



**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**SOUTH CENTRAL TRANSIT AUTHORITY**

**LANCASTER, PA**

February 2025

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South Central Transit Authority  
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## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 and 26.23      OBJECTIVES AND POLICY STATEMENT**

The U.S. Department of Transportation (DOT) has in place a program providing for the “Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs” (49 CFR Part 26). The DOT’s Disadvantaged Business Enterprise Program (DBE) is intended to achieve several objectives, such as ensuring nondiscrimination in the award and administration of DOT-assisted contracts, creating a level playing field on which DBEs can compete fairly for DOT-assisted contracts, ensuring the DOT’s DBE program is narrowly tailored in accordance with applicable law, helping remove barriers to the participation of DBEs in DOT-assisted contracts and promoting the use of DBEs in all types of federally-assisted contracts and procurement activities. For SCTA, these objectives are found in the Authority’s DBE Policy Statement

As required in 49 CFR Part 26.23, SCTA issued a signed and dated policy statement that expresses the Authority’s commitment to its DBE Program, states the Program’s objectives and outlines the responsibilities for the Program’s implementation. A copy of SCTA’s Policy Statement is provided on the first page of this program.

SCTA distributed the policy statement to its Board and staff who are responsible for procurement and contract activities; published the statement in newspapers with general circulation in Berks County and Lancaster County; and circulated it to local DBE and non-DBE business organizations who may have contact with businesses who are ready, willing and able to perform work for SCTA on DOT-assisted contracts as listed in Attachment A. The policy statement will be referenced in all procurement documents and contracts between SCTA and any contractors.

SCTA’s DBE Program is available for review through the Authority’s website. A copy of 49 CFR Part 26 is provided for reference purposes as Attachment M to the Program.

**Section 26.3**                    **APPLICABILITY**

On November 12, 2014 and on November 13, 2014, the Lancaster County Board of Commissioners and the Berks County Board of Commissioners, respectively, approved organizing the South Central Transit Authority (SCTA) under the Municipalities Authorities Act of 2001. SCTA was formed as a result of the consolidation of the management and administrative functions of the Red Rose Transit Authority (RRTA) in Lancaster County and the Berks Area Regional Transportation Authority (BARTA) in Berks County. Both RRTA and BARTA will remain in existence as operating agencies providing the service in their respective counties, while SCTA will provide all executive, management, administrative and support services to BARTA and RRTA. SCTA assumed the management and administrative responsibilities for the operation of BARTA and RRTA as of January 1, 2015.

DOT’s DBE rule requires that all Federal Transit Administration (FTA) recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a federal fiscal year must have a DBE program. A recipient’s DBE Program is submitted to the FTA for its review and approval. A FTA recipient is not eligible to receive DOT financial assistance unless the FTA has approved its DBE program.

As the designated recipient of federal transit funds authorized by Federal transit laws in Title 49 U.S. Code Chapter 53, as amended by HR 4348 the “Moving Ahead for Progress in the 21<sup>st</sup> Century Act” or “MAP-21”, for the Berks and Lancaster urbanized areas, SCTA expects to award prime contracts exceeding \$670,000 in a fiscal year. Based on the expectation of meeting this threshold, SCTA developed its initial DBE program in accordance with 49 CFR Part 26 in July 2015, updated its DBE Program in December 2023 and again in January 2025.

**Section 26.5**                    **DEFINITIONS**

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

**Section 26.7**

**NON-DISCRIMINATION REQUIREMENTS**

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

In administering its DBE Program, SCTA 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.

**Section 26.11**            **RECORD KEEPING REQUIREMENTS**

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

SCTA will report DBE participation on a semi-annual basis (by June 1 and December 1) to the FTA in TRaMS. The Uniform Report Form requests information on the awards/commitments to DBE firms during the reporting period with a breakdown by ethnicity and gender, Name of DBE Contractor, work categories, trades performed, dollar value of contract, number of firms listed at commitment but replaced, with an explanation of replacement payments on ongoing contracts and total payments on DOT-assisted contracts that were completed during this reporting period and number of firms decertified. The DBELO will be responsible for preparing and filing the report. A copy of the Uniform Report Form is included as Attachment B. The instructions for completing the Form are included in Appendix B of 49 CFR Part 26 (see Attachment M).

Certified DBE Contractors Used on FTA Assisted Contracts Report

SCTA will report Annually all awards and commitments given to DBE firms for the FFY.

Bidders List: 26.11(c)

SCTA will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list to help calculate the overall DBE goal. The bidders list will include the name, address, email address, DBE/non-DBE status, NAICS code, age, race, gender and annual gross receipts (within a designated bracket) of the firms.

In order to develop this list, SCTA will include a notice in all solicitations requesting prime bidders to report the names, addresses and email address of all firms who quote to them on subcontracts and requesting firms quoting on subcontracts to report their name, address and email address directly to SCTA. Upon receipt of the names and addresses of the firms, SCTA will follow-up in requesting the balance of the information needed.

**Section 26.13**            **ASSURANCES**

SCTA has accepted the following assurance regarding DBEs and its DBE Program, applicable to all DOT-assisted contracts and their administration, when the Authority signed a financial assistance agreement with the Federal Transit Administration:

Federal Financial Assistance Agreement Assurance: 26.13(a)

SCTA 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 SCTA of its failure to carry out its approved program, the Department may impose sanctions 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.).

If SCTA provides DOT financial assistance to a sub-recipient, SCTA will assure that the financial assistance agreement with the sub-recipient includes this assurance.

Contract Assurance: 26.13b

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

The Contractor 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: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. Each contract the contractor signs with a subcontractor must include the assurance in this paragraph.



## **SUBPART B – ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21            DBE PROGRAM UPDATES**

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

SCTA will be enhancing and strengthening its monitoring and enforcement of DBE work performed, as well as the ensuring that prompt payment for services provided is occurring timely, and for work actually completed by the DBE firm(s).

SCTA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Note that per the most recent update to DBE requirements, with a Final Rule Date of April 9, 2024, “Distributors” has been added as a new subset of DBE suppliers.

**Section 26.25**            **DBE LIAISON OFFICER (DBELO)**

In accordance with SCTA's Policy Statement, the Executive Director has designated the Director of Capital Projects & Planning, Keith Boatman, 45 Erick Road, Lancaster, PA 17601, (717)947-7286, [kboatman@sctapa.com](mailto:kboatman@sctapa.com), as the DBE Liaison Officer for SCTA's DBE Program. Mr. Boatman is responsible for implementing all aspects of SCTA's DBE program and ensuring that the SCTA complies with the provisions of 49 CFR Part 26. Mr. Boatman has direct, independent access to the Executive Director concerning DBE matters. An organization chart displaying the DBELO's position in the organization is found in Attachment C to this program.

It should be noted that SCTA has a relatively small staff. For that reason a separate position description for the DBELO does not apply and the DBELO has no additional staff to assist in the administration of the program. However, the duties and responsibilities as outlined within this program will form the description of the general and specific duties of the DBELO. The DBELO will be provided necessary assistance in the performance of his duties and responsibilities by the Executive Director of SCTA, the Director of Administration and Human Resources and the Assistant Director of Capital Projects & Planning.

The DBELO is responsible for developing, implementing and monitoring the DBE program in coordination and with the assistance of other SCTA officials. The duties and responsibilities of the DBELO will include, but will not be limited to the following:

- Gathers and reports statistical data and other information as required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Develops SCTA's overall annual goals in accordance with the established process.
- Ensures that bid notices and requests for bids and proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral and contract specific goals).
- Analyzes SCTA's progress toward attainment and identifies ways to improve progress.
- Participates in pre-bid meetings.
- Advises the Executive Director on DBE matters and achievement.
- Provides DBEs with information and assistance in the bidding process.
- Provides outreach to DBEs and community organizations to advise them of opportunities.
- Monitors compliance of contractors in achieving DBE participation.
- Monitors eligibility of DBE firms as required by DOT.

The DBELO will also have responsibilities for fostering small business participation as defined in this Program.

