do similar types and volume of work, you should seriously consider not making an upward adjustment based on past participation or reducing the upward adjustment to reflect the fact that the firms in question are no longer available DBEs.

4. What if the types of contracts that you will let this year are very different from the types of contracts that you have let in the past? If the types of projects you are letting this year are very different from the types of projects let in recent years, you should not assume that your past rates of DBE participation are an accurate reflection of DBE capacity in the type of work you will perform this year. In this scenario, you should seriously consider not making an adjustment for past participation.

5. If you feel that an adjustment for past participation is necessary, how should you calculate the adjustment? If you feel that an adjustment based upon past participation is warranted, and you cannot determine any more precise way to make the adjustment, you may average the figure you obtained in Step One with a figure which represents your past participation. In utilizing this method, you will obtain a more precise outcome if you are able to include a number of years' worth of past participation.

a. Determining the Median Past Participation. The first step in adjusting your Step One Base Figure for past participation is to determine your "median" past participation percentages. Your goal setting process will be more accurate if you use the median (instead of the average or mean) of your past participation to make your adjustment because the process of determining the median excludes all outliers (abnormally high or abnormally low) past participation percentages. The following principles will help you calculate your median past participation percentage:

- i. The median is the middle number in any group of numbers.
- ii. The best way to determine the median is to first arrange the values in a list from low to high. For example, the numbers 3, 6, and 1 arranged from low to high is: 1, 3, 6.
- iii. If you have an odd number of values from which to determine the median, just take the number which falls in the middle. For example, 3 is the median of 1, 3, and 6.
- iv. If you have an even number of values, then you should average the two numbers which fall in the middle. For example, if you have the numbers 1, 3, 6 and 8, the median would be the average of 3 and 6 or 4.5.
- v. If you only have two numbers, simply average those two numbers together.

b. Adjusting the Step One Base Figure with the Median Past Participation. With these principles in mind, you may calculate your median past participation percentage and use that figure to adjust your Step One Base Figure by taking the average of your median past participation figure and your Step One Base Figure. It is important that past participation not be given disproportionate weight and therefore, you should not simply average your Step One Base Figure with a whole list of past years' participation. Instead, you should average the Step One Base Figure with the median of your past years' participation rates.

c. Example. An example may be helpful. Assume that your past participation for the past four years has been 18%, 15%, 12% and 11% and that your Step One analysis resulted in a Step One Base Figure of 9%. In order to obtain a Step One Base Figure adjusted for past participation, you must do the following:

- i. First, arrange your past participation values in order from low to high: 11%, 12%, 15%, 18%.
- ii. Then take the middle percentage to obtain your median past participation percentage. If, as here, there are an even number of percentages the median is derived averaging the middle two values (12% and 15%). Obtain the average of 12% and 15% by adding them together and dividing by 2. In other words: $12\% + 15\% = 27\%$, 27% divided by 2 equals 13.5%. Therefore, 13.5% is your median past participation percentage.
- iii. Finally, obtain a Step One Base Figure adjusted for past participation by taking the average of the Step One Base Figure and the median past participation. This average is obtained by adding together the Step One Base Figure (9%) and the median past participation percentage (13.5%) and dividing by 2. In other words, $9\% + 13.5\% = 22.5\%$ divided by 2 = 11.25%. Therefore, 11.25% is your Step One Base Figure adjusted for past participation.

6. May you use only one-years' worth of past participation to make an adjustment? In most cases, your result will be more accurate if you use the median of several years to make your past participation adjustment. However, if you feel that your goal will be more accurate if you use only one-years' worth of past participation you may do so as long as you fully explain your rationale. There is one caveat: if you use only one-years' worth of past participation it must be a year in which your goals were set in compliance with Part 26.

7. Must you consider making an adjustment for past participation even if the result of the adjustment might be to decrease the overall goal? What if the adjustment will increase the overall goal? Yes, you must consider the advisability of making adjustments based on past participation regardless of whether or not the adjustment would result in increasing or decreasing the base figure derived in Step One.

8. Must you consider making an adjustment for past participation if this is the first time you have ever had a DBE program? No, an adjustment for past participation is not required if you are developing a DBE program for the first time and do not have any statistics on past DBE participation. Of course, if you do have statistics on past DBE participation you should consider making an adjustment.

