

ADDISON COUNTY TRANSIT
RESOURCES
(ACTR)

DISADVANTAGED BUSINESS
ENTERPRISE
PROGRAM
(DBE)

Developed July 2010



**ACTR POLICY STATEMENT
re Disadvantaged Business Enterprises (DBE)**

Addison County Transit Resources, Inc. (ACTR) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT).

ACTR has received Federal financial assistance from the Department of Transportation and, as a condition of receiving this assistance, ACTR has signed an assurance that it will comply with Section 49 CFR Part 26.

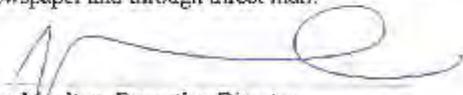
It is the policy of ACTR to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Help remove barriers to the participation of DBEs in DOT-assisted contracts;
5. Assist the development of firms that can compete successfully in the market place outside the DBE Program.

Gordon Marsh, has been designated as the DBE Liaison Officer (hereinafter "DBELO").

In that capacity, the DBELO 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 ACTR in its financial assistance agreements with the Department of Transportation.

This policy statement was adopted by the ACTR Board of Directors on July 9, 2010. ACTR has disseminated this policy statement to the Board of Directors and all managers of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT assisted contracts through legal notices published in a local newspaper and through direct mail.


Jim Moulton, Executive Director

7/9/10
Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

Addison County Transit Resources (ACTR) is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

ACTR will adopt the definitions contained in Section 26.5 for this program (see Attachment 1).

Section 26.7 Non-discrimination Requirements

ACTR 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, ACTR 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 DOT: 26.11(b)

We will report DBE participation to DOT as follows:

We 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 DOT-assisted contracts.

Bidders List: 26.11(c)

ACTR 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 approach to calculate overall goals. The bidder list will include the name, address, DBE or non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

Bidders list will be created by 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

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

Assurance: 26.13(a)

ACTR 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 ACTR 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.*).

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

Contract Assurance: 26.13b

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

Contract Assurance

The contractor 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 ACTR deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since ACTR has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT 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)

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

Gordon Marsh
Addison County Transit Resources
PO Box 532, 282 Boardman Street
Middlebury, Vermont 05753
Telephone 802-388-1946
Fax 802-388-1888
gordon@actr-vt.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the ACTR complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent

access to the Executive Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

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 DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual DBE goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. 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.
6. Analyzes ACTR's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Refers DBEs to Vermont Agency of Transportation for certification according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Vermont.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains ACTR's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of ACTR 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.

We have made the following efforts to identify and use such institutions: a) telephone book and internet search for all financial intuitions in Addison County; b) review of financial intuitions with less than \$175M in assets; and c) review of ownership to determine potential DBE status. There were two institutions meeting the financial threshold but they are not owned and controlled by DBE's or persons with potential DBE status.

Section 26.29 Prompt Payment Mechanisms

ACTR 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 15 days from the receipt of each payment the prime contractor receives from ACTR. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ACTR. This clause applies to both DBE and non-DBE subcontractors.

Sanctions/consequences of noncompliance with the prompt payment clause may include:

1. Requiring documentation of all payment to subcontractors for all previous payments from ACTR to the prime contractor before any future payments from ACTR to the prime contractor are made.
2. Termination of contract for Default

3. Prohibiting prime contractor from bidding on any future ACTR contracts.

ACTR will ensure that the prompt payment clause of the contract is enforced by:

1. Requiring prime contractors (in sub-contracts in excess of \$10,000), to provide subcontractors with all contract provisions, including the prompt payment provision.) Essentially, ensuring that subcontractors are knowledgeable of the prompt payment requirement.
2. Because our contract requires prompt payment by the prime contractor to the subcontractor, the subcontractor is entitled to prompt payment. Because subcontractors will be aware of this right, and it is in their greatest financial interest to assure that this right is respected, we believe it is reasonable to expect that subcontractors not receiving prompt payment will contact ACTR.
3. If ACTR is contacted by a subcontractor regarding possible violation of the prompt payment clause by the prime contractor we will make inquiries to the prime contractor. Depending on the response from the prime contractor, ACTR may implement the sanctions/consequences listed in the above section.

Legal and Contract Remedies

In the event a prime contractor fails to comply with its stated contract goals, and cannot show that a good faith effort has been made to do so, ACTR shall initiate the following actions:

1. If there are any findings deemed to be fraudulent or dishonest conduct on the part of the prime contractor in connection with the DBE program associated with the contract, ACTR will notify the Department of Transportation's Inspector General, who in turn under 49 CFR 26 may sanction criminal prosecution, action under suspension and debarment or Program Fraud and Civil Penalties rule provided in 26.109.
2. ACTR will also consider similar action under our own legal authorities, including responsibility determination in future contracts. Such actions can include termination for default or prohibition from bidding on future ACTR contracts.