**Section 26.27**            **DBE FINANCIAL INSTITUTIONS**

It is the policy of SCTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

SCTA is not aware of any DBE financial institutions in Berks County and Lancaster County. The Berks County Chamber of Commerce and the Lancaster County Chamber of Commerce and Industry are not aware of DBE financial institutions in their respective counties. Staff from the Small Business Development Center at Kutztown University were also not aware of any DBE financial institutions since most financial institutions are publicly traded or established as Community Development Financial Institutions. To the extent such financial institutions become known to SCTA, the Authority will follow its stated policy.

SCTA will re-evaluate whether DBE financial institutions are available every four (4) years.

**Section 26.29**                    **PROMPT PAYMENT MECHANISMS**

SCTA will include the following Prompt Payment, Retainage and Monitoring and Enforcement clauses in each DOT-assisted prime contract:

Prompt Payment: 26.29(a)

The prime Contractor agrees to pay each subcontractor under this prime contract for the satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime Contractor receives from SCTA. Any delay or postponement of payment in accordance with the thirty (30) day time frame may occur only for good cause following written approval of SCTA. This clause applies to both DBE and non-DBE subcontracts.

Retainage: 26.29(b)

The prime Contractor agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractors' work is satisfactorily completed. Any delay or postponement of payment in accordance with the thirty (30) day time frame may occur only for good cause following written approval of SCTA. This clause applies to both DBE and non-DBE subcontractors.

Monitoring and Enforcement: 26.29(d)

SCTA has established, to monitor and enforce that prompt payment and return of retainage is occurring, a monthly DBE statement to be completed by the contractor. This statement is submitted to SCTA for the purpose of recording of prompt payment and successful completion of work duties assigned to DBEs. Furthermore, depending on the size and scope of the work performed, construction management consultants may be used.

The Contractor shall notify SCTA in writing of any delay or postponement of payment beyond thirty (30) days and such written notification shall set forth, with appropriate documentation, the full details of the reasons upon which the Contractor is basing its actions. SCTA shall not be obligated to make a progress payment or a final payment to a Contractor who has failed to make payments promptly to its subcontractors for work performed, and for which SCTA has made payment, without good cause. The remedies SCTA has available to enforce the DBE requirements contained in its contracts include, but are not limited to, the following:

1. Breach of contract action pursuant to the terms of the contract. The intent of proceeding will be to initiate corrective action on the part of the contractor. If the corrective action is not implemented, the contractor will be terminated in accordance with the terms of the contract.
2. Inform the Pennsylvania Department of Transportation of any false, fraudulent, or dishonest conduct with regard to the DBE Program.
3. Beyond the power of SCTA within the contract terms, the Federal government has

available the following mechanisms that apply to firms participating in the DBE program:

- a) Suspension or debarment proceedings pursuant to 49 CFR Part 26.
- b) Enforcement action pursuant to 49 CFR Part 31.

*In addition SCTA will be enhancing and strengthening its monitoring and enforcement of DBE work performed, as well as the ensuring that prompt payment for services provided is occurring timely, and for work actually completed by the DBE firm(s).*

*SCTA's efforts will commence at the beginning of the project and will continue throughout the life of the project, through satisfactory completion.*

*The Project Manager for each project with DBE participation will work with the DBELO to monitor that the work assigned to DBEs is completed by the DBE, is completed satisfactorily, and that upon completion, prompt payment occurs for only the work completed.*

*At the project initiation, SCTA's DBELO will be reviewing all expected DBE participation documents and will perform a check with the PAUCP that the firm is an eligible DBE. The DBELO will also be reviewing all contract documents and will certify that the work assigned to the DBE is appropriate and that the DBE firm fits the scope to complete and is capable of completing the expected work. In addition, the initial review will ensure that the DBE firm on the project is engaged in a commercially useful function on the project. This review will confirm that the DBE firm has been engaged to perform a distinct part of the project and that the DBE firm is responsible for either managing, performing, or supervising the work completed. If this review determines that the DBE firm will not be performing a commercially useful function, no credit toward SCTA's overall DBE goal will be counted. If the determination has been made that the DBE firm is performing a commercially useful function, the progress will be monitored throughout the life of the project, as follows.*

*SCTA will continue to collect DBE performance and updates from the Prime Contractor but will also independently and proactively confirm that the DBE is performing the assigned work as expected. This will be done by the Project manager for SCTA, and will take place in the form of phone calls to the Prime and DBE subcontractor, visits to job site as necessary and practical, and through a review of relevant project documents that detail project schedules and completed work. The Project Manager will document these attempts in writing and with support, and will provide to the DBELO for review and inclusion in the procurement file. The size, type, and length of the project will determine how often these reviews occur, but at a minimum, they will occur at least once during the project, as well as at the end before the project is accepted as complete.*

*Once the Project Manager has confirmed the DBE has performed appropriate duties, and performed them satisfactorily, they will also be responsible for ensuring that*

*prompt-payment has been made by the Prime-Contractor. This will include a review of the work orders, or relevant documents, and then a confirmation of the payment date and amount to confirm the payment was made within the required period of time. As part of the process the Project Manager will reach out directly to the DBE firm to confirm the details of payment. Note that prompt-payment requirements will apply to all subcontractors engaged on the project.*

*All monitoring actions will be included in the procurement file with all documentation received from the prime contractor throughout the project. Prior to final acceptance of the project, the DBELO will review all DBE documentation (internally and externally), and will confirm everything has been received, and that all actions have been completed and documented properly.*

*Should there be any issues that arise from this review, or should any issues arise during the project, SCTA and the DBE firm will use the remedies noted in the previous clause to have those issues addressed*

### **Section 26.31            DBE DIRECTORY**

The Pennsylvania Unified Certification Program (PA UCP) is required to maintain a unified DBE directory containing all the firms certified by the PA UCP. The PAUCP is to list each certified firm by name, address, telephone number and the type of work the firm has been certified to perform as a DBE by NAICS code. The PA UCP Directory is made available to the public electronically on the internet and in print. SCTA will use the PA UCP Directory to identify firms eligible to participate as DBEs.

SCTA will include the following paragraph in its bid packages and requests for proposals in order to inform potential bidders and proposers of the existence of the PA UCP Directory. This information should assist bidders and proposers in identifying possible DBE firms who may be willing and able to participate in the contract as subcontractors.

Contractors may use the Pennsylvania Unified Certification Program (PA UCP) web-based directory to locate DBEs certified by the PA UCP who may be willing and able to participate in the contract as subcontractors. Firms can be found on the PA UCP website, [www.paucp.com](http://www.paucp.com) by their NAICS code. In addition, firms can be located within the PA UCP website by name and type of work performed. The PA UCP certifies DBE applicants for recipients of federal transit funds in Pennsylvania. SCTA will use federal transit funds to fund the cost of this contract.

The PA UCP Directory is available to SCTA in developing a Bidder's List or Proposer's List for the solicitation. In instances where subcontracting opportunities are available, SCTA will seek out available DBEs from the Directory and provide them a copy of the invitation to

bid/propose and the specifications. Where formal advertisement is not performed, SCTA will seek to identify DBEs who are able to perform the work required or provide the product needed and obtain a written quote.

**Section 26.33**            **OVERCONCENTRATION**

SCTA has not identified any type of work in our service area where DBE firms are so over-concentrated as to unduly burden the opportunity of non-DBE firms to participate in this type of work.

**Section 26.35**                    **BUSINESS DEVELOPMENT PROGRAMS**

SCTA has not established a business development program. SCTA will re-evaluate the need for such a program every three (3) years at the time its three-year goal is prepared for submission to the FTA. Due to the limits of size, staff and experience, it is difficult for an authority such as SCTA to develop and implement a business development program.

**Section 26.37**                    **MONITORING AND ENFORCEMENT MECHANISMS**

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

- (1) SCTA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so the DOT can take the steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided for in 49 CFR Part 26.109.
- (2) SCTA will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment D lists the regulations, provisions and contract remedies available to SCTA in the event of non-compliance with the DBE regulation by a participant in SCTA's procurement activities.
- (3) SCTA will monitor the work performed to verify that the work committed to a DBE firm(s) at contract award or subsequently is actually performed by the DBEs. This will be accomplished as described below and will occur for each contract/project on which DBEs are participating.

