

COMPLIANCE REVIEW REPORT
OF THE
Florida Department of Transportation (FDOT)
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
FINAL REPORT

September 2011

Prepared for the
Federal Transit Administration
Office of Civil Rights

by

Milligan & Company, LLC
105 N. 22nd Street, 2nd Floor
Philadelphia, PA 19103

Table of Contents

| | |
|--|----|
| Section 1 – General Information | 1 |
| Section 2 – Jurisdiction and Authorities | 2 |
| Section 3 – Purpose and Objectives | 3 |
| Section 4 – Background Information..... | 5 |
| Section 5 – Scope and Methodology | 6 |
| Section 6 – Issues and Recommendations | 8 |
| 1. DBE Program Plan | 8 |
| 2. DBE Policy Statement..... | 8 |
| 3. DBE Liaison Officer | 8 |
| 4. Financial Institutions | 9 |
| 5. DBE Directory | 10 |
| 6. Overconcentration..... | 10 |
| 7. Business Development Programs..... | 10 |
| 8. Determining/Meeting Goals | 11 |
| 9. Required Contract Provisions | 17 |
| 10. Certification Standards | 20 |
| 11. Certification Procedures | 21 |
| 12. Record Keeping and Enforcements..... | 21 |
| 13 January 2011 DBE Program Rulemaking | 23 |
| Section 7 – Summary of Findings | 25 |
| Section 8 – List of Attendees | 27 |

Section 1 – General Information

Grant Recipient: Florida Department of Transportation
605 Suwannee Street

City/State: Tallahassee, FL 32399-0450

Grantee Number: 1001

Executive Official: Ananth Prasad
Secretary of Transportation

On Site Liaison: Art Wright
Manager, Equal Opportunity Office
850-414-4749

Report Prepared by: MILLIGAN AND CO., LLC
105 N. 22nd Street, 2nd Floor
Philadelphia, PA 19103
(215) 496-9100

Site Visit Dates: January 24 – 27, 2011

Compliance Review Team
Members: Benjamin Sumpter, Lead Reviewer
Habibatu Atta
Ketnah Parchment

Section 2 – Jurisdiction and Authorities

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. The reviews are undertaken to ensure compliance of applicants, recipients, and subrecipients with Section 12 of the Master Agreement, Federal Transit Administration M.A., (17), October 1, 2010 and 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs.”

The Florida Department of Transportation (FDOT) is a recipient of FTA funding assistance and is therefore subject to the Disadvantaged Business Enterprise (DBE) compliance conditions associated with the use of these funds pursuant to 49 CFR Part 26. These regulations define the components that must be addressed and incorporated in FDOT's DBE program and were the basis for the selection of compliance elements that were reviewed.

Section 3 – Purpose and Objectives

PURPOSE

The FTA Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitment, as represented by certification to FTA, to comply with their responsibilities under 49 CFR Part 26. In keeping with its regulations and guidelines, FTA has determined that a compliance review of the Florida Department of Transportation's (FDOT) Disadvantaged Business Enterprise (DBE) program is necessary.

The primary purpose of the compliance review is to determine the extent to which FDOT has implemented 49 CFR Part 26, as represented to FTA in its DBE Program Plan. This compliance review is intended to be a fact-finding process to: (1) examine FDOT's Disadvantaged Business Enterprise Program Plan and its implementation, (2) make recommendations regarding corrective actions deemed necessary and appropriate, and (3) provide technical assistance.

This compliance review is not to directly investigate whether there has been discrimination against disadvantaged businesses by the grant recipient or its subrecipients, nor to adjudicate these issues in behalf of any party.

OBJECTIVES

The objectives of DOT's DBE regulations, as specified in 49 CFR Part 26, are to:

- ensure nondiscrimination in the award and the administration of DOT-assisted contracts in the Department's financial assistance programs;
- create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- help remove barriers to the participation of DBEs in DOT-assisted contracts;
- assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The objectives of this compliance review are to:

- determine whether FDOT is honoring its commitment represented by its certification to FTA that it is complying with its responsibilities under 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in DOT Programs”;
- examine the required components of FDOT’s DBE Program Plan against the compliance standards set forth in the regulations and to document the compliance status of each component; and
- gather information and data regarding the operation of FDOT’s Disadvantaged Business Enterprise Program Plan from a variety of sources – DBE program managers, other FDOT management personnel, DBEs, and prime contractors.

Section 4 – Background Information

FDOT was designated under Florida Statute to receive federal grants and administer Section 5310, 5311, 5316 and 5317 programs. FDOT operates a decentralized program comprised of a Central Office in Tallahassee and seven District Offices. The Central Office is responsible for the development of policies affecting public transit to the District Offices, where these policies are enacted. FDOT is responsible for the procurement of all Section 5310 vehicles. FDOT provides both capital and operating assistance for Section 5311, 5316 and 5317 subrecipients.

FDOT has approximately 171 subrecipients with 5310 vehicles in service, 50 subrecipients receiving Section 5311 assistance, 11 subrecipients receiving Section 5316 assistance, and seven Section 5317 subrecipients.

The Transit Office within the Public Transportation Division of FDOT administers FTA and state transit programs. The Central Transit Office is divided into three sections: Transit Planning, Grants Program Administration, and Transit Operations. The Grants Program Administration section, with an administrator and two staff members, coordinates the FTA programs, completes applications and reports for FTA, monitors the staff members in the District Offices and administers the Rural Transportation Assistance Program. The Transit Operations section, with an administrator and two staff members, monitors subrecipients' maintenance programs, conducts statewide procurements for subrecipients' vehicles, provides statewide training and technical assistance and administers the drug and alcohol program. Staff members in seven FDOT District Offices monitor the subrecipients, evaluate grant applications and provide technical assistance. The individual FDOT District Financial Offices process invoices and the FDOT Comptroller's Office processes ECHO draw downs.

Section 5 – Scope and Methodology

Scope

Implementation of the following twelve required DBE program components specified by the FTA are reviewed in this report.

