Federal Transit Administration
Small Business Element: 101

Let’s Get Started
Web Conference Rules:

- Can’t Hear?
- Call the Conference Number for the Audio Portion!
- See the Outlook Invitation for Details
Rules Continued…*(during the presentation)*

- During the presentation
  - Your phone will be muted

- Questions?
  - Use the chat box
    - Response in the chat box
    - Or addressed by moderator
    - *Any questions not responded to in chat box will be addressed via email*

- *Did you use your email as your sign in?*
Rules Continued...(during Open Q & A)

- There maybe a chance for Open Q & A
  - Your phone will not be muted
  - We’re counting on you to mute your phone (*6)
- Questions?
  - “Raise Your Hand”
    - Called on in order
- Etiquette
  - Mute your phone until called on.
  - Need to take another call?
    - Hang up…Don’t put on hold!
Rules Continued… *(anytime)*

- **Tell us how you feel**
  - Not including “raise your hand”
  - Too Quiet?
  - Too Loud?
  - Agree?
  - Disagree?
- **Don’t forget to**
  - “Clear Status”
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But First: Some Oldies but Goodies
Race Conscious & Race Neutral

- DBE Program is intended to be
  - “Narrowly Tailored”
  - a Race Neutral program...
  - With a Race Conscious Element

- All participants are acting in “good faith”
Race Conscious

- measure or program focused specifically on assisting only DBEs, including women-owned DBEs

- You must establish **contract goals** to meet any portion of your overall goal you do not project being able to meet using race-neutral means.
Race Neutral

- measure or program is one that is, or can be, used to assist all small businesses.
  - race-neutral includes gender-neutrality.

- Providing technical assistance
- Long-term development opportunities
- Contract structuring & delivery
RC v RN: What fields to Use?

Race Conscious

- Set contract goals…
  - When projecting goal miss
  - (4) “must provide for participation by all certified DBEs”
  - not “divided into group-specific”

Race Neutral

- Did not set contract goals
  - Attributed to all the other wonderful things you do
  - Bottom line: Open Bid
Prime contracts awarded this period?

- **Contract** – a legally binding agreement obligating a seller to furnish supplies or services [26.5]
  - **Prime contract** = Direct agreement for services/supplies
  - **Sub contract** = Agreement between prime contractor and 2nd tier contractors
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Down to Business
What’s Going On?

- **New Section added to 49 CFR Part 26**

- **49 CFR § 26.39: Fostering Small Business Participation**
  - **Your** DBE Program,
  - **Must** include an element
  - Facilitate competition by **small business concerns**

Photo credit: Google question mark, [www.askdavidsimmons.com](http://www.askdavidsimmons.com)
Why?

#1: USDOT’s Small Business Job Motivator
- Assist Small Businesses & Encourage Competition

#2: USDOT thought you were doing this already

See the Preamble Text

- Augment/Memorialize race neutral elements

- Race neutral elements should not be “passive”

- “Waiting and hoping” for DBE participation “not effective”
Who’s responsible

- Direct recipients responsible for subs
  - Subs report through direct recipients

- Small business goal?
  - Not necessarily. Your discretion.

Photo credit: Draw Street hierarchy [www.bfoit.org](http://www.bfoit.org)
How? When?

- Element…must be submitted…

- By February 28, 2012

- FTA has asked for your entire DBE Program
  - Yes, that thing you update when significant changes occur

- Submit to FTA through TEAM
February 28, 2012!?!?! Help!

- Formal (Rule/Preamble)
- Informal (Randelle)
  - Webinars
Is there any other help?

- Guidance
  - This Webinar

- Official Q & A’s
  - Small Business Element
  - Official Q&A’s on OSDBU

- NO Sample Structures

Photo credit: Here & Now, Microsoft Online Stock Photos
Must & May

- **MUSTS:**
  - You must add a race neutral element to facilitate competition by small business concerns
    - Within your DBE Program
    - Structure contracting requirements
    - Facilitate competition!
  
- February 28, 2012

- Important: Can’t just be outreach...must create work!
Establish a small business set-aside for prime contracts
  - Must be absent social disadvantage!
  - No DBE contract goals within here.

Require prime bidders to identify sub contracts within a large contract
  - Does this require contract clauses?

Requiring prime contractors to provide sub contracts appropriate for small businesses

Alternative acquisition strategies
  - Joint ventures?

