

DBE Program Checklist
Pursuant to 49 CFR part 26

Recipient Name:					
Vendor ID:					
Date DBE Program received:					
Date of initial review:					
Date final DBE Program reviewed:					
Review conducted by:					
Date referred to Regional Counsel:					
Name of approving Regional Counsel & date of concurrence:					
Issuance of date of approval letter:					
Date TEAM data entered:					
<p>This form provides an basic overview of the legal requirements and responsibilities of Federal Transit Administration (FTA) recipients under Code of Federal Regulations (C.F.R.) 49 Part (§) 26 for purposes of Regional Civil Rights Officer (RCRO) review. This document is not intended to provide a comprehensive explanation of all requirements and responsibilities of FTA recipients related to DBE, nor is it intended to replace DBE guidance issued by the US Department of Transportation (DOT). Further DOT and FTA guidance can be found on our websites and in 49 C.F.R. § 26 not intended to replace the DBE guidance issued by the US Department of Transportation. This form highlights the major sections of 49 C.F.R. § 26. Recipients should consider each of the topics in preparing their DBE program documents. FTA does not ask recipients to quote or paraphrase portions of the rule in their programs. Rather, recipients' programs should address specifically how the recipient will implement the various program requirements. For example, the program would not paraphrase Section 26.83 concerning initial certification procedures. It would describe how a firm applies to the recipient for certification.</p>					
Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
OVERALL DBE PROGRAM					
CFR 49 § (Part) 26					See comments below and address any area marked "Not Addressed" and/or "Inadequate." An "Advisory Comment" indicates that this section is not required by the circular but recommended by FTA.
POLICY STATEMENT: §26.23					
Is there a signed and dated policy statement that expresses the agency's commitment to their DBE program, states its objectives, and outlines responsibilities for its implementation?					
Is the statement circulated throughout the organization and to the DBE and non-DBE business communities that perform work on the agency's DOT-assisted contracts?					

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Does the statement include the following objectives from part 26.1:					
(a) To ensure nondiscrimination in the award and administration of DOT- assisted contracts;					
(b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;					
(c) To ensure the DBE Program is narrowly tailored in accordance with applicable law;					
(d) To ensure that only firms that meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;					
e) To help remove barriers to the participation of DBEs in DOT- assisted contracts; and					
f) To assist the development of firms that can compete successfully in market place outside the DBE Program.					
APPLICABILITY: §26.3					
(a) This part applies to recipients of: (2) Federal transit funds authorized by Title 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, III, and V of the TEA-21 Pub. L. 105-178.					
DEFINITIONS: §26.5					
What do the terms used in this part mean? Definitions should be listed or incorporated by referring to §26.5 (incorporated by reference) if §26 is included as an attachment to the DBE Program.					
NON-DISCRIMINATION: §26.7					
Non-discrimination statements (a) and (b) from this part are included.					

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RECORD KEEPING: §26.11*					
(b) Recipient must provide data about the DBE program by submitting the Uniform Report of DBE Commitments/Awards and Payments DOT form (no number) semi-annually due on June 1 and December 1 for each federal fiscal year they are required to have an annual DBE goal.					
(c) Bidder's list (2) must include the following information about DBE and non-DBE contractors and subcontractors who seek work on federally-assisted contracts:					
(i) Firm name;					
(ii) Firm address;					
(iii) Firm's status as a DBE or non-DBE;					
(iv) Age of the firm; and					
(v) the annual gross receipts of the firm. May be obtained by asking each firm to indicate what gross receipts bracket they fit (i.e. less than \$500,000; \$500,000 - \$1 million).					
RECIPIENT AND CONTRACTOR ASSURANCES §26.13*					
(a) Annual FTA Certifications and Assurance signed - includes required DBE assurance.					
(b) Includes the full contract assurance that must be included in contracts let with DOT funds. (For recipient to include in its contracts and sub-contracts).					
DBE PROGRAM UPDATES: §26.21(2)					
Significant changes in the program must be submitted to FTA for approval.					
DBE LIASON OFFICER §26.25					

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DBE Liason officer (DBELO) identified? NOTE: FTA highly recommends the DBELO must not come from Procurement especially if the individual is directly involved in contracts, bids & procuring goods or materials. Similarly, a person in Finance Division should not be the DBELO if the individual is responsible for disbursing funds. Both situations can be conflict of interests.					
DBE Liason officer has direct and independent access to CEO? Has adequate staff and authority to administer this part?					
DBE FINANCIAL INSTITUTIONS §26.27					
Recipient has thoroughly investigated the services offered by DBE financial institutions and has made reasonable efforts to use these institutions per this part?					
PROMPT PAYMENT: §26.29*					
(a) Contractors pay subs for satisfactory performance no later than 30 calendar days from receipt of each payment?					
(b) Recipient assures prompt and full payment of retainage from the prime contractor to the sub within 30 calendar days after the sub's work is completed using one of the 3 methods in this part?					
(d) DBE program provides appropriate means to enforce the requirements of this section?					
(e) Any additional prompt payment mechanisms established per this part?					
DBE DIRECTORY: §26.31					
DBE directory made available per this part?					
OVERCONCENTRATION: §26.33					

