

**GEORGIA REGIONAL TRANSPORTATION AUTHORITY
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
POLICY STATEMENT**

The Georgia Regional Transportation Authority has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Authority receives Federal financial assistance from the Federal Transit Administration (FTA). As a condition of receiving this assistance, the Authority has signed an assurance that it will comply with 49 CFR Part 26.

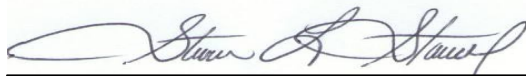
It is the policy of the Authority to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in federal assisted contracts.

It is also our policy--

- To ensure nondiscrimination in the award and administration of federal assisted contracts;
- To create a level playing field on which DBEs can compete fairly for federal assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in federal assisted contracts;
- To assist the development of firms so that they can compete successfully in the market place outside the DBE Program; and,
- To provide appropriate flexibility in establishing and providing opportunities for DBEs.

The Director of Finance and Administration has been designated as DBE Liaison Officer and, as such, is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the FTA.

To this end, the Authority shall not discriminate on the basis of race, color, sex or national origin in the award, administration and performance of any federal assisted contract or in the administration of its DBE Program. The Authority shall take all necessary and reasonable steps to ensure nondiscrimination.



Executive Director, GRTA

February 28, 2007

Date

SUBPART A - GENERAL

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

The Authority is the recipient of federal transit funds authorized by Titles I, III, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178.

Section 26.5 Definitions

The Authority will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The Authority 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, the Authority 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

Reporting to FTA: 26.11(b)

The Authority will report DBE participation on a semi-annual basis, using the Uniform Report of DBE Awards or Commitments and Payments Form. These reports will reflect payments actually made to DBEs on federal assisted contracts.

Bidders List: 26.11(c)

The Authority will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on federal assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

The Authority will collect this data by utilizing a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

Section 26.13 Federal Financial Assistance Agreement

The Authority has signed the following assurances, applicable to all FTA contracts and their administration:

Assurance: 26.13(a)

The Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Authority 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.*).

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

Contract Assurance: 26.13(b)

The Authority will ensure that the following clause is placed in every federal assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The Authority has designated the following individual as our DBE Liaison Officer:

April King
Director of Finance and Administration
245 Peachtree Center Ave., Suite 900
Atlanta, GA 30303
404-463-3050
aking@grta.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Authority complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters.

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

1. Gathers and reports statistical data and other information as required by FTA.
2. Reviews third party contracts and purchase requisitions for compliance with this program.

3. Works with all departments to set overall annual goals.
4. Ensures that procurement solicitations are available to DBEs in a timely manner.
5. Ensures that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment).
6. Analyzes the Authority's progress toward DBE goal attainment and identifies ways to improve progress.
7. Advises the CEO\governing body on DBE matters and achievement.
8. Provides DBEs with information and assistance in preparing bids and proposals.
9. Plans and participates in DBE training seminars.

Section 26.27 DBE Financial Institutions

It is the policy of the Authority 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 federal assisted contract to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

The Authority will include the following clause in each federal assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Authority. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the

subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Authority. This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 Directory

The Authority participates in the Unified Certification Program (UCP) with the Georgia Department of Transportation (GDOT). As such, GDOT is responsible for

maintaining a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The DBE directory is revised at least quarterly. The Directory is available at GDOT's website, www.dot.state.ga.us or by contacting:

GDOT
Equal Opportunity Division
No. 2 Capital Square, SW
Atlanta, GA 30334
404-656-5323

Section 26.33 Overconcentration

The Authority has not identified that an overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Authority has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The Authority will utilize the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The Authority will bring to the attention of the FTA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA 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 in 26.109.
2. The Authority will consider similar action under its own legal authorities, including responsibility determinations in future contracts.
3. The Authority will utilize monitoring and enforcement mechanisms to verify that work committed to DBEs at contract award is actually performed by the DBEs.
4. The Authority will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Authority does not use set-asides or quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

In accordance with Section 26.45(f) the Authority will submit its overall goal to FTA on August 1 of each year. Before establishing the overall goal each year, the Authority will consult with appropriate officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Authority's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the Authority will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its principal office for 30 days following the date of the notice, and informing the public that the Authority will accept comments on the goal for 45 days from the date of the notice. Notices may be placed on the Authority's website, in trade publications, newspapers, and available minority-focus media. Normally, the Authority will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposed goal may be reviewed.

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

The Authority will begin using its overall goal on October 1 of each year, unless the Authority has received other instructions from FTA. If the Authority establishes a goal on a project basis, the Authority will begin using the goal by the time of the first solicitation for a federal assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goals

The Authority will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of Section 26.49. Alternatively, the Authority may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51(d-g) Contract Goals

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

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

The Authority will express its contract goals as a percentage of the Federal share of a federal-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

When a contract goal is used, the obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

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

The Authority will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before it commits to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

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

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

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor to meet a contract goal;

5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d))

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

Jim Ritchey
Deputy Director
245 Peachtree Center Ave., Suite 900
Atlanta, GA 30303
404-463-3000
jritchey@grta.org

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

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror 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 Authority will send the bidder/offeror 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 subject to administrative appeal to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

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

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

Failure to comply with the requirements of this section will result in administrative remedies as needed.

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Authority participates in a Unified Certification Program (UCP) with the Georgia Department of Transportation (GDOT). As such, GDOT is responsible for certifying DBEs. GDOT uses the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certification decisions are made based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

GDOT
Equal Opportunity Division
No. 2 Capital Square, SW
Atlanta, GA 30334
404-656-5323
www.gdot.state.ga.us

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Authority is a member of the Unified Certification Program (UCP) of the State of Georgia, administered by GDOT. The UCP meets all of the requirements of Section 26. GDOT is responsible for coordination and certification of DBEs, as well as promoting and maintaining the DBE directory.

Section 26.83 Procedures for Certification Decisions

GDOT has the responsibility for determining whether a DBE firm meets the standards of subpart D of this part.

Once certified as a DBE, certification shall remain in effect for a period of at least three years unless and until its certification has been removed through the

procedures of part 26.87. DBEs will not be required to reapply for certification as a condition of continuing to participate in the program during this three year period, unless the factual basis on which the certification was made changes.

"No Change" Affidavits and Notices of Change (26.83(j))

DBEs are required to inform GDOT, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with their application for certification.

DBEs are also required to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of part 26.83(j). This affidavit must affirm there have been no changes in the firm's circumstance affecting its ability to

meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which GDOT has been notified. DBEs are required to submit with this affidavit documentation of the firm's size and gross receipts.

Section 26.86 Denials of Initial Requests for Certification

If a firm's application is denied or decertified it, it may not reapply until 12 months have passed from the action.

Section 26.87 Removal of a DBE's Eligibility

In the event a DBE's certification is proposed to be removed, GDOT will follow procedures consistent with part 26.87.

When GDOT notifies a firm that there is a reasonable cause to remove its eligibility, GDOT will give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

GDOT will ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

Section 26.89 Certification Appeals

Any firm or complainant may appeal GDOT's decision in a certification matter to USDOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 2104
Washington, D.C. 20590

Appeals should be made within 90 days of the date of GDOT's final decision including information and arguments concerning why GDOT's decision should be reversed.

GDOT will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for the Authority's DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The Authority will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

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

Monitoring Payments to DBEs

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

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