

FTA

FEDERAL TRANSIT ADMINISTRATION

Kansas City Area Transportation Authority
(KCATA)
DBE Compliance Review
Final Report

February 2013

PREPARED BY
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Ken Weeden & Associates



U.S. Department of Transportation
Federal Transit Administration

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Table of Contents

Executive Summary4

Section 1 – General Information.....5

Section 2 – Jurisdiction and Authorities6

Section 3 – Purpose and Objectives.....7

Section 4 – Background Information9

Section 5 – Scope and Methodology14

Section 6 – Issues and Recommendations16

 1. DBE Program Plan..... 16

 2. DBE Policy Statement 16

 3. DBE Liaison Officer 17

 4. Minority- and Women-Owned Financial Institutions..... 17

 5. DBE Directory 18

 6. Overconcentration..... 18

 7. Business Development Programs 19

 8. Determining/Meeting Goals..... 20

 9. Required Contract Provisions 23

 10. Certification Standards..... 25

 11. Certification Procedures..... 26

 12. Recordkeeping and Enforcement..... 26

Section 7 – Summary of Findings.....27

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Executive Summary

Agency:	Kansas City Area Transportation Authority
Date:	Jan. 10 to 12, 2012
Reviewer:	Jack Faucett Associates and Ken Weeden & Associates

Objective and Methodology - This report details the findings of a Compliance Review of the Disadvantaged Business Enterprise (DBE) program operated by the Kansas City Area Transportation Authority (KCATA). The Compliance Review was based on an examination of KCATA’s procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and KCATA. The review team interviewed staff from FTA, KCATA, the City of Kansas City’s Department of Public Works, KCATA prime and subcontractors, and minority and women business advocacy groups. The 3-day review included interviews, review of data collection systems, and analysis of contract documents.

KCATA’s DBE Program has many effective elements – KCATA has demonstrated dedication to administering an effective DBE program. ES-1 documents these positive elements. KCATA recently submitted an updated DBE Program Plan. The DBELO has direct access to organizational leadership. Goal calculation, contract assurances, and project monitoring and administration practices appear to be effective and largely in agreement with 49 CFR 26.

ES-1: Positive Program Elements
<ul style="list-style-type: none">➤ Strong program leadership➤ DBELO has independent access to KCATA administrator➤ Enhanced and updated Program Plan in response to compliance review➤ Proper goal calculation➤ Robust project progress and payment monitoring➤ Extensive DBE directory➤ Effective community outreach regarding contracting opportunities➤ Effective community outreach regarding goal setting

The Program has easily correctable administrative deficiencies - ES-2 lists administrative deficiencies KCATA can address to bring its program into substantial compliance with 49 CFR Part 26.

ES-2: Administrative Deficiencies
<ul style="list-style-type: none">➤ KCATA must ensure “flow down” of required contract clauses to subcontracts

Substantive Deficiencies - ES-3 lists KCATA’s more substantive deficiencies. KCATA will need to put more effort into the identification of minority financial institutions and determining the current status of minority contractor overconcentration. These programs may require additional staff and resources.

ES-3: Substantive Deficiencies
<ul style="list-style-type: none">➤ No evidence of efforts to encourage use of women and minority owned financial institutions➤ No record of overconcentration analysis

SECTION 1 – GENERAL INFORMATION

Grant Recipient: Kansas City Area Transportation Authority

City/State: Kansas City, Missouri

Grantee Number: 1827

Executive Official: Mark Huffer, General Manager, KCATA

On-Site Liaison: Denise Bradshaw, Contractor/Supplier Diversity Coordinator, KCATA

Report Prepared by: Jack Faucett Associates (JFA)
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Dates of On-site Visit: January 10–12, 2012

Compliance Review Team Members: Randelle Ripton, DBE/Technical Specialist, FTA
Kenneth Weeden, Lead Reviewer, KWA
Rami Chami, Reviewer, JFA

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 FTA’s Master Agreement, and 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs.”

KCATA is a recipient of FTA funding assistance, including funding from the American Recovery and Reinvestment Act of 2009 (ARRA), 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 KCATA’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 sub-recipients to determine whether they are honoring their commitment, as represented by certification to FTA, to comply with their responsibilities under 49 CFR Part 26. FTA decided to conduct one such review of KCATA.

The primary purpose of the Compliance Review is to determine the extent to which KCATA 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 KCATA'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 intended to directly investigate whether there has been discrimination against disadvantaged businesses by the grant recipient or its sub-recipients, or 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 laws.
- Ensure that only firms that fully meet 49 CFR Part 26'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.
- 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 KCATA 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 KCATA’s DBE Program Plan against the compliance standards set forth in the regulations and to document the compliance status of each component.
- Gather information and data regarding the operation of KCATA’s Disadvantaged Business Enterprise Program Plan from a variety of sources, including DBE Program managers, other KCATA management personnel, DBEs, and prime contractors.

SECTION 4 – BACKGROUND INFORMATION

KCATA is a multi-state transit agency that provides public transit options to the residents of the greater Kansas City Metropolitan Area, which comprises four counties in Missouri and three counties in Kansas. It was founded in 1965 through a cooperative agreement between the Missouri and Kansas legislatures. Table 1 provides a summary of KCATA’s service area, population, and organizational size.

Table 1: KCATA Summary Chart

Service Area	398 square miles
Service Area Population	781,159
KCATA Employees	721

TRANSIT SERVICES

KCATA provides traditional bus, bus rapid transit (BRT), paratransit, and vanpool services for the Kansas City Metropolitan Area. Each of these services is briefly discussed below.

The Metro (Bus Service)

The Metro is KCATA’s traditional bus service. The bus network comprises 70 fixed routes and more than 5,700 bus stops. The current KCATA bus fleet consists of 237 buses that are either 30 or 40 feet in length. The Metro averages 50,007 riders during a typical weekday and provided transit services for 15.2 million riders in 2010.

Metro Area Express (Bus Rapid Transit)

The Metro Area Express, or MAX, debuted in 2005 with the inauguration of the Main St. MAX BRT line. A second line, the Troost MAX, opened in 2011. These two lines consist of 28 BRT vehicles operating along a combined 19 miles with 87 stations. The next line planned is a 15-mile (24 km) MAX corridor on State Avenue. There are currently four additional urban corridors undergoing BRT feasibility analysis.

On-Demand and Paratransit Options

MetroFlex is KCATA’s demand-response bus service. This service allows riders to arrange trips up to 24 hours in advance and be picked up at their residence and dropped off at a location of their choosing. *MetroFlex* buses operate within eight bus routes.