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Applies only when an overconcentration is identified. If so, is overconcentration addressed appropriately?					
MENTOR-PROTÉGÉ PROGRAMS: §26.35					
May be established per this part.					
MONITORING PERFORMANCE: §26.37*					
appropriate (a) mechanisms to ensure compliance with this part by all program participants, and (b) monitoring and enforcement to ensure work committed to DBEs at contract award is performed by DBEs have been established per this part.					
(c) this mechanism provides for a running tally of actual payments made to DBE firms per this part.					
FOSTERING SMALL BUSINESS PARTICIPATION: §26.39 (see also FTA Guidance to Complete New DBE Implementation Plans)					
(a) DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns					
(i) Element must include reasonable steps to eliminate obstacles to small business participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors					

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(ii) Steps to increase small business participation may include, but are not limited to: small business set-aside, requiring identification of sub-contracting possibilities on large contracts, requiring prime contractors to identify small business sub contracts on large procurement, creating an alternative acquisition strategy, joint venture opportunities for small businesses, contract unbundling/assessment of contract size, business development opportunities					
(b) Outreach is not the sole step indicated to increase small business participation. If included, must be coupled with a strategy to create contracting opportunities for small businesses.					
(c) Includes a method to verify business size. A program should not allow firms to self-certify/verify as small businesses					
(d) Includes specific time frame for implementing small business program					
(e) DBE set-asides made only on the basis of business size. Set-asides based on race and/or gender are forbidden.					
OVERALL GOALS: §26.45					
Recipient develops a 2-step goal setting process as described in sections (c) - (d) of this part? This goal is based on quantifiable data from reliable sources such as current census Bureau's County Business Pattern (CBP) data, bidder's list, current DBE directories or State UCP directories, current disparity study, NAICS codes, the goal of another DOT recipient (step 1 ONLY) or alternative methods?					

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(e)(2) goal is expressed as a percentage of all FTA funds (excluding the purchase of transit vehicles) that will be expended in the forthcoming fiscal year?					
(f)(1) goals are submitted for review on August 1 of each year?					
(f)(3) description of methodology used to arrive at the goal included?					
(g) provide for public participation, in the following order:					
(g)(1) consultation with minority, women's and general contractor groups, etc.?					
(g)(2) a published notice per this part? NOTE: Publication of DBE goal in grantee's own website alone does not meet this public participation requirement.					
CAN RECIPIENTS BE PENALIZED FOR FAILING TO MEET OVERALL GOALS?: §26.47					
Statement expressing an understanding of the following:					
(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.					
(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.					

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(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith					
(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;					
(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;					
(3)(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval.					
(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.					
(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions					
TRANSIT VEHICLE MANUFACTURERS: §26.49					

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(a) Transit vehicle manufacturers (TVM) are required to certify they have a DBE program					
MEANS TO MEET GOALS: §26.51					
The recipient follows the descriptions in this part to meet goals using race-neutral means (a) - (c) or contract goals (d) - (g) as appropriate each federal fiscal year per this part?					
GOOD FAITH EFFORTS PROCEDURES WHEN A DBE IS REPLACED ON A CONTRACT: §26.53					
RECONSIDERATION OFFICIAL: §26.53 (d) (2) The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.					
Demonstration of good faith efforts per 26.53, (a & c; b, d, f) Appendix A (c) are met					
UNIFIED CERTIFICATION PROGRAM PARTICIPATION: §26.81 (a)					
CERTIFICATION PROCESS: § 26.61-26.73					
UNIFIED CERTIFICATION PROGRAM PARTICIPATION: §26.81 (a)					
Recipient participates in UCP?					
INFORMATION, CONFIDENTIALITY, COOPERATION: §26.109					
Appropriate rules governing information, confidentiality, cooperation, and intimidation or retaliation are established per this part?					
For state DOT's DBE goal submission attached to this DBE Program Plan, please answer the following:					
(1) Sub-recipients of the state DOT are aggregated in the overall goal: (Y) (N) Comments:					

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(2) The state DOT included the names of recipients that submitted DBE goals: (Y) (N) Comments:					
(3) The state DOT accounted for FTA funds received for 5303, 5304, 5310 (non-vehicle awards) and 5311 grants and distributed to its sub recipients: (Y) (N)					
Comments:					
If the RCRO or designee has contacted the grantee regarding their DBE goal submittal for any reason, notes of the conversation are included in the submittal. For example, if RCRO or designee has granted the grantee an extension to submit the required documentation with a specified timeline for their response or if RCRO has orally approved a grantee's DBE goal, notes reflect the rationale for approving it.					
ATTACHMENTS					
1. Organizational Chart					
2. DBE Directory (hard copy version only)					
3. Agency policies of Monitoring & Enforcement Mechanisms					
4. Overall Goal Calculation					
5. Breakout of Estimated Race-Neutral & Race Conscious Participation					
6. Form 1 & 2 for Demonstration of Good Faith Efforts					
9. Regulations: 49 CFR Part 26 (hard copy version only)					

* For continuity of topic, these sections are sometimes combined under one or more headings such as "Record Keeping, Monitoring and Enforcement," and/or "Federal Financial Assistance Agreements."