

**RIVER PARISHES TRANSIT AUTHORITY
DBE PROGRAM**

**APPROVED BY RPTA BOARD ON MAY 20, 2009
DRAFT REVISIONS ON JULY 20, 2012
FINAL REVISIONS APPROVED MAY 8, 2014**

POLICY STATEMENT

Objectives/Policy Statement

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

It is the policy of the RPTA to ensure that DBEs, as defined by 49 CFR Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-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 DOT assisted contracts;
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Stacy Van Sickle, Director of Transit Services for RPTA’s Accounting and Oversight Consultant, Solutient, has been delegated as the DBE Liaison Officer. In that capacity, Solutient 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 RPTA in its financial assistance agreements with the Department of Transportation.

This policy statement has been disseminated to the RPTA Board of Directors and its primary contract transit operator, Veolia Transportation, Inc., and to GCR, Incorporated, RPTA’s grant management and transit planning consultant. RPTA will distribute this statement to DBE and non-DBE business communities that perform work for it on DOT-assisted contracts. The policy statement will be distributed in all requests for proposals, bids, and other solicitations for work to be performed through DOT assisted contracts. Furthermore, the policy will be posted on the RPTA website.



Chairman

5/8/14

Date

GENERAL REQUIREMENTS

Objectives

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

Applicability

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

Definitions *Note: additional definitions are provided in 49CFR26*

Disadvantaged business enterprise or DBE means a for-profit small business concern—

- 1 That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- 2 Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

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

Non-discrimination Requirements

The RPTA 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 RPTA 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.

Record Keeping Requirements

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

RPTA will report DBE participation to FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

Reporting to DOT: 26.11(b)

RPTA will report DBE participation to the FTA on a semi-annual basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

The RPTA will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. RPTA will use the Louisiana Department of Transportation and Development DBE database to assist it in preparing such a bidders list. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

RPTA will collect this information in the following way; through inclusion of a contract clause requiring prime bidders to report the names/addresses and type of DBE (women owned business or minority owned business), of all firms who quote to them on subcontracts.

Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

“RPTA 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 RPTA of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).”

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

Contract Assurance: 26.13b

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

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

This language is to be used verbatim.

ADMINISTRATIVE REQUIREMENTS

DBE Program Updates

Since the RPTA 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 DOT financial assistance have been expended. RPTA will provide to DOT updates representing significant changes in the program.

Policy Statement

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

DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Stacy Van Sickle
The Solutient Corporation
330 N Carrollton Ave
New Orleans, LA 70119
504-304-2000
svansickle@solutient.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the RPTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the RPTA Board concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of three persons who will assist in the administration of the program. The duties and responsibilities include 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.
- Works with all departments to set overall annual goals.
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
- Analyzes RPTA's progress toward attainment and identifies ways to improve progress.
- Participates in pre-bid meetings.
- Advises the CEO/governing body on DBE matters and achievement.
- Chairs the DBE Advisory Committee.
- Participates in pre-bid meetings.
- Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- Plans and participates in DBE training seminars.
- Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Louisiana.
- Provides outreach to DBEs and community organizations to advise them of opportunities.
- Maintains the RPTA's updated directory on certified DBEs.

DBE Financial Institutions

It is the policy of the RPTA 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 contract to make use of these institutions. RPTA contacted the Louisiana Office of Financial Institutions and also checked the Federal Deposit insurance Corporation website and learned that there is only one Minority Owned Business financial institution in Louisiana and it does not have branches in the RPTA service area. We will also re-evaluate the availability of

DBE financial institutions for regular re-evaluation every 3 years. To date we have identified the following such institutions:

Liberty Bank and Trust
PO Box 60131
New Orleans, LA 70160-0131

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

Prompt Payment Mechanisms

The RPTA will include the following clause in each DOT-assisted prime contract:

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

Retainage

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 from the above referenced time frame may occur only for good cause following written approval of the RPTA. This clause applies to both DBE and non-DBE subcontracts.”

Monitoring and Enforcement Mechanisms: 26.37

The RPTA will take the following steps in monitoring and enforcement to ensure that prompt payment and return of retainage is in fact occurring in compliance with 49 CFR Part 26.