1. A DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval. [49 CFR 26.21]
2. A signed policy statement expressing a commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation [49 CFR 26.23].
3. Designation of a liaison officer and support staff as necessary to administer the program, and a description of the authority, responsibility, and duties of the officer and the staff [49 CFR 26.25].
4. Efforts made to use DBE financial institutions, by the recipient as well as prime contractors, if such institutions exist [49 CFR 26.27].
5. A DBE directory including addresses, phone numbers and types of work performed made available to the public and updated at least annually [49 CFR 26.31].
6. Determination if overconcentration exists and address this problem if necessary [49 CFR 26.33].
7. Assistance provided to DBEs through Business Development Programs to help them compete successfully outside of the DBE program [49 CFR 26.35].
8. An overall goal based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on a recipient's DOT-assisted contracts [49 CFR 26.43 – 26.53].
9. Inclusion of a contract non-discrimination clause, a prompt payment clause and implementation of appropriate mechanisms to ensure compliance by all participants [49 CFR 26.13, 26.29, 26.37].
10. A certification process to determine if a potential DBE is legitimately socially and economically disadvantaged. The potential DBE must submit an application, a personal net worth statement and a statement of disadvantage, along with the proper supporting documentation [49 CFR 26.67].
11. A certification procedure to include document review and an on-site visit and determination of eligibility consistent with Subpart D of the regulations [49 CFR 26.83].
12. Implementation of appropriate mechanisms to ensure compliance with the part's requirements by all program participants. The DBE program must also include a

monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs. [49 CFR Part 26.37]. Reporting must include information on payments made to DBE firms [49 CFR 26.11, 26.55].

Methodology

The initial step in the scope of this Compliance Review consisted of consultation with the FTA Office of Civil Rights and a review of available information from FTA's TEAM System and other sources. Subsequent to this review, potential dates for the site visit were coordinated.

An agenda letter was then compiled and sent to FDOT by FTA's Office of Civil Rights. The agenda letter notified FDOT of the planned site visit, requested preliminary documents, and informed FDOT of additional documents needed and areas that would be covered during the on-site portion of the review. It also informed FDOT of staff and other parties that would potentially be interviewed.

The documents received prior to the on-site portion of the review were examined and an itinerary for the site visit was developed. An entrance conference was conducted at the beginning of the Compliance Review with FTA representatives, FDOT staff and the review team.

Subsequent to the entrance conference, a review was conducted of FDOT's DBE Program Plan and other documents submitted to the review team by the DBE Liaison Officer. Interviews were then conducted with FDOT regarding DBE program administration, record keeping and monitoring. These interviews included staff from diversity, procurement, and finance. A sample of contracts was then selected and reviewed for their DBE elements.

At the end of the review, an exit conference was held with FTA representatives, FDOT staff and the review team. A list of attendees is included at the end of this report. At the exit conference, initial findings and corrective actions were discussed with FDOT.

Following the site visit, a draft report was compiled. FDOT's responses to that draft report have been incorporated into this final report.

Section 6 – Issues and Recommendations

1. **DBE Program Plan**

Basic Requirement: (49 CFR Part 26.21) Recipients must have a DBE program meeting the requirements of 49 CFR Part 26. Recipients do not have to submit regular updates of DBE programs. However, significant changes in the program must be submitted for approval.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for a program plan. A DBE program plan dated June 6, 2000, was provided prior to the review. The program plan was in need of updates, in that the former Manager of Equal Opportunity Office (EOO), Ruth Dillard, was listed as the DBE Liaison Officer. The review team was provided a draft FDOT DBE Program Plan dated December 30, 2010, during the onsite visit. The draft program plan was pending approval of the Federal Highway Administration. The draft program plan identified the current Manager of EOO, Art Wright, as the DBE Liaison Officer. Several other areas of the program plan were updated to reflect actual activities and procedures of FDOT and the Equal Opportunity Office.

2. **DBE Policy Statement**

Basic Requirement: (49 CFR Part 26.23) Recipients must formulate and distribute a signed and dated DBE policy, stating objectives and commitment to the DBE program. This policy must be circulated throughout the recipients' organization and to the DBE and non-DBE business communities.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for a policy statement. The FDOT DBE policy statement was signed by Secretary Stephanie C. Kopelousos and became effective on July 19, 2007. The 2000 DBE program plan indicated that once the policy statement was signed, it would be disseminated to the Executive Committee, the Florida Transportation Commission, the Governor of the State of Florida and all of the components of the organization. The statement was to be distributed to DBE and non-DBE business communities that perform work for FDOT on USDOT-assisted contracts through mail outs to all certified DBEs, prime contractors and consultants. The 2010 draft DBE program plan indicates that the policy has been signed and disseminated to the Executive Board and is available to the public on the EOO webpage.

FTA notes that since the onsite portion of this review, Mr. Ananth Prasad has replaced Stephanie C. Kopelousos as FDOT's Secretary of Transportation, and assumes that a new policy statement will be generated.

3. **DBE Liaison Officer**

Basic Requirement: (49 CFR Part 26.25) Recipients must have a designated DBE liaison officer who has direct and independent access to the CEO. This liaison officer is responsible for implementing all aspects of the DBE program and must have adequate staff to properly administer the program.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for the DBE Liaison Officer (DBELO). The draft 2010 DBE program plan identified Art Wright as the DBE Liaison Officer with responsibility for implementing all aspects of the DBE program and ensuring the department complies with all provisions of 49 CFR Part 26. The plan continued that Mr. Wright has direct, independent access to the Secretary of the Florida Department of Transportation concerning DBE program matters. An organization-wide and departmental organization charts were provided to the review team. Mr. Wright reports directly to the Director of Administration, Ruth Dillard and has a dotted line reporting relationship to the Secretary according to the department chart.

Mr. Wright confirmed during the onsite review that he had used his access to the Secretary to request additional staff due to increased certification applications because of American Reinvestment and Recovery Act funds. Additionally, the Secretary has used this direct contact for questions and updates on the overall DBE program. A DBE Program Analyst position was recently filled and a new DBE Certification Analyst position was created and will be filled soon. The Equal Opportunity Office has three sections to include Business Development, EEO/AA and DBE Certification. Managers have oversight responsibility of these sections and their job responsibilities, in addition to the DBELO, are outlined in the 2010 draft DBE program plan. The Department appears to have adequate staff to administer the DBE program commensurate with their level of contracting activity.