B. Other Factors in Step Two

With respect to the other Step Two factors outlined in the rule, we have heard a number of questions. The following questions and answers may be of assistance to you as you consider Step Two of the goal setting process:

1. What additional sources of information should be considered in Step Two? In determining whether or not your base figure should be adjusted to account for the effects of past discrimination, you should consider consulting with the following organizations and institutions to determine whether they can direct you to information about past discrimination in public contracting; discrimination in private contracting; discrimination in credit, bonding or insurance; data on employment, self-employment, training or union apprenticeship programs; and/or data on firm formation:

- a. organizations serving or representing DBEs, minority-owned or women-owned businesses;
- b. state or local offices of procurement;
- c. federal, state or local offices responsible for enforcing civil rights laws;
- d. state or local offices responsible for minority or women's affairs;
- e. state or local offices dealing with business affairs, commerce or small businesses;
- f. state or local offices dealing with the oversight of banks and other credit institutions (sometimes this is the state treasurer's office);
- g. state or local labor offices; local labor organizations; institutions of higher education within your state;
- h. your state's Office of the Attorney General (for information about lawsuits related to contracting or obtaining credit or bonding.)

If you choose to make adjustments to your base figure based upon any of this evidence of past discrimination, be certain that there is a clear and rational relationship between the evidence and the adjustment. This is often very difficult to do and depends entirely on the type of evidence you discover. You may want to contact a consultant or local institution of higher education (departments of economics or statistics) to assist you in making these types of adjustments. Whether or not you make an adjustment based on a particular piece of evidence, make certain that you include a description of all of the evidence you considered with your submission.

2. What are "disparity studies" and why must I consider them? There is absolutely no requirement under the rule that you conduct your own disparity study. Nevertheless, if one has been conducted for your market area, you should consider the data the study contains. Many different types of studies have been referred to as "disparity studies," and the term is used broadly in the regulation to mean any type of study designed to investigate the existence of discrimination in contracting. Some disparity studies consist entirely of complex and lengthy statistical analyses. Some focus less on statistics and more on the collection and organization of anecdotal evidence of discrimination. Both types of studies should be considered in Step Two. Disparity studies vary widely in content and quality. Despite this, all or part of a disparity study relating to your local market area may provide a rich source of information for your goal setting process. If you are unsure about whether or not a disparity study relevant to your goal setting process has been conducted anywhere in your market area, consult with state and local offices of procurement and local government agencies responsible for enforcing civil rights laws and ask them if they know of any such studies. Remember, you may find relevant information in studies commissioned by other contracting agencies in your market area so be sure to examine any such studies for relevance to your goal setting process. If you choose to make an adjustment based upon a disparity study, you must carefully explain precisely what the disparity study evidence was and why the adjustment is warranted.

In most cases it will be best to submit the disparity study (or all of the relevant portions of the study) with your proposed goal. If you obtain a disparity study conducted in your market area but, upon reading it, you determine that it is not relevant to your program or it is not reliable, you should not make adjustments based on the study. In this case, simply state your reason for not making the adjustment in your submission.

3. If you have reliable information about the characteristics of the firms available in your local market area, should you use those characteristics to make adjustments in Step Two? If you have accurate information about the characteristics of all the firms that are available to perform work for you such as their size, age, or past experience, you should consider making adjustments to your Step One Base Figure to account for any impact these factors might have on the capacity of firms to perform contracts for you. Of course, you will increasingly have information about some of these factors as you compile a bidders list in accordance with section 26.11. Again, it is important that any such adjustments be made with respect to both DBEs and non-DBEs in your market area. These types of adjustments usually involve quite difficult calculations and will likely involve using regression analysis. If you want to conduct these types of adjustments and do not have the in-house capacity to do so, you must obtain the expertise necessary to make the adjustments correctly. You may want to consider obtaining assistance from a consultant or local institution of higher education (e.g., departments of economics or statistics).

