

FTA

FEDERAL TRANSIT ADMINISTRATION

Pennsylvania Department of Transportation

Disadvantaged Business Enterprise (DBE) Program Compliance Review

Final Report
July 2017



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

Objective and Methodology – This report details the findings of a compliance review of the Pennsylvania Department of Transportation’s (PennDOT) Disadvantaged Business Enterprise (DBE) program implementation. The compliance review examined this agency’s DBE program procedures, management structures, actions, and documentation. The compliance review team collected documents and information from the Federal Transit Administration (FTA) and PennDOT. In addition, the compliance review team interviewed the following entities as part of this review: PennDOT officials, the Pittsburgh Metropolitan Area Hispanic Chamber of Commerce, the African American Chamber of Commerce of Western Pennsylvania, the Greater Philadelphia Hispanic Chamber of Commerce, prime contractors and subcontractors, and other stakeholders. The two-day review included interviews, assessments of data collection systems, and review of program and contract documents.

PennDOT’s DBE Program includes the following positive program elements –

Positive Program Elements

- **DBE Directory** – PennDOT’s DBE Directory contained all required elements, and PennDOT efficiently managed and updated its DBE Directory and made it available to the DBE and non-DBE business community and other interested parties throughout the State.
- **Public Participation** – PennDOT’s goal-setting methodology included the use of its DBE Support Services Center resource and other effective public outreach and engagement strategies. The DBE Support Services Center maintained ongoing communication and relationships with the DBE and non-DBE business community.
- **Certification Standards** – In general, PennDOT adequately implemented the required Certification Standards in its DBE Program.
- **Certification Procedures** – In general, PennDOT’s Certification Procedures ensured only qualified firms received and maintained DBE certification.

The Program has the following administrative deficiencies –

Administrative Deficiencies

- **DBE Policy Statement** – PennDOT must ensure all references to its DBE Policy Statement refer to its current statement.

The Program has the following substantive deficiencies –**Substantive Deficiencies**

- **DBE Program Plan** – PennDOT's DBE Program Plan is out of date and does not include required elements or reflect actual practice.
- **DBE Liaison Officer** – PennDOT's DBE Liaison Officer (DBELO) cannot re-designate DBELO responsibilities to another PennDOT staff member and subsequently still function as the agency's DBELO.
- **Business Development Programs** – If PennDOT represents that its DBE Support Services Center substantially functions as its DBE Program Plan for the FTA-assisted portion of its DBE program, it must do a better job of ensuring DBEs associated with the FTA-assisted portion of its program utilize all the Center's resources and programs. In addition, PennDOT must authorize and enable the Center to engage and assist said DBEs with the full complement of its resources.
- **Determining/Meeting Goals** – PennDOT's goal calculation process is not readily understandable by the preponderance of its DBE program stakeholders.
- **Shortfall Analysis** – PennDOT has not conducted a thorough shortfall analysis and prepared a corrective action plan for each year it has not meet its DBE goal. Future shortfall analyses, if needed, should include specific measures and milestones for achieving future goals.
- **Small Business Element** – PennDOT's Small Business Element did not include the strategies described in 49 CFR Part 26.39 for all its FTA-funded projects.
- **Required Contract Provisions and Enforcement** – PennDOT lacks procedures to ensure required DBE contract provisions are included in all FTA-assisted contracts and subcontracts.

PennDOT's DBE participation has fluctuated over the past three fiscal years. As shown in the table below, PennDOT's DBE participation decreased from FY 2013 to FY 2014 and increased from FY 2014 to FY 2015.

Fiscal Year 2013 Goal: 6.95%		1	2	3 (1+2)
	DBE Uniform Report	June 1	Dec. 1	Totals
A.	Total dollars awarded to DBE prime contractors (Line 8C)	\$0	\$0	\$0
B.	Total dollars awarded to DBE subcontractors (Line 9C)	\$0	\$11,259	\$11,259
C.	Total dollars awarded to DBEs (A3 + B3)			\$11,259
D.	Total prime contract dollars awarded (Line 8A)	\$1,600,315	\$1,111,545	\$2,711,860
E.	Annual percentage awarded (C3/D3)			.4%