4. Financial Institutions

Basic Requirement: (49 CFR Part 26.27) Recipients must investigate the existence of DBE financial institutions and make efforts to utilize them. Recipients must encourage prime contractors to use these DBE financial institutions.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for financial institutions. The DBE program plan stated that it is the policy of the Department 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 USDOT-assisted contracts to make use of these institutions. FDOT contacted the following agencies as identified in the 2000 program plan: Federal Deposit Insurance Corporation (FDIC); Black Business Investment Board; Leon County Women & Minority Business Enterprise Program (W/MBE); Florida Bankers Association. As of 2000, the department identified the following such financial institutions: Metro Savings; Hamilton Bank N.A.; Peoples Bank; and Florida A & M University Federal Credit Union. The 2010 DBE program plan indicated that the Black Business Investment Board agency was contacted and Florida A & M University was an identified financial institution. The review team also recommended the Federal Reserve website as an additional resource for identifying DBE financial institutions.

5. DBE Directory

Basic Requirement: (49 CFR Part 26.31) A DBE directory must be available to interested parties including addresses, phone numbers and types of work each DBE is certified to perform. This directory must be updated at least annually and must be available to contractors and the public upon request.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirement for a DBE directory. FDOT maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, telephone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory is updated daily and is available to the public via the internet. The directory can be sorted by NAICS code, specialty code, work location and physical location. This feature is in compliance with new 2011 DBE Final Rule requirements to list DBEs by the appropriate NAICS codes for the type of work in which they are certified.

6. Overconcentration

Basic Requirement: (49 CFR Part 26.33) The recipient must determine if overconcentration of DBE firms exists and address the problem, if necessary.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirement for overconcentration. In the 2000 DBE Program and during the onsite review, overconcentration was identified in two areas of work. Since the DBE regulations were published in 1999, FDOT received information raising the issue of overconcentration in the areas of geotechnical work and surveying. The Equal Opportunity Office established the criteria for identifying overconcentration in a particular area as written notification from a contractor or consultant to FDOT with specific statements of injury as defined in 49 CFR Part 26.

The plan stated that FDOT solicited input and received requests from the industry to participate in a task team to review the issues relating to overconcentration of firms in the geotechnical and surveying areas. Once the task team completed its findings and recommendations, the plan stated that findings of whether overconcentration existed would be issued. Information regarding the resultant findings was not available to the review team.

The 2010 program plan indicated that FDOT has not identified that overconcentration exists in the types of work DBEs perform on their contracts. The Equal Opportunity Office plans to conduct another overconcentration analysis once the new DBE Program Analyst reports for duty.

7. Business Development Programs

Basic Requirement: (49 CFR Part 26.35) The recipient may establish a Business Development Program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program.

Discussion: During this DBE Compliance Review, no deficiencies were found in the area of Business Development Programs (BDP). FDOT does not participate in a Business Development Program in accordance with Appendix C of the DBE regulations requiring term limits in developmental and transitional stages. However, FDOT has implemented a Business Development initiative pilot program. The program allows FDOT to reserve construction contracts under \$500,000 and professional services contracts under \$100,000 for bidding on proposals only for small businesses. The program began in 2006 in District Office two (Jacksonville) with the purpose of increasing competition and creating prime contractors from subcontractors. The Equal Opportunity Office is also planning to implement the STEP (Sub to Emerging Prime) program for established construction firms. FDOT appears to be taking appropriate steps for compliance with the fostering small business participation requirement in the new DBE Final Rule of 2011.

8. Determining/ Meeting Goals

A) Calculation

Basic Requirement: (49 CFR Part 26.45) To begin the goal setting process, the recipient must first develop a base figure for the relative availability of DBEs. After the base figure is achieved, all other relative evidence must be considered in an adjustment of this figure to match the needs of the specific DBE community.

Discussion: During this DBE Compliance Review, deficiencies were found with the requirements for calculation of goal. FDOT provided its FTA goal methodologies for fiscal years 2007, 2008, 2009 and 2010 of 3.4%, 2.47%, 1.86% and .008% respectively. The USDOT changed the goal methodology submissions from an annual to a triennial cycle. Based on the current schedule determined by FTA, FDOT's goal submission for Group A was due by August 1, 2010 for the three-year period covering FYs 2011 – 2013. FDOT did not provide the review team their three-year FTA goal submission for fiscal years 2011 – 2013.

The FTA goal setting process is conducted jointly with the Transit Office and the Equal Opportunity Office. Jon M. Ausman is FDOT's Federal Grants Manager in the Transit Office with FTA DBE program responsibilities. Mr. Ausman provides the EO Office with projected contracting opportunities and other pertinent information so that the goal methodology can be developed. The FTA goal methodology for fiscal year 2009 is described below because the fiscal year 2010 goal methodology appears to be completed in error, since it contained the same figures (except for the .008% figure) as the 2009 submission.

Step 1: Determining the Base Figure

In its FY 2009 goal methodology, FDOT began its goal setting process by identifying a base figure for the relative availability of DBEs based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on DOT assisted transit contracts. A review of Florida's Unified Certification Program (UCP) DBE directory along with the 2002 Economic census data was used to determine the "relative availability market area."

The following NAICS codes were used to gather information for transportation services trades: Interurban & Rural Bus Transportation- 4852; Other Transit & Ground Passenger Transportation- 4859; All Other Transit & Ground Passenger Transportation- 485999; and Special Needs Transportation- 485991. There were 16 DBEs in code 485999 and seven in code 485991 for a total of 23 DBEs. However, only the Transit & Ground Passenger Transportation code with 16 DBEs was used in the numerator portion of the equation. The total number of 2002 Census Bureau Listings in subsector transportation code 485 was 860 businesses. Using 16 DBEs as the numerator and 860 all firms as the denominator yielded a based figure of 1.86%. It was determined that weighting would not have an effect on the FTA goal.

Mr. Ausman provided spreadsheets of various FTA grant applications to subrecipients. These included 5303, 5311, 5316, and 5317 program funds. Mr. Ausman indicated during the onsite review that 5311 funds are mostly used for operating and vehicle purchases, which are not considered contracting opportunities for FDOT. The most likely opportunity for contracts was from the 5303 funds passed to the Metropolitan Planning Organizations (MPOs), according to Mr. Ausman. For fiscal years 2010-2011, MPOs received \$5,765,855 in FTA section 5303 statewide total allocations. However, there were no industry codes typical for planning-related opportunities included in the FTA goal methodologies reviewed for fiscal years 2007 through 2010.

Step 2: Adjusting the Base Figure

FDOT stated in the 2009 goal methodology that there was not sufficient information to make adjustments to the base figure.

Corrective Action and Schedule: Within 30 days of receipt of the draft report, submit to the Region IV Civil Rights Officer a plan to appropriately include all contracting opportunities of FDOT and its subrecipients for FTA goal setting methodology and submission of FTA triennial goal for fiscal years 2011-2013.