Depending on the scope and nature of the project being advanced, SCTA will contract with a consultant to provide construction management services. One of the responsibilities of the construction management consultant will be to support SCTA in monitoring the work performed by a DBE firm(s). As provided for in 49 CFR Part 26.37, SCTA will provide a written certification for the project file confirming that the Authority has reviewed contracting records and monitored work sites. The file will note the findings from this effort and any action taken if required.



SCTA will require contractors to submit regular reports of the actual payments made to DBE firms for work committed to them at the time of contract award. DBE participation will only be credited to an overall or contract goal when payments are actually made to DBE firms. A sample of the report to be submitted by a contractor is included as Attachment E. SCTA will review the reports submitted by the prime contractor and seek confirmation, as needed, that payment was actually made to the DBE firm.

- (4) SCTA will keep a running tally of actual payments made to DBE firms for work committed to them at the time of contract award. The information submitted on Attachment E will be used in maintaining this running tally.

**Section 26.39**                    **SMALL BUSINESS PARTICIPATION**

SCTA 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).

**Introduction and Background**

For the purposes of this program, a small business as defined in 49 CFR Part 26.5 is a firm that meets the definition provided in Section 3 of the Small Business Act and the Small Business Administration implementing regulations at 13 CFR Part 121. A firm to be considered a small business can also not exceed the average annual gross receipts over the firm’s previous three fiscal years as specified in 49 CFR Part 26.65(b). This amount is currently \$26.29 million.

SCTA will foster small business participation in SCTA contracts. This effort to foster small business participation will be advanced in a non-discriminatory and race-neutral manner. The intent is to facilitate competition on DOT-assisted contracts by both DBE and non-DBE small businesses.

The policy regarding small business participation will be disseminated to those individuals within the Authority responsible for operating and capital funded procurements. A copy of SCTA’s Small Business Policy is included as Attachment F.

In accordance with SCTA’s Policy Statement, the DBELO has been designated by the Executive Director as being responsible for the implementation of the policy to foster small business participation. In fulfilling these responsibilities, the DBELO will identify possible areas for small business participation based on the Authority’s approved operating and capital budgets.

SCTA will be advancing DOT-assisted projects that are funded from its operating budget and capital budget. The nature of the procurements funded from each budget will require different approaches in advancing small business participation.

**Operating Budget-Funded Contracts**

Based on past experience at BARTA and RRTA, most operating budget-funded contracts and purchase orders awarded by SCTA in a fiscal year are expected to be under \$75,000. Such contracts are for custodial services and supplies, landscaping services, printing, office supplies and the purchase of electrical supplies, building maintenance services and supplies and select bus parts. In the past, small businesses have been awarded contracts to supply these goods and services based on the size of the contracts available and the desire to use local businesses.

SCTA expects contracts for the procurement of similar goods and services with a similar

contract value will be advanced in the future. The identification and award of contracts to small businesses will be encouraged in the following manner:

- Goods, such as office supplies, will be solicited from local small businesses on a rotating basis, avoiding multi-year contracts featuring minimum guarantee purchases favored by larger suppliers.
- Goods, such as printing and graphics for schedules, will be bid on a per work basis, allowing flexibility in the selection of small businesses.
- Contract values for goods and services under \$75,000 are likely to encourage multiple responses to the solicitation from small businesses.

While there a significant number of contract opportunities for small businesses, it should be noted that the procurements with the largest contract value (diesel fuel, gasoline and contractor operating shared ride service in Lancaster) are publicly advertised. While small businesses are notified of these opportunities, it is possible the award will be made to a responsive and responsible firm that is not a small business. In addition, select bus parts can only be purchased from the original equipment manufacturer or select suppliers who are not small businesses.

For the operating budget-funded contracts, the DBELO and the Director of Maintenance in Lancaster and Reading will be in regular contact to identify possible opportunities for small businesses based on the approved budget and upcoming plans. Such contacts will also reinforce the importance of continuing to use the small businesses SCTA currently has under contract or uses who are responsive and responsible. The plan will be for such contacts and reviews to occur in June prior to the beginning of the fiscal year and six months later in December.

### **Capital Budget-Funded Contracts**

Contracts funded through SCTA's capital budget are likely to be publicly advertised, have a higher contract value and significantly less in number compared to the operating-funded procurements.

In this context, as capital projects are advanced, the Director of Capital Project & Planning will review the scope of the project, along with the engineer or architect if one is being used, to determine whether there will be opportunities for participation by small businesses and whether based on the scope of work for the project there is a reasonable approach and opportunity for encouraging small business participation. For example, in a prime general construction contract there are likely to be significantly more opportunities for small business

participation as a sub-contractor based on the nature and the scope of the work. Prime mechanical, plumbing and electrical contracts generally have more limited opportunities for small business participation as sub-contractors based on the nature and the scope of this type of construction work.

Generally, capital projects with prime contracts and sub-contracts under \$250,000 provide opportunities for small business participation. This \$250,000 guideline is subject to adjustment in the future based on the Authority's contracting experience and the tracking of contracts awarded to small businesses.

In order to foster small business participation, SCTA may require the prime contractor to provide subcontracting opportunities of a size that willing and able small businesses can perform on prime contracts not having DBE contract goals rather than self-performing all the work involved. At a minimum, if there are subcontracting opportunities in the project being advanced, the procurement documents will encourage the use of small businesses. In addition, a number of the race-neutral means described in Section 26.51 for increasing DBE participation will also have a positive impact on small business participation.

### **Overall Efforts**

In addition to the efforts described above, SCTA is committed to taking all reasonable steps to facilitate the participation of small businesses. Examples of such steps are:

- Arrange solicitations, times for presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate small business participation.
- Review bundling of contract requirements that may discourage small business participation.
- Small businesses will be included on bidders/proposers lists prepared for a publicly advertised procurement or for the solicitation of written quotations. Small businesses will be identified from the Bidders' List, directories maintained by the local Chamber of Commerce and other local organizations that provide assistance to small businesses.
- SCTA will participate in events organized by the local Chamber of Commerce that will provide access to small and local businesses and familiarize them with the types and timing for upcoming procurement opportunities.

### **Tracking Performance**

For Operating Budget funded contracts, the financial accounting software used by SCTA

has the capability of generating reports listing all businesses who have received a payment from SCTA, the number and the amount of the payments made and the budget/cost category in which the cost was incurred. The payments made to businesses reflect contract awards that have been made through the issuing of purchase orders or contracts. This information will be used to identify the small businesses SCTA currently uses to supply services, parts or equipment. This information will also be used to confirm the procurement opportunities for both non-DBE and DBE small businesses.

As necessary, businesses will be requested to self-identify whether they are or are not a small business. The definition of a small business as developed by the Small Business Administration (SBA) and the DOT (49 CFR Part 26.5) will be used as the basis in making this determination. SCTA is aware a firm is not considered a small business in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts over the firm's previous three fiscal years in excess of \$26.29 million. SCTA also understands this figure is adjusted annually to reflect inflation (49 CFR Part 26.65).

With this available information, SCTA will be able to identify and track the number of contracts awarded to small businesses as well as the contract value. With SCTA assuming responsibility for the management and administration of BARTA and RRTA as of July 1, 2015, a review of the operating procurements will occur in January 2016 after the first six months of operation. Such a review will typically occur at the end of the fiscal year in July of each year. The focus of the information generated and the review will be on the budget/cost categories where there are opportunities for small businesses to participate.

Based on the nature and number of capital-funded procurement opportunities in any given fiscal year, it will be relatively easy to identify and track the number of small businesses utilized as prime contractors and sub-contractors. As with operating funded procurements, this information will be helpful in identifying SCTA's performance with respect to the participation of small businesses.