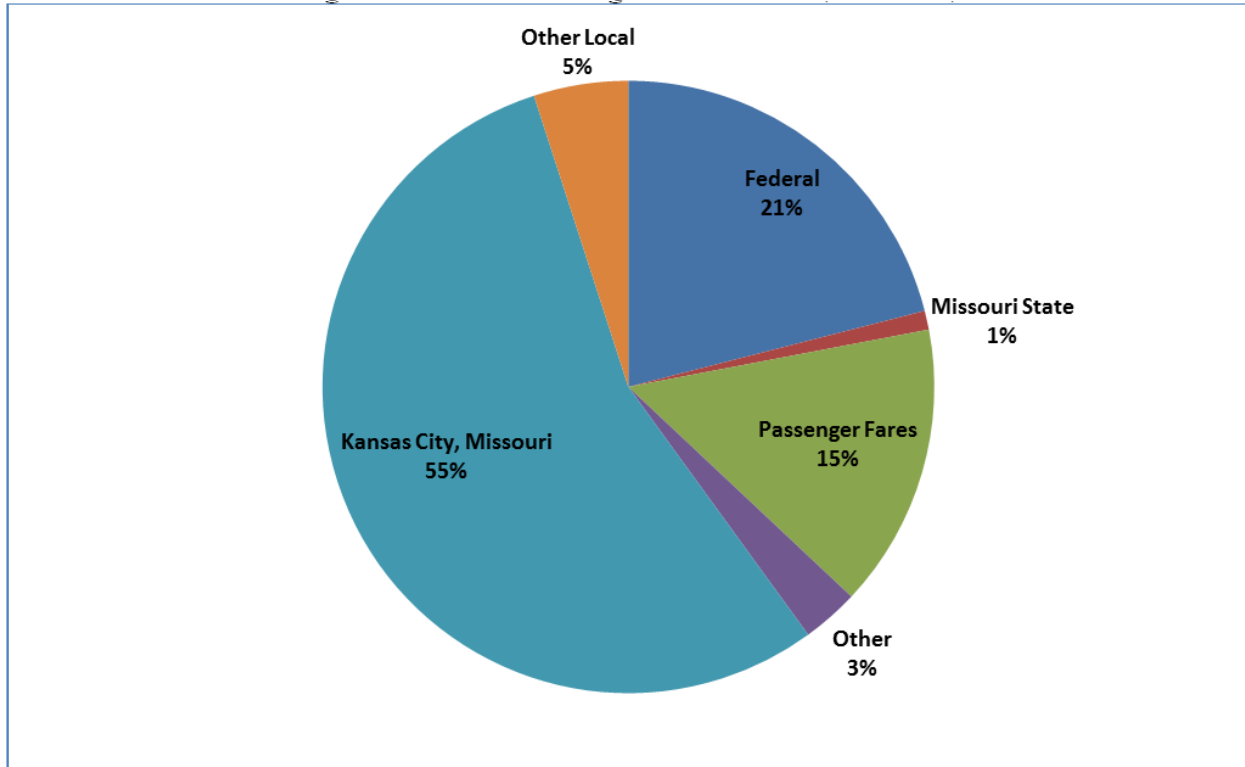
Share-A-Fare is a transit option designed to accommodate riders who are not able to use KCATA’s fixed-station transit options. This service provides individuals with disabilities within the Kansas City metropolitan area door-to-door service as stipulated by the Americans with Disabilities Act (ADA). This service provides nearly 23,000 trips per month.

The AdVANtage vanpool option is a ride-sharing arrangement where a group of commuters ride to and from work on a regular basis. AdVANtage is available in areas where the Metro does not offer bus service. There are currently 29 vanpools operating in the Kansas City metropolitan area.

BUDGET

KCATA's annual operating budget is \$87 million, which encompasses all modes and services. KCATA's budget comprises state and federal funds, as well as revenue from fares and other sources. City funding is the largest funding source; federal funding is the second largest budget source category. Fares account for about 15% of KCATA's budget. Figure 1 displays the sources of KCATA funding.

Figure 1: KCATA Budget in FY 2010 (million \$)

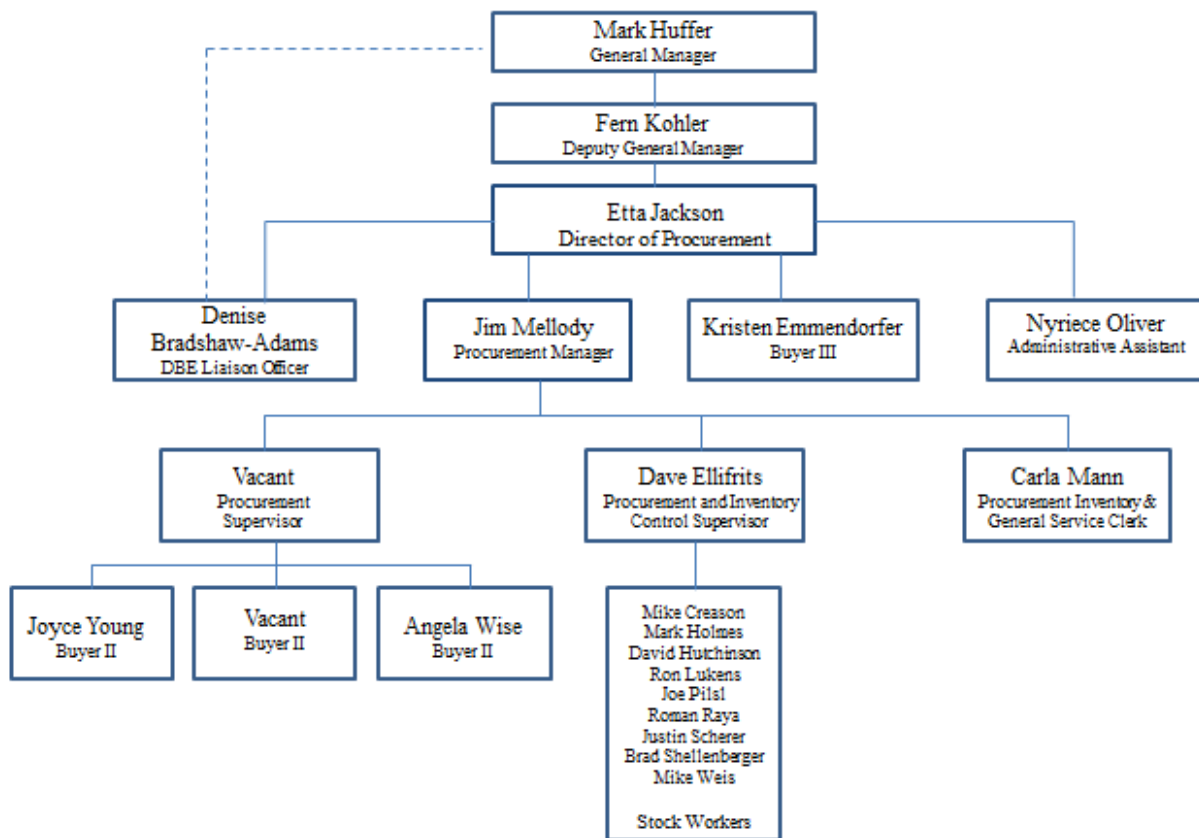


Source: KCATA 2010 Annual Report
<http://www.kcata.org/documents/uploads/2010AnnualReport.pdf>