1. RPTA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take 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 Part 26.109.
2. RPTA will consider similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to RPTA in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. RPTA will provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by through onsite inspections and interviews with DBE contractors and subcontractors, and will occur for each contract/project on which DBEs are participating.
4. RPTA will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Small Business Participation: 26.39

RPTA, as an FTA recipient, created this element of the DBE program to increase small business participation in procurements. RPTA proposes to accomplish this through eliminating obstacles to small business participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontracts in direct response to regulatory requirements.

Certification

RPTA will adhere to the definitions set forth by the Louisiana Department of Transportation and Development (LADOTD) of what constitutes a small business enterprise (SBE). A SBE refers to a for-profit business that is at least 51% owned by an economically disadvantaged individual and whose company meets the small business concern definition. Economically disadvantaged is to mean that a business owner's personal net worth (PNW), excluding the primary residence and ownership interest in the applicant business, cannot exceed \$1.32 million in accordance with 49 CFR 26.67. A small business concern is defined pursuant to 13 CFR Part 121 and also does not exceed the cap on average annual gross receipts of \$22.4 million as specified in 49 CFR 26.65 (b). To determine if a contractor is a SBE, RPTA will request state certification from all successful bidders on procurements. RPTA will also check the SBE directory on the LADOTD website when it is made available. RPTA's small business participation program is race-neutral.

Strategy

As a small, partially rural-based demand-response transit service, RPTA rarely awards prime contracts, particularly for potentially bundled capital projects. However, RPTA will monitor future contracting opportunities to set aside portions that SBE's can reasonably compete for and perform. Examples of these types of opportunities include procurement of supplies and components as well as the small miscellaneous professional services contractors RPTA uses for audits, legal services, etc. RPTA will examine these bidding opportunities on a rolling basis as existing contracts expire; beginning immediately upon adoption of this program by the RPTA board.

Directory

The Louisiana DOTD maintains a DBE Directory for Federal Aid programs on its website. The directory lists the firm's name, address, phone number, date of the most recent certification, state license number and the type of work the firm has been certified to perform as a DBE. The Directory is updated monthly. RPTA plans to use this directory as a guide in reaching eligible DBE's for inclusion in contracting opportunities. The Directory can be found online at <http://www.dotd.la.gov/administration/compliance/home.asp?PID=21>

The State of Louisiana also maintains the Louisiana Unified Certification Program (LA UCP) for Disadvantaged Business Enterprises (DBE). The purpose of the Unified Certification Program (UCP) is to certify small socially and economically disadvantaged businesses who are prequalified as DBE available for contracting opportunities. On its website at <http://www8.dotd.louisiana.gov/ucp/> the LA UCP provides the public with access to their UCP Directory Search, which allows a user to find a Certified DBE Company by Company Name, Region, parish, type of service and/or type of work performed. RPTA plans to also use this directory as a guide in reaching eligible DBE's for inclusion in contracting opportunities. It should be noted that, to the extent an inconsistency may exist between the States UCP Plan and Process and 49 CFR 23 and 26, as amended; 49 CFR 23 and 26, as amended, shall control.

Overconcentration

RPTA has not at this time identified the existence of overconcentration in the types of work that DBEs perform.

Business Development Programs

RPTA has not established a business development program. [Recipient] has not established a business development program. RPTA will re-evaluate the need for such a program every three (3) years.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas

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

Overall Goals

Goal Formulation

In accordance with Section 26.45, the RPTA will submit its triennial overall DBE goal to FTA on August 1 of the year specified by the FTA. RPTA will utilize the process established in Section 26.45(c)-(d), whereby it will establish a base figure of the relative availability of DBEs to perform work on your DOT-assisted contracts, and then adjust the goal as necessary based on additional market information in our area. The process generally used by the RPTA to establish overall DBE goals is as follows:

RPTA's overall goal will be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on DOT-assisted contracts. The goal will therefore reflect RPTA's determination of the level of DBE participation it would expect absent the effects of discrimination.

Step 1. RPTA will begin the goal setting process by determining a base figure for the relative availability of DBEs. Percentage figures derived are considered a basis from which to begin when examining all evidence available in RPTA's jurisdiction.

Step 2. Having calculated a base figure, RPTA will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at our overall goal.

Having determined a percentage figure RPTA will express our overall goal as a percentage of all FTA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that it will expend in FTA assisted contracts in the three forthcoming fiscal years.