## SUBPART C – GOALS, GOOD FAITH EFFORTS AND COUNTING

### Section 26.43 SET-ASIDES OR QUOTAS

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

### Section 26.45 OVERALL GOALS

#### (1) Amount of Goal

In accordance with Part 26.45, SCTA will establish an overall DBE Goal for a three-year period. The DBE Goal will be applicable for three succeeding federal fiscal years with the federal fiscal year beginning on October 1<sup>st</sup>. The documentation for the calculation of the DBE goal is to be submitted to the FTA by August 1. SCTA understands that it must submit to the FTA for approval any adjustment the Authority decides to make to the DBE goal during this three (3) year period based on changed circumstances.

#### (2) Method Used in Calculating the Overall Goal and Process

SCTA's overall goal is based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate in the DOT-assisted contracts the Authority is advancing. The goal reflects the determination of the level of DBE participation the Authority would expect absent the effects of discrimination.

The following is a summary of the method SCTA will use to calculate its overall DBE Goal and the process to be followed. The details of the methodology used in developing the overall Goal will be described in the document prepared every three years for review by the public and submission to the FTA.

##### a) Detailed List of Contracting and Subcontracting Opportunities.

The first task in the methodology to be used is identifying the goods and services SCTA anticipates procuring through its operating budget and capital improvement program. The goods and services to be procured will be classified by a specific NAICS code.

##### b) Identification of the Geographic Market Area.

The market area for SCTA is considered to be Berks and Lancaster Counties and the surrounding counties of York, Cumberland, Dauphin, Lebanon, Schuylkill, Lehigh, Montgomery and Chester Counties. This task will enable the market area to be assessed every three years.

c) **Step 1: Determining the Base Figure.**

The base figure for the overall DBE goal will be determined in Step 1. The total number of businesses in each of the NAICS codes identified will be determined from the latest Census Bureau information. The number of DBEs firms available will be determined from the PAUCP Directory and bidders' information maintained by SCTA. A weighting process will be used at several points during the Step One process to help ensure the base figure is as accurate as possible. The percent of total expenditures for each NAICS category will be calculated ("weight"); the relative availability of DBE firms to all firms in each NAICS category will be calculated; and the weight times relative availability for each NAICS category added together will result in the Step 1 DBE goal base figure.

d) **Sources Used to Develop Goal.**

The sources of information used in developing the Step 1 figure will be identified. The initial sources of information to be used in developing SCTA's first DBE goal are the PAUCP Directory for DBE firms and the U.S. Census Bureau's County Business Patterns information. This information will be supplemented from bidders' information maintained by BARTA and/or RRTA.

e) **Step 2: Adjusting the base figure.**

In Step 2, SCTA will consider adjusting the base figure based on available information. Information that may be considered includes, but is not limited to, the current capacity of DBEs to perform the work, disparity studies, input from interested parties or past participation. SCTA has not identified any disparity studies conducted within its service area. Part 26.45(d) describes the sources of information that may be examined to determine what adjustment, if any, is needed to the base figure. Documentation will be provided by SCTA in its three-year goal calculation submission if an adjustment is made to the base figure.

At the conclusion of Step 2, SCTA will have determined its overall DBE goal for the period. The overall goal will be expressed as a percentage of all the FTA funds (exclusive of the FTA funds to be used for the purchase of transit vehicles) that SCTA will expend in the FTA-assisted contracts in the three forthcoming fiscal years.

f) **Race/Gender-Neutral and Race/Gender-Conscious Goal.**

Once the overall DBE goal is determined, SCTA will project the portion of the goal the Authority expects to meet through race-neutral and race-conscious measures. The information used in making this determination will be described in the document prepared to support the DBE goal determination. Additional information regarding the breakout of a Race/Gender-Neutral and a Race/Gender Conscious Goal and the implementation of a Contract Goals is described in Section 26.51

g) **Annual DBE Expenditure Goals**

The Annual DBE Expenditure Goals will be calculated based on the overall DBE goal and the projected amount of federal assistance to be received based on the detailed list of contracting and sub-contracting opportunities.

h) **Evidence of Public Consultation.**

In establishing its overall DBE goal, SCTA will provide opportunities for public consultation. SCTA will distribute the goal calculation to the agencies or organizations listed on Attachment A to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and SCTA's efforts to establish a level playing field for the participation of DBEs. SCTA will consult with several of these agencies or organizations during the goal development process. The agencies or organizations consulted will be revised, if and as needed, during the DBE goal development process.

SCTA will publish a notice of the proposed overall goal, informing the public that information on the proposed goal and its rationale are available for inspection during normal business hours at SCTA's offices or on the SCTA website. The notice will identify the thirty (30) day period for receiving comments. The notice of the goal will be published in a general circulation newspaper in Berks and Lancaster Counties. Publication of the notice in available minority-focus media will also be considered. The documentation submitted to the FTA will include the proof of publication in the newspapers.

The proposed overall DBE goal documentation will be uploaded to the SCTA website, as well as the finalized DBE goal documentation submitted to the FTA.

Normally, SCTA will issue the DBE Goal documentation to the Attachment A agencies or organizations, the public notice to the newspapers and the website upload by June 1<sup>st</sup> of the year the DBE goal is to be developed.

For consultative purposes, the proposed DBE goal documentation will be presented to the SCTA Board no later than the July meeting.

SCTA's overall goal submission to the FTA will include a summary of information and comments received during this public participation process and SCTA's responses.

SCTA will submit its overall goal and the supporting documentation to the FTA by August 1 of the year such information is to be submitted in the three-year



cycle. SCTA will begin using its overall goal on October 1<sup>st</sup>, unless the Authority receives other instructions from the FTA.

**Section 26.47**            **Goal Setting and Accountability**

If the awards and commitments shown on SCTA’s Uniform Report of Awards and Commitments at the end of any fiscal year (see Section 26.11 above) are less than the overall DBE goal for that fiscal year, SCTA will analyze in detail the reasons for the difference between the overall goal and the actual awards/commitments. After completing this analysis, specific steps and milestones will be established to correct the problems identified in the analysis in order to enable SCTA to fully meet its overall DBE goal in the new fiscal year. This analysis is performed at the end of each fiscal year, if needed, even though the overall DBE goal has been developed to cover three fiscal years. SCTA will retain the analysis and corrective actions in its files for three years. This information will be made available to the FTA if requested.

**Section 26.49**            **Transit Vehicle Manufacturers**

SCTA will require each transit vehicle manufacturer (TVM), 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 49 CFR 26.49. Prior to the advertisement of a bid or proposal and during its review of the bids or proposals received, SCTA will consult the listing of approved TVM’s on the FTA’s website. Only those TVM’s listed on the FTA’s certified list of TVM’s at the time of solicitation are eligible to bid or propose.

SCTA will submit to the FTA within thirty (30) days of making an award for the purchase of transit vehicles, the name of the successful bidder and the total dollar value of the contract.

SCTA is aware that FTA assistance used in transit vehicle procurements is not included in the base amount from which the Authority’s overall goal is calculated.

**Section 26.51**            **Meeting Overall Goals/Contract Goals**

**Meeting Overall Goals**

SCTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime

contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

- Arranging solicitations, times for the presentation of bids, quantities, specifications, bonding requirements and delivery schedules in ways that facilitate DBE and other small business participation and by making contracts more accessible to small businesses.
- Providing assistance and information regarding the bidding process and procurement policy.
- Implementing project bonding policies that are appropriate for the project being advanced but will not limit participation by DBE firms and small businesses.
- Implementing information and communication programs on contracting procedures and specific contract opportunities in a timely manner.
- Informing potential prime contractors of the availability of the PAUCP Directory.

Due to the limits of its size, staff and experience, SCTA is unable to provide technical assistance or implement on its own several of the recommended race-neutral measures. These race-neutral measures include providing services to obtain bonding, insurance and financing, implementing a program to develop and improve business management and providing services to help DBEs achieve eventual self-sufficiency. When SCTA is made aware of a DBE firm needing assistance in one or more of these areas, the Authority will refer the DBE firm to one of the agencies or organizations listed in Attachment A.