DBE PROGRAM

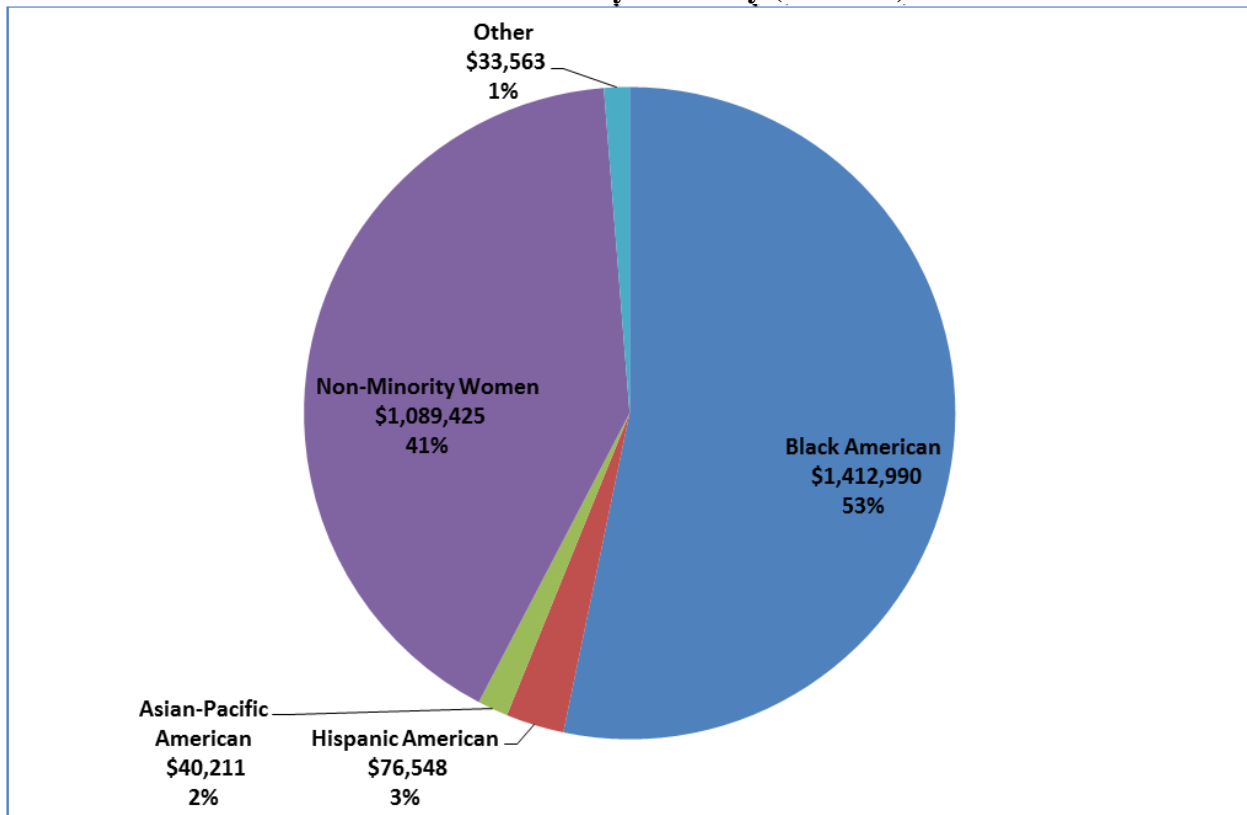
KCATA’s DBE Program resides within the KCATA Procurement Office. The Procurement Office is responsible for monitoring and enforcing KCATA’s internal and external DBE Programs to ensure compliance with appropriate federal and state laws and regulations. The Procurement Office is one of the main KCATA divisions, and the DBE Liaison Officer (DBELO) has direct access to the General Manager. An organizational chart for KCATA’s Procurement Office is provided in Figure 2. Denise Bradshaw, the Contracting/Supplier Diversity Coordinator within the Procurement Office, is the designated DBELO for KCATA.

Figure 2: Organization Chart for KCATA



The KCATA Procurement Office provided the review team with reports detailing the award and payment to DBE firms. Figure 3 presents the monetary value of those contracts by the ethnicity of the recipient between October 2010 and June 2011. The largest subcategory is Black American, with 53% of the total. Non-minority women are second, at 41%.

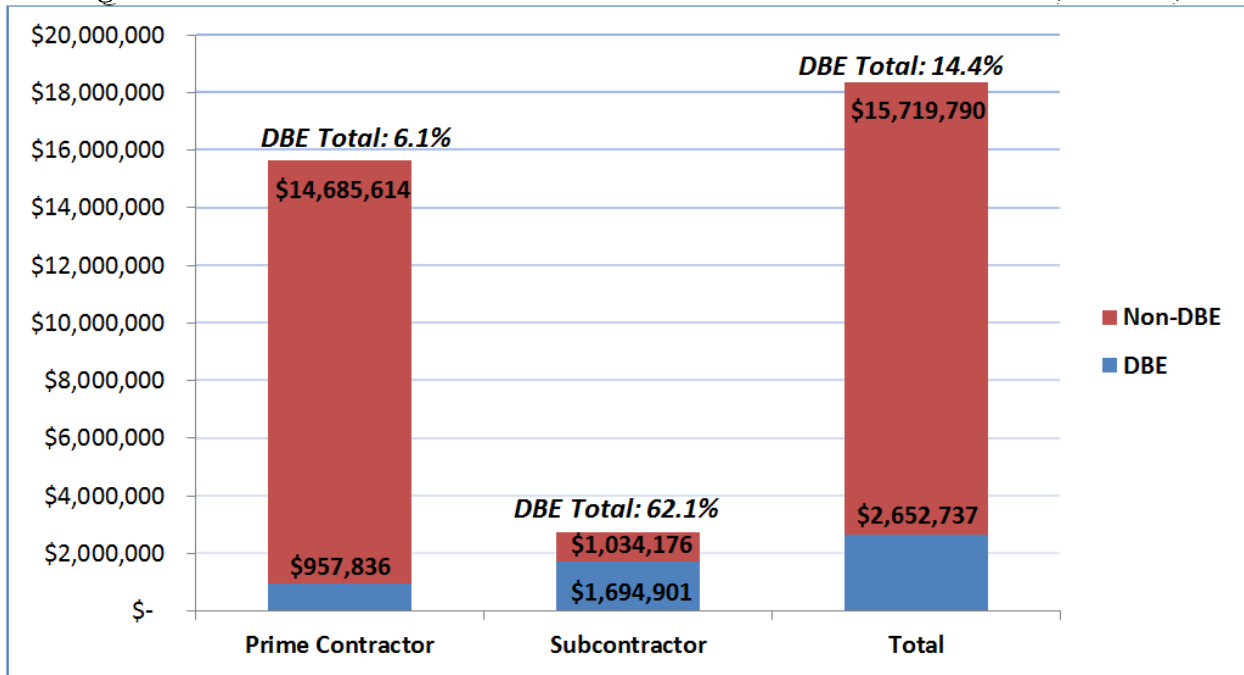
Figure 3: KCATA-Funded Contracts Awarded to DBE Contractors by Ethnicity (FY 2011)



Source: KCATA's Uniform Report of DBE Commitments/Awards and Payments

Figure 4 provides information on the contracts awarded to DBE and non-DBE contractors. The exhibit also highlights the share of contracts that DBEs won either as prime contractors or subcontractors. During federal fiscal year 2011, DBE contractors were awarded 6.1% of all prime contract dollars, 62.1% of all subcontract dollars, and 14.4% of all contract dollars. Overall observed goal achievement during this period was 14.4%, compared to the 10.2% goal for the period. The race-conscious and race-neutral contract attainments during this period amounted to approximately 9.0% and 5.5%, respectively, of total contract awards, compared to the goals of 3.2% and 7.0%, respectively.