Monitoring and Enforcement Mechanisms

Prime contractors must maintain records and documents of payments to DBEs for three years following the completion of the contract. These records will be made available for inspection upon request by any authorized representative of ACTR or DOT. This requirement also extends to any certified DBE subcontractor.

DBE Financial Institutions

ACTR encourages all prime contractors to use the financial service institutions owned and controlled by socially and financially disadvantaged groups. ACTR maintains a list of such institutions and will provide it to any contractors interested in utilizing them.

All prime contractors will include the above statements in this section in all subcontracts over \$10,000.

Section 26.31 Directory

Vermont Agency of Transportation (VTrans) maintains 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. VTrans revises the

directory at least annually. The Directory may be found at the web site below or through the contact information listed below. <http://www.aot.state.vt.us/CivilRights/Documents/WEBDBEREGISTRYFULL.pdf>

Vermont Agency of Transportation
Colleen Montague, DBE Program Manager
Office of Civil Rights & Labor Compliance
National Life Bldg., - Drawer 33
Montpelier VT 05633-5001
Tel: (802) 828-2715 Fax:(802) 828-1047
E-mail: Colleen.Montague@state.vt.us

Section 26.33 Overconcentration

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

Section 26.35 Business Development Programs

ACTR has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. We 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 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Section 26.29, Prompt Payment Mechanisms lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by meeting with the DBE firms at their place of business, observing their work in progress at the jobsite, and observing the reporting relationships of any staff of the DBE.
4. We 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

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 2 to this program. This section of the program will be updated ever three years.

In accordance with Section 26.45(f) ACTR will submit its overall goal to DOT on August 1 of every three years.

Before establishing the overall goal every three years, ACTR will consult with the groups and individuals noted in the goal to obtain information concerning the availability of disadvantaged and non-

disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and ACTR's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we 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 our principal office for 30 days following the date of the notice, and informing the public that ACTR and DOT will accept comments on the goals for 45 days from the date of the notice. The notice is posted in publications as noted in the overall goal and goal calculations. Normally, we will issue this notice by June 1 of each year we submit an updated DBE program. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers (TVM) Goals

ACTR will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, ACTR 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(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 2 to this program.

Section 26.51(d-g) Contract Goals

If ACTR projects that it will not be able to meet its goals using race-neutral means, ACTR will use contract goals to meet any portion of the overall goal which will not be met 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 the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

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.

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

Information to be submitted (26.53(b))

ACTR treats bidder/offerors' 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 whose participation it submits 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 5 days of being informed by ACTR 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 Moulton Addison County Transit Resources, PO Box 532, 282 Boardman Street, Middlebury, Vermont 05753, jim@actr-vt.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 our Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We 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 replaced on a contract (26.53(f))

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

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

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 ACTR 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 3 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.]

Section 26.55 Counting DBE Participation

We 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 Unified Certification Program Manager, the Vermont Agency of Transportation, will use 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. We will make our certification decisions based on the facts as a whole.

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

Vermont Agency of Transportation
Colleen Montague, DBE Program Manager
Office of Civil Rights & Labor Compliance
National Life Bldg., - Drawer 33
Montpelier VT 05633-5001
Tel: (802) 828-2715 Fax:(802) 828-1047
E-mail: Colleen.Montague@state.vt.us

Our certification application forms and documentation requirements are found in Attachment 5 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

ACTR is the member of a Unified Certification Program (UCP) administered by the Vermont Agency of Transportation. The UCP will meet all of the requirements of this section. The UCP agreement is available at <http://www.aot.state.vt.us/civilrights/Documents/UCP.pdf>.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

Through the UCP, we will ensure that all DBEs that we certified under former Part 23, were reviewed to make sure that they will meet the standards of Subpart E of Part 26.

For firms that we have certified or reviewed and found eligible under Part 26, we will again review their eligibility annually. These reviews will include the following components: To renew eligibility DBE's are required to file a "no change" affidavit, tax return and, if out of state, proof of current home state eligibility.

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

We require all DBEs to inform the UCP, 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 the Vermont UCP application for certification.

Through the UCP, we also require all owners of all DBEs we have certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [*name of DBE firm*] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [*name of DBE*]'s application for certification, except for any changes about which we have provided written notice to the [*Recipient*] under 26.83(j). [*Name of firm*] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.