Fiscal Year 2014 Goal: 6.95%		1	2	3 (1+2)
	DBE Uniform Report	June 1	Dec. 1	Totals
A.	Total dollars awarded to DBE prime contractors (Line 8C)	\$0	\$0	\$0
B.	Total dollars awarded to DBE subcontractors (Line 9C)	\$0	\$0	\$0
C.	Total dollars awarded to DBEs (A3 + B3)			\$0

Fiscal Year 2014 Goal: 6.95%		1	2	3 (1+2)
D.	Total prime contract dollars awarded (<i>Line 8A</i>)	\$2,238,872	\$951,146	\$3,190,018
E.	Annual percentage awarded (C3/D3)			0.0%

Fiscal Year 2015 Goal: 9%		1	2	3 (1+2)
DBE Uniform Report		June 1	Dec. 1	Totals
A.	Total dollars awarded to DBE prime contractors (<i>Line 8C</i>)	\$0	\$88	\$88
B.	Total dollars awarded to DBE subcontractors (<i>Line 9C</i>)	\$0	\$1,896,353	\$1,896,353
C.	Total dollars awarded to DBEs (A3 + B3)			\$1,896,441
D.	Total prime contract dollars awarded (<i>Line 8A</i>)	\$436,593	\$7,893,707	\$8,330,300
E.	Annual percentage awarded (C3/D3)			22.8%

As the table shows, PennDOT did not meet its overall DBE participation goal of 6.95 percent in FY 2013 and FY 2014, achieving 0.4 percent and 0 percent, respectively. However, PennDOT did meet its goal of 9 percent DBE participation in FY 2015, achieving 22.8 percent.

PennDOT's shortfall analysis of its FY 2013 DBE participation identified the delay in planned construction projects as the reason for its shortfall. PennDOT's FY 2013 corrective action plan (CAP) included making its subrecipients aware of its DBE Support Services Center as a resource for identifying qualified DBE firms to work on their FTA-assisted projects, as well as continuing its outreach to the DBE business community. Notwithstanding PennDOT's CAP, PennDOT did not report any DBE participation in FY 2014. PennDOT did not conduct a shortfall analysis for its FY 2014 shortfall.

PennDOT exceeded its goal in FY 2015, awarding \$1,896,441 in contracts to three non-minority women-owned firms and one Asian-owned firm. PennDOT reported that the majority of those contracting dollars were associated with the Southeastern Pennsylvania Transportation Authority's Exton Train Station construction project, which received FTA-assistance in grant PA-90-X826-00. This project was not one of the delayed construction projects referenced by PennDOT in its FY 2013 shortfall analysis, but instead represented a new opportunity for DBE participation.

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I. General Information

This chapter provides basic information concerning this compliance review of PennDOT. Information on PennDOT, the review team, and the dates of the review are in the table below.

Grant Recipient:	Pennsylvania Department of Transportation
City/State:	Harrisburg, PA
Grantee Number:	1429
Executive Official:	Leslie S. Richards (717) 787-2838 lsrichards@pa.gov
On-site Liaison:	Jocelyn I. Harper (717) 787-5891 jocharper@pa.gov
Report Prepared By:	The DMP Group, LLC
Dates of On-site Visit:	December 1–4, 2015
Compliance Review Team Members:	John Potts, Lead Reviewer Khalique Davis, Reviewer Donald Lucas, Reviewer

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2. Jurisdiction and Authorities

The Secretary of Transportation authorized the Federal Transit Administration (FTA) Office of Civil Rights to conduct Civil Rights Compliance Reviews. FTA conducts compliance reviews to ensure compliance of applicants, recipients, and subrecipients with Section 13 of the Master Agreement, Federal Transit Administration M.A. (21), October 1, 2014, and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs."

PennDOT is the recipient of one or more federal transit grants, loans, and/or contracts that result in contracting opportunities exceeding \$250,000. Hence, PennDOT is subject to the Disadvantaged Business Enterprise (DBE) compliance conditions associated with the use of FTA financial assistance pursuant to 49 CFR Part 26. These regulations define the components that must be addressed and incorporated in PennDOT's DBE program, and were the basis for this compliance review.

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3. Purpose and Objectives

3.1 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 49 CFR Part 26. FTA has determined that a compliance review of PennDOT's DBE program is necessary.