FDOT Response: The Department will review the contracting opportunities of the Department and its subrecipients and will incorporate this information in the FTA goal setting methodology that will be submitted by August 1, 2011. Based on the review to date, the Department has determined that planning consultants need to be included in the methodology.

FTA Response: FTA acknowledges that FDOT submitted an overall goal for its FTA-funded program for the period covering FFYs 2011-2014. Based on an initial and cursory review of this submission, the following additional information is needed to complete the review of this submission:

- Description of how potential contracting opportunities of subrecipients in FDOT's 5310, 5311, 5316, and 5317 programs were examined for inclusion during this process
- Description of how projects funded under FTA grant numbers FL-04-0049 (Winter Park/Maitland Facilities), FL-04-0133 (Station Enhancements, Seminole Co.), and FL-04-0234 (Amtrak Station Winter Park) are

included, as applicable, in this overall goal. Are they included as part of the SunRail opportunities noted in the goal submission?

- Additional information on past achievements to support the projection of accomplishing the entire overall goal through race-neutral means.

This deficiency will be closed upon receipt, review and acceptance by FTA of this additional goal-setting methodology information. Submit information by November 1, 2011 to:

Randelle Ripton
FTA Office of Civil Rights
1200 New Jersey Ave., SE, East Bldg., 5th Floor,
Washington, DC 20590
Randelle.ripton@dot.gov

B) Public Participation

Basic Requirement: (49 CFR Part 26.45) In establishing an overall goal, the recipient must provide for public participation through consultation with minority, women and contractor groups regarding efforts to establish a level playing field for the participation of DBEs. A published notice announcing the overall goal must be available for 30 days. The public must be notified that the recipient is accepting comments on the goal for 45 days following the date of the notice.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirement for Public Participation and Outreach. FDOT added in the 2010 overall goal methodology that they consult with various minority and women trade organizations. These organizations include local chambers of commerce, the National Association of Minority Contractors, the Association of General Contractors and other groups. The purpose is to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effect of discrimination on opportunities for DBEs and the Department's efforts to establish a level playing field for participation of DBEs. The Equal Opportunity Office conducts FHWA and FTA goal meetings with the Florida Transportation Building Association for construction activities and the Florida Institute of Consulting Engineers for professional services.

The goal notice is published by June 15th informing the public that the proposed goal and its rationale are available for review during normal business hours at the Equal Opportunity Office for 30 days and comments on the goals are accepted for 45 days from the date of notice. The notice includes addresses to which comments may be sent and the address where the documents may be reviewed. The notice is published in major metropolitan newspapers and minority newspapers. Additionally, a notice of the DBE goal is published on FDOT's website.

C) Transit Vehicle Manufacturer (TVM)

Basic Requirement: (49 CFR Part 26.49) The recipient must require that each transit vehicle manufacturer (TVM) certify that it has complied with the regulations.

Discussion: During this DBE Compliance review, no deficiencies were found with the requirement for transit vehicle manufacturers. FDOT's Public Transit Office provided the signed standard assurances for contract proposal #TRIP-10-SCLF-FCCS dated June 2010. The assurances included the DBE TVM certification signed by proposer stating, "The proposer hereby certifies that it has complied with the requirements of 49 CFR, Section 26.49 by submitting an annual DBE/WBE goal to the FTA. The goal has either been approved or not approved by FTA." There is also a note at the bottom of the certification that an approved annual FTA certification must be received before a contract extension can be considered for each year. A copy of the goal acceptance letter from FTA was also included in the packet. The review team also encouraged FDOT to review FTA's website to verify that they are listed on their approved list.

D) Race Neutral DBE Participation

Basic Requirement: (49 CFR Part 26.51) The recipient must meet the maximum feasible portion of the overall goal by using race neutral means of facilitating DBE participation. Examples of how to reach this goal amount are listed in the regulations.

Discussion: During this DBE Compliance Review, deficiencies were found in the area of race neutral participation. The review team examined goal methodology submittals from FY 2007, FY 2008, FY 2009 and FY 2010 to determine FDOT's approach concerning race neutral DBE participation. From fiscal years 2007 to 2010, FDOT's goals were to be achieved through race neutral means. The DBE Liaison Officer was designated to closely monitor participation in order to determine whether mid-course corrections are needed. Race neutral measures listed in the methodology included arranging solicitations, times for the presentation of bids, quantities, specification, and delivery schedule in ways that facilitate DBE and other small and minority owned business participation; providing technical assistance and other services with special emphasis on marketing; and providing the name, phone number and e-mail address for additional information pertaining to a contract.

FTA dollars are passed on to and administered by subrecipients. FDOT noted that they had not undertaken any direct contract awards during the review period and at the time of the review, they had not fully understood and monitored, for the DBE program, the FTA-funded contracts that their subrecipients were undertaking. Because of this, the Public Transit Office could not provide any FTA-funded contracts for the review team to analyze onsite.

Corrective Action and Schedule: By October 14, 2011, provide FTA with a listing of all FTA-funded solicitations and contracts, those controlled directly by FDOT's procurement and those controlled by subrecipients, for the period covering January 1, 2011 to September 9, 2011. From that listing, FTA will select additional documents to review. Upon review of those documents, FTA will make a determination on further action that may be necessary in this area. Submit the listing of contracts and solicitations to:

Randelle Ripton
FTA Office of Civil Rights
1200 New Jersey Ave., SE, East Bldg., 5th Floor,

E) Race Conscious DBE Participation

Basic Requirement: (49 CFR Part 26.51) The recipient must project a percentage of its overall goal that will be met through race conscious means. These contracts may have varying DBE goals, and be made on an individual basis, depending on conclusions of the studies performed.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for race conscious participation on overall and contract goals. FDOT has operated a race neutral program since January 1, 2000. Contract specific goals are not placed on Federal contracts; however, they encourage contractors to assist them in meeting their overall goals.

F) Good Faith Efforts

Basic Requirement: (49 CFR Part 26.53) The recipient may only award contracts, with DBE goals, to bidders who have either met the goals or conducted good faith efforts (GFE) to meet the goals. The bidders must provide documentation of these efforts for review by the recipient.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for good faith efforts. The draft 2010 DBE program plan indicates that bidder/proposers' compliance with good faith efforts requirements is a matter of responsiveness. Since FDOT's DBE program is race neutral, a bid will not be rejected as non-responsive based on the percentage of DBE utilization. Bidders will be required to submit DBE utilization information. The DBE program plan states that contractors are required to submit for approval a DBE Affirmative Action Plan that expresses a commitment to use DBEs in all aspects of contracting to the maximum extent feasible and to describe their affirmative action methods. The review team suggests that FDOT include language in the program plan that the DBE Affirmative Action Plan will not be used as a race conscious method of bid evaluation.