Consultation with Others

Before establishing the overall goal each year, the RPTA will consult with minority, women's and general contractor groups, community organizations, local chambers of commerce, and the Louisiana Department of Transportation and Development Compliance Programs Home to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the RPTA efforts to establish a level playing field for the participation of DBEs.

Notice

Following this consultation, RPTA will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its principal office and on its website for 30 days following the date of the notice, and informing the public that RPTA and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will be provided on the RPTA website and in local newspapers. Normally, RPTA will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The RPTA overall goal submission to DOT will include a summary of information and comments received during this public participation process and any RPTA responses thereto.

The annual overall goal will be effective on October 1 of each year, unless otherwise instructed by DOT. The time frame for use of goals established on a project basis will begin at the time of the first solicitation for a DOT-

assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

Goal Setting and Accountability

If the RPTA's awards and commitments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish and implement a corrective action plan with specific steps and milestones to correct the problems identified in the analysis; and
3. Maintain information/records regarding the analysis and efforts made.

Transit Vehicle Manufacturers Goals

RPTA purchases its vehicles through state DOTD contracts. RPTA will review the state contract for certification with the requirements of this section and maintain such certification on file. Should RPTA purchase vehicles outside of the normal state contract, it may at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of such transit vehicles.

Overall Goals/Contract Goals

The RPTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, RPTA will ensure distribution of DOTD's DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

The RPTA will use contract goals to meet any portion of the overall goal RPTA 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.

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

We will express our contract goals as a percentage of [total amount of a DOT-assisted contract] or [the Federal share of a DOT-assisted contract].

Good Faith Efforts Procedures

Demonstration of good faith efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Attachment 6.

The General Manager is responsible for determining whether a bidder/offeror has not met the contract goal and has documented sufficient good faith efforts to be regarded as responsive.

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

Information to be submitted

RPTA 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:

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

Administrative reconsideration

Within 30 days of being informed by RPTA 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:

Chairman
River Parishes Transit Authority
P. O. Box 2444
LaPlace Louisiana 70069-2444

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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. RPTA 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 administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is terminated/replaced on a contract

RPTA requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without RPTA's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to RPTA its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to RPTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise RPTA of why it objects to the proposed termination. The five day period may be reduced if the matter is one of public necessity e.g., safety.

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

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

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

Sample Bid Specification:

“The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the [Name of Recipient] 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. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

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

[Note: When a contract goal is established pursuant to the recipient’s DBE program, the sample bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found at Attachment 4 can be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both nonconstruction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.]

Counting DBE Participation

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

CERTIFICATION PROCEDURES

Unified Certification Programs

RPTA is a member of a Unified Certification Program (UCP) administered by the Louisiana Department of Transportation and Development (LaDOTD). The UPC meets all of the requirements of the 49 CFR 26. The Compliance Programs Section of LaDOTD is responsible for developing, implementing and administering LaDOTD compliance programs as mandated by federal and state civil rights laws, regulations and administrative procedures. Programs include: the Disadvantaged Business Enterprise Program which consist of, The Certification Unit (Unified Certified Program) and The Contract Administration Unit, The Title VI Program, The Contract Compliance Program and The Labor Compliance Program. The office certifies DBE's and maintains a listing of certified DBE that includes the company name, address, telephone, contact name and type of work performed. Information on applying for certification, the certification process and the database can be found at the LaDOTD website as follows:

<http://www.dotd.la.gov/administration/compliance/>.

Procedures for Certification Decisions: 26.83-26.91

RPTA will follow the certification processes of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. A copy of LADOTD's UCP certification procedures is included in Attachment B.

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

Remy Graves
Louisiana Department of Transportation and Development
P.O. Box 94245
Baton Rouge, LA 70804-9245
(225) 379-1382
Remy.graves@la.gov

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

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

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

COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation

RPTA will safeguard from disclose 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, RPTA will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

We 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 RPTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

