



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION III

1760 Market Street
Suite 500
Philadelphia, PA 19103

August 19, 2013

Lisa Gregory, Director
Office of Civil Rights
District Department of Transportation
2000 14th Street, N.W., 5th Floor
Washington, DC 20009

Re: DBE/SBE Program – Review and Concurrence
Recipient ID: 1397; District Department of Transportation

Dear Ms. Gregory:

This letter is to inform you that the Federal Transit Administration (FTA) has received District Department of Transportation's revised Disadvantaged Business Enterprise (DBE) Program that contains the *Fostering Small Business Participation Element* on August 16, 2013. This submission is required by the Department of Transportation DBE regulations found at 49 C.F.R. Part 26. Previously, an In Review letter had been issued on November 16, 2012, regarding your DBE/SBE program.

FTA has reviewed your program and concurs that it meets the requirements set out in the DBE regulations. That said, some areas should include additional information. Please address the items indicated in the attached checklist. Please submit an updated DBE program within thirty (30) days or by September 19, 2013, that addresses the items identified in the attached checklist.

Should you need assistance addressing these missing element(s) described in the attached list, or if you have any questions regarding this approval, please do not hesitate to contact me directly at 215-656-7255 or at Michael.Riess@dot.gov.

Sincerely,

Michael Riess
Civil Rights Officer, Region 3

cc: Mohammed B. Kabir, DDOT EO Local and Federal Contract Compliance Officer
Brigid Hynes-Cherin, FTA Regional Administrator
Monica McCallum, FTA Civil Rights Regional Division Chief
TEAM Recipient Profile (Electronic & TEAM)

If the box is checked, your original DBE program was missing or deficient in this critical element. Your updated DBE program must address this critical element.

49 CFR Part 26 Requirements:

POLICY STATEMENT (Section 26.1, 26.23)

Signed and dated by CEO/highest officer

States program objectives

Internal dissemination

- **DDOT should provide more information about its internal dissemination policy. DDOT should state that it has disseminated this policy to all the components of its organization and to its governing board and other officials. Please see the sample policy statement in the sample DBE program.**

External dissemination

- **DDOT should also distribute this statement to DBE and non-DBE business communities that perform work on DDOT's DOT-assisted contracts. Please specify how this distribution is accomplished.**

GENERAL REQUIREMENTS

Applicability

Definitions

Non-discrimination requirements

Record keeping requirements

Reporting to DOT

Bidders' List

Federal Financial Assistance Agreement

General assurance

Contract assurance

ADMINISTRATIVE REQUIREMENTS

Program Updates

DBE Liaison Officer (DBELO)

DBE financial institutions-

Prompt payment/retainage mechanisms

DBE Directory

Overconcentration

Business development/mentor-protégé program(s)

Monitoring and enforcement mechanism

SMALL BUSINESS PROVISION (critical elements)

Did not address how contracting requirements will be structured or obstacles will be eliminate to facilitate competition by small businesses (i.e. – “unbundling” large contracts).

- Includes impermissible race or gender considerations in small business program.
 - Includes a method to verify business size.
 - Includes specific timeframes for implementing small business program.
 - Demonstrates active, effective steps to increase small business participation
- OR outreach* is the sole option indicated.

**Outreach alone is insufficient and should be coupled with a strategy for creating contracting opportunities for small businesses.*

Small Business Element Strategies

- Small Business Set-Aside
- Requiring Identification of SubContracting Possibilities on Large Contracts
- Requiring Prime Contractors to Identify Small Business Sub Contracts on Large Procurement
- Creating an Alternative Acquisition Strategy
- Joint Venture Opportunities for Small Businesses
- Contract Unbundling/Assessment of Contract Size
- Business Development Opportunities
- Other Strategies

***Recipients may choose one or more of the listed strategies or may develop any alternative strategy that can be effective in creating contracting opportunities for small businesses.*

GOALS, GOOD FAITH EFFORTS, AND COUNTING

- Set-asides/quotas
- Overall goals
- Section 26.47 Goal Setting and Accountability
- Section 26.51 Meeting Overall Goals/Contract Goals.
- Transit vehicle manufacturers (TVMs)
- Breakout of race-neutral and race-conscious participation
- Contract goals
- Good faith efforts procedures Section 26.53
 - Demonstration of good faith efforts
 - Information to be submitted
 - Administrative reconsideration
 - DBE termination/replacement
- Sample bid specification
- Counting DBE participation

CERTIFICATION STANDARDS (if a certifying agency)

- Certification process or reference to state UCP

CERTIFICATION PROCEDURES

- Unified Certification Programs (UCP)
- Procedures (note: only applies if a certifying agency)
 - Re-certifications
 - "No change" affidavits and notices of change

- Denials of initial requests for certification
- Removal of a DBE's eligibility
- Certification appeals

COMPLIANCE AND ENFORCEMENT

- Information, confidentiality, cooperation
- Monitoring work/payment to DBEs

ATTACHMENTS AND APPENDICES - **Please see notes on the attachments in the Sample Program**

- Organizational chart
- DBE Directory
- Monitoring and enforcement mechanisms-
- Overall goal calculation (if not submitted separately).
- Breakout of race-neutral and race-conscious participation
- Form 1 & 2 for Demonstration of Good Faith Efforts
- Certification Application Forms (if a certifying agency)
- Procedures for removal of a DBE's eligibility (if a certifying agency)
- Regulation: 49 CFR Part 26 (most current version)