The DBE program plan describes that for solicitations with contract goals, bidders/proposers are required to submit information within three days of bid submission, outlining the specific contact information for DBE firms participating on the contract; description of work; dollar amount; signed commitments to use DBEs; signed confirmations from DBEs; and good faith efforts if the contract goal is not met.

G) Counting DBE Participation

Basic Requirement: (49 CFR Part 26.55) The recipient must count only the value of work actually performed by the DBE toward actual DBE goals.

Discussion: During this DBE Compliance Review, deficiencies were found with the requirements for counting DBE participation. The draft 2010 DBE program plan

describes FDOT's process for counting DBE participation in a race neutral environment. Contractors are required to submit their Anticipated DBE Participation Statement at the preconstruction conference and consultants submit their DBE utilization with their Automated Fee Proposal. For very large construction contracts that spread over multiple years, the contract dollars and DBE participation are split up for each year of the contract. In other contracts where a concessionaire is the prime contractor, such as on the Miami Intermodal Center, the concessionaire is allowed to report their Anticipated DBE Participation Statement as they enter into contracts to perform work. Contractors and consultants are required to provide updated information on their DBE utilization during the life of the contract. For changes made to DBE utilization in contracts that were previously reported to the FHWA, DBE participation is counted during the current federal fiscal year.

Neither the DBE program plan nor the Public Transit Office provided information on how FTA funds passed to subrecipients are counted. The review team was provided spreadsheets of how much and to whom section grant application funds were passed; however, there was no indication if these funds were used for contracting or had any DBE participation.

Corrective Action and Schedule: Within 30 days of receipt of the draft report, submit to the Region IV Civil Rights Officer a plan and schedule for instituting a mechanism to appropriately monitor and count DBE participation on FTA funded projects, including subrecipient projects funded by FTA.

FDOT Response: The Department has amended the grant application manuals for Section 5310, 5311, 5316 and 5317 to require subrecipients to submit their DBE reports to the FDOT ten (10) days before the required filing deadline with the Federal Transit Administration. This addendum is Exhibit L and is shown in the attachment. The language in Exhibit L has been added to the Metropolitan Planning Organization handbook to cover Section 5303 subrecipients.

FTA Response: To close this deficiency, submit detailed information on activities that FDOT has undertaken to proactively monitor subrecipients beyond receipt of reports. Submit this information to FTA's Office of Civil Rights by November 1, 2011. In addition to collecting the Uniform Semi Annual Reports from subrecipients, it is recommended that FDOT also require subrecipients to attach back-up information to provide support for the numbers in their reports. Submit this information to:

Randelle Ripton
FTA Office of Civil Rights
1200 New Jersey Ave., SE, East Bldg., 5th Floor,
Washington, DC 20590.
Randelle.ripton@dot.gov

H) Quotas

Basic Requirements: (49 CFR Part 26.43) The recipient is not permitted to use quotas or set-aside contracts.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirement for quotas. No evidence of the use of quotas or set-aside contracts by FDOT was found during the site visit. FDOT does however have a small business set-aside pilot program.

9. Required Contract Provisions

A) Contract Assurance

Basic Requirements: (49 CFR Part 26.13) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include a non-discrimination clause detailed by the regulations.

Discussion: During this DBE Compliance Review, deficiencies were found with the requirements for Contract Assurances. The draft 2010 DBE program plan outlines the contract assurance clause in accordance with 49 CFR Part 26.13. FDOT ensures that this assurance clause is placed in every USDOT-assisted contract and subcontract. All construction contracts reference the FDOT Standard Specification for Road and Bridge Construction. Section 7-24.2 of the specification book includes the correct contract assurance non-discrimination clause required in contracts and subcontracts. The review team was informed that the contract assurance is also included in professional service contracts. FDOT noted that they had not undertaken any direct contract awards during the review period and at the time of the review, they had not fully understood and monitored, for the DBE program, the FTA-funded contracts that their subrecipients were undertaking. Because of this, the Public Transit Office could not provide any FTA-funded contracts for the review team to analyze onsite.

Prior to the conclusion of the onsite visit, the review team was provided information by the Public Transit Office to shed light on the FTA funded programs. The Public Transportation Joint Participation Agreement referencing the DBE policy and obligation was provided to the review team. The DBE obligation section 12.32 referenced an outdated contract assurance clause referring to maximizing opportunity to DBEs and not discriminating on the basis of race, color, national origin or sex in the award and performance of Department (FDOT) assisted contracts.

Corrective Action and Schedule: Within 30 days of receipt of the draft report, submit to the Region IV Civil Rights Officer a plan and schedule for ensuring that the appropriate language of 26.13 has been included in the DBE program and that these assurances are included in all FTA funded contracts, purchase orders, and subcontracts, including those of subrecipients.

FDOT Response: The language in the joint participation agreements (JPA), Section 12.31, has been amended to cite language from 26.13 verbatim. This language can be found at: <http://ombnet.co.dot.state.fl.us/forms/FormsbyNum.asp?formnumber-725-030-06>.

FTA Response: By October 14, 2011, provide FTA with a listing of all FTA-funded solicitations and contracts, those controlled directly by FDOT's procurement and those controlled by subrecipients, for the period covering January 1, 2011 to September 9,

2011. From that listing, FTA will select additional documents to review. Upon review of those documents, FTA will make a determination on further action that may be necessary in this area. Submit corrective action information to:

Randelle Ripton
FTA Office of Civil Rights
1200 New Jersey Ave., SE, East Bldg., 5th Floor,
Washington, DC 20590
Randelle.ripton@dot.gov

B) Prompt Payment

Basic Requirements: (49 CFR Part 26.29) The recipient must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance on their contracts no later than 30 days from receipt of each payment made by the recipient. This clause must also address prompt return of retainage payments from the prime to the subcontractor within 30 days after the subcontractors' work is satisfactorily completed.

Discussion: During this DBE Compliance Review, a deficiency was found with regard to the requirements for Prompt Payment. No deficiencies were found with the requirement for Return of Retainage.