Through our UCP, we require DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

Through our UCP, we have notified all currently certified DBE firms of these obligations. This notification has informed DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Denials of Initial Requests for Certification

If we deny a firm's application or decertify it, it may not reapply until 90 days have passed from our action.

Section 26.87 Removal of a DBE's Eligibility

In the event we propose to remove a DBE's certification, our UCP will follow procedures consistent with 26.87.

Section 26.89 Certification Appeals

Any firm or complainant may appeal our decision in a certification matter to DOT. 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

We 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).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

We will safeguard, and refrain from disclosing 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, we 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.

ATTACHMENTS

- | | |
|--------------|--|
| Attachment 1 | Regulations: 49 CFR Part 26 |
| Attachment 2 | Organizational Chart |
| Attachment 3 | Overall Goal Calculation and Breakout of Estimated Race-Neutral & Race-Conscious Participation |
| Attachment 4 | DBE Directory |
| Attachment 5 | Form 1 & 2 for Demonstration of Good Faith Efforts |
| Attachment 6 | Certification Application Forms |

Attachment 1

Regulations: 49 CFR Part 26

http://www.access.gpo.gov/nara/cfr/waisidx_08/49cfr26_08.html

Attachment 2

Organizational Chart

					Board of Directors				
					Executive Director				
	Operations Manager			Finance Manager/ DBELO		Community Relations Manager		Program Manager	
Operations Assistant		Vehicle Maintenance		Finance Assistant		Community Relations Assistant	Volunteer Coordinator		Dispatchers
	Staff Drivers							Volunteer Drivers	

Attachment 3

Overall Goal Calculation and Breakout of Estimated Race-Neutral & Race-Conscious Participation

Addison County Transit Resources (ACTR) FFY 2011, 2012 and 2013 DBE Goal

In Federal FY's 2011, 2012, and 2013, ACTR intends to expend 2.60% of the federal financial assistance received from the Federal Transit Administration with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). It is the intent of ACTR that these expenditures are obtained through race-neutral means.

Goal Methodology:

Step 1: Base Figure for the Relative Availability of DBEs

ACTR will use Method 1 (DBE Directories and Census Bureau Data) to calculate its base figure. ACTR will use the DBE Directory maintained by the Vermont Agency of Transportation (VTrans).

The other three acceptable methods for establishing the base figure were considered but not used for the following reasons:

- 1) *Use a bidders list* – ACTR maintains a bidders list as an ongoing process. Given ACTR's past absence of procurements for construction and development related services, there is no DBE or other business participation in such bids. Depending on this method would result in a lower DBE goal than using the preferred method.
- 2) *Use data from a disparity study* – No relevant disparity studies have been conducted within the State of Vermont's jurisdiction.
- 3) *Use the goal of another DOT recipient* – ACTR considered using the goal of VTrans as its base figure, but found Method 1 to produce a more meaningful basis for the type of activities that ACTR pursues.

Following the guidance of section 25.45(c), ACTR reviewed the DBE firms contained in the VTrans directory to create a list of those whose services ACTR might reasonably employ in the foreseeable future. NAICS codes were then chosen that correspond to the description of the services offered by these firms. This collection of codes and their descriptions are shown below in Table 1.

Table 1. NAICS Codes

NAICS	Code Description
2362	Nonresidential Building Construction
238	All Specialty Trade Contractors
4421	Furniture and Home Furnishings Stores
442210	Floor Covering Stores
442291	Window Treatment Stores
443111	Household Appliance Stores
4441	Building Material and Supplies Dealers
5413	Architectural Services
5414	Specialty Design Services
5416	Management, Scientific, and Technical Consulting Services

The number of available firms for each of these categories was then extracted from the Census County Business Patterns (CPB) Database. In all cases, the State of Vermont was used as the market area for ACTR. In some cases, ACTR may only purchase services from local contractors but, in other cases, firms from around the US could be legitimate contenders for contracts (such as planning, design, and technical services). The use of the State of Vermont for all services balances out these differences and is consistent with how the VTrans develops its DBE goal.

Table 2 shows the number of VTrans-certified DBE firms in each of these categories and calculates the relative availability of DBEs.

NAICS	Code Description	VT DBE Firms	CBP Total for VT
2362	Nonresidential Building Construction	2	96
238	All Specialty Trade Contractors	24	1,182
4421	Furniture and Home Furnishings Stores	0	185
442210	Floor Covering Stores	1	43
442291	Window Treatment Stores	3	2
443111	Household Appliance Stores	1	37
4441	Building Material and Supplies Dealers	5	281
5413	Architectural, Engineering, and Related Services	10	392
5414	Specialty Design Services	2	117
5416	Management, Scientific, and Technical Consulting Services	22	356
Total		70	2,691
Relative Availability (VT DBE / CBP Total for VT)		2.60%	

Thus, the base figure derived from this analysis is 2.60%.