4. What if there is no additional information available related to your goal setting process? If no disparity studies have been conducted in your market area, be sure to state that in your submission to your operating administration. Likewise, if you are unable to find the other types of evidence or data relative to Step Two, make certain you state this in your goal submission.

IV. Calculating the Race/Gender-Neutral and Race/Gender-Conscious Split:

The race/gender-neutral and race/gender-conscious division of the goal is an exceedingly important component of the goal-setting process. As is stated in section 26.51, you must meet the maximum feasible portion of your overall goal by using race/gender-neutral means of facilitating DBE participation. You must also carefully explain why you projected that you could achieve the level of race/gender-neutral participation you propose and the specific reasoning and data that support your conclusion. Many of you have asked for assistance in determining what factors to consider in projecting the portion of your overall goal that you will be able to meet through race/gender neutral means. The following considerations may be helpful:

A. Consider the Amount by Which You Exceeded Your Goals in the Past. The amount by which you exceeded your overall goals in past years can be a useful tool in helping you project the race/gender-neutral participation you can expect in the future. For example, suppose that your past year's goal was 20%, but you obtained 30% DBE participation. The 10% difference between goal and achievement represents participation that went beyond what you told contractors they should do in order to meet the 20% goal. This 10% participation, then, was not made necessary by race/gender-conscious provisions of your program. It may be reasonable for you to assume, as you make your projected split between race/gender-neutral and race/gender-conscious measures for next year, that contractors will again be

able to achieve 10% participation over and above the race/gender-conscious portion of your overall goal. If your overall goal were again 20%, this could be evidence supporting a decision for projecting 10% race/gender-neutral and 10% race/gender-conscious split for the coming year.

Your projected split will probably be more accurate if you use past participation data from more than one year. As noted in point #5 under "Adjustments Based on Past Participation," it is advisable to calculate the median of the past years' participation. For example, if your goal was 20% in each of the past three years, and your achievements were 21%, 22%, and 30%, the median amount by which you exceeded your goal was 2% (i.e., the median of 1%, 2% and 10%). You could then use this figure as evidence supporting a projection of 2% race/gender-neutral participation for the coming year. If you do use only one-year's past participation for this purpose, be sure that the year you use was one in which you set your goal under the new Part 26 regulations.

B. Consider Past Participation by DBE Prime Contractors. If you obtained any of your past participation through the use of DBE primes, then those attainments should be considered race/gender-neutral and can be used as a basis for estimating a similar level of race/gender-neutral participation in the next program year. For instance, assume that your goal for last year was 20% and your achievement was 20%. If a portion of that 20% resulted from the participation of DBE primes - and thus from race/gender-neutral means - then it may be appropriate to assume that you will be able to achieve similar results through the race/gender-neutral participation of DBE primes in the future. Of course, in this instance it is especially important to ensure that you are comparing similar types of contracts. For example, if last year's participation by DBE primes occurred in a type of contracting in which there are many DBE primes, and this year you intend to do all of your work in industries in which there are few DBE primes, then it would be inappropriate to assume that you will replicate similar levels of participation by DBE primes.

C. Consider Past Participation by DBE Subcontractors on Contracts Without Goals. If you obtained any of your past participation through the use of DBE subcontractors on contracts without DBE goals, then those attainments should be considered race/gender-neutral and can be used as a basis for estimating a similar level of race/gender-neutral participation in the next program year. For instance, assume that your goal for last year was 20% and your achievement was 20%. If a portion of that 20% resulted from the participation of DBE subcontractors on contracts without goals - and thus from race/gender-neutral means - then it may be appropriate to assume that you will be able to achieve similar results in the future. Again, it is extremely important to ensure that you are comparing similar types of contracts. For example, if last year's participation by DBE primes occurred in a type of contracting in which there are many DBE subcontractors, and this year you intend to do all of your work in industries in which there are few DBE subcontractors, then it would be inappropriate to assume that you will replicate similar levels of participation by DBE subcontractors.

D. Consider MBE/WBE/DBE Participation Pursuant to Race/Gender-Neutral State or Local Programs. An excellent source of information about how much DBE participation is likely in the absence of race/gender-conscious measures may be found in similar state or local transportation construction projects that do not use any race/gender-conscious measures at all. For example, if projects funded with purely state/local funds involve no race/gender-conscious measures aimed at increasing the participation of DBEs and these

projects achieve a median rate of 8% DBE participation, then you may project that you will achieve 8% DBE participation in your contracting without race/gender-conscious DBE goals. As above, your projection will be more accurate if you use the median of a number of past years.