Prompt Payment

The prompt payment requirement mandated by Chapter 337.11 of the Florida Statutes as follows: “ (11)(a) Every contract let by the department for the performance of work shall contain a provision requiring the prime contractor, before receipt of any progress payment under the provisions of such contract, to certify that the prime contractor has disbursed to all subcontractors and suppliers having an interest in the contract their pro rata shares of the payment out of previous progress payments received by the prime contractor for all work completed and materials furnished in the previous period, less any retainage withheld by the prime contractor pursuant to an agreement with a subcontractor, as approved by the department for payment. The department shall not make any such progress payment before receipt of such certification, unless the contractor demonstrates good cause for not making any such required payment and furnishes written notification of any such good cause to both the department and the affected subcontractors and suppliers.

(b) Every contract let by the department for the performance of work shall contain a provision requiring the prime contractor, within 30 days of receipt of the final progress payment or any other payments received thereafter except the final payment, to pay all subcontractors and suppliers having an interest in the contract their pro rata shares of the payment for all work completed and materials furnished, unless the contractor demonstrates good cause for not making any such required payment and furnishes written notification of any such good cause to both the department and the affected subcontractors or suppliers within such 30-day period.”

The draft DBE program plan notes, “While section 337.11 (11)(a) of the Florida Statutes addresses progress payments to subcontractors throughout the life of a contract, section 337.11(11) (b) addresses the final payment to the subcontractors upon completion and final acceptance of the project.” The program plan indicated that “neither the department (FDOT) nor the industry have interpreted or enforced section 337.11(11) (a) to require payment of prorated shares of progress payments to subcontractors within 30 days after the prime contractor receives this progress payment from the FDOT. Contractors are

required to certify payment to subcontractors prior to receipt of their next progress payment.”

The program plan further states, “both the (FDOT) and the industry have interpreted and enforced section (b) as requiring prime contractors to pay the pro rata shares of the final payment to subcontractors within 30 days of the receipt of the final payment.”

The Equal Opportunity Office representative and DBELO advised the review team that while the statute may not clearly state to pay subcontractors within 30 days of payment receipt, the department requires prompt payment by the prime contractor of both progress and final payments to subcontractors within 30 days of being paid by FDOT as stated in the draft 2010 DBE program plan and in compliance with 49 CFR part 26. The review team suggests that FDOT provide clear language in their DBE program plan and contracts of what constitutes prompt payment and how possible conflicts in State requirements will be addressed.

Return of Retainage

In June 2003, USDOT issued a Final Rule on DBE that contained new requirements for prompt return of retainage. According to the Final Rule, if an agency chooses to hold retainage from a prime contractor, they must have prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after payment to the prime contractor.

The 2010 draft program plan states that FDOT will also comply with 49 CFR Part 26.29 and have a contractual provision in its contracts with prime contractors which states that contractors will return retainage payment to all subcontractors within 30 days after the subcontractor’s work has been deemed satisfactorily completed. Contract provisions reference the standard specification book which states the contractor shall also return all retainage withheld to the subcontractors within 30 days after the subcontractor’s work is satisfactorily complete, as determined by the Department. Prior to receipt of any progress (partial) payment, the prime contractor shall certify that all subcontractors having an interest in the contract were paid for satisfactory performance of their contracts and that the retainage is returned to subcontractors within 30 days after satisfactory completion of the subcontractor’s work.

Corrective Action and Schedule: Within 30 days of receipt of the draft report, submit to the Region IV Civil Rights Officer a plan and schedule for ensuring clear contractual language and a monitoring and enforcement plan regarding prompt payment.

FDOT Response: The Department does not believe that a conflict exists between the federal regulations and the specifications for construction contracts. The Department requires contractors to pay their subcontractors within 30 days of being paid by the Department. The Department pays contractors on a monthly basis; therefore the subcontractors will be paid on a monthly basis.

FTA Response: To close this deficiency, submit a revised DBE program plan clearly stating how FDOT will comply with the prompt payment guidelines of 49 CFR Part 26.29 without referencing Florida's prompt payment laws. Because the DBE program is a Federal program reference to state laws in a Federal program is inappropriate and unnecessary. Submit this information to FTA's Office of Civil Rights by October 14, 2011. Additionally, by October 14, 2011, provide FTA with a listing of all FTA-funded solicitations and contracts, those controlled directly by FDOT's procurement and those controlled by subrecipients, for the period covering January 1, 2011 to September 9, 2011. From that listing, FTA will select additional documents to review. Upon review of those documents, FTA will make a determination on further action that may be necessary in this area. Submit corrective action information to:

Randelle Ripton
FTA Office of Civil Rights
1200 New Jersey Ave., SE, East Bldg., 5th Floor,
Washington, DC 20590
Randelle.ripton@dot.gov

C) Legal Remedies

Basic Requirements: (49 CFR Part 26.37) Recipients must implement appropriate mechanisms to ensure compliance by all participants, applying legal and contract remedies under Federal, state and local law.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirement for legal remedies. The standard specification books referenced in contracts include legal remedies of withholding payments for failure to comply with providing information and actual payments to DBEs in the internet-based reporting system within 60 days after beginning work.

The draft DBE program plan indicates that FDOT will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR Part 26.109. They also will consider similar action under their own legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidders and consultants' lists or revocation of DBE certification if applicable, pursuant to section 337.105; 337.16; and 339.0805, Florida Statutes.

10. Certification Standards

Basic Requirements: (49 CFR Part 26.67) The recipient must have a certification process intact to determine if a potential DBE firm is legitimately socially and economically disadvantaged according to the regulations. The DBE applicant must submit the required application and a signed and notarized statement of personal net worth with appropriate supporting documentation.

Discussion: This section is addressed in the Florida Unified Certification Program Report. That review was conducted on January 25 – 27, 2011.

11. Certification Procedures

Basic Requirements: (49 CFR Part 26.83) The recipient must determine the eligibility of firms as DBEs consistent with the standards of Subpart D of the regulations. The recipient's review must include performing an on-site visit and analyzing the proper documentation.

Discussion: This section is addressed in the Florida Unified Certification Program Report. That review was conducted on January 25 – 27, 2011.

12. Record Keeping and Enforcements

Basic Requirement: (49 CFR Part 26.11, 26.55) The recipient must provide data about its DBE program to the FTA on a regular basis. This information must include monitoring of DBE participation on projects through payments made to DBE firms for work performed. The recipient must maintain a bidders list complete with subcontractor firm names, addresses, DBE status, age of firm, and annual gross receipts of the firm.