Figure 4: KCATA-Funded Contracts Awarded to KCATA Contractors (FY 2011)



Source: KCATA's Uniform Report of DBE Commitments/Awards and Payments

SECTION 5 – SCOPE AND METHODOLOGY

SCOPE

Implementation of the following 12 required DBE Program components specified by FTA is reviewed in this report:

1. A DBE Program Plan signed by a concerned operating administration (OA) [49 CFR 26.21].
2. A signed policy statement that expresses a commitment to the agency's 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]. Additionally, in establishing an overall goal, the recipient must provide for public participation and then provide information on this goal to the public through published notices [49 CFR 26.45].
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 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 KCATA by FTA's Office of Civil Rights. The agenda letter notified KCATA of the planned site visit, requested preliminary documents, and informed KCATA of additional documents needed and areas that would be covered during the on-site portion of the review. It also informed KCATA 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 opening conference was conducted at the beginning of the Compliance Review with FTA representatives, KCATA staff, and the review team.

Subsequent to the opening conference, a review was conducted of KCATA's DBE Program Plan and other documents submitted to the review team by the DBELO or equivalent. The review team then conducted interviews with KCATA officials regarding DBE Program administration, project procurement, grant administration record-keeping, monitoring, and legal remedies. The review team also selected a sample of FTA-funded contracts, which were reviewed for their DBE elements. The review team interviewed people from FTA, KCATA, the City of Kansas City's Department of Public Works, KCATA prime and subcontractors, and minority- and women-business advocacy groups.

At the end of the review, an exit conference was held with FTA representatives, KCATA 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 KCATA.

Following the site visit, a draft report was compiled and transmitted to KCATA for comments. On August 13, 2012, KCATA provided responses to the draft report. Subsequently, KCATA submitted a revised DBE Program on December 17, 2012. Both documents have been considered in the compilation of this final report.

SECTION 6 – ISSUES AND RECOMMENDATIONS

1. DBE Program Plan

Basic Requirement: (49 CFR 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: Prior to the DBE Compliance Review, it was anticipated that deficiencies would be found in KCATA’s Program Plan. A DBE Program Plan dated 1999–2000 was provided prior to the review. The 1999–2000 Program Plan was in need of updates. It did not specify the DBELO and had the name of a former General Manager on the title page. At the beginning of the on-site visit, the review team was provided an updated and enhanced KCATA DBE Program Plan dated “January 2012.” The new Program Plan identified Denise Bradshaw as the DBELO. Several other areas of the Program Plan were updated to reflect actual activities and procedures of KCATA. However, the 2012 Program Plan still has deficiencies, such as a noncompliant section on financial institutions and a lack of detail about how KCATA will ensure that required clauses are included in KCATA and subrecipient (i.e., City of Kansas City) related subcontract agreements.

Corrective Action and Schedule: Within 60 days of the issuance of the final report, KCATA must develop a new Program Plan that addresses the issues identified in this Compliance Review report.

KCATA Response: Since the Compliance Review, KCATA has begun updating the January 2012 Program Plan to address the four deficiencies identified in the Compliance Review report:

- Minority- and Women-Owned Financial Institutions
- Overconcentration
- Required Contract Provision: Contract Assurance
- Required Contract Provision: Prompt Payment

FTA Response: FTA agrees with KCATA’s response to the noted deficiency. To close this deficiency, KCATA must submit to FTA a copy of its new DBE Program Plan that addresses all the relevant outstanding deficiencies within 60 days of receipt of the DBE Program Compliance Review Final Report.

2. DBE Policy Statement

Basic Requirement: (49 CFR 26.23) Recipients must formulate and distribute a signed and dated DBE policy statement that states the objectives and the entity’s commitment to the DBE Program. This policy must also be circulated throughout the recipient’s organization and to the DBE and non-DBE business communities.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirement regarding KCATA's policy statement. The most recent KCATA DBE policy statement was signed by Robbie Makinen, Board Chairman, and Cheryl Floyd, Assistant Board Secretary, on January 25, 2012. The policy statement states the document will be distributed to "DBE and non-DBE business communities that perform work for us on DOT-assisted contracts as part of the solicitation documents." The document is also available on KCATA's website.¹

3. DBE Liaison Officer

Basic Requirement: (49 CFR 26.25) Recipient/grantees must have a designated DBELO who has direct and independent access to the CEO of the recipient organization. The DBELO 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 DBELO. The 2012 DBE Program plan identified Denise Bradshaw as the DBELO with responsibility for implementing all aspects of the DBE Program and ensuring that the department complies with all provisions of 49 CFR Part 26. The DBE Program Plan states that Ms. Bradshaw has direct, independent, and direct access to KCATA General Manager with regard to all DBE Program matters. A KCATA organizational chart is provided as an appendix in the DBE Program Plan that illustrates the DBELO's direct access to the General Manager. The DBELO reports directly to the Director of Procurement, Etta Jackson, and has a dotted-line reporting relationship indicating direct access to the General Manager. This access was verified during the site visit.

4. Minority- and Women-Owned Financial Institutions

Basic Requirement: (49 CFR 26.27) Recipients must investigate the existence of minority- and women-owned financial institutions and make efforts to use them. Recipients must encourage prime contractors to use these minority and women owned financial institutions.

Discussion: During this DBE Program Compliance Review, a deficiency was found for financial institutions. Both the 1999 and 2012 Program Plans state that KCATA will periodically review the market for minority- and women-owned financial institutions and encourage their use by contractors. However, KCATA did not provide evidence that it had searched for, used, or encouraged use of any such institutions by contractors since the 1999 Program Plan was published. The 1999 DBE Program Plan identified one minority-owned financial institution, Douglass Bank. The 2012 DBE Program Plan does not identify any minority- or women-owned financial institutions. The 2012 DBE Program Plan states that KCATA will "periodically" search for relevant financial institutions, but the text is vague as to how and when future searches would be performed.

Corrective Action and Schedule: Within 60 days of the issuance of the final report, KCATA must provide evidence of efforts to identify minority- and women-owned financial institutions

¹ KCATA website, "DBE Certification," http://www.kcata.org/about_kcata/entries/dbe_certification/

(or lack thereof) on a regular periodic basis and to encourage their use by KCATA and its contractors.

KCATA Response: Since the Compliance Review, KCATA has searched the Federal Reserve Board's quarterly report of minority-owned banks. Liberty Bank and Trust Company is the only minority-owned financial institution in the Kansas City area. KCATA is in the process of investigating the extent of services offered for potential use by the Authority. The DBE Program Plan will be updated to include contact information on this bank and its area branches so that contractors are aware of its existence. KCATA will continue to review the Federal Reserve Board's quarterly report of minority-owned financial institutions on a quarterly basis.

FTA Response: FTA partially agrees with KCATA's response to the noted deficiency. To close this deficiency, KCATA must submit to FTA a revised DBE Program Plan that describes KCATA's procedures to identify minority- and women-owned financial institutions on a regular basis. The revised DBE Program Plan must also encourage use of relevant financial institutions by KCATA and its contractors, including DBEs and non-DBEs. These corrective actions must be completed and documentation of its implementation provided within 60 days of the issuance of the final report.

5. DBE Directory

Basic Requirement: (49 CFR 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 Program Compliance Review, no deficiencies were found with the requirement for a DBE directory. The Missouri Regional Certification Committee (MRCC) maintains a directory of DBE certified firms in Missouri on their website.² The review team viewed the Web-based directory during the site visit. The directory includes the information required by 49 CFR Part 26 regulations. The directory provides the following information for each certified firm: firm name, mailing address, telephone number, and the type of work the firm has been certified to perform as a DBE. The MRCC updates its online directory with firm additions and deletions as changes are reported to the agency, in real time. KCATA, as a certifying member of the MRCC, has the capacity to directly upload any certifications it makes of new DBE firms into the MRCC database.