The primary purpose of the compliance review is to determine the extent to which PennDOT has implemented 49 CFR Part 26, as represented in its DBE Program Plan. FTA intends this compliance review to be a fact-finding process to (1) assess PennDOT's DBE 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 discrimination against individual DBE firms or complainants or to adjudicate these issues on behalf of any party.

3.2 Objectives

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

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's transit financial assistance programs.
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- Ensure that the Department narrowly tailors its DBE Program in accordance with applicable law.
- Ensure that only firms that fully meet the regulatory eligibility standards participate as DBEs.
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.
- Promote the use of DBEs on all types of federally assisted contracts and procurement activities conducted by recipients.
- Assist with 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 PennDOT is honoring its commitment to comply with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in DOT Programs."
- Examine the required components of PennDOT's DBE Program Plan against the compliance standards set forth in the regulations, DOT guidance, and FTA policies; and document the compliance status of each component.

- Gather information and data regarding the operation of PennDOT's DBE Program Plan from a variety of sources, including DBE program managers, other PennDOT management personnel, DBEs, prime contractors, and other stakeholders.

4. Background Information

The purpose of this chapter is to provide an understanding of PennDOT's operations and scale. The subsections below highlight PennDOT's history, organizational structure, services, and short-term initiatives; its budget and FTA-assisted projects; and the history of its DBE program.

4.1 PennDOT Organization and Administration

The Secretary of Transportation for the State of Pennsylvania was the Chief Executive Officer of PennDOT. The Secretary's responsibilities included the development, maintenance, and operation of a balanced transportation system that included highways, mass transit, rail service, aviation, and various forms of assistance to municipalities. The Secretary received support from a work force of approximately 12,000 men and women in PennDOT's central office and 11 engineering districts. As a representative of the Secretary, PennDOT was the custodian of Pennsylvania's highways, bridges, facilities (including the state's Welcome Centers), and equipment. It was also responsible for administering motor vehicle registrations and operator licenses and played a direct role in the administration of financial and management assistance to transit providers, local municipalities, and 67 county governments. PennDOT's budget, which derived its principal sources of revenue from liquid fuel taxes, motor license fees, and federal aid, provided funding for these activities. Additional financing for non-highway programs came from the General Fund, the Public Transportation Assistance Fund, and the Lottery Fund.

The Department was composed of the following five divisions, each headed by a Deputy Secretary: Administration, Planning, Driver and Vehicle Services, Highway Administration, and Multimodal Transportation. Deputy Secretaries led each division and reported to the Secretary of Transportation. PennDOT organized its divisions into bureaus, offices, engineering districts, and county maintenance offices.

The administration of PennDOT's DBE program is essentially trifurcated by two bureaus spanning different divisions (Administration and Multimodal Transportation) and PennDOT's Office of Chief Counsel. PennDOT designated the Deputy Secretary of Administration as its DBELO. PennDOT's DBELO reported directly to the Secretary of Transportation, however, the details of the DBELO's involvement with the DBE program were unclear. The Bureau of Equal Opportunity (BEO), within the Administration division, was involved in or responsible for most of the DBE program functions, as discussed later in this report. The Bureau of Public Transportation (BPT), within the Multimodal Transportation division, supported the BEO by providing post-certification oversight inasmuch as it was also responsible for administering FTA Section 5310, 5311, 5316, and 5317 Programs and the PennDOT subrecipients that received funding through these programs. The Office of Chief Counsel (OCC) primarily provided pre-certification investigations of DBE applicant firms. Both the BPT and OCC coordinated their respective DBE program functions with and/or through the BEO.

The BEO had eight staff who reported to the Director of the BEO. Assisting the Director were a DBE/Title VI Division Chief, four Equal Opportunity Specialist 2 staff, one Equal Opportunity Specialist 1 staff, one Equal Opportunity Assistant, and one Administrative Assistant. The Equal Opportunity Specialists had different responsibilities and focus areas, as follows: DBE/Small Business Enterprise (SBE) Certification, Title VI, DBE Field Agent, and DBE/SBE Program Administration. The Director of BEO reported directly to the Deputy Secretary for Administration. The DBE/Title VI Division within the BEO was responsible for the administration of the

Department's DBE and Title VI programs, as well as the oversight of the Department's DBE and SBE Supportive Services activities.