Discussion: During this DBE Compliance Review, no deficiencies were found with the FTA requirement for maintaining the bidders list. Deficiencies were found in the areas of monitoring and reporting.

A) Bidders List

FDOT maintains a bidders list that consists of information about DBE and non-DBE firms that bid or quote on FDOT contracts. The draft program plan states that the purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidders list includes the name, address, DBE/non-DBE status, age, and annual gross receipts of firms. This form is collected through contract clauses, requiring all bidders to report the names and addresses of firms furnishing quotes. The information is requested from all prime contractors and consultants within three days of their bid submission or can be submitted with the bid. The review team was provided a copy of the bidders list form and it contained the information described in the program plan.

B) Monitoring

FDOT monitors compliance with the DBE requirements through district construction staff and provides direction on how to monitor through the Equal Opportunity Construction Contract Compliance procedure. The compliance procedure also includes a Commercially Useful Function DBE Monitoring Report used by the district staff. The CUF monitoring form was provided to the review team in addition to a small note card given to district field personnel to identify primary areas to review in assessing commercially useful function.

The review team interviewed the project management staff during the onsite visit. There are approximately 150 Resident Compliance Specialists that make sure contractors are meeting all federal requirements on contracts. District Offices are required to conduct a minimum of eight DBE compliance reviews per year. The State Contract Compliance Administrator has quality control responsibility to ensure these compliance procedures are followed by the district offices. Payments to DBEs are monitored through the Equal Opportunity Reporting System. Prime contractors and consultants are required to enter all payments made to DBEs and any retainage held in the system.

The Public Transit Office has responsibility for monitoring DBE requirements for FTA funded contracts. Most of the FTA funds are passed on by FDOT to subrecipients to administer in their respective programs. These subrecipients are required to execute Joint Participation Agreements and submit an annual Section 5311 Recipient Monitoring Site Visit checklist. The review team was provided a copy of the 5311 site visit checklist. The checklist had questions A through T for compliance with various requirements. Question J pertained to DBE requirements, asking if the recipient is undertaking and documenting the necessary and reasonable steps required by FTA for compliance with the Federal DBE Program requirements. The recipient responds with a check and indicated “no DBEs in area to use, they advertised and no DBEs responded” in the notes section.

While this does indicate some level of a monitoring mechanism, the same scrutiny given for DBE compliance on FHWA funded projects is not administered for FTA funded projects. There was no mechanism for monitoring DBE commitments or running tally of DBE achievement provided to the review team from the Public Transit Office. Additionally, there does not appear to be a formal monitoring mechanism for DBE references in subrecipients’ procurement processes. Therefore, the review team’s recommendation is for the Public Transit Office and the Equal Opportunity Office to discuss and coordinate consolidating DBE contract compliance procedures for both FHWA and FTA programs.

C) Reporting

The Grants Administrator, Jon Ausman, has responsibility for submitting semi-annual reports to FTA. Mr. Ausman indicated to the review team that he had never completed a semi-annual report during his five year tenure with FDOT until December 2010. He was advised of the new TEAM reporting requirements in May 2010, was given approval to not submit the June 2010 semi-annual report, and was instructed to submit the first report on December 1, 2010. Mr. Ausman provided a print out of the December 2010 semi-annual report completed on the TEAM electronic form. The report identified the FDOT funds passed to the districts and subrecipients instead of awards and commitments of subrecipients; however, the ethnic breakdown was completed on the form. Mr. Ausman indicated that these ethnic breakdown numbers were collected from the districts. This indicated some level of tracking DBE participation by the district offices. The review team advised Mr. Ausman and the DBELO, Arthur Wright, to implement a reporting system from the districts so that the FTA semi-annual reports could be completed accurately.

Corrective Action and Schedule: Within 30 days of receipt of the draft report, submit to the Region IV Civil Rights Officer a plan and schedule for ensuring that:

- effective monitoring mechanisms are in place and performed by staff to monitor and report work on subrecipients' FTA funded contracts, and
- procedures are implemented for accurate and complete collection and reporting of data for semi-annual reports to FTA.

FDOT Response:

The Department has amended the grant application manuals for Sections 5310, 5311 5316 and 5317 to require subrecipients to submit their DBE reports to FDOT ten (10) days before the required filing deadline with the Federal Transit Administration. This addendum is Exhibit L and is shown in the attachment. The language in Exhibit L has been added to the MPO handbook to cover Section 5303 subrecipients.

FTA Response: The information provided in the response partially addresses the deficiencies identified. To close this deficiency, submit detailed information on activities that FDOT has undertaken to proactively monitor subrecipients beyond receipt of reports. As it appears that there will be increased monitoring necessary as SunRail contracts develop, provide information on how that work will be monitored for DBE compliance. Also provide information on how FDOT will ensure (through training or other mechanisms) that subrecipients understand how to complete semi-annual reports correctly. Submit this information to FTA's Office of Civil Rights by November 1, 2011. Submit corrective action information to:

Randelle Ripton
FTA Office of Civil Rights
1200 New Jersey Ave., SE, East Bldg., 5th Floor,
Washington, DC 20590
Randelle.ripton@dot.gov

Note: To the extent that 10 days does not allow a significant amount of time for FDOT to review and aggregate data from subrecipients, FTA has created an account for your use on the DBE Office Online Reporting System (DOORS). This electronic method of receiving and aggregating reporting data from your subrecipients can prove to be an effective and efficient way to manage the data associated with the required DBE reporting. Under separate email on September 8, 2011, FTA's Office of Civil Rights granted this access to the DBELO.

13. January 2011 DBE Program Rulemaking

On January 28, 2011, USDOT issued a new "Final Rule" for its DBE program. Subject areas affected by the new provisions include, but are not limited to: DBE terminations; Personal Net Worth; interstate certification and other certification issues; accountability and DBE goal submission; DBE program oversight; and small business provisions.

With the notable exception of some of the certification-related provisions, the new rules became effective on February 28, 2011. That being the case, certain areas identified in this report will be affected by the changes. While none of the rule changes will result in a deficiency for the purposes of this review, FTA does hope to use the opportunity presented by the timing of the new rule to provide technical assistance and guidance as

FDOT develops and implements any new policies and procedures required to ensure full compliance with the new provisions. Ultimately, FTA anticipates that any new or amended requirement will be incorporated into FDOT's DBE program plan by the time the compliance review process is complete.