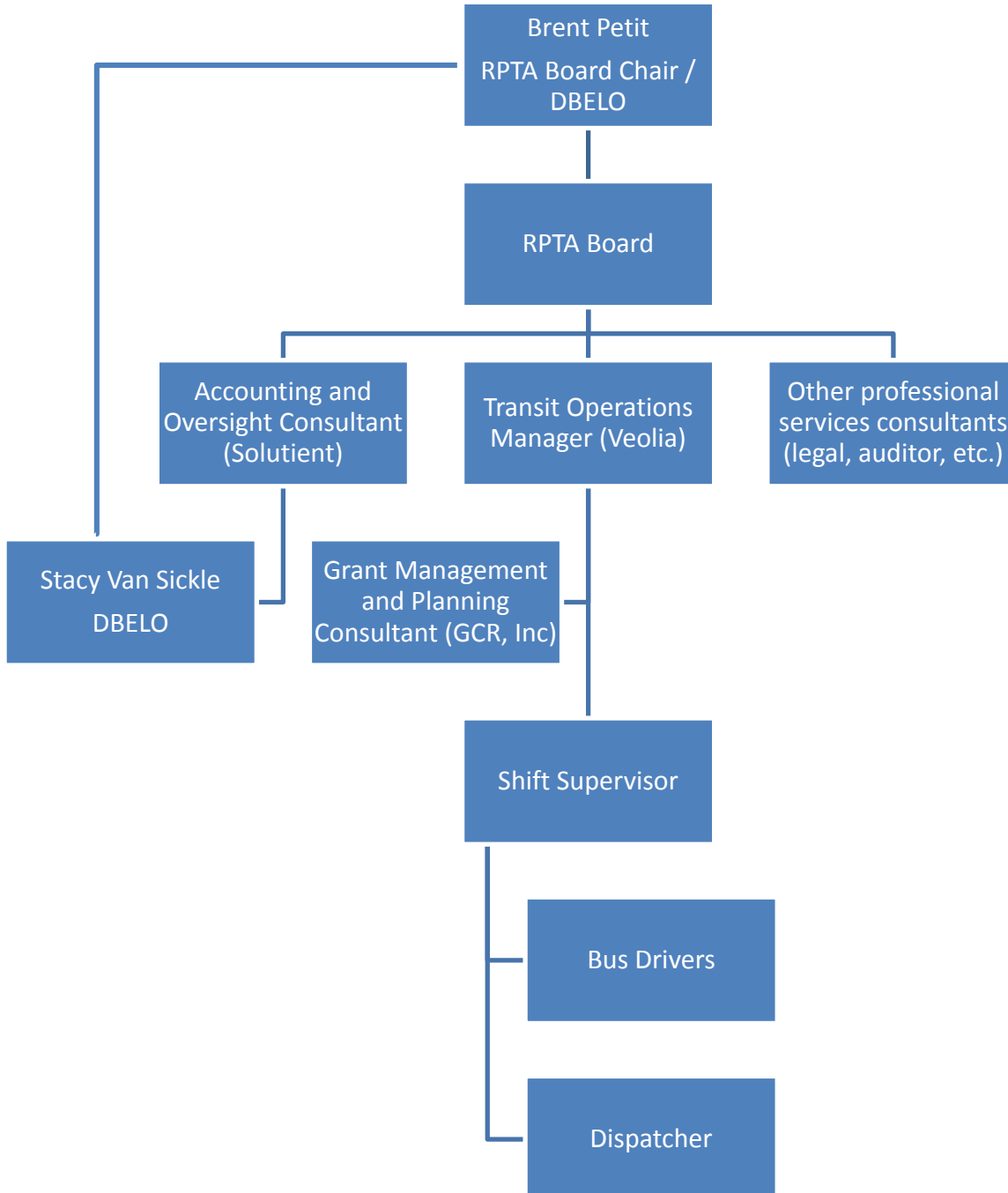
RPTA will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENTS

- Attachment 1: Organizational Chart
- Attachment 2: DBE Directory and LADOTD UCP Procedures
- Attachment 3: Monitoring and Enforcement Mechanisms/Legal Remedies
- Attachment 4: Overall Goal Calculation
- Attachment 5: Good Faith Efforts Forms
- Attachment 6: Certification Forms
- Attachment 7: Regulations: 49 CRR part 26

REFERENCES: 49 CFR Part 26 and a Sample DBE Program retrieved on July 20, 2012 from the U. S. Department of Transportation website http://fta.dot.gov/documents/Sample_DBE_Program.Pilot.pdf