E. Consider Concrete Plans to Implement New Race-Neutral Methods. If you have instituted new and comprehensive mechanisms aimed at obtaining additional DBE participation through race/gender-neutral means, these efforts might provide the basis for estimating a greater level of race/gender-neutral participation for the upcoming year. The key here is that any such efforts used to justify race/gender-neutral participation in the upcoming fiscal year must be:

1. new,
2. ready for immediate implementation,
3. described in detail, and
4. likely to result in additional DBE participation.

Evidence might include the establishment of a new, comprehensive mentor-protégée program aimed at providing assistance to small businesses; a detailed plan to break up larger projects into smaller subparts for which small businesses and DBEs will be more likely to be able to compete; or the institution of aggressive new efforts to provide bonding and credit to small companies, including DBEs, that have been unable to obtain it in the past.

F. Consider Past History of Inability to Achieve Goals. In determining how much of your goal you should meet through race/gender-neutral means, another factor to consider is a past history of inability to meet goals. If you have relied exclusively on race/gender-conscious measures in the past to meet your overall goals, but have not been able to achieve them, this may justify relying exclusively on race/gender-conscious means to meet your goal for the upcoming year. There are some caveats with respect to this particular factor in determining whether or not you will be likely to achieve a level playing field through race/gender-neutral means. If the goal you have set under Part 26 is significantly lower than your past goals, then your inability to meet your past goals is not a good justification for a completely race/gender-conscious goal under the new rule. However, if your goal under Part 23 was 20% and you only achieved 15% using entirely race/gender-conscious measures, that would be justification for using entirely race/gender-conscious measures only if your goal under the new Part 26 is approximately 20% or higher. This does not mean that you are prohibited from proposing to use race/gender-neutral means to meet all or part of your goal. However, if you have a history of being unable to achieve reasonable goals in the past, you will have to demonstrate some additional evidence for your contention that race/gender-neutral means will suffice to meet your goals in the future. Such evidence might include the establishment of a new, comprehensive mentor-protégée program aimed at providing assistance to small businesses or the institution of aggressive new efforts to provide bonding and credit to small companies that have been unable to obtain it in the past.

G. Avoid Double-Counting. It is important to note that some of the types of evidence for race/gender-neutral and race/gender-conscious projections outlined above cannot be used at the same time or it will result in overestimating past race/gender-neutral achievements. For instance, if you both exceeded your

goals and used DBE primes in the same year - and thus the DBE primes contributed to you exceeding your goals - then you must be certain not to double count the extent to which the participation of DBE primes provides a basis for a race/gender-neutral projection in the next year. If you exceeded your goal by 10% and at the same time DBE primes accounted for 5% of your total DBE participation, then the total race/gender-neutral participation value for that year would be 10%, not 15%.

H. Monitor DBE Participation to Determine Whether You Need to Adjust Your Use of Race/Gender-Conscious Measures. Of course, once you have projected how much of your goal can be achieved through race/gender-neutral means, it will become critically important for you to monitor DBE participation during the year to determine whether your projections were on target. Your projections are just that: projections. By monitoring actual DBE participation, you will be able to determine what, if any, midyear corrections are needed in your mix of race/gender-conscious and race/gender-neutral measures used to achieve your goals. Remember: you must meet as much of your goal as possible through race/gender-neutral means. Therefore, if it appears that part way through the fiscal year that you are on track to exceed your goals, you should ratchet back your use of race/gender-conscious goals. Likewise, if you are using all, or mostly, race/gender-neutral measures and it appears that you will not meet your goal, you should consider instituting some race/gender-conscious measures or, at a minimum, more aggressively implementing your race/gender-neutral measures.