SCTA will adjust the breakout of race-neutral and race-conscious participation as needed during a three-year period based on actual DBE participation to-date and projections of future participation. SCTA will track and report race-neutral and race-conscious participation separately as a monitoring tool.

### Contract Goals

SCTA will use contract goals to meet any portion of the overall goal SCTA 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 the overall goal that is not projected to be met through the use of race-neutral means.

In using race conscious measures, SCTA will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. SCTA does not need to 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 ready, willing and able DBEs to perform the particular type of work). The use of a contract goal is also influenced by SCTA's ability and performance to meet its overall goal through race-neutral means. SCTA will express its contract goals as a percentage of the total amount of a DOT-assisted contract.

**Section 26.53**                    **GOOD FAITH EFFORTS**

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

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, SCTA will award the contract only to a bidder/proposer who makes good faith efforts to meet it. The bidder/proposer can demonstrate it has made good faith efforts by either: (1) meeting the contract goal with verified, countable DBE participation; or (2) documenting it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder/ proposer to demonstrate it has made sufficient good faith efforts prior to the submission of its bid. In its solicitations for DOT-assisted contracts for which a contract goal has been established, SCTA will note that the award of the contract is conditioned on the bidder/proposer demonstrating it has made a good faith effort to meet the contract DBE goal. If the bidder/proposer does document adequate good faith efforts, SCTA will not deny the award of the contract on the basis that the bidder/proposer failed to meet the goal.

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

The Director of Capital Projects & Planning is responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts in order to be regarded as responsible. 49 CFR Part 26, Appendix A (see Attachment M), provides detailed guidance concerning good faith efforts that will be used by SCTA as a resource during its review. The initial review will focus on the good faith efforts documentation included in the bidder/proposer’s submission as requested by SCTA in the solicitation documents. Additional information will be requested from a bidder/proposer if and as needed. During this review, SCTA will consider the quality, quantity and intensity of the different kinds of efforts the bidder/proposer has made. SCTA will ensure that all information is complete and accurate and adequately documents the bidders’ good faith efforts before the Authority commits to the performance of the contract by the bidder.

Information to be Submitted: 26.53(b)

SCTA treats a bidders’ compliance with good faith efforts requirements as a matter of responsibility. Each solicitation for which a contract goal has been established will require the bidders to submit a Disadvantaged Business Enterprise Certification (Attachment G), an Affidavit of Disadvantaged Business Enterprise for the DBE firm(s) the bidder plans to use

(Attachment H) and the information listed below:

- 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. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
- c) The dollar amount of the participation of each DBE firm participating;
- d) Written documentation of the 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 contractor's commitment; and
- f) If the contract goal is not met, evidence of good faith efforts. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Attachment I includes a form that will be included in a solicitation package with a contract goal to assist the bidder/proposer in the preparation and submission of the requested information regarding the DBE firms solicited during the bidding process. Attachment J includes a form that will be included in a solicitation package with a contract goal to assist the bidder/proposer in providing the requested summary information regarding the DBE firm(s) to whom a commitment has been made. In addition, the bidder/proposer shall submit a Letter of Intent for each DBE firm(s) to whom a commitment has been made to use to perform the contracted work (Attachment K). The information described above may be submitted at the time of the bid opening/proposal receipt or no later than five (5) days after the bid opening/proposal receipt as a matter of responsibility.

Administrative Reconsideration: 26.53(d)

Within ten (10) days of being informed by SCTA that it is not responsible because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidder should make this request in writing to the following reconsideration official: Director of Administration and Human Resources, SCTA, 45 Erick Road, Lancaster, PA 17601. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do

so. The reconsideration official will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts When a DBE is Terminated/Replaced on a Contract with Contract Goals: 26.53(f)

SCTA requires that a prime contractor shall not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without SCTA's prior written consent and then perform the work originally designated for a DBE subcontractor with its own forces, a non-DBE firm or with another DBE firm. SCTA will include in each prime contract with a contract goal a provision that the contractor shall use the DBE subcontractor to perform the work for which it is listed unless the contractor obtains SCTA's written consent to terminate or substitute the DBE firm. If SCTA's written consent is not provided, the contractor shall not be entitled to any payment for work or material unless it is performed by the listed DBE firm.

SCTA may provide prior written consent only where there is "good cause" for termination of the DBE firm as established by 49 CFR Section 26.53(f)(3).

Before transmitting its request to SCTA for the termination or substitution of a DBE subcontractor, the prime contractor shall provide written notice to the DBE subcontractor of its intent to request termination or substitution and the reason for the request. A copy of this notice must be provided to SCTA prior to consideration of the request to terminate. The DBE subcontractor will be given no more than five (5) days to respond and advise SCTA of why it objects to the proposed termination.

The provisions of this section also apply to preaward deletions or substitutions of DBE firms.

SCTA will require a contractor to make good faith efforts to replace a DBE that is terminated for good cause or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. SCTA will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. The good faith efforts by the contractor to find a substitute DBE firm shall be documented. If SCTA requests documentation of the good faith efforts, the contractor shall submit the requested documentation within seven (7) days. SCTA will provide a written determination to the contractor stating whether or not good faith efforts

have been demonstrated and providing approval of the substitute DBE firm.

The failure of a contractor to carry out the good faith efforts requirements is a material breach of the contract and may result in the termination of the contract or such other remedies that are described in the Contract Assurance under Section 26.13b, Contract Assurance (p. 5).

SCTA shall require each prime contractor to make available upon request a copy of all DBE subcontracts.

### Sample Bid Specification

The following language on the DBE requirements will be included in every DOT-assisted contract or procurement:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. It is the policy of SCTA to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. The award of this contract will be conditioned upon satisfying the requirements of this specification/request for proposal. These requirements apply to all bidders/proposers, including those who qualify as a DBE.
- b. *(Include Contract Assurance from 26.13b referenced in Assurance Section above.)*
- c. *(The following language used will depend on whether the procurement does or does not include a contract goal.)*

### **(Procurement With Contract Goal)(Race/Gender Conscious)**

1. A contract goal of \_\_\_\_\_% has been established for this procurement. The bidder/proposer shall make good faith efforts, as defined in 49 CFR Part 26.53 and Appendix A, 49 CFR Part 26 to meet the contract goal for DBE participation in the performance of this contract.

The bidder/proposer will be required 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 documentation of the bidder/proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and (e) written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment.



To assist the bidder/proposer in providing the requested information, a “DBE Subcontractor and Supplier Commitment Sheet” (*Attachment J*) and “Letter of Intent” (*Attachment K*) are attached.

2. If the contract goal is not met, the bidder/offeror shall submit evidence of its good faith efforts by completing the “DBE Subcontractor and Supplier Solicitation Sheet” (*Attachment I*). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
3. Contractors may use the Pennsylvania Unified Certification Program (PA UCP) web-based directory to locate DBE’s certified by the PA UCP. Firms can be found on the PA UCP-sponsored website, PAUCP - DBE Certification Management System <https://paucp.dbesystem.com/>, by their NAICS code. In addition, firms can be located within the website by name and type of work performed. The PA UCP certifies DBE applicants for recipients of federal transit funds in Pennsylvania. SCTA will use federal transit funds to fund the cost of this contract.
4. The contractor will be required to report its DBE participation throughout the period of performance on a form provided by SCTA. The form shall be submitted on a monthly basis with the application for payment.
5. The contractor must promptly notify SCTA, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of SCTA. If SCTA’s written consent is not provided, the Contractor shall not be entitled to any payment for work or material unless it is performed by the listed DBE firm and the Contractor may be subject to the contract actions described in Contract Assurance.
6. The bidder/proposer is required to complete and submit the following certificates as a matter of responsibility:
  - (a) Disadvantaged Business Enterprise Certification (*Attachment G*)
  - (b) Affidavit of Disadvantaged Business Enterprise (to be completed by the DBE firm committed to participating in the contract (*Attachment H*)).