Although much of the FTA 5310, 5311, 5316, and 5317 program assistance administered by PennDOT went toward vehicle purchases for its subrecipient agencies, PennDOT also administered 5304, 5305, and 5307 program funds for new construction and infrastructure improvement projects. PennDOT's Keystone Corridor Project involved upgrading the infrastructure of the 105-mile-long Keystone Corridor between Philadelphia and Harrisburg. This recent program of projects included improvements to the rail infrastructure along the corridor and the rehabilitation of passenger stations. FTA provided assistance for several of the station rehabilitation projects administered by PennDOT or its subrecipients, including the City of Coatesville, Middletown Borough, and Mount Joy Borough station projects. Although these projects experienced delays, PennDOT expected them to create future opportunities for increased DBE participation.

4.2 Budget and FTA-Assisted Projects

PennDOT's Transportation Agency budget comprises general, special, federal, and other funds. According to PennDOT's Transportation Agency Budget for FY 2015–2016, the agency had \$4,665,503,000 programmed for highways and bridges and \$201,581,000 programmed for drivers and vehicle services.

PennDOT Transportation Budget
(Dollar amounts in thousands)

Revenue Source	FY 2013–14 Budget	%	FY 2014–15 Budget	%
General funds	\$6,382	0.1%	\$6,103	0.1%
Special funds	\$1,872,031	29.6%	\$1,901,071	26.0%
Federal funds	\$1,857,773	29.4%	\$1,942,995	26.5%
Other funds	\$2,590,436	40.9%	\$3,465,332	47.4%
Total funds	\$6,326,622	100%	\$7,315,411	100%

At the time of the compliance review, PennDOT's active FTA assisted projects were as follows:

Project No.	Brief Description	Original Obligation Date	Last Disbursement Date	Total Obligation Amount	% of Funds Remaining	Total Undisbursed Amount
PA030256	Keystone Corridor Project	8/19/1997	3/4/2015	\$32,685,671	9%	\$2,971,101
PA040045	Phila. Zoo Parking/ Streetscape/ Shuttle	9/11/2008	9/18/2015	\$4,170,386	0%	\$0
PA040091	State of Good Repair	5/7/2012	9/24/2015	\$5,533,784	93%	\$5,120,145
PA040114	Veterans Transit and Community Living	12/3/2012	7/15/2015	\$2,000,000	38%	\$755,893
PA040125	Coatesville Train Station	3/21/2014		\$990,000	100%	\$990,000

Project No.	Brief Description	Original Obligation Date	Last Disbursement Date	Total Obligation Amount	% of Funds Remaining	Total Undisbursed Amount
PA050065	Keystone Corridor Project	9/11/2007	9/24/2015	\$9,374,265	87%	\$8,130,736
PA050077	Section 5309 Keystone Corridor	8/31/2011	9/18/2015	\$5,443,704	54%	\$2,957,316
PA050081	Section 5309 Keystone Corridor	8/29/2012	9/18/2015	\$7,608,015	97%	\$7,369,990
PA050083	Section 5309 Keystone Corridor	7/22/2013	11/19/2014	\$7,742,889	100%	\$7,721,351
PA050084	Section 5309 Keystone Corridor	8/1/2014		\$7,604,428	100%	\$7,604,428
PA050085	Section 5309 Keystone Corridor FY 2012	7/9/2015		\$7,429,649	100%	\$7,429,649
PA16X037	Section 5310 Elderly & Disabled	3/22/2012	12/31/2014	\$6,035,838	4%	\$252,748
PA16X038	Section 5310 Elderly & Disabled	3/1/2013	9/10/2015	\$4,180,438	3%	\$143,134
PA16X039	Section 5310- FFY 2012	4/10/2014	10/28/2015	\$1,866,643	8%	\$147,788
PA16X040	Section 5310 - FFY 2013	12/23/2014	11/18/2015	\$24,168,391	90%	\$21,853,778
PA18X029	FY 09 Rural Assistance	9/2/2009	7/15/2015	\$20,459,918	1%	\$170,702
PA18X030	Rural Assistance	9/23/2010	3/25/2015	\$20,497,765	8%	\$1,579,071
PA18X031	Rural Assistance	8/5/2011	7/15/2015	\$20,579,913	14%	\$2,878,272
PA18X032	Rural Assistance	8/3/2012	10/28/2015	\$20,622,367	12%	\$2,448,827
PA18X033	Rural Assistance	6/24/2013	9/24/2015	\$21,859,969	55%	\$11,953,258
PA18X034	Rural Assistance	7/31/2014	8/19/2015	\$25,626,031	86%	\$22,101,025
PA18X035	Rural Assistance	8/27/2015		\$18,132,449	100%	\$18,132,449
PA20X003	DVRPC Wildlife Planning Study	9/20/2013	11/18/2015	\$446,758	99%	\$442,747
PA340011	PA 5339-CATA Facility	8/27/2015		\$3,298,920	100%	\$3,298,920
PA37X036	JARC Operating & Vehicles	9/24/2009	8/20/2014	\$1,700,692	16%	\$275,444
PA37X040	JARC Operating and Vehicles	8/26/2010	10/28/2015	\$2,414,400	49%	\$1,185,834
PA37X044	JARC Operating, Vehicles	9/23/2011	10/28/2015	\$1,727,738	25%	\$431,516
PA37X051	JARC Vehicles	9/17/2012	10/28/2015	\$4,700,531	4%	\$188,000
PA37X057	JARC Vehicles	8/23/2013	10/28/2015	\$2,370,930	96%	\$2,286,221