Reasonable number of prime contracts available for small businesses
What’s Expected?

- Approach this task in the manner that we’ve started our training.
  - Who?
  - What?
  - Where?
  - Why?
  - How?
- We’re not expecting a literary masterpiece
  - Should be readable by the public
Expectations

A Good Program includes...

- “Who” can compete
  - Adopt Size Standards

Small business?

- Use SBA/USDOT size limits where applicable
  - Can do micro-business plan…but suggest plan to address moderately small also
Great! More?

- PNW?
  - Recipients discretion

- Certify?
  - Not necessarily

- Verify?
  - YES!

Expectations

Not enough

- Simply stating:
  - We will establish a race-neutral small business set-aside for prime contracts

Good

- Stating:
  - We will establish a race-neutral small business set-aside for prime contracts
  - This will be proposed on a per fiscal year basis
  - DBELO, Counsel, Finance will participate
Expectations

Not enough

- Simply stating:
  - We will provide a reasonable number of prime contracts available for small businesses

Good

- Stating:
  - We will provide a reasonable number of prime contracts available for small businesses
  - ...By taking a yearly assessment of contracts
  - ...with engineering and procurement
  - Must seek GM, Board Approval
Uh huh...anything else?

- Doing Outreach Activities? Technical Capacity Building?
  - Consider working with a regional partner
    - Both must submit document, but can list members

- Can use existing small business program
  - Must be without “social disadvantage element”
Reporting?

- Required to report Small Business participation
  - No…(not yet)
- Must report DBE participation!
- SBE count for DBE credit?
  - NEVER
Let’s Recap

- You have to add a Small Business Element
  - It should address whether or not you can structure contracts to benefit small businesses
- It’s tailored to your circumstances
  - Describe to us, what you think will work.

Photo Credit: Garden Gnome, Microsoft Office Built in Stock Photos
Let’s Recap

- Give us your best
  - Good faith effort!
- You can always go back and improve it.
  - Submit significant changes for approval
- Program intended to help all small businesses
Let’s Recap

- Small Business Set-Aside → must not have social disadvantage element

- You **May**: Collaborate on Outreach Efforts

*Photo Credit: Menu. Microsoft Office Built In Stock Photos*
Let’s Recap

- You’ve Got a Menu of Options

- You Can Create More Items

- Think about what tools you may need for your choices. Such as:
  - Contract Clauses?
  - Forms?

*Photo Credit: Menu. Microsoft Office Built In Stock Photos*
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Switching Gears ➔ How to Get it to FTA
Let’s take a Deep Breath

- Some of you have already started
  - GREAT! Looking forward to your submissions
  - This training is designed to assist you.
- Many of you do these activities already
  - Now you need to memorialize them
- Many of you are very small recipients
  - We are cognizant of your size, and will be making judgments based on that understanding

*Photo Credit: African American Business Man, Microsoft Stock Photos*
Let’s Talk Logistics…

- **Logistics:**
  - *Organization of complex task: the planning and implementation of a complex task*
  - Not really that complex

- **Within your DBE Program**
  - Where?
How to Attach in TEAM?

- Through Recipient Query
- Through Civil Rights Query
Find the Paper Clip to attach

- Query Results ➔
  - Your Agency’s Information
Use the Civil Rights Folder

- Give your File a Name
  - No special characters
    - (#, $, etc…)
- Give your File a Description
  - NYMTA DBE Program 2012
- Give us a Date…
  - We like to know which is the latest and greatest
6 MB!?!?

- Scanned copies take up more space
  - Plus not 508 Compliant

- Convert your Document to Adobe PDF

- Last Resort ➔
  - Split your document

Photo Credit: Advancement, Microsoft Online Stock Photos
How?

- **Print as PDF**

- **Convert is Better!**
  - Even saves links.
  - You can’t do it...we can help.
Anything Else?

- Update your Program
  - *Many of you already have*
- 26.11 – Records & Reporting
- 26.37 – Monitoring & Enforcement
- 26.47 – *Can a Recipient be Penalized?*
- 26.53 – Good Faith Efforts.
Need more information/assistance?

Contact:
Your Regional Office

[click here]

FTA HQ:

Federal Transit Administration
Office of Civil Rights
1200 New Jersey Ave. SE
East Building, 5th Floor
Washington, D.C. 20590
Office: (202) 366-4018
Questions?

Photo Credit: The Peanut Gallery  www.mrkatzoff.org