**(Procurement With No Contract Goal)(Race/Gender Neutral)**

1. A separate contract goal has not been established for this procurement. A bidder/proposer is encouraged to solicit and contract with DBE firms to

perform portions of the work. A bidder/proposer utilizing a DBE firm shall submit the following information to SCTA: (a) The names and addresses of DBE firm(s) that will participate in the contract; (b) a description of the work that each DBE will perform; and (c) the dollar amount of the participation of each DBE firm participating. The contractor will be required to report on the participation by the DBE firm(s) throughout the period of performance.

2. Contractors may use the Pennsylvania Unified Certification Program (PA UCP) web-based directory to locate DBE's certified by the PA UCP. Firms can be found on the PA UCP website, <https://paucp.dbesystem.com/>, by their NAICS code. In addition, firms can be located within the PA UCP website by name and type of work performed. The PA UCP certifies DBE applicants for recipients of federal transit funds in Pennsylvania. SCTA will use federal transit funds to fund the cost of this contract.
3. The bidder/proposer is required to complete and submit the following certificates as a matter of responsibility:
  - (a) Disadvantaged Business Enterprise Certification (*Attachment L*)
  - (b) Affidavit of Disadvantaged Business Enterprise (to be completed by the DBE firm committed to participating in the contract (*Attachment H*)).

A bidder/proposer in a Race/Gender Neutral procurement will be asked to complete Attachment L as an indication of its willingness to take necessary and reasonable steps in order for DBE firms to have the opportunity to compete for and perform contracts.

- d. Prompt Payment Mechanisms. As required by 49 CFR Part 26.29, SCTA will include Prompt Payment, Retainage and Monitoring and Enforcement clauses in each DOT-assisted prime contract as further described in Section 26.29 of this Program.
- e. Invitation to Bid/Propose. All invitations to bid or propose will include the following statement:

SCTA solicits and encourages disadvantaged business enterprise participation. DBEs shall be afforded full consideration of their response and will not be subject to discrimination.

If a contract goal has been established for a specific project, the goal will be noted in the Invitation to Bid or Propose.

The instructions for including the above Contract Clauses in the appropriate and applicable contracts, subcontracts and the invitations to bid or propose will be provided for in the "South Central Transit Authority Procurement Procedures" and in Attachment A to the procedures,

“FTA and Commonwealth of Pennsylvania Third Party Contract Provisions.”

**Section 26.55**                    **COUNTING DBE PARTICIPATION**

SCTA will count DBE participation toward overall and contract goals as provided for in 49 CFR Part 26.55. 49 CFR Part 26.55 provides that when a DBE participates in a contract only the value of the work actually performed by the DBE is counted toward the DBE goals. In addition, the expenditures by a DBE subcontractor towards a DBE goal are only counted if the DBE is performing a commercially useful function on the contract. 49 CFR Part 26.55 describes the factors to be used in determining whether a DBE trucking company is performing a commercially useful function. The approach to be used in counting expenditures with DBEs for materials or supplies toward DBE goals is also described in Part 26.55.

SCTA will keep a running tally of actual payments made to DBE firms for work performed. It is the amount actually paid to the DBE that counts towards a contractor’s final compliance with its DBE obligations on a contract.

Only the work performed and the amount paid to a firm currently certified as a DBE in accordance with 49 CFR Part 26 can be counted towards the DBE participation in a contract.

*SCTA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Note that per the most recent update to DBE requirements, with a Final Rule Date of April 9, 2024, “Distributors” has been added as a new subset of DBE suppliers. As a result of this addition, SCTA must have pre-award procedures to determine whether a DBE supplier is considered a regular dealer or distributor as has demonstrated the ability and intent to perform as a regular dealer or distributor during the contract, allowing 60% or 40%, respectively, of the cost of materials to count toward goal. This will ensure preliminary counting determinations and contract goal attainment decisions are based on the DBE’s ability and intent to comply with the rule’s commercially useful function requirements.*

*In order to make this distinction, prior to award, SCTA will perform one or more of the following activities:*

- 1. Develop a questionnaire: Create a detailed questionnaire for DBE suppliers to complete, addressing their capacity, inventory, distribution methods, and intent to perform as a regular dealer or distributor*
- 2. Review inventory records: Request and examine the DBE supplier's inventory records to verify their ability to maintain an adequate supply of materials*

3. *Assess distribution capabilities: Evaluate the DBE's ownership or lease agreements for distribution equipment to ensure they can effectively distribute the products they're selling*
4. *Verify distributorship agreements: For distributors, confirm the existence of valid distributorship agreements with manufacturers*
5. *Evaluate past performance: Review the DBE's history of performance on similar contracts to assess their capability and reliability*
6. *Conduct site visits: Arrange pre-award site visits to the DBE's facilities to verify their operational capacity and inventory*
7. *Request affirmations: Obtain written affirmations from the DBE supplier stating their intent and ability to perform the required functions consistently with the preliminary counting of their participation*
8. *Verify ownership transfer: For distributors, ensure they can demonstrate ownership of materials not already in their possession, such as through purchase orders and bills of lading*
9. *Assess CUF compliance: Evaluate the DBE's plan for providing a commercially useful function (CUF) on the contract, ensuring they will be responsible for a distinct element of work*
10. *Review financial capacity: Examine the DBE's financial statements to ensure they have the capacity to handle the proposed contract volume*

## **SUBPARTS D & E – CERTIFICATION**

### **Section 26.61 – 26.73      CERTIFICATION PROCESS**

(Not Applicable)

### **Section 26.81      UNITED CERTIFICATION PROGRAMS**

As a recipient of FTA funds, SCTA will be a member of the Pennsylvania Unified Certification Program (PA UCP). The PA UCP provides “one-stop shopping” for certification of DBE applicants in Pennsylvania. SCTA relies on the PA UCP to certify DBE applicants in accordance with 49 CFR Part 26 and does not certify DBE firms on its own. SCTA will use and count for DBE credit only those firms certified by the PAUCP. If an out-of-state DBE firm is used on a project, SCTA will consult the UCP from that state to confirm whether the DBE firm is certified in accordance with 49 CFR Part 26. The website for PAUCP is [www.paucp.com](http://www.paucp.com).

SCTA is aware that there are more firms registered as minority or women-owned businesses under the Pennsylvania Department of General Services (DGS) Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) program in contrast to PAUCP. When SCTA is made aware of a DBE firm registered under the BDISBO program but not PAUCP, SCTA will provide the contact information for PAUCP to the firm and will explain the value of being certified under PAUCP.

### **Section 26.83 -26.91      PROCEDURES FOR CERTIFICATION DECISIONS**

(Not applicable)

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109**

### **INFORMATION, CONFIDENTIALITY, COOPERATION**

SCTA will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local law. As a municipal authority, SCTA is subject to Pennsylvania’s Act 3 of 2008, “New Right to Know Law”.

#### **Monitoring Payments to DBEs**

SCTA will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the completion or termination of the contract. These records will be made available for inspection upon request by any authorized representative of SCTA, PennDOT and DOT. This reporting requirement also extends to any certified DBE subcontractor.