6. Overconcentration

Basic Requirement (49 CFR 26.33): If the transit agency determines that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, the agency must devise appropriate measures to address this overconcentration.

² Missouri Regional Certification Committee (MRCC), "DBE Directory," http://www.modot.org/business/contractor_resources/external_civil_rights/mrcc.htm

Discussion: During this DBE Program Compliance Review, a deficiency was found with regard to the requirement for overconcentration. KCATA did not provide evidence that it had evaluated or calculated the industry concentration of DBE contracting. However, KCATA believes overconcentration is not occurring and points to the fact that it has never received a complaint about overconcentration.

Corrective Action and Schedule: Within 60 days of the issuance of the final report, KCATA must conduct an overconcentration analysis, evaluate the results and, if appropriate, recommend measures to address overconcentration. For example, overconcentration could be addressed by unbundling tasks and bidding them as race-neutral contracting opportunities. A detailed description of how KCATA would address overconcentration as well as when follow-up overconcentration analyses will be performed should be included in the DBE Program Plan.

KCATA Response: By the indicated deadline, KCATA will conduct an overconcentration analysis, evaluate the results, and if appropriate, address overconcentration. The DBE Program Plan will be updated to describe how KCATA would address overconcentration, as well as when follow-up overconcentration analysis would be performed.

FTA Response: FTA agrees with KCATA's corrective action plan. To close this deficiency, within 60 days of the issuance of the final report, KCATA must submit to FTA a revised DBE Program Plan that fully describes its procedures for identifying overconcentration. . Additionally, as indicated in KCATA's December 2012 Program, an overconcentration analysis effort will be initiated in March 2013. By May 2013, KCATA must submit the results of the overconcentration analysis and submit resolutions for approval to FTA if overconcentration is found. ,.

7. Business Development Programs

Basic Requirement: (49 CFR 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: KCATA does not provide business development programs to contractors. However, it does coordinate with the Missouri DOT (MODOT) and Mid-America Minority Business Development Council business development programs. This coordination involves sharing emails about upcoming business development events hosted by these organizations with local chambers of commerce and minority- and women-owned business associations. The list of organizations KCATA share this information is included in the DBE Program Plan.

KCATA's 2012 DBE Program Plan states, "KCATA is partnering and collaborating with Missouri Regional Certification Committee to develop a Small Business Development Program" (p. 9). However, the Program Plan does not state what types of services will be offered or when the program is expected to start.

Advisory Comment: KCATA should evaluate the adequacy of its promotion of business development programs and business-supportive services. KCATA should develop a list of DBE

business development programs available through the Missouri Department of Transportation (MODOT) and/or other entities in the city and document in the Program Plan how this information will be disseminated to the DBE community. KCATA should also explain in its Program Plan when its collaboration with the MRCC on the Small Business Development Program will begin and what services it will provide. KCATA should evaluate its staffing needs if it plans to develop small business development programs and programs to encourage the use of minority- and women-owned financial institutions.

8. Determining/Meeting Goals

A) Calculation

Basic Requirement: (49 CFR 26.45) In 2010, 49 CFR Part 26 was amended concerning the requirement for an annual overall DBE goal, which had in previous years coincided with the annual federal fiscal year and typical grant year. Instead, beginning with FY 2011, based on a schedule determined by FTA, overall goal documents are now required on a triennial basis.

Discussion: During this DBE Compliance Review of KCATA, no deficiency was found with respect to the requirements for calculation of the newly-required triennial goal. KCATA's first triennial overall goal was developed for the period FY 2012–2014 and was due to FTA by August 1, 2011. The second triennial goal will not be due until August 1, 2014, for FY 2015–2017. The triennial goal, developed and submitted in August 2011, was prepared by Denise Bradshaw, the DBELO, and was based on appropriate application of the two-step process referenced in 49 CFR 26.45. The methodology was reviewed and approved by the Region VII Regional Civil Rights Officer (RCRO). KCATA's current DBE participation triennial goal is 12.5%. This included a projection of 9.7% race-conscious and 2.8% race-neutral attainment. The paragraphs below explain KCATA's Step 1 and 2 processes.

Step 1: In Step 1, KCATA established a base figure for the relative availability of DBE contractors compared to all businesses that are ready, willing, and able to participate in DOT-assisted contracts. KCATA used the 2011 database of DBE contractors certified through the Missouri Unified Certification Program as well as County Business Pattern (CBP) data from the U.S. Census Bureau to develop a relative base figure of 6.65%. The estimate represented 514 certified DBEs in market area and 7,726 total businesses in market area. KCATA weighted the base rate by type of work to be performed by NAICS code based on expected future contracting opportunities funded from federal sources. The weighted base figure was determined to be 7.89%.

Step 2: In Step 2, KCATA adjusted the weighted base figure based on its past DBE participation. KCATA used its DBE participation rates in FY 2009 (i.e., 25.8%) and FY 2010 (i.e., 8.4%) for this process. KCATA determined the median value of this data to be 17.1% ($8.4 + 25.8 = 34.2/2 = 17.1$). KCATA determined the overall goal as follows:

Median Value Past DBE Participation Rate	17.1%
HIGHER of Base Rate or Weighted Rate	<u>+7.9%</u>
	25.0%

Average of Two Figures (25.0%/2)

12.5%

Accordingly, KCATA's overall annual DBE participation goal for federal fiscal years 2012–2014 is 12.5% of the federal financial assistance it expects to expend in DOT-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

B) Public Participation and Outreach

Basic Requirement: (49 CFR 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 a Public Participation and Outreach. According to the FY 2012–2014 goal development document, KCATA developed its goals from the MRCC, the U.S. Census Bureau, and previous DBE participation information. KCATA published its goal information and notice of a pending public hearing in six local publications. The proposed goal and public hearing notice was also issued to 13 minority and community organizations. KCATA did not receive any comments on this proposed goal, and there were no attendees at the public hearing held on August 10, 2011.

C) Transit Vehicle Manufacturers (TVM)

Basic Requirement: (49 CFR 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. KCATA provided the signed standard assurances for contract bid #06-5031-53 dated June 30, 2007. The assurances included the DBE TVM certification for Gillig LLC.

D) Race-Neutral

Basic Requirement: (49 CFR 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, no deficiency was found with respect to the requirements for race-neutral participation. Consistent with the regulations, KCATA has projected a portion of its new overall three-year goal to be obtained through race-neutral means (2.8%). This projection, in the approved methodology, was based on actual historic race-neutral attainment as noted in previously submitted DBE accomplishment reports.

E) Race-Conscious

Basic Requirement: (49 CFR 26.51) The recipient must establish contract goals to meet any portion of its overall goals it does not project to be met using race-neutral means. The recipient must also project a percentage of its overall goal that will be met through race-conscious means,

as part of the goal methodology. Race conscious goals may be established only on contracts with subcontracting opportunities and are not required to be set on each individual contract.

Discussion: During this DBE Compliance Review, no deficiency was found with respect to the requirements for race-conscious participation. Consistent with the regulations, KCATA has projected the portion of its new overall three-year goal estimated not to be obtained through race-neutral means to be a race-conscious goal of 9.7%. This projection, in the approved methodology, was also based on historic race-conscious attainment as noted in previously submitted DBE accomplishment reports.

