



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

Headquarters

1200 New Jersey Avenue SE
Washington, DC 20590

April 11, 2014

Transit Vehicle Manufacturers

Re: FY 2015 DBE Goal and Program Reminders

Dear TVM:

The Federal Transit Administration (FTA) is pleased to report noticeable improvement in transit vehicle manufacturers' (TVM) Disadvantaged Business Enterprise (DBE) program and goal submissions. FTA is writing today, however, to outline lingering concerns with TVMs' bids, goal methodology, consultation, and publication efforts. In addition, this letter serves as notice regarding FTA's future disapproval process and upcoming deadlines.

Recall that in January 2012, the FTA Administrator contacted TVMs and expressed concern regarding serious flaws in DBE submissions and the low projections for DBE participation. He cautioned that failure to comply with DBE requirements would result in disapproval and ineligibility to bid on FTA-assisted vehicle procurements. Pursuant to the DBE rule, TVMs may bid on vehicle procurements after submitting a DBE goal to FTA and when "FTA has approved it or not disapproved it." 49 C.F.R. 26.49(c). FTA became aware of certain TVMs submitting bids on FTA-assisted contracts when the TVM had not first submitted a goal to FTA. Please be advised that FTA is in the process of counseling FTA grantees that the consequence of such actions could result in FTA declining to participate in the procurement.

We are also taking this opportunity to remind you that all TVMs must submit a DBE goal methodology to FTA by August 1st of each fiscal year and identify any significant changes to program plans. The methodology must include, at a minimum, the following elements: (1) a detailed list of contracting and subcontracting opportunities; (2) an explanation of the geographic market area; (3) the relative availability of DBEs compared to all firms; (4) an explanation of the Step 2 adjustment; (5) the breakdown and explanation of race-neutral and race-conscious measures; (6) meaningful consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability and disparity between disadvantaged and non-disadvantaged businesses; and (7) evidence the goal was published in at least one general circulation media, one minority-focused media, and one trade publication.

Regarding the last two points above—consultation and publication—be advised that the U.S. Department of Transportation (DOT) recently proposed eliminating the publication requirement. While this proposal has not yet been finalized, the proposal itself signals DOT's interest and emphasis on the consultation process. TVMs should actively engage stakeholders, such as state departments of transportation and transit agency DBE liaison officers, advocacy organizations

and officials within a TVM's stated geographic market area, DBEs, small businesses, and general contractor groups. The goal-setting process lends itself to this level of interaction with the public and is necessary to ensure a narrowly tailored, but fair DBE goal.

To that end, FTA will require TVMs to produce evidence of their consultation efforts. In the past, it was sufficient to simply provide a narrative of consultation efforts supplemented with an example of what was sent out to the public. Starting with the August 1, 2014 submission, you must submit evidence of your consultation efforts, such as the names and titles of persons/groups contacted, photocopies of your correspondence requesting comments and the responses received, minutes and sign-in sheets from meetings held, and the dates/times of telephone conversations and the information discussed during these calls. You must provide a narrative of how the information gathered impacted your goal methodology.

Even though the DOT has proposed doing away with the publication requirement, until it is a final rule, TVMs must still publish a notice announcing the DBE goal. You must ensure that your notice is published in a general circulation media, minority-focused media, and a trade publication for 30 days and allow the public to view and comment on the goal methodology during normal business hours at your principal office for 45 days from the date of the notice. See generally 49 C.F.R. 26.45(g). Please be warned that publishing the DBE goal notice in the American Public Transportation Association (APTA) magazine or with DBE *goodfaith.com* alone will not satisfy this DBE requirement.

We are also providing you notice that starting August 1, 2014, should your submission not meet the requirements, FTA will identify the deficiencies that preclude the issuance of an approval letter and will instead issue an "In Review letter." This letter will provide you up to 60 days to come into compliance. If after the 60th day, your program and/or goal cannot be approved, you will be issued a disapproval letter and if your company is listed on the approved list, it will be removed. You may continue to work on your submission, and at the point at which your company meets the requirements, you will be issued an approval letter and placed on the approved list posted on FTA's TVM website.

Finally, as of April 16, 2014, DOORS will no longer exist and so you should plan to submit paper copies of your semi-annual reports (due June 1st and December 1st). You can submit your semi-annual reports electronically to Theresa.Robinson.ctr@dot.gov. Until a new electronic system is developed, we will require paper submissions

DBE technical assistance tools and training videos are currently posted on the FTA website for your viewing. FTA will also host a series of DBE webinar trainings throughout April and May of each fiscal year and post additional training material to our website.

Please mark your calendar for these upcoming training and deadlines:

Training:

DBE Webinar Training for TVMs	April 23, 2014
DBE Webinar Training for TVMs	April 30, 2014

DBE Reporting Webinar for TVMs	May 7, 2014
DBE Reporting Webinar for TVMs	May 21, 2014

Deadlines:

DBE Uniform Report Due	June 1, 2014
Publish FY 2015 DBE Goal	June 15, 2014
FY 2015 DBE Goal Due to FTA	August 1, 2014

Thank you for your ongoing support of and participation in the DOT DBE program. Your success in this program helps small businesses owned by socially and economically disadvantaged individuals compete in this industry and FTA looks forward to continuing our partnership. Should you have specific questions or concerns, you may contact Britney Berry at britney.berry@dot.gov.

Sincerely,



Linda Ford, Director
Office of Civil Rights