**ATTACHMENT A**

**AGENCIES PROVIDING ASSISTANCE TO DBEs AND/OR  
RECEIVING INFORMATION REGARDING SCTA'S POLICY**

(2 pages)

(Updated 12/22/2023)

<b><u>AGENCY</u></b>	<b><u>TYPE OF ASSISTANCE</u></b>
1) Service Corps of Retired Executives (SCORE) 115 E King Street Lancaster, PA 17602 (717)397-3092	Management Consulting Services
2) Pennsylvania Minority Business Development Authority Department of Community and Economic Development Center for Business Financing, Loans Division Commonwealth Keystone Building 400 North Street, 4 <sup>th</sup> Floor Harrisburg, PA 17120-0225 O - (717)783-5046 F – (717)787-9154 ra-dcedsbfo@state.pa.us	Loan Program
3) Lancaster Chamber of Commerce and Industry 115 E. King Street Lancaster, PA 17602 (717)397-3531	N/A
4) Building and Supporting Entrepreneurship, Inc. (BASE) 447 S. Prince St. Lancaster, PA 17602 (717)392-5467 (717)290-7936 (Fax)	Technical Assistance and Loans
5) Lancaster Small Business Development Center  313 W. Liberty Street #231. Lancaster, PA 17603	Coordinating efforts among agencies and organizations to increase DBE participation
6) Terrell Martin, Director Small Business Champions Office Pennsylvania Department of Community and Economic Development Commonwealth Keystone Building 400 North Street, 4 <sup>th</sup> Floor Harrisburg, PA 17120-0225 (866) 466-3972	Technical Assistance

- |     |   |                       |
|-----|---|-----------------------|
| 7)  | Ernie Post, D.Ed.<br>Small Business Development Center<br>Kutztown University<br>27 Old Main<br>Kutztown, PA 19530<br>(484)646-5937                 | Management Assistance |
| 8)  | Associated Builders and Contractors, Inc. -<br>Keystone Chapter<br>135 Shellyland Road<br>Manheim, PA 17545<br>(717)653-8106<br>(717)653-6431 (Fax) | N/A                   |
| 9)  | Spanish American Civic Association for<br>Equality, Inc.<br>545 Pershing Ave.<br>Lancaster, PA 17602<br>(717)397-6267                               | All                   |
| 10) | Crispus Attucks Center<br>407 Howard Avenue<br>Lancaster, PA 17602<br>(717) 394-6604  |                       |
| 11) | Community Action Program of Lancaster County<br>601 S. Queen Street<br>Lancaster, PA 17603<br>(717) 299-7301  |                       |
| 12) | Service Corps of Retired Executives (SCORE)<br>401 Penn Street<br>Chamber of Commerce Suite 501<br>Reading, PA 19601<br>(484)577-9791               | Management Consulting |
| 13) | Greater Reading Chamber of Commerce & Industry<br>201 Penn Street, Suite 501<br>Reading, PA 19601<br>(610)376-6766                                  | N/A                   |
| 14) | Berks County Community Foundation<br>237 Court Street<br>Reading, PA 19601<br>(610)685-2223   |                       |

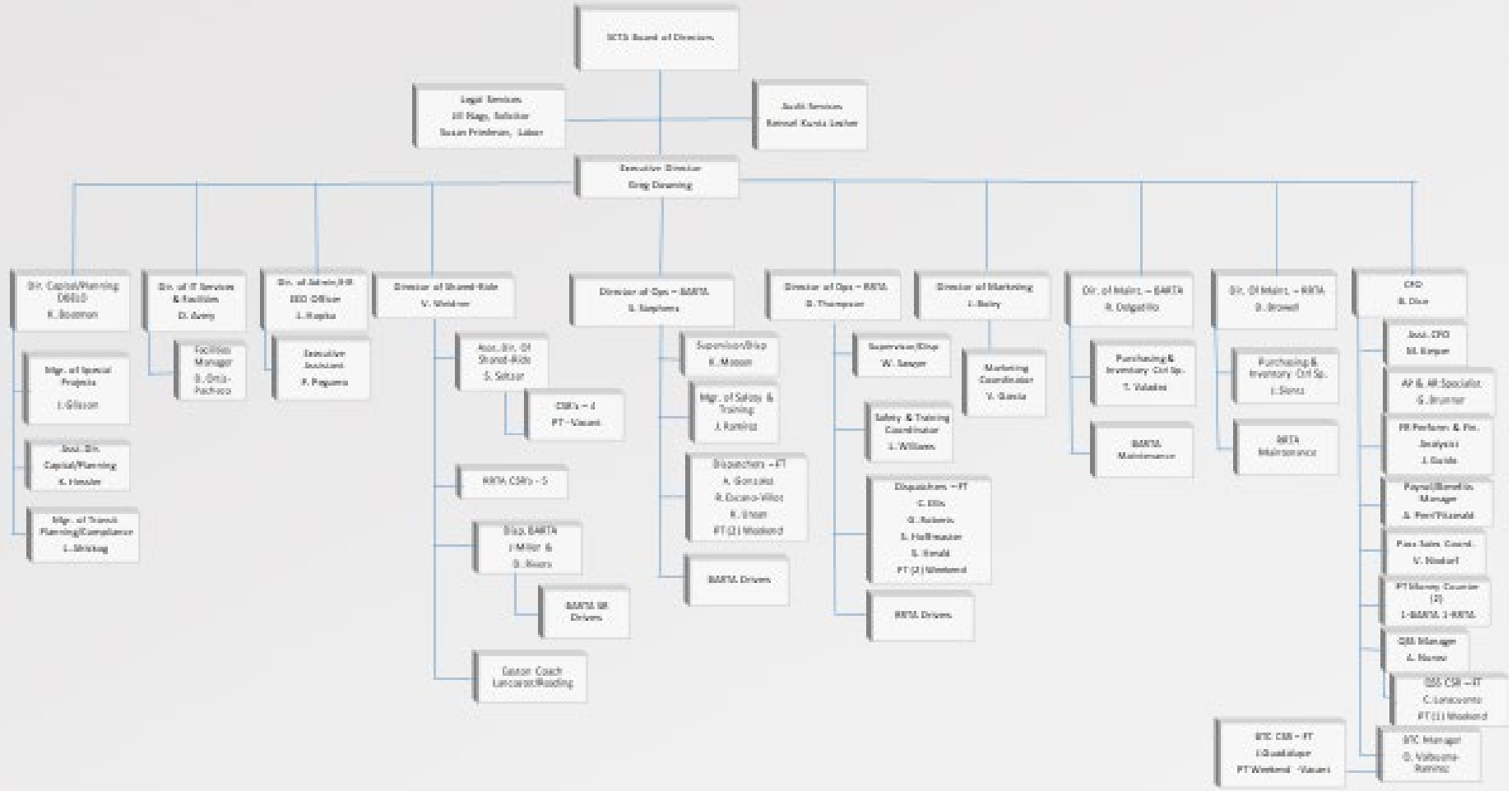


## ATTACHMENT B

UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS											
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 type="checkbox"/> FHWA		<input type="checkbox"/> FAA		<input checked="" 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 20XX			4. Date This Report Submitted:					
5	Reporting Period		<input type="checkbox"/> Report due June 1 (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:		South Central Transit Authority 45 Erick Road Lancaster Pa 17601								
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 <small>(Total contracts and subcontracts committed during this reporting period)</small>		A	B	C	D	E	F	G	H	I
			Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs/Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
	8 Prime contracts awarded this period		\$ -	0	\$ -	0			\$ -	0	
	9 Subcontracts awarded/committed this period		\$ -	0	\$ -	0	\$ -	0	\$ -	0	
	10 TOTAL		\$ -	0	\$ -	0	\$ -	0	\$ -	0	
B	BREAKDOWN BY ETHNICITY & GENDER		A	B	C	D	E	F			
			Total to DBE (dollar amount)			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	B	C	D	E	F			
			Total Number of Prime Contracts	Total Dollars Paid	Total Number of Prime and Subcontracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs			
18	Prime and subcontracts currently in progress		0	\$ -	0	\$ -	0				
D	TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD		A	B	C	D	E				
			Number of Contracts Completed	Total Dollar Value of Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percent to DBEs				
	19	Race Conscious	0	\$ -	\$ -	\$ -	-				
	20	Race Neutral	0	\$ -	\$ -	\$ -	-				
	21	Totals	0	\$ -	\$ -	\$ -	-				
22	Submitted by:			23. Signature:			24. Phone Number:				

# ATTACHMENT C SCTA ORGANIZATION CHART

## Organization Chart



## **ATTACHMENT D**

### **Monitoring and Enforcement Mechanisms/Legal Remedies**

The remedies SCTA has available to enforce the DBE requirements contained in its contracts include, but are not limited to, the following:

1. Breach of contract action pursuant to the terms of the contract. The intent of the show cause proceedings will be to initiate corrective action on the part of the contractor. If the corrective action is not implemented, the contractor may be terminated in accordance with the terms of the contract.
2. Inform the Pennsylvania Department of Transportation of any false, fraudulent or dishonest conduct regarding the DBE Program.