F) Good Faith Efforts

Basic Requirement (49 CFR 26.53): The recipient may award contracts that contain only DBE contract goals to bidders who either meet the stated goals or document sufficient good faith efforts (GFE) to meet the goals. The bidders must provide documentation of these efforts to the recipient. The recipient should have a written Good Faith Efforts procedure.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for good faith efforts. The 2012 DBE Program Plan includes detailed guidance on Good Faith Effort procedures in the main document (p. 13) and in Attachment G, “Bidder/Offeror DBE Requirements” (p. 36).

G) Protecting Against Termination for Convenience

Basic Requirements (49 CFR 26.53) Recipients must implement appropriate mechanisms to ensure that prime contractors do not terminate for convenience a DBE subcontractor and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the transit agency’s prior written consent.

Discussion: During this Compliance Review, no deficiencies were found in the area of protecting against termination for convenience. The 2012 KCATA Program Plan provides guidance for modifying or terminating subcontractor roles on contracts (p. 37). The guidance also identifies legal remedies available to prime contractors and subcontractors if a dispute occurs between them with relation to subcontractor modification or replacement.

H) Counting DBE Participation

Basic Requirement (49 CFR 26.55): The recipient must count only the value of work actually performed by a DBE with its own forces or a DBE sub, toward actual DBE goals. The DBE must be certified at the time of award and work can be counted only if the DBE is performing a commercially-useful function, as described in 26.55 (c) 1-5.

Discussion: During this DBE Compliance Review, no deficiencies were found with the requirements for counting DBE participation. Based on the regulations (26.55), the KCATA DBE Program Plan provides a detailed description of how DBE participation is measured and evaluated (p. 37).

Advisory Comment: KCATA should add some additional language, i.e., excerpts from 26.55 helping to define “commercially useful function.”

I) Quotas

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

Discussion: During this DBE Compliance Review, no deficiency was found with the requirement for quotas. The KCATA Program Plan explicitly states that the agency does not use quotas or DBE set-asides (p. 10).

9. Required Contract Provisions

A) Contract Assurance

Basic Requirement (49 CFR 26.13): Each contract signed with a contractor (and each subcontract prime contractors sign with a subcontractor) must include the nondiscrimination clause specified by the regulations.

Discussion: During the DBE Program Compliance Review of KCATA, deficiencies were found with the requirements for contract assurances. KCATA's 2012 DBE Program Plan states that each contract signed between KCATA and a prime contractor and all associated subcontract agreements will include the nondiscrimination language of 26.13 in the DBE regulations. Although the nondiscrimination clause is included in KCATA Program Plan and prime contracts that were reviewed, KCATA does not track if these clauses are included in City of Kansas City agreements with prime contractors. KCATA also does not track "flow down" of nondiscrimination clauses in prime and subcontractor agreements related to relevant work performed for the City of Kansas City.

Corrective Action and Schedule: Within 60 days of receipt of the draft report, update the DBE Program to include a means for ensuring that the appropriate language of Section 26.13 is included in all FTA-funded contracts, purchase orders, and subcontracts, including those of subrecipients.

KCATA Response: KCATA ensures that the appropriate language of Section 26.13 is included in all FTA-funded third-party contracts. The appropriate language is part of KCATA's standard required terms and conditions. The Buyer ensures the clauses are included in the FTA-funded solicitation and contract, and the Director of Procurement examines the contract for the appropriate language prior to executing the contract. Regarding subrecipient City of Kansas City, KCATA reviews the solicitation package prior to its issuance to ensure the clauses are included, and the executed contract between the City of Kansas City and its prime contractor is reviewed for the same purpose.

Effective September 1, 2012, KCATA will begin collecting and reviewing subcontract agreements on third-party contracts, including procurement contracts with subrecipients, to ensure that the Section 26.13 clauses flow down. Within 60 days from issuance of the Final Report, KCATA will document in the DBE Program Plan its process for ensuring flow-down of required clauses in subcontractor and subrecipient contracts.

FTA Response: FTA agrees with KCATA's response to the noted deficiency. To close this deficiency, KCATA must submit to FTA a revised DBE Program Plan and RFP template that describes KCATA's procedures to ensure flow-down of the required contract clauses to subcontract agreements within 60 days of the issuance of the final report. The Program Plan should document how these procedures will be applied at KCATA and its subrecipient, the City of Kansas City.

B) Prompt Payment

Basic Requirement (49 CFR 26.29): The recipient/grantee must include a contract clause requiring prime contractors to pay subcontractors for satisfactory performance on their contracts no later than a specific number of days—not to exceed 30 days—from the time they receive payment from the grantee. This clause must also address prompt return of retainage payments from the prime to the subcontractor (i.e., within a specific number of days—not to exceed 30 days—after the subcontractor's work is satisfactorily completed).

Discussion: During the DBE Program Compliance Review of KCATA, deficiencies were found with regard to prompt payment clauses. KCATA's 2012 DBE Program Plan states that each contract signed between KCATA and a prime contractor and all associated subcontract agreements will include a prompt payment clause as specified in Section 26.29 in the DBE regulations. Although a prompt payment clause is included in KCATA Program Plan and the prime contracts that were reviewed, KCATA does not track if these clauses are included in City of Kansas City agreements with prime contractors. KCATA also does not track "flow down" of prompt payment clauses in prime and subcontractor agreements for its projects or those of the City of Kansas City.

Corrective Action and Schedule: Within 60 days of the issuance of the final report, KCATA must update the DBE Program Plan with its procedures for ensuring flow-down of prompt payment clauses in City of Kansas City contracts and KCATA related subcontracts.

KCATA Response: KCATA ensures that the prompt payment clause is included in all FTA-funded third-party contracts. The appropriate language is part of KCATA's standard required terms and conditions. The Buyer ensures that the language is included in the FTA-funded solicitation and contract, and the Director of Procurement examines the contract for the proper language prior to executing the contract. Regarding subrecipient City of Kansas City, KCATA reviews the solicitation package prior to its issuance to ensure that the clauses are included, and the executed contract between the City of Kansas City and its prime contractor is reviewed for the same purpose.

Effective September 1, 2012, KCATA will begin collecting and reviewing subcontract agreements on third-party contracts including procurement contracts with subrecipients to ensure that the proper clauses flow down. Within 60 days from issuance of the Final Report, KCATA will document in the DBE Program Plan its process for ensuring flow down of required clauses in subcontract and subrecipient contracts.

Effective September 1, 2012, KCATA will begin collecting and reviewing subcontract agreements on third-party contracts to ensure that the required contract clauses flow down. This

includes agreements with KCATA's subrecipients. Within 60 from issuance of the Final Report, KCATA will document in the DBE Program Plan its process for ensuring flow-down of required clauses in subcontractor and subrecipient agreements.

FTA Response: FTA concurs with KCATA's corrective action plan. To close this deficiency, KCATA must submit to FTA a copy of its new DBE Program Plan and RFP template that describes KCATA's procedures to ensure flow-down of the required contract clauses to subcontract agreements within 60 days of the issuance of the final report. The Program Plan should document how these procedures will be applied at KCATA and its subrecipient, the City of Kansas City.

C) Legal Remedies

Basic Requirements (49 CFR 26.37): Recipients must implement appropriate mechanisms to ensure compliance by all participants, applying the legal and contract remedies under both federal as well as state and local laws.

Discussion: During this Compliance Review, no deficiencies were found in the area of legal remedies. The 2012 KCATA DBE Program Plan does not have a specific section detailing what legal remedies are available to KCATA or contractors. However, KCATA's standard contract template provides the legal remedies available in the event of contract noncompliance (p. 38 of in standard contract template document). This information should be in the Program Plan.