Attachment 1
RPTA Organizational Chart



Attachment 2

DBE Directory

The Louisiana DOTD maintains a DBE Directory for Federal Aid programs on its website. The directory lists the firm's name, address, phone number, date of the most recent certification, state license number and the type of work the firm has been certified to perform as a DBE. The Directory can be found online at <http://www.dotd.la.gov/administration/compliance/home.asp?PID=21>

LA UCP

The State of Louisiana also maintains the Louisianan Unified Certification Program (LA UCP) for Disadvantaged Business Enterprises (DBE). The purpose of the Unified Certification Program (UCP) is to certify small socially and economically disadvantaged businesses who are prequalified as DBE available for contracting opportunities. On its website at <http://www8.dotd.louisiana.gov/ucp/> the LA UCP provides the public with access to their UCP Directory Search, which allows a user to find a Certified DBE Company by Company Name, Region, parish, type of service and/or type of work performed.

Attachment 3

Monitoring and Enforcement Mechanisms

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

- Breach of contract action, pursuant to the terms of the contract;
- Breach of contract action, pursuant to appropriate state laws and federal requirements; and
- Any and all other laws, statutes, regulations, etc. available to enforce the DBE requirements.

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

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

Attachment 4

Overall Goal Calculation

Amount of Goal

RPTA's overall goal for federal FY 2012 through federal FY 2013 is: 3% of the Federal Financial assistance expended in DOT-assisted contracts exclusive of FTA funds to be used for the purchase of transit vehicles.

Methodology used to Calculate Overall Goal

Step 1:

Determine the base figure for the relative availability of DBEs.

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

Base figure (6%) = Ready, willing, and able DBEs (47) / All firms ready, willing and able (817)

The data source or demonstrable evidence used to derive the numerator was: LA DOTD Ready, Willing and Able database.

The data source or demonstrable evidence used to derive the denominator was: LA DOTD Ready, Willing and Able database.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 6%.

Step 2:

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal. In order to reflect as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure as follows.

The methodology RPTA used to determine the adjustment to the base figure of the DBE goal was that after a review of the FTA guidance we contacted other transit agencies in the region like Good Earth Transit in Houma, LA and St. Bernard Parish Transit to see what they had done. The information gathered was incorporated into a DBE Policy file for future reference. We also conferred with William Jones at FTA and looked at the State DOTD DBE policies. The first time we embarked upon this DBE goal setting process the RPTA had just begun operations and had no history so we recommended the state program goal of 10% not knowing what kind and how many contracts might be issued by RPTA. Since RPTA has now been in operation for a few years now we had a better handle on the amount of work that might be contracted out by RPTA. As per FTA regulations we only report primes with contracts over \$250,000. Veolia, our operator indicated their total subcontract amount is \$111,675 of which 2 were potential DBEs, but neither qualified at the time. Their contract amount was 3.7% of the total subcontract amounts. This amount seemed in line with the St. Bernard operation which had a similar size budget to RPTA but who contract out very little work. The goal is determined by the estimated number of contracts that are expected to be awarded in a coming year and the availability of DBEs to provide the forecasted services/purchases needed. Since contracts for buses are not included in the calculations we had to determine how much might actually be contracted out in contracts totaling over \$250,000. We joined the state's unified certification program so that if someone who is a potential MBE/WBE wants to be certified, they can do so through DOTD's process. We look for potential MBE/WBEs on the DOTD online database and include them when we are obtaining quotes, etc. and include these firms in our direct mail of a request for cost proposals, keeping this as your documentation to achieve the goal or implement the program. Our accounting staff performed an analysis showing a total for contract services of \$26,370.97, except for operations as provided by

Veolia. Using this and Veolia's information about the potential subcontracts under their contract came up with a forecast of what might be a realistic DBE goal of 3%, advertised it in the official journal of record, the L'Observateur for our area and after the appropriate comment period during which the RPTA received no comments from any individuals or organizations as a result of the publication of the proposed goal, presented it to the RPTA Board of Directors for adoption. Adoption of the goals can be found in the minutes of the Board meeting.