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

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

# ATTACHMENT E

## SOUTH CENTRAL TRANSIT AUTHORITY DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION MONTHLY REPORT (July 2024)

### SOUTH CENTRAL TRANSIT AUTHORITY DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION MONTHLY REPORT (July 2024)

Contract Information

Project Number: _____	Original Prime Contract Amount: _____
Report Period: _____ (Note date and whether report is FINAL)	Total Change Orders: _____
Name and Location of Project: _____	Final Prime Contract Amount: _____
Name and Address of Prime Contractor: _____	Start Date: _____
_____	Completion Date: _____
_____	

DBE Subcontractor Name	Contract Project Task / Material	Original DBE P.O. / Contract Commitment	Original DBE Contract +/- C.O. Amount	Payment Total This Period	Payment Total Previous to this Period	Total Payments	Overall Work Completed %	NAICS code	
<b>Totals</b>									

Comments: \_\_\_\_\_

I hereby certify that this report is accurate and true and the payments described above were made to the identified DBE Subcontractor for work performed in accordance with the specifications.

Prime Contractor: \_\_\_\_\_  
 Compliance Officer: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

**ATTACHMENT F**

**FOSTERING SMALL BUSINESS ENTERPRISE PARTICIPATION**

**SOUTH CENTRAL TRANSIT AUTHORITY**

**Policy Statement**

The South Central Transit Authority (SCTA) has included an element within its Disadvantaged Business Enterprise (DBE) program to structure contracting opportunities to facilitate competition by small business concerns in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.39. SCTA receives Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, SCTA signed an assurance that it will comply with 49 CFR Part 26. Furthermore, SCTA is committed to fostering small business enterprise participation in the procurement of goods and services.

It is the policy of SCTA to ensure that small business concerns, as defined in Part 26, have an opportunity to receive and participate in contracting and procurement activities of SCTA, including all DOT-assisted contracts. It is also our policy--

- 1) To facilitate competition by small business concerns by taking all reasonable steps to eliminate obstacles to their participation.
- 2) To encourage staff to identify small business concerns that fully meet 49 CFR Part 26 eligibility standards and facilitate the competition of such concerns in SCTA's contracting opportunities for the supply of goods and services.
- 3) To foster and enhance small business participation in a non-discriminatory and race-neutral manner.

The Executive Director of SCTA shall be responsible for the implementation of this policy. This responsibility shall include ensuring the fostering of small business participation in the competition for contracting opportunities, designating the DBE Liaison Officer as responsible for the implementation of this policy, reviewing on a periodic basis the participation by small business concerns in SCTA's contracting opportunities and ensuring consistency in the implementation of this policy with sound procurement principles and applicable laws.

SCTA has disseminated this policy statement to the Board of Directors and all staff responsible for the procurement of goods and services.

January 29, 2025  
Date

  
\_\_\_\_\_  
Gregory Downing  
Executive Director  
South Central Transit Authority

**ATTACHMENT G**

**DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION**

- (1) **Policy.** It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.
  
- (2) **DBE Obligation.** The supplier or contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all contractors shall take necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

Failure by the Contractor to carry out these requirements is a material breach of the contract which may result in the termination of this contract or such other remedy as RRTA deems appropriate.

**DBE CERTIFICATION:**

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: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

**ATTACHMENT H**

**Affidavit of Disadvantaged Business Enterprise**

I HEREBY DECLARE AND AFFIRM that I am the \_\_\_\_\_ and the duly authorized representative of (the firm of) \_\_\_\_\_ doing business at \_\_\_\_\_ (include address, city, state and zip code).\_\_\_\_\_

I HEREBY DECLARE AND AFFIRM that the above business is: (check as appropriate)

- \_\_\_\_\_ A firm that is at least 51% owned by one or more individuals who are disadvantaged as defined in 49 CFR Part 26, Subpart D, or
- \_\_\_\_\_ A corporation in which at least 51% of the stock is owned by one or more disadvantaged individuals as defined in 49 CFR Part 26, Subpart D.

And that such firm or corporation has been organized/incorporated since \_\_\_\_\_, 20\_\_ and is controlled by one or more individuals defined as disadvantaged in 49 CFR Part 26, Subpart D.

FURTHERMORE, I HEREBY DECLARE AND AFFIRM that I will provide such additional information as requested by the Red Rose Transit Authority to document this fact as provided for in 49 CFR Part 26, Subparts D and E.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

AFFIANT: \_\_\_\_\_  
DATE: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, known to me to be the person described in the foregoing Affidavit and acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary Public)

My Commission Expires \_\_\_\_\_ (SEAL)

STATE OF: \_\_\_\_\_

COUNTY/CITY OF: \_\_\_\_\_

**ATTACHMENT I**

**DBE SUBCONTRACTOR AND SUPPLIER SOLICITATION SHEET**



## DBE Subcontractor and Supplier Solicitation Sheet

<b>Company Name:</b>		<b>Contract Number:</b>	
<b>Address:</b>		<b>Project Name:</b>	
<b>Telephone:</b>		<b>Prime Contract Bid Amount:</b>	
<b>Fax:</b>		Bidders contact with subcontractors and suppliers should be at least ten (10) days prior to bid date to ensure that solicited firms have sufficient time to adequately prepare a bid.	
<b>Contact Person:</b>			
<b>Email Address:</b>			

**List all DBE firms solicited or who have provided unsolicited quotes as subcontractors or material suppliers**

DBE Subcontractor Name	Address		Type of work to be performed or material to be supplied	Date Contacted		Quote		Amount of Quote
	City, State	Zip Code		Phone	Mail	Yes	No	

* All firms solicited or who have provided unsolicited quotes must be listed on this form. Failure to list such a firm may result in the bidder being declared not responsible.	Sheet may be copied to supply requested information or contractor may use their own form that includes all of the requested information.
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**ATTACHMENT J**

**DBE SUBCONTRACTOR AND SUPPLIER COMMITMENT SHEET**

## DBE Subcontractor and Supplier Commitment Sheet

<b>Company Name:</b>		<b>Contract Number:</b>	
<b>Address:</b>		<b>Project Name:</b>	
<b>Telephone:</b>		<b>Prime Contract Bid Amount:</b>	
<b>Fax:</b>			
<b>Contact Person:</b>			
<b>Email Address:</b>			

DBE Subcontractor Name	Address	Contact Name	Subcontract Work/ Materials	Date Commitment Letter Sent (Attach Copy)	Amount of Commitment
	City, State Zip Code	Telephone	NAICS Code		

<b>Bidders contact with subcontractors and suppliers should be at least ten (10) days prior to bid date to ensure that solicited firms have sufficient time to adequately prepare a bid.</b>	<b>DBE Participation Level Set in Contract Documents:</b>	
	<b>DBE Participation Level Achieved:</b>	

**\* If the DBE participation levels have not been achieved, you must supply additional information, on additional sheets, documenting the good faith efforts made to achieve the goal, which may impact on the determination of your firm as a responsible bidder.**

**Sheet may be copied to supply requested information or contractor may use their own form that includes all of the requested information**

**ATTACHMENT K  
LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

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**Commitment by Bidder/Offeror**

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 \$ \_\_\_\_\_.

By: \_\_\_\_\_  
(Signature) (Title)

\_\_\_\_\_  
(Printed Name) (Date)

**Affirmation by DBE Firm**

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

By: \_\_\_\_\_  
(Signature) (Title)

\_\_\_\_\_  
(Printed Name) (Date)

**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 L**

**DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION**

- (1) Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.
  
- (2) DBE Obligation. The supplier or contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all contractors shall take necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

Failure by the Contractor to carry out these requirements is a material breach of the contract which may result in the termination of this contract or such other remedy as RRTA deems appropriate.

\_\_\_\_\_ DATE

\_\_\_\_\_ SIGNATURE

\_\_\_\_\_ TITLE

**ATTACHMENT M**

**49 CFR PART 26**

**PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN  
DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS**