

Pinellas Suncoast Transit Authority

Disadvantaged Business Enterprise Program

*It's Just Good
Business!*



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Disadvantaged Business Enterprise Program

Statement of Policy

The Pinellas Suncoast Transit Authority (PSTA) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. As a recipient of Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, PSTA is committed to carrying out all requirements of 49 CFR Part 26, establishing and maintaining PSTA's DBE Program (the "DBE Program").

It is the policy of the PSTA to ensure that DBEs defined in 49 CFR Part 26 have an equal opportunity to receive and participate in DOT-assisted contracts. The objectives of the DBE Program include:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

PSTA's DBE Program will assure that all federally funded contracts and procurements are administered without discrimination on the basis of race, color, sex or national origin, and that DBEs have an equal opportunity to compete for and participate in the performance of all federally funded agreements, contracts and subcontracts awarded by PSTA. PSTA will implement its DBE Program in good faith and shall not permit the use of race or gender conscious quotas or set-asides in its administration.

PSTA's Chief Executive Officer ("CEO") is responsible for adherence to this DBE Program and has overall responsibility for directing development and implementation of this Program. The CEO has designated the Chief Compliance Officer ("CCO") as the DBE Liaison Officer (the "Liaison Officer"). The Liaison Officer will be responsible for development, implementation and monitoring of the DBE Program. It is the expectation of PSTA's Board of Directors and CEO the provisions of this DBE Program will be adhered to both in the spirit and letter by PSTA personnel. This Policy will be circulated to PSTA employees and made available to the public. In addition, PSTA will distribute this statement to DBE and non-DBE communities and business organizations. Distribution will be accomplished through posting on the PSTA website and publication in vendor and small business newsletters, and through electronic notification to DBE firms.

This DBE Program is intended to implement the federal requirements pertaining to the DBE Program, including, but not limited to, 49 CFR Part 26 as amended. In the event of any inconsistencies between the terms of the PSTA DBE Program and the terms of 49 CFR Part 26 as amended, the latter will prevail.

Brad Miller
CEO

February 04, 2013

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

Pinellas Suncoast Transit Authority (PSTA) 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

PSTA will adopt the definitions contained in Section 26.5 of Part 26 for this program. PSTA will (1) ensure that all definitions from the regulations are included and correct; (2) add and include any new/amended definitions as they are provided by U.S. Department of Transportation (“DOT”); and (3) will not include any definitions for terms not included in the definitions found in Section 26.5 of Part 26.

Section 26.7 Non-discrimination Requirements

PSTA 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, PSTA 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

Record Keeping Requirements: 26.11(a)

PSTA 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.

Bidders List: 26.11(c)

PSTA maintains 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 calculating overall goals. The bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

PSTA will create a listing of offerors by requiring offerors to report the required information, for their firm, and all firms who quote to them on subcontracts, by issuing a requirement that will be placed in all federally funded solicitations.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

PSTA 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 PSTA 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 in financial assistance agreements with sub-recipients. This language is to be used verbatim, as it is stated in 26.13(a).

Contract Assurance: 26.13(b)

PSTA 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, as it is stated in 26.13(b).

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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

Section 26.25 DBE Liaison Officer (DBELO)

PSTA has designated the following individual as PSTA's DBE Liaison Officer:

Sangita Land
Chief Compliance Officer
Pinellas Suncoast Transit Authority
3201 Scherer Drive
St. Petersburg, FL 33716
Office: (727) 540-1580
Fax: (727) 540-1833
E-Mail: sland@psta.net

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that PSTA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to Bradford Miller, Chief Executive Officer of PSTA, 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 duties and responsibilities include the following:

1. Develops implements and monitors, with participation by legal counsel, the DBE Program document, keeping it up-to-date with the current business environment and the latest revisions to the applicable federal regulations, ensuring the DBE program is responsive to and in compliance with the regulations, including, but not limited to, 49 CFR Part 26.
2. Gathers and reports statistical data and other information as required by FTA.
3. Reviews third party contracts and purchase requisitions for compliance with this program.
4. Works with all departments to set overall annual goals.
5. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
6. 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).

7. Analyzes PSTA's progress toward attainment and identifies ways to improve progress.
8. Participates in pre-bid meetings.
9. Advises the CEO and PSTA Board of Directors on DBE matters and achievement.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Florida.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains PSTA's updated directory on certified DBEs.

The Chief Executive Officer (CEO)

The CEO designates the DBELO, grants to that DBELO direct, independent access to him or her concerning DBE matters and ensures the DBELO has sufficient resources to implement the DBE program in compliance with the provisions of 49 CFR Part 26.

The General Counsel

1. Addresses small business matters relating to procurement and the implementation of the DBE program;
2. Renders legal opinions regarding the interpretation of DBE solicitation and contract provisions;
3. Advises the DBELO or his/her designees and the CEO regarding imposition of administrative sanctions against contractors that fail to comply with DBE requirements;
4. Represents PSTA in all legal actions involving DBE issues; and
5. Provides the DBELO with legal opinions relevant to DBE certification.

Shared Responsibility

The following PSTA departments have a shared responsibility to achieve PSTA's Annual Goal and ensure compliance with the DBE Program.

The Purchasing Manager (PM)

1. Provides the DBELO with draft scopes of work and engineering estimates to enable the DBELO to actively engage in goal setting, outreach and the development of appropriate DBE language in solicitation documents;
2. Provides the DBELO with copies of final IFB's, RFP's, RFIQs, Purchase Orders (PO), mailing lists and advanced notices of procurements;
3. Incorporates DBE goals and compliance language into the solicitations;
4. Notifies the DBELO of any changes to IFBs, RFPs, RFIQs and PO's;

5. Sends IFBs, RFPs, RFIQs and POs to the DBEs indicated by the DBELO;
6. Places and documents the placement of legal notices in response to 49 CFR Part 26 publication requirements for annual overall goals and places solicitation notices all in general, trade and minority focused newspapers;
7. Notifies the DBELO of pre-bid, pre-proposal and pre-construction conferences;
8. Maintains DBE vendor listing organized by predetermined categories and assists in the identification of potential DBE vendors and contractors;
9. Calls for DBELO or staff member participation on Bid & Proposal Evaluation, and Negotiation Committees or Teams;
10. Forwards copies of Bids and Proposals to the DBELO for evaluation of responsiveness or responsibility to DBE requirements;
11. Participates in outreach programs, including vendor fairs; and
12. Handles all other contract administration that impact DBE participation.

Other Support Personnel

PSTA personnel from other Departments share the responsibility for ensuring the effective implementation of the DBE Program. They are expected to give their full cooperation and active support to the DBELO in this effort. Following are the support personnel and examples of their respective responsibilities.

Project Managers

1. Develop a working knowledge of the DBE program's policies, practices and procedures including race neutral and race conscious methods of achieving DBE participation, by reading the DBE program, and/or the project's solicitation documents and/or the contract manual and by attending DBE orientation sessions presented by the DBELO and staff members;
2. Notify the DBELO in a timely manner of their project's Pre-Proposal or Pre-Bid conferences and "Kick-Off" Meetings;
3. Participate with the DBELO in monitoring that DBE firms are used and DBE records and reports are prepared and submitted in accordance with the terms of the contract; and
4. Identify and refer potential DBE utilization problems promptly to the DBELO.

Purchasing and Vendor Relations

1. Posts and updates the web listing of newly certified or decertified firms to www.psta.net. This web site provides up-to-date information electronically about PSTA contracting opportunities, upcoming events at PSTA and current program information;
2. Provides technical assistance over the telephone to firms requesting to be placed on the mailing list and responds to their questions about doing business with PSTA; and
3. Participates in DBE outreach programs that advertise and disseminate information about PSTA seminars, programs, solicitations and contracts.

Risk Management

1. Provides periodic reports on industry insurance and bonding standards and requirements to the DBELO. Provides information about insurance and bonding trends relevant to DBE firms for the coming year, if available, to the DBELO; and
2. Participates with the DBELO and with legal counsel in the structuring of bonding and insurance requirements and standards in individual contracting actions to create a level playing field and participation by DBE firms wherever possible. This includes dividing a contract statement of work, where possible, into portions that will enable DBE firms to compete as prime contractors. Proper use of this structuring for DBE participation shall not result in the avoidance of proper approval authority.

Section 26.27 DBE Financial Institutions

PSTA encourages contractors to use the services of minority and women owned financial institutions identified in the U.S. Department of the Treasury, Financial Management Services Division, Minority Bank Deposit Program. The availability of such institutions can be obtained at the U.S. Department of Treasury website: <http://www.fms.treas.gov/mbdp>. PSTA will re-evaluate the availability of DBE financial institutions every year.

Section 26.29 Prompt Payment Mechanisms

PSTA will include the following clause in each DOT-assisted contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contract receives from PSTA. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of PSTA. This applies to both DBE and non-DBE subcontracts.

Retainage: 26.29 (b)

The prime contractor agrees to return retainage payments to each subcontractor within ten (10) calendar 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 PSTA. This applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29 (d)

Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval from PSTA. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than ten (10) calendar days from the receipt of payment from PSTA may constitute a

breach of contract and may result in termination of the Contractor for default or such other remedy as PSTA may deem appropriate.

Monitoring and Enforcement: 26.29(d)

PSTA has established the following to monitor and enforce that prompt payment and return of retainage is in fact occurring:

1. Requiring prime contractors (in sub-contracts in excess of \$10,000), to provide subcontractors with all contract provisions, including the prompt payment provision. This will ensure that the subcontractors are knowledgeable of the prompt payment requirement.
2. Because the 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 PSTA.
3. If PSTA 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.

Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval from PSTA. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than thirty (30) calendar days from the receipt of payment from PSTA may constitute a breach of contract and may result in termination of the Contractor for default or such other remedy the PSTA may deem appropriate.

Section 26.31 Directory

PSTA is required to participate in the Florida Uniform Certification Program (UCP). A complete listing of eligible DBE firms certified in the State of Florida is provided by the Florida Department of Transportation (FDOT) via the internet. The Florida statewide DBE directory can be found at www.dot.fl.gov, under the Office of Civil Rights.

Section 26.33 Overconcentration

PSTA has not identified that overconcentration exists in the types of work that DBEs perform and will re-evaluate for overconcentration every year. PSTA conducts a review every year of the scopes of work being awarded to DBE subcontractors to ensure that DBEs are not over-utilized in specific areas to the exclusion of non-DBE firms. Should a determination of overconcentration be made, PSTA would consider using technical assistance, incentives, and other appropriate measures designed to assist DBEs in performing work outside of the specific field of over concentration. PSTA may also consider varying the use of contract goals in accordance with Section 26.51 and other measures to ensure that non-DBEs are not prevented from competing for subcontracts.

Section 26.35 Business Development Programs

PSTA has not established a business development program. The DBELO will *annually* evaluate the need and assess whether PSTA should establish a Business Development Program and/or a Mentor-Protégé Program in PSTA's geographic procurement market area. If PSTA establishes either program, the program will be guided by the applicable Appendix of 49 CFR Part 26 and approved by the FTA before being implemented.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. PSTA 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. PSTA also will consider similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment C lists the regulation, provisions, and contract remedies available to PSTA in the event of non-compliance with a DBE regulation by a participant involved in procurement activities.
3. PSTA will also provide a monitoring and enforcement mechanism to verify work committed to DBEs through contract award is actually performed by the DBEs. This will be accomplished by requiring the consultant or subgrantee to provide DBE payment information with each invoice submitted to PSTA for payment. Failure of the consultant or subgrantee to provide DBE payment information and documentation may result in the invoice not being paid until the information has been provided.
4. PSTA will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Sanctions for Non-Compliance

In the event of the consultant's or subgrantee's non-compliance with FDOT's policy or failure to meet the prescribed DBE goal or expectancy set forth in this contract, or to establish a good faith effort to do so, contract sanctions may be enforced as deemed appropriate by PSTA and/or the FTA. These sanctions could include one or more of the following:

1. Withholding of payments to the consultant under the contract until the consultant or subgrantee complies;
2. Cancellation, termination or suspension of the contract in whole or in part; and

3. Suspension or debarment of consultant or subgrantee from eligibility to contract with PSTA in the future or to receive bid packages or request for proposal (RFP) packages.

Section 26.39 Small Business Participation (and Element Strategies)

PSTA has incorporated this nondiscriminatory element in its DBE program in order to facilitate participation by small businesses concerns in PSTA projects. Under this element of the DBE program, PSTA will consider all actions and will avoid unnecessary and unjustified bundling of contract requirements that preclude small business participation in procurements as contractors.

Small Business Administration defines a small business concern as one that is independently owned and operated, is organized for profit, and is not dominant in its field of operation, as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b). “Bundling of contract requirements” means consolidating two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to the following:

1. Diversity, size, or specialized nature of the elements of the performance specified;
2. Aggregate dollar value of the anticipated award;
3. Geographical dispersion of the contract performance sites; or
4. Any combination of the factors described above.

On prime contracts not having DBE contract goals, PSTA will require the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform. In addition, PSTA will ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

PSTA will accomplish its DBE contract goals by doing the following:

1. Helping small businesses to better understand PSTA’s contracting and procurement opportunities;
2. Continuing to identify and utilize small business firms that provide goods and services purchased by PSTA;
3. Encouraging small businesses, including those owned by minority and women, to pursue relevant certifications including M/W, DBE and SCE certification; and
4. Hosting and participating in workshops, business development meetings and other events intended to enhance procurement opportunities for small businesses.

PSTA will implement the small business program within nine months of FTA approval of its DBE program. PSTA will verify business size through the DBE directory of Florida’s UCP, maintained by FDOT. PSTA will require prime contractors to identify small business subcontracts on large procurement as part of its small business element strategy.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

In accordance with Section 26.45, PSTA will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA.

The process generally used by PSTA to establish overall DBE goals is as follows:

1. PSTA determines a base figure for the relative availability of DBEs.
2. After calculating the base figure of relative availability of DBEs, evidence is examined to determine what adjustment is needed to the base figure in order to arrive at the overall goal.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 3 to this program. This section of the program will be updated every three years.

Before establishing the overall goal each year, PSTA will consult with minority, women's, and general consultant groups, as well as small business resource organizations to obtain information concerning the availability of disadvantaged and PSTA's efforts to establish a level playing field for the participation of DBEs. PSTA has mailed announcements to the following:

- Resource Center for Women, 1301 Seminole Blvd., Suite 137, Plaza Center, Largo, FL 33770, phone 727-586-1110;
- Pinellas County Urban League, 333 31st Street N., St. Petersburg, FL 33713, phone 727-327-2081; and
- Tampa Bay Builders Association, 2918 West Kennedy Boulevard, Tampa, FL 33609, phone 813-873-1000.

Following this consultation, PSTA 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 your principal office for 30 days following the date of the notice, and informing the public that PSTA and DOT will accept comments on the goals for 45 days from the date of the notice. PSTA posts notices in the Florida Sentinel Bulletin and on the PSTA website. There is no minority-focused newspaper that is widely circulated throughout the county.

Normally, PSTA will issue this notice by June 1, 2013 and every three years thereafter. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

PSTA's overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

PSTA will begin using our overall goal on October 1 of the specified year, unless PSTA has received other instructions from DOT. If PSTA establishes a goal on a project basis, PSTA will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. PSTA's goal will remain effective for the duration of the three-year period established and approved by FTA.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on PSTA's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, PSTA will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Submit the plan to FTA within 90 days of the end of the affected fiscal year.

Section 26.49 Transit Vehicle Manufacturers Goals

PSTA 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, PSTA 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

PSTA's current three year goal-setting methodology and DBE Plan goal of 8.15% is race-neutral. Race-conscious goals will be considered annually.

PSTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. PSTA will take the following race-neutral measures in order to facilitate DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE and other small business participation.
2. Requiring consultants to subcontract portions of work that they might otherwise perform with their own staff or an outside consulting firm;

3. Providing the name, phone number and email address for additional information concerning a contract.

These measures are an active component of PSTA's DBE program.

Section 26.51 (d-g) Contract Goals

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program. When the DBE Goal is updated every three years, the breakout of estimated race-neutral and race-conscious participation will be updated as well.

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

PSTA will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The size of contract goals will be adapted to the circumstances of each contract (*e.g.*, type and location of work, availability of DBEs to perform the particular type of work).

PSTA will express its contract goals as a percentage of 8.15% of the Federal share of DOT assisted contracts.

Section 26.53 Good Faith Efforts Procedures

The obligation of the offeror is to make good faith efforts. The offeror can demonstrate that it has done so by either meeting the contract goal or documenting good faith efforts it took prior to submission of its bid. Each solicitation for which a contract goal has been established will require the offeror to submit a "DBE Participation Form" and "Good Faith Effort Form" (Attachments 5 & 6). Examples of good faith efforts are found in Appendix A of 49 CFR Part 26 (Attachment 7).

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

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, PSTA will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) document it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

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

PSTA's DBE Liaison Officer, shown below, 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.

DBE Liaison Officer:
Sangita Land, Chief Compliance Officer (EEO Officer & DBELO)
Pinellas Suncoast Transit Authority
3201 Scherer Drive
St. Petersburg, FL 33716
Office: (727) 540-1580
Fax: (727) 540-1833
E-Mail: sland@psta.net

The process used to determine whether good faith efforts have been made by a bidder are as follows:

1. Whether the consultant attended any presolicitation or prebid meetings that were scheduled by PSTA to inform DBEs of consulting and subconsulting opportunities;
2. Whether the consultant or supplier provided notice in general circulation, trade association, and minority and female focus media concerning the subconsulting opportunities;
3. Whether the consultant provided written notice to a reasonable number of specific DBEs that their interest in the contract was solicited in sufficient time to allow the DBEs to effectively participate;
4. Whether the consultant followed up the initial solicitation of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
5. Whether the consultant selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal including, where appropriate, segmenting contracts into economically feasible units to facilitate DBE participation;
6. Whether the consultant provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
7. Whether the consultant negotiated in "good faith" with interested DBEs and not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
8. Whether the consultant made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance required by PSTA or the consultant;
9. Whether the consultant effectively used the services of available minority and female community organizations, minority and female professional groups, local, state and federal minority and female business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBEs.

PSTA may, upon written notice to the consultant, meet with its officials to discuss or provide written evidence of "good faith effort" to subcontract and negotiate with DBEs and joint ventures involving DBEs and its ability to achieve the established goal. Failure of a consultant to meet or provide the requested written information at a stipulated time and place, without a demonstration of good cause, shall be cause for rejection.

PSTA 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: 26.53(b)

PSTA 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/offers 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 three (3) working days of being informed by PSTA that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offers should make this request in writing to the following Reconsideration Official:

Brad Miller, Chief Executive Officer
Pinellas Suncoast Transit Authority
3201 Scherer Drive
St. Petersburg, FL 33716
Office: (727) 540-1807
Fax: (727) 540-1913
E-Mail: bmiller@psta.net

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 PSTA's Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. PSTA 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.

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

PSTA requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without its 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 PSTA 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 PSTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise PSTA of why it objects to the proposed termination.

In those instances where “good cause” exists to terminate a DBE’s contract, PSTA 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. PSTA 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, PSTA will require the prime contractor to obtain 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, PSTA’s 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.

Failure to Secure Prior Approval

If the prime contractor fails or refuses to comply in the time specified PSTA may take appropriate actions as set forth in Section 26.27 “Monitoring and Enforcement Mechanisms.” PSTA’s contracting office may issue an order stopping all or part of payment or work until satisfactory action has been taken. If the prime 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 PSTA 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 8.15 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 G), 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 contract 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.

Section 26.55 Counting DBE Participation

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

SUBPART E – CERTIFICATION STANDARDS AND PROCEDURES

Sections 26.61–26.73 Certification Standards

PSTA is a non-certifying member of the Unified Certification Program (UCP) in Florida. All firms must apply through the UCP to be certified in the State of Florida.

The local certifying agency in the Hillsborough County Aviation Authority (HCAA) located at the Tampa International Airport. PSTA will use the DBE directory administered by the Florida Department of Transportation and listed on the UCP website to verify if a firm is DBE certified by the Florida UCP.

The Florida UCP certifies DBEs in accordance with Federal Regulations. An Annual Meeting of the Florida UCP is scheduled for all members to attend and discuss issues or needed changes in the UCP Program.

Section 26.81 Unified Certification Programs

PSTA is a non-certifying member of the Unified Certification Program (UCP) administered by:

Florida Department of Transportation
Equal Employment Opportunity Office
605 Suwannee Street, MS 65
Tallahassee, Florida 32399-0450
Office: (850) 414-4747
Fax: (850) 414-4878
Website: www.dot.state.fl.us/equalopportunityoffice/DBEProgram

The Florida UCP will meet all of the requirements of 49 CFR Part 26.

Section 26.89 Certification Appeals

Any firm or complainant may appeal a Florida UCP decision matter to the DOT. Such appeals may be sent to:

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

PSTA will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for PSTA'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

PSTA 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, PSTA 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

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

PSTA 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.

Revised: March 14, 2013
Effective: March 14, 2013



Brad Miller
Chief Executive Officer

3/14/13

Date

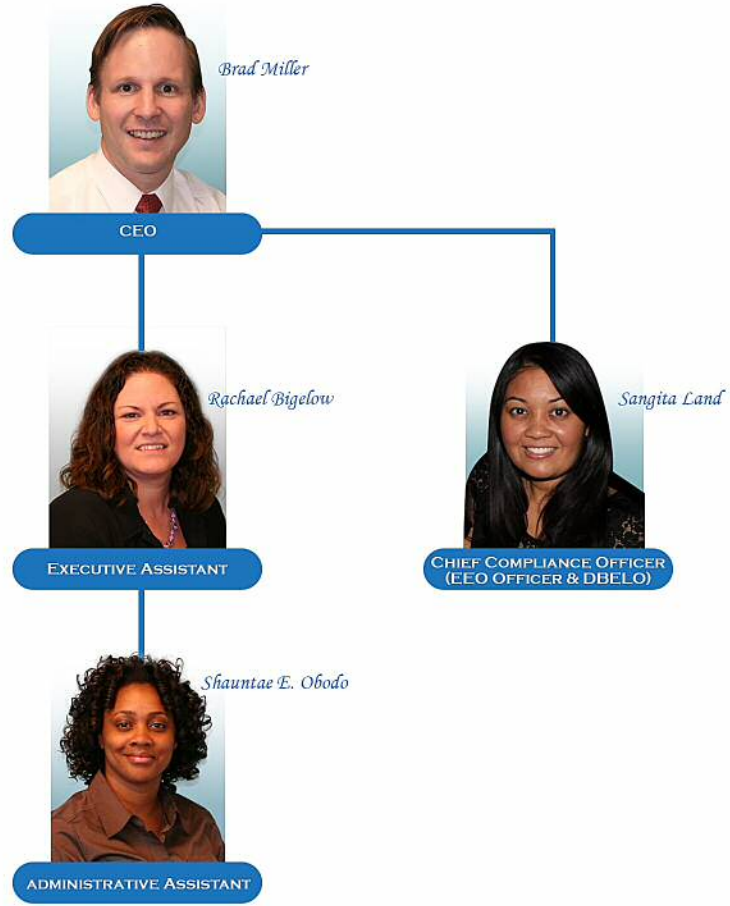
ATTACHMENTS

- Attachment 1: Organizational Chart
- Attachment 2: Vendor Payment Report – DBE Form
- Attachment 3: Overall Goal Calculations
- Attachment 4: Breakout of Estimated Race-Neutral and Race-Conscious Participation
- Attachment 5: DBE Participation Form
- Attachment 6: Demonstration of Good Faith Efforts Form
- Attachment 7: Regulation - 49 CFR Part 26 ([Referral Link](#))



EXECUTIVE OFFICE

REVISED 02-04-13





VENDOR DBE PAYMENT REPORT

(Not to be submitted with proposal; Required with each invoice submittal if selected)

Pinellas Suncoast Transit Authority
 3201 Scherer Drive
 St. Petersburg, FL 33716

For Official Office Use Only	1) Invoice No.	2) Report No.
	3) Reporting Period From: _____ To: _____	

Instructions: All prime contractors are required to complete and submit this report as specified in the contract, or as requested by the Contracts Specialist, until final payment of the contract. Note: Failure to comply with PSTA's Disadvantaged Business Enterprise provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with PSTA in the future in accordance with the procedures set forth in PSTA's Procurement Regulations. **This report must be submitted with each invoice.**

4) PSTA Contract Number		5) Type of Contract (X) <input type="checkbox"/> Construction <input type="checkbox"/> Service <input type="checkbox"/> Professional <input type="checkbox"/> Supply		6) Contractor's Business Name, Address and Telephone Number					
7) Date of Contract Award		8) Schedule Date of Completion		9) Original Contract Amount \$ _____		10) Current Contract Amount, Including Modifications (\$ and date) <small>(State amount & date of most recent modification)</small> \$ _____ / ____ / ____			
11) Total Amount Received To Date \$ _____		12) Total Amount Owed \$ _____		13) Committed DBE percentage _____ %		14) DBE Instruction for Calculation of Percentage: Dollar amount paid to DBE divided by dollar amount received by Contractor from PSTA.		15) Actual DBE Participation % to Date _____ %	
		Amount of this Invoice							
		\$ _____							
16) Name of Subcontractor	17) DBE Ethnicity and Gender (include Gender)	18) Description of Work	19) Amount & Date of Payment(s) Made During Current Invoice Period	20) Subcontract Dollars	21) Amount Paid to Date (Dollars)	22) % Paid to Date	23) Amount of This Invoice Allocated to Subcontractor		
	/		\$ _____		\$ _____				
	/		\$ _____		\$ _____				
	/		\$ _____		\$ _____				
	/		\$ _____		\$ _____				
Company Official's Signature & Title			Date Signed		Name & Title of Individual Completing Report				
			/ /						

NAICS CODE	WORK ITEM	AMOUNT	% of TOTAL
	<i>F-D P. 4 MK F-R Assure h 1</i>		
23814	Shelter Installation	240,000	80%
561612	Security	60,000	20%
		<u>300,000</u>	<u>100%</u>

NAICS CODE	WORK ITEM	No of DBEs	No of Firms	Relative Availability	Weight	
						0
						0
						0
23814	Shelter Installation	322	3603	0.08937	80%	0.071496
561612	Security	37	740	0.05000	20%	0.01
		<u>359</u>	<u>4343</u>			<u>0.081496</u> or <u>8.15%</u>
			8.27%			

Step 1 Fig + Median = 0.1102
 0.0815 0.0287 0.1102
 .1102 / 2 = 0.0551 or 5.51%

If we use step 2 of the process 5.51% would be our Goal for FY11
 If ~~we~~ using step 2 is not representative of our anticipated activity then we would stop at Step 1 of 8.15%

Note: Median of .0287 is the middle of FY06 thru FY09 performance

*Low
 Bidder
 Ratio*

FY07	2.87%
FY08	1.02%
FY09	4.06%
Step 1 Ratio	8.15%



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

REGION IV
Alabama, Florida, Georgia,
Kentucky, Mississippi,
North Carolina, Puerto
Rico, South Carolina,
Tennessee

61 Forsyth Street, S.W.
Suite 17T50
Atlanta, GA 30303-8917
404-562-3500
404-562-3505 (fax)

Shirley Thornton
Pinellas Suncoast Transit Authority (PSTA)
3201 Scheer Drive
St. Petersburg, Florida 33716

15 October 2010

RE: DBE Program Goal Approval
Federal Transit Administration ID #1080

Dear Ms Thornton,

Based upon our review, we find that all of the required elements are present and that that your program meets the requirements of part 26. You are not required to submit regular updates to your DBE program as long as you remain in compliance; you are required to notify FTA of any significant changes to the program.

In assessing the program, we examined the overall goal submitted for FY 2010.

Your DBE goal information for the period of August 1, 2010 through August 1, 2013 is as follows:

Overall Goal	Race Neutral	Race Conscious
8.2%	8.2%	0%

8.15

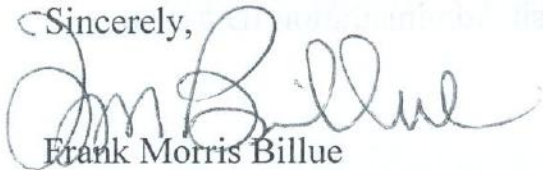
FTA's review considered the overall goal as well as the description of the data and methodology used in arriving at the overall goal, including the base figure calculation and evidence supporting the calculation; adjustments, if any, made to the base figure and the evidence supporting the adjustments; a summary of the relevant evidence in your jurisdiction; the projection of the proportion of your overall goal that you will meet through race neutral as opposed to race conscious means and the basis of your projections; and the evidence of public participation in setting your overall goal.

After reviewing this information, we have determined that the goal setting methodology you used is consistent with the requirements of 49 CFR §26.45 and that you have followed the requirements for public participation in setting your overall goal consistent with 49 CFR §26.45(g). Further, we have also reviewed your projection of the portion of your overall goal that you expect to meet through race neutral and race conscious means. That projection is subject to modification during the fiscal year as provided in 49 CFR §26.51.

Since an annual review of your goal is required, if you haven't already done so, please submit an updated goal as soon as possible. As you are aware, you must submit a separate overall DBE goal for programs funded by the Federal Highway Administration and the Federal Aviation Administration.

If you have any questions or need assistance, please contact me at 404-865-5628 or contact me via e-mail Frank.Billue@dot.gov.

Sincerely,



Frank Morris Billue
Regional Civil Rights Officer

[Redacted area]

8/18

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Race neutral under the consultant or professional program would be defined as not assigning race or gender-specific goals on individual projects, but counting all participation of DBE subconsultants utilized by consultants on projects.

Examples of race-neutral means of facilitating DBE participation include:

- 1) Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE and other small business participation.
- 2) Requiring consultants to subcontract portions of work that they might otherwise perform with their own staff or an outside consulting firm;
- 3) Providing the name, phone number and email address for additional information concerning a contract.

PSTA estimates that, in meeting our overall DBE goal of 8.15%, PSTA will obtain 4.15% from race-neutral participation and 4.0% through race-conscious measures; however, these percentages may vary during the establishment of each three (3) year goal.

PSTA's estimated breakout of race-neutral or race-conscious DBE participation is based upon projected contracting opportunities for the fiscal year. PSTA will adjust the estimated breakout of race-neutral or race-conscious participation as needed to reflect actual DBE participation and PSTA will track and report race-neutral or race-conscious participation separately.

In order to ensure that the PSTA's DBE Program will be narrowly tailored to overcome the effects of discrimination, if PSTA uses contract goals it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (*see* 26.51(f)) and will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

PSTA will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.



DBE PARTICIPATION FORM
(Required with proposal submittal)

PSTA has not set a specific goal for this project. PSTA has set an annual DBE goal of ____%.

Bidder/Proposer must check the appropriate box, provide the information requested, sign and submit this form with its bid/proposal. Failure to complete and submit this form may result in rejection of the bid/proposal as non-responsive.

Bidder/Proposer does not meet the DBE goal for this contract. Bidder/Proposer certifies that it has made good faith efforts in accordance with the Invitation for Bid/Request for Proposals to meet the DBE goal, but, despite those efforts, has been unable to meet the goal. The Good Faith Efforts Documentation Form is attached.

OR

Bidder/Proposer will meet the DBE goal for this contract. Bidder/Proposer is certified according to requirements of DOT 49 CFR Part 26 as a DBE eligible for participation on DOT-assisted contracts, and will be performing _____ percent of the contract work. DBE Certification is attached.

OR

Bidder/Proposer will meet the DBE goal for this contract. If awarded this contract, Bidder/Proposer will subcontract with the DBE(s) listed below which will be performing a total of ____ percent of the total dollar amount of contract work. Each DBE listed below is certified according to requirements of DOT 49 CFR Part 26 for participation on DOT-assisted contracts.

No.	Subcontractor or Supplier	Description of Work or Specialty	Gender/Ethnicity	Dollar Amount	Percent of Contract Amount
1					
2					
3					
4					
5					
6					
Please attach a copy of each Subcontractor or supplier FDOT DBE Certification.				Total Dollars DBE (s)	Total % of Contract Amount
				\$	%

Company Name

Authorized Individual's Name (Print)

Authorized Signature

Date

Title



DBE GOOD FAITH EFFORTS DOCUMENTATION FORM

(Required if DBE goal is not met)

PSTA ANNUAL DBE GOAL: 8.15%

If Proposer has indicated on the DBE Participation Form that it does not meet the DBE goal, Proposer must submit this form with its DBE Participation Form as documentation of its good faith efforts to meet the goal. Failure to submit this form with its Proposer may render this proposal non-responsive. PSTA may require that Proposer provide additional substantiation of good faith efforts.

Date: _____	Area of Expertise: _____
Name: _____	Company Name: _____
Response: _____	

Date: _____	Area of Expertise: _____
Name: _____	Company Name: _____
Response: _____	

Date: _____	Area of Expertise: _____
Name: _____	Company Name: _____
Response: _____	

Date: _____	Area of Expertise: _____
Name: _____	Company Name: _____
Response: _____	

Regulation - 49 CFR Part 26

49 CFR Part 26 can be located via the internet using the following link:

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49tab_02.tpl