Public Participation

RPTA published its goal in the following publications:

- L'Observateur
- St. Charles Herald Guide
- The News Examiner
- The Enterprise

RPTA received comments from these individuals or organizations:

Summaries of these comments are as follows:

RPTA responses to these comments are:

Attachment 5

DBE Utilization Forms 1 and 2 for Demonstration of Good Faith Efforts

Forms 1 and 2 will be provided in all RPTA solicitation documents.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION FORM 1

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

DBE UTILIZATION FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Attachment 6

DBE Certification

Louisianan Unified Certification Program (LA UCP) for Disadvantaged Business Enterprises (DBE)
The purpose of the Unified Certification Program (UCP) is to certify small socially and economically disadvantaged businesses who are prequalified as DBE available for contracting opportunities.

On its website at <http://www8.dotd.louisiana.gov/ucp/> the LA UCP provides the public with access to the State's UCP agreement, certification procedures and the following forms for certification of businesses as DBEs.

- Uniform Certification Application
- Instructions For Completing Application
- Supporting Documents Checklist
- Mailing Instructions
- Personal Net Worth Form

**Attachment 7
Title 49 Section 26**

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=4b281b474adf6c7110b5be7719c5c1ec;rgn=div5;view=text;node=49%3A1.0.1.1.20;idno=49;cc=ecfr#49:1.0.1.1.20.2.16.10>

e-CFR Data is current as of July 19, 2012

Title 49: Transportation

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

Section Contents

Subpart A—General

- § 26.1 What are the objectives of this part?
- § 26.3 To whom does this part apply?
- § 26.5 What do the terms used in this part mean?
- § 26.7 What discriminatory actions are forbidden?
- § 26.9 How does the Department issue guidance and interpretations under this part?
- § 26.11 What records do recipients keep and report?
- § 26.13 What assurances must recipients and contractors make?
- § 26.15 How can recipients apply for exemptions or waivers?

Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

- § 26.21 Who must have a DBE program?
- § 26.23 What is the requirement for a policy statement?
- § 26.25 What is the requirement for a liaison officer?
- § 26.27 What efforts must recipients make concerning DBE financial institutions?
- § 26.29 What prompt payment mechanisms must recipients have?
- § 26.31 What information must you include in your DBE directory?
- § 26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?
- § 26.35 What role do business development and mentor-protégé programs have in the DBE program?
- § 26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?
- § 26.39 Fostering small business participation.

Subpart C—Goals, Good Faith Efforts, and Counting

- § 26.41 What is the role of the statutory 10 percent goal in this program?
- § 26.43 Can recipients use set-asides or quotas as part of this program?
- § 26.45 How do recipients set overall goals?
- § 26.47 Can recipients be penalized for failing to meet overall goals?
- § 26.49 How are overall goals established for transit vehicle manufacturers?

- § 26.51 What means do recipients use to meet overall goals?
§ 26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?
§ 26.55 How is DBE participation counted toward goals?

Subpart D—Certification Standards

- § 26.61 How are burdens of proof allocated in the certification process?
§ 26.63 What rules govern group membership determinations?
§ 26.65 What rules govern business size determinations?
§ 26.67 What rules determine social and economic disadvantage?
§ 26.69 What rules govern determinations of ownership?
§ 26.71 What rules govern determinations concerning control?
§ 26.73 What are other rules affecting certification?

Subpart E—Certification Procedures

- § 26.81 What are the requirements for Unified Certification Programs?
§ 26.83 What procedures do recipients follow in making certification decisions?
§ 26.85 Interstate certification.
§ 26.86 What rules govern recipients' denials of initial requests for certification?
§ 26.87 What procedures does a recipient use to remove a DBE's eligibility?
§ 26.89 What is the process for certification appeals to the Department of Transportation?
§ 26.91 What actions do recipients take following DOT certification appeal decisions?

Subpart F—Compliance and Enforcement

- § 26.101 What compliance procedures apply to recipients?
§ 26.103 What enforcement actions apply in FHWA and FTA programs?
§ 26.105 What enforcement actions apply in FAA programs?
§ 26.107 What enforcement actions apply to firms participating in the DBE program?
§ 26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?
Appendix A to Part 26—Guidance Concerning Good Faith Efforts
Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form
Appendix C to Part 26—DBE Business Development Program Guidelines
Appendix D to Part 26—Mentor-Protégé Program Guidelines
Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage
Appendix F to Part 26—Uniform Certification Application Form

Authority: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.*; 49 U.S.C. 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105-178, 112 Stat. 107, 113.

Source: 64 FR 5126, Feb. 2, 1999, unless otherwise noted.