Advisory Comment: KCATA should include a dedicated section on legal remedies in its DBE Program Plan.

10. Certification Standards

Basic Requirement (49 CFR 26.67): All grantees are required to be part of a statewide Unified Certification Program (UCP). The recipient, if a certifying member of the UCP, 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 as part of this process.

Discussion: During this Compliance Review, no deficiencies were found in the area of certification standards. This section is applicable to KCATA since it is a certifying member of the MRCC, the UCP for the state of Missouri. KCATA is a full member of the UCP with certifying authority according to the signed agreement. As such, KCATA has agreed to implement, in the same uniform manner as all of the other "Direct Partners," the certification standards and procedures of 49 CFR Part 26, §§26.61-26.73 and §§26.81-26.91 . A copy of the original MRCC-UCP Agreement was reviewed during the site visit, as was a recently-updated version (June 15, 2011) that incorporated newer certification provisions. These documents adequately describe the certification standards and procedures. Although it is a certifying member, KCATA staff certifies five or less firms per year. The files that were reviewed showed adequate application of the certification standards.

11. Certification Procedures

Basic Requirement (49 CFR 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: During this Compliance Review, no deficiencies were found in the area of certification procedures. As noted in Section 10 above, although KCATA is a member of the MRCC and aptly applies all of the standards of Part 26 of the DBE regulations, it certifies only 1–5 firms per year. During the site visit, a review of one active file (a denial) showed adequate and accurate application of the certification standards and procedures.

12. Record Keeping and Enforcement

A) **Bidders List**

Basic Requirement (49 CFR 26.11): The recipient must maintain a bidders list complete with subcontractor firm names, addresses, DBE status, and age of firm and annual gross receipts of the firm.

Discussion: During this Compliance Review, no deficiencies were found with regard to the bidders list requirement. KCATA maintains a bidders list that consists of information about DBE and non-DBE firms that request or bid on KCATA request for proposals. KCATA uses the bidders list for the purposes of calculating overall goals. The bidders list includes the name, address, DBE/non-DBE status, age, and annual gross receipts of firms. The primary method of obtaining this information is through KCATA's Vendor Registration Form, which must be submitted by any firm interested in doing business with KCATA. The form is included in KCATA's bid documents. The review team was provided with a copy of the bidders list form. The bidders list is distributed at pre-bid meetings, available on KCATA's online RFP announcements pages, and emailed to local business organizations, including minority- and women-owned business organizations.

B) **Monitoring**

Basic Requirement (49 CFR 26.37, 26.55): The recipient must include a monitoring and enforcement mechanism to ensure that work allocated to DBEs (at contract award or subsequently) is actually performed by the DBEs to which the work was allocated.

Discussion: During this Compliance Review, no deficiencies were found with regard to the monitoring requirement. During the DBE Program Compliance Review, KCATA outlined its monitoring processes, and the review team spoke with project site evaluators. From a financial perspective, projects are monitored through the collection of lien waivers from subcontractors to ensure prompt payment. KCATA tracks both prime and subcontractor dollars billed to projects on a monthly basis. From a project site perspective, KCATA uses site inspectors to ensure that DBEs are performing the work they are supposed to do by contract. KCATA uses a useful in-house developed DBE Job Site Review Commercially Useful Function Determination Form, which is completed for each KCATA contract involving DBE participation as subcontractors. KCATA has also hired an outside consultant, S. K. Design Group, to help it perform some of these onsite inspections.

C) Reporting to DOT

Basic Requirement (49 CFR 26.11): The recipient must provide data about its DBE Program to FTA on a regular basis. The recipient must transmit the DBE Awards or Commitments and Payments at the intervals stated. In addition, for ARRA funds, the recipient must transmit the ARRA Uniform Report of DBE Commitments/Awards and Payments.

Discussion: During this Compliance Review, no deficiencies were found with regard to the reporting to DOT requirement. All accomplishments reports, including ARRA reports, appear to have been developed and submitted in a timely and accurate manner.

SECTION 7 – SUMMARY OF FINDINGS

	Requirement of 49 CFR Part 26	Reference	Site Visit Finding	Preliminary Description of Findings	Suggested Corrective Action	Response Days/Date
1	DBE Program Plan	26.21	Deficiency	Prior to the DBE Compliance Review, the review team observed deficiencies in KCATA’s 1999-2000 Program Plan. The 1999–2000 Program Plan did not specify the DBE Liaison Officer and had the name of a former General Manager on the title page. At the start of the site visit, KCATA provided the review team with a new 2012 Program Plan, which corrected most of the deficiencies in the 1999–2000 Program Plan. However, the 2012 DBE Program Plan does not sufficiently address some of the issues identified during the site visit, such as noncompliance with the financial institutions requirement [26.27] and tracking of “flow down” in subcontract agreements.	KCATA must update the DBE Program Plan to comply with the requirements of 49 CFR Part 26.	April 22, 2013
2	Policy Statement	26.23	No Deficiency	No deficiencies were found with the requirement regarding KCATA’s policy statement. The most recent KCATA DBE policy statement was signed by Robbie Makinen, Board Chairman, and Cheryl Floyd, Assistant Board Secretary, on January 25, 2012. The Policy Statement is posted on KCATA’s website.	Not Applicable	Not Applicable
3	DBE Liaison Officer	26.25	No Deficiency	No deficiencies were found with the requirements for the DBE Liaison Officer (DBELO). The 2012 DBE Program Plan identified Denise Bradshaw as the DBELO with responsibility for implementing all aspects of the DBE Program and ensuring the department complies with all provisions of 49 CFR Part 26. The DBE Program Plan states that Ms. Bradshaw has direct, independent and direct access to KCATA General Manager concerning DBE Program matters. This access was verified during the site visit.	Not Applicable	Not Applicable
4	Financial Institutions	26.27	Deficiency	A deficiency was found for financial institutions. Both the 1999 and 2012 Program Plans state KCATA will periodically review the market for minority- and women-owned financial institutions and encourage their use by prime contractors. KCATA did not provide evidence that a search for relevant financial institutions had been performed recently.	KCATA must submit to FTA a revised DBE Program Plan that describes KCATA’s procedures to identify minority- and women-owned financial institutions on a regular basis encourage their use by KCATA and its contractors, including DBEs and non-DBEs.	April 22, 2013

	Requirement of 49 CFR Part 26	Reference	Site Visit Finding	Preliminary Description of Findings	Suggested Corrective Action	Response Days/Date
5	DBE Directory	26.31	No Deficiency	No deficiencies were found with the requirement for a DBE directory. The MRCC maintains a directory of DBE-certified firms in Missouri on its website. KCATA, as a certifying member of MRCC, has the capacity to directly upload any certifications it makes of new DBE firms into the MRCC database.	Not Applicable	Not Applicable
6	Overconcentration	26.33	Deficiency	A deficiency was found for the requirement for overconcentration. KCATA did not provide evidence that it had evaluated or calculated the industry concentration of DBE contracting.	KCATA must conduct an overconcentration analysis, evaluate results, and, if appropriate, recommend and implement measures to address overconcentration. KCATA must also submit to FTA a revised DBE Program Plan that describes its procedures to prevent, identify, and address overconcentration.	April 22, 2013
7	Business Development Programs	26.35	Advisory Comment	KCATA should evaluate the adequacy of their promotion of business development programs and business supportive services. KCATA should develop a list of DBE business development programs available through MODOT and/or other entities in the City, and document in the Program Plan how this information will be disseminated to the DBE community. KCATA should also explain in their Program Plan when their collaboration with the MRCC on the Small Business Development Program will begin and what services it will provide.	Not Applicable	Not Applicable
8	Determining and Meeting Goals					
	A) Calculation	26.45	No Deficiency	No deficiency was found with respect to the requirements for calculation of the newly-required triennial goal. The new triennial goal, developed and submitted in August 2011, was prepared by Denise Bradshaw, the DBELO, and was based on appropriate application of the two-step process referenced in 49 CFR 26.45. The methodology was reviewed and approved by the Region VII RCRO, with a three-year overall goal of 12.5%. This included a projection of 9.7% race-conscious and 2.8% race-neutral attainment.	Not Applicable	Not Applicable