Attachment 6: Sample Public Notice

Public Notice

Disadvantaged Business Enterprise Program Goals for FFY 2015, 2016 and 2017

Lebanon Transit, Federal Transit Administration Region III

Lebanon Transit, in accordance with 49 CFR Part 26, hereby proposes an annual Disadvantaged Business Enterprise Program (DBE) Goal of 4.27% for procurements assisted by the Federal Transit Administration (FTA) during FFY 2015, 2016 and 2017.

It is the policy of Lebanon Transit to ensure non-discrimination based on race, color, sex or national origin in the award of contracts. The purpose of the DBE Program is to create equitable conditions of full and fair participation for all vendors in the procurement process. Lebanon Transit is an Equal Opportunity Employer.

Interested parties may review the methodology used to determine the FFY 2015, 2016 and 2017 Goal for forty-five (45) calendar days following the date of this Notice during normal business hours at the administrative offices of Lebanon Transit, 200 Willow Street, Lebanon, Pennsylvania, 17046.

Written comments on the FFY 2015, 2016 and 2017 DBE Goals may be submitted no later than July 18, 2014.

Please submit comments to:

Theresa L. Giurintano, Executive Director
Lebanon Transit
200 Willow Street Lebanon, PA 17046
Phone 717.555.3664
giurintano@lebanontransit.org

Attachment 7: Form 1 & 2 Demonstration of Good Faith Efforts

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

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

Prepared by: _____
(Signature)

Prepared by: _____
(Print Please)

Title _____

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

Prepared by: _____
(Signature)

Prepared by: _____
(Print Please)

Title _____

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

(Submit this page for each DBE subcontractor.)

Attachment 7 PDRTA DBE Good Faith Effort Documentation

The intent of this form is to document the good faith effort attempts made by PDRTA in soliciting DBE firms to meet the DBE goal. Please note that the goal will not be waived and PDRTA must make efforts to achieve the goal throughout the life of the contracts with SCDOT. All information and documentation regarding good faith efforts are subject to audit.

In every contract as defined in 49 CFR Part 26 PDRTA will be categorized similarly to the NAICS and in each category where there is a certified DBE, PDRTA must submit the Good Faith Effort Documentation forms as follows:

- 1 available DBE – PDRTA must contact 1 DBE
- 2 – 5 available DBE – PDRTA must document contact with a minimum of 3 DBE
- 6 – 7 available DBE – PDRTA must document contact with a minimum of 4 DBE
- 8 – 9 available DBE – PDRTA must document contact with a minimum of 5 DBE
- 10 or more available DBE - PDRTA document contact with a minimum of 6 DBE

Date Submitted: _____

SCDOT Contract Numbers: _____

SCDOT Grantee:

PDRTA Contract Person (DBELO): Cicily Shauli

Phone #: 843-519-0077

Email: cshauli@pdrta.org

PDRTA Goal Percentage: _____

Commitment Percentage: _____

Unattained Percentage: _____

I certify that the information contained in this good faith effort documentation form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement, or misrepresentation will result in appropriate sanctions which may involve loss of SCDOT contracts, and/or prosecution under State and Federal laws and/or disciplinary actions related to my employment with PDRTA.

PDRTA's DBELO Signature: _____ Date: _____

PDRTA DBE Good Faith Effort Documentation Form

Contract Category	Description of Work, Service or Material		DBE Firm Name	
Contact Name (First & Last)	Contact Date	Contact Method	Contact Results	
1.				
Comments:				
2.				
Comments:				
3.				
Comments:				
4.				
Comments:				
5.				
Comments:				
6.				
Comments:				

Attachment 8: US DOT Certification Forms

US DOT DBE Program Overview

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-program-overview>

US DOT DBE Final Rule and Program Activities

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-final-rule-and-program-activities>

US DOT DBE Program Points of Contact

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-program-points-contact>

New US DOT DBE Net Worth Statement

<https://www.transportation.gov/osdbu/financial-assistance/small-business-administration-personal-financial-statement-form-413>

US DOT FORMS

<https://www.fta.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-forms>

Attachment 9: DBE Regulation, 49 CFR Part 26

49 CFR Part 26 Sample Disadvantaged Business Enterprise Program

https://www.transportation.gov/sites/dot.gov/files/docs/Sample_Disadvantaged_Business_Enterprise_Program_20140801_508.pdf