Section 7 – Summary of Findings

| Requirement of 49 CFR Part 26 | Ref. | Site visit Finding | Description of Deficiencies | Submit Corrective Action Plan and Schedule for the following: | Response Days/Date |
|--|-------|-----------------------|--|---|-----------------------|
| 1. Program Plan | 26.21 | ND | | | |
| 2. Policy Statement | 26.23 | ND | | | |
| 3. DBE Liaison Officer | 26.25 | ND | | | |
| 4. Financial Institutions | 26.27 | ND | | | |
| 5. DBE Directory | 26.31 | ND | | | |
| 6. Overconcentration | 26.33 | ND | | | |
| 7. Business Development Programs | 26.35 | ND | | | |
| 8. Determining / Meeting Goals | | | | | |
| A. Calculation | 26.45 | D | Not considering all contracting opportunities. Did not submit triennial FTA goal for FY2011-2013 | Submit additional information to complete the review of overall goal submission. | November 1, 2011 |
| B. Public Participation | 26.45 | ND | | | |
| C. TVM | 26.45 | ND | | | |
| D. Race Neutral | 26.51 | D | | Provide listing of all FTA contracts/solicitations directly awarded by FDOT and those awarded by subrecipients from January 1, 2011 to September 9, 2011. | October 14, 2011 |
| E. Race Conscious | 26.51 | ND | | | |
| F. Good Faith Efforts | 26.53 | ND | | | |
| G. Counting DBE Participation | 26.55 | D | Not keeping tally to track DBE participation of subrecipients | Submit detailed information on activities that FDOT has undertaken to proactively monitor subrecipients beyond receipt of reports. | November 1, 2011 |
| H. Quotas | 26.43 | ND | | | |
| 9. Required Contract Provisions | | | | | |
| A. Contract Assurance | 26.13 | D | Non discrimination clause in agreements with subrecipients has incorrect DBE | Provide listing of all FTA contracts directly awarded by FDOT and those awarded by subrecipients from January 1, | October 14, 2011 |

| Requirement of 49 CFR Part 26 | Ref. | Site visit Finding | Description of Deficiencies | Submit Corrective Action Plan and Schedule for the following: | Response Days/Date |
|---|----------------|--------------------|--|--|--------------------|
| | | | program language | 2011 to September 9, 2011. | |
| B. Prompt Payment | 26.29 | D | Conflicting language regarding prompt payment | Submit revised DBE program plan clearly stating how FDOT will comply with 49 CFR Part 26.29. Additionally, provide listing of all FTA contracts directly awarded by FDOT and those awarded by subrecipients from January 1, 2011 to September 9, 2011. | October 14, 2011 |
| C. Legal Remedies | 26.37 | ND | | | |
| 10. Certification Standards | 26.67 | N/A | | | |
| 11. Certification Procedures | 26.83 | N/A | | | |
| 12. Record Keeping and Enforcements | | | | | |
| A. Bidders List | 26.11 | ND | | | |
| B. Monitoring | 26,37 26.55 | D | Not keeping a running tally or have monitoring enforcement process for subrecipients | Submit detailed information on activities that FDOT has undertaken to proactively monitor projects and subrecipients beyond receipt of reports. | November 1, 2011 |
| C. Reporting | 26.11 | D | Reports not submitted previously and reports submitted are incorrect | Provide information on how FDOT will ensure (through training or other mechanisms) that subrecipients understand how to complete semi-annual reports correctly. | November 1, 2011 |
| 13. January 2011 DBE Program Rulemaking | NA | NA | | | |

Findings at the time of the site visit: ND = No deficiencies found; D = Deficiency; NA = Not Applicable; AC = Advisory Comment

Section 8 – List of Attendees

| Name | Organization | Title | Phone | Email |
|-------------------------------|---|---|--------------|-------------------------------|
| FTA: | | | | |
| Frank Billue | FTA – Region IV (via teleconference) | Regional Civil Rights Officer | 404-865-5628 | Frank.billue@dot.gov |
| Jimmy Moore | FTA – Region IV (via teleconference) | Equal Opportunity Specialist (ARRA) | 404-865-5471 | Jimmy.moore@dot.gov |
| Ryan Inman | FTA - Office of Civil Rights (via teleconference) | EO Specialist, DBE Technical Lead | 202-366-5017 | Ryan.inman@dot.gov |
| FDOT Members: | | | | |
| Art Wright | FDOT | Manager | 850-414-4749 | Arthur.wright@dot.state.fl.us |
| E. Michael Klump | FDOT | Investigations Officer, EOO | 850-414-4764 | Michael.klump@dot.state.fl.us |
| Edward Coven | FDOT | State Transit Manager | 850-414-4500 | Ed.coven@dot.state.fl.us |
| Nita Jackson | FDOT | Manager, Business Development | 850-414-4744 | Nita.jackson@dot.state.fl.us |
| Ruth Dillard | FDOT | Director of Administration | 850-414-5230 | Ruth.dillard@dot.state.fl.us |
| Jon M. Ausman | FDOT | Federal Grants Manager, Transit Office | 850-414-4519 | Jon.ausman@dot.state.fl.us |
| Samuel Febres | FDOT | Certification Consultant | 850-414-4745 | Sammy.febres@dot.state.fl.us |
| Carla M. Perry | FDOT | State Professional Services Engineer | 850-414-4484 | Carla.perry@dot.state.fl.us |
| John A. Minnick | FDOT | Assistant General Counsel | 850-414-5265 | John.minnick@dot.state.fl.us |
| James A. Lane | FDOT | Deputy Comptroller | 850-414-4490 | Jim.lane@dot.state.fl.us |
| Juanita Payne Moore | FDOT | Manager, Contracts Administration Office | 850-414-4000 | Juanita.moore@dot.state.fl.us |
| Erica Miller | FDOT | State Contract Compliance Officer | 850-414-4742 | Erica.miller@dot.state.fl.us |
| Milligan & Co LLC: | | | | |
| Benjamin Sumpter | Milligan & Co., LLC | Lead Reviewer | 215-496-9100 | Bsumpter@milligancpa.com |
| Habibatu Atta | Milligan & Co., LLC | Reviewer | 215-496-9100 | Hatta@milligancpa.com |
| Ketnah Parchment | Milligan & Co., LLC | Reviewer | 215-496-9100 | Kparchment@milligancpa.com |