	Requirement of 49 CFR Part 26	Reference	Site Visit Finding	Preliminary Description of Findings	Suggested Corrective Action	Response Days/Date
	B) Public Participation and Outreach	26.45	No Deficiency	No deficiencies were found with the requirement for a Public Participation and Outreach. According to the FY 2012–2014 goal development document, KCATA developed their goals from the MRCC, the U.S. Census Bureau, and previous DBE participation information. KCATA published its goal information and notice of a pending public hearing in six local publications. The proposed goal and public hearing notice was also issued to 13 minority and community organizations. KCATA did not receive any comments on this proposed goal, and there were no attendees at the public hearing held on August 10, 2011.	Not Applicable	Not Applicable
	C) Transit Vehicle Manufacturers (TVM)	26.49	No Deficiency	No deficiencies were found with the requirement for transit vehicle manufacturers. KCATA provided the signed standard assurances for contract bid #06-5031-53 dated June 30, 2007. The assurances included the DBE TVM certification for Gillig LLC.	Not Applicable	Not Applicable
	D) Race-Neutral	26.51	No Deficiency	Consistent with the regulations, KCATA has projected a portion of its new overall three-year goal to be obtained through race-neutral means (2.8%). This projection, in the approved methodology, was based on actual historic race-neutral attainment as noted in previously submitted DBE accomplishment reports.	Not Applicable	Not Applicable
	E) Race-Conscious	26.51	No Deficiency	No deficiency was found with respect to the requirements for race-conscious participation. Consistent with the regulations, KCATA has projected the portion of its new overall three-year goal estimated not to be obtained through race-neutral means, to be a race-conscious goal (9.7%). This projection, in the approved methodology, was also based to some degree on actual historic race-conscious attainment as noted in previously submitted DBE accomplishment reports.	Not Applicable	Not Applicable
	F) Good Faith Efforts	26.53	No Deficiency	No deficiencies were found with the requirements for good faith efforts. The 2012 DBE Program Plan includes detailed guidance on Good Faith Effort procedures in the main document (p. 13) and in Attachment G, “Bidder/Offeror DBE Requirements” (p. 36).	Not Applicable	Not Applicable
	G) Protecting Against Termination for Convenience	26.53	No Deficiency	The 2012 KCATA Program Plan provides guidance for modifying or terminating subcontractor roles on contracts (p. 37). The guidance also identifies legal remedies available to prime contractors and subcontractors if dispute occur between them with relation to subcontractor modification or replacement.	Not Applicable	Not Applicable

	Requirement of 49 CFR Part 26	Reference	Site Visit Finding	Preliminary Description of Findings	Suggested Corrective Action	Response Days/Date
	H) Counting DBE Participation	26.55	Advisory Comment	No deficiencies were found with the requirements for counting DBE participation. Based on the DBE regulations (26.55), KCATA DBE Program Plan provides a detailed description of how DBE participation is measured and evaluated (page 37).	KCATA should add some additional language, i.e., excerpts from 26.55 helping to define “commercially useful function.”	Not Applicable
	I) Quotas	26.43	No Deficiency	No deficiency was found with the requirement for quotas. KCATA does not use quotas or DBE set-asides.	Not Applicable	Not Applicable
9	Contract Clauses					
	A) Contract Assurance	26.13	Deficiency	KCATA’s 2012 DBE Program Plan states that each contract signed between KCATA and a prime contractor and each subcontract the prime signs with a subcontractor will include the required clause language. However, KCATA does not collect or review subcontract agreements to ensure “flow down” of required clauses in subcontract agreements for its projects or those of the City of Kansas City.	KCATA must document in its Program Plan how it ensures follow-down of required clauses in subcontract agreements.	April 22, 2013
	B) Prompt Payment	26.29	Deficiency	KCATA’s 2012 DBE Program Plan states that each contract signed between KCATA and a prime contractor and each subcontract the prime signs with a subcontractor will include the required clause language. However, KCATA does not collect or review subcontract agreements to ensure “flow down” of required clauses in subcontract agreements for its projects or those of the City of Kansas City.	KCATA must document in its Program Plan how it ensures follow-down of required clauses in subcontract agreements.	April 22, 2013
	C) Legal Remedies	26.37	Advisory Comment	No deficiencies were found in the area of legal remedies. The 2012 KCATA DBE Program Plan does not have a specific section detailing what legal remedies are available to KCATA or contractors. However, KCATA’s standard contract template provides the legal remedies available in the event of contract noncompliance (p. 38 in standard contract template document). This information should be in the Program Plan.	KCATA should document legal remedies available to it in the event of contractor noncompliance with the DBE Program in its Program Plan	Not Applicable
10	Certification Standards	26.67	No Deficiency	This section is applicable to KCATA since it is a certifying member of the MRCC, the UCP for the state of Missouri. KCATA is a full member of the UCP with certifying authority, according to the signed agreement. A copy of the original MRCC-UCP Agreement was reviewed during the site visit, as was a recently-updated version (June 15, 2011) that incorporated newer certification provisions. These documents adequately describe the certification standards and procedures.	Not Applicable	Not Applicable

	Requirement of 49 CFR Part 26	Reference	Site Visit Finding	Preliminary Description of Findings	Suggested Corrective Action	Response Days/Date
11	Certification Procedures	26.83	No Deficiency	Although KCATA is a member of the MRCC and aptly applies all of the standards of Part 26 of the DBE regulations, it certifies only 1-5 firms per year. Review of one active file (a denial) showed adequate and accurate application of the certification standards and procedures.	Not Applicable	Not Applicable
12	Recording Keeping and Enforcement					
	A) Bidders List	26.11	No Deficiency	No deficiencies were found with regard to the bidders list requirement. KCATA maintains a bidders list that consists of information about DBE and non-DBE firms that request or bid on KCATA request for proposals. KCATA uses the bidders list for the purposes of calculating overall goals. The bidders list includes the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.	Not Applicable	Not Applicable
	B) Monitoring	26.37 / 26.55	No Deficiency	No deficiencies found with regard to the monitoring requirement. During review, KCATA outlined its monitoring processes. From a financial perspective, projects are monitored through the collection of lien waivers from subcontractors to ensure prompt payment. KCATA tracks both prime and subcontractor dollars billed to projects on a monthly basis. From a project site perspective, KCATA uses site inspectors to ensure DBEs are performing the work they are contracted for.	Not Applicable	Not Applicable
	C) Reporting to DOT	26.11	No Deficiency	No deficiencies were found with regard to the reporting to DOT requirement. All accomplishments reports, including ARRA reports, appear to have been developed and submitted in a timely and accurate manner.	Not Applicable	Not Applicable