Step 2: Adjustment to the Base Figure

As specified in Section 26.45, once the relative availability of ready, willing and able DBEs has been determined, it is necessary to examine additional evidence and, if appropriate, make adjustments to the base figure, to ensure that ACTR's goal truly and accurately reflects the level of DBE participation we would expect absent the effects of discrimination. Accordingly, ACTR has gone beyond the formulaic measurement of current availability in Step 1 to consider and account for other evidence of conditions affecting DBEs, including past participation and trends, as well as the anticipated effect that changes in the DBE program may produce in DBE participation levels in the coming year.

ACTR has determined that no adjustment to the Step 1 Base Figure of 2.60% is warranted, after consideration of all relevant data and criteria, including the current capacity of DBEs to perform work in our FTA-assisted contracting program, based on the volume of work DBEs have performed in recent years.

After careful consideration of all the relevant data, evidence and criteria affecting DBE participation levels, ACTR has determined that no adjustment to the Step 1 Base Figure of 2.60% is warranted; we have, therefore, arrived at the proposed overall goal of 2.60% for FY 2011 for our FTA-assisted contracts.

Breakout of Estimated Race-Conscious and Race-Neutral Participation

BACKGROUND

ACTR has always taken a non-discriminatory approach to contracting and has sought to obtain participation by DBE firms through race-neutral means. ACTR will employ the following methods to maximize DBE participation in contracting:

- 1) Train all ACTR staff involved in procurement about the DBE program and utilizing DBEs.
- 2) Analyze ACTR's progress toward goal attainment and identify ways to improve progress.
- 3) Solicit new DBEs to participate in ACTR procurements.
- 4) Solicit new DBEs to list in VTrans' DBE directory.
- 5) Refer DBEs to significant resources such as US Small Business Administration, Vermont Small Business Development Center, Vermont Women's Small Business Program, Governor's Commission on Women, and Micro-Business Development Program.
- 6) Advise DBEs on ACTR's procurement processes, including bid specifications, procurement policy and bidding requirements.
- 7) Conduct debriefings to respond to DBE inquiries concerning unsuccessful bids.
- 8) Work with local business organizations to increase awareness of ACTR's DBE program.

ACTR has produced a brochure outlining its DBE program and given it to local business organizations for distribution to interested parties. Representatives of these organizations have included the brochure in their outreach efforts. ACTR will continue to employ these methods and seek out other ways to increase DBE participation in its contracting.

ACTR projects that 100% of the DBE expenditure will be achieved through race neutral means. In all of its contracts, ACTR will make the maximum effort to encourage participation of DBE firms.

The recent level of DBE participation on FTA assisted contracts in Vermont supports our estimated breakout.

Public Participation

In FY2010, ACTR staff retained a woman-owned firm for advice on "green building" design. ACTR is working with this firm to become registered with the VTrans as a DBE. ACTR currently utilizes the services of three other women-owned firms: one for database consultation via a state contract managed by VPTA and two others that provide driver uniforms and marketing materials directly for ACTR.

ACTR's Board of Directors is comprised of 33% women and 50% of the elected Board office positions are held by women. ACTR's Executive Director has served as the Vermont Public Transit Association (VPTA) Chair since 2003. In 2005, VPTA conducted competitive procurements which resulted in a woman-owned business, ParaMed Plus, being selected for administration of VPTA's statewide drug and alcohol testing program. In addition, in the past, ACTR's Commuter Relations Manager worked for a registered DBE for more than four years and was the sole proprietor of a woman-owned business for ten years.

ACTR staff has reviewed the Vermont DBE directory for additional DBE possibilities and will reach out to selected DBE firms to inform them of bidding opportunities and provided guidance to ensure that these firms had a fair chance to submit competitive proposals.

This year, ACTR also shared its draft Goal with, and solicited comments from, Kate McGowan, Co-Executive Director of the United Way of Addison County and Robin Scheu, Executive Director of the Addison County Economic Development Corporation. We received two (2) responses with no suggested changes.

Attachment 4

DBE Directory

<http://www.aot.state.vt.us/civilrights/Documents/WEBDBEREGISTRYFULL.pdf>

Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

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

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

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

Certification Application Forms

<http://www.aot.state.vt.us/civilrights/Documents/UniformDBEApplication.pdf>