Project No.	Brief Description	Original Obligation Date	Last Disbursement Date	Total Obligation Amount	% of Funds Remaining	Total Undisbursed Amount
PA57X013	New Freedom Program	9/8/2010	7/8/2015	\$1,428,413	1%	\$14,532
PA57X015	New Freedom Program	9/15/2011	6/24/2015	\$1,415,612	0%	\$3,889
PA57X021	New Freedom Projects	8/29/2012	1/7/2015	\$1,757,718	6%	\$112,462
PA57X025	New Freedom Projects	8/23/2013	7/15/2015	\$1,868,000	15%	\$274,668
PA57X027	Section 5317 New Freedom FY 2012	4/10/2014	8/5/2015	\$754,370	15%	\$115,442
PA580007	Facility Upgrades for CNG	8/15/2014		\$2,400,000	100%	\$2,400,000
PA74X001	PA State Safety Oversight Program	8/31/2015		\$1,431,437	100%	\$1,431,437
PA85X003	Rural Capital Flex	8/26/2010	10/8/2014	\$2,827,000	17%	\$489,551
PA880001	TIGGER II Hybrid Vehicle Purchase	7/25/2011	4/9/2014	\$5,000,000	36%	\$1,800,000
PA90X270	Capital Assistance	8/19/1997	10/28/2015	\$50,231,376	29%	\$14,403,320
PA90X598	Keystone Corridor Project	9/11/2007	9/18/2015	\$9,625,688	97%	\$9,327,663
PA90X719	Section 5307 Keystone Corridor	8/31/2011	10/28/2015	\$5,226,597	59%	\$3,094,703
PA90X750	Section 5307 Keystone Corridor	8/3/2012	9/18/2015	\$6,048,198	96%	\$5,810,173
PA90X767	Section 5307 Keystone Corridor	7/30/2013	11/19/2014	\$6,163,596	100%	\$6,142,058
PA90X768	Section 5307 Keystone Corridor	12/23/2013	10/22/2014	\$5,997,256	88%	\$5,253,128
PA90X826	PennDOT S5307	6/19/2015		\$12,974,006	100%	\$12,974,006

4.3 DBE Program

PennDOT receives federal financial assistance from DOT, and as a condition of receiving this assistance, it is responsible for complying with the regulations of the U.S. Department of Transportation (U.S. DOT), 49 CFR Part 26. Accordingly, PennDOT developed a DBE Policy Statement that outlined its goals and mission for the program and a DBE Program Plan that described its efforts pursuant to compliance with the regulations. PennDOT submitted its most recent DBE Program Plan to the FTA on February 28, 2012. FTA approved the plan on July 18, 2012. However, at the time of the compliance review, PennDOT was updating its DBE Program Plan to reflect its current practices. PennDOT stated during the compliance review that it

intended to incorporate FTA's feedback from this review into its plan, and submit it to FTA for approval. For the purposes of this review, FTA reviewed PennDOT's draft DBE Program Plan.

PennDOT prepared one DBE Program Plan that included a description of the policies and procedures related to the administration of its FTA-, Federal Highway Administration (FHWA)-, and Federal Aviation Administration (FAA) -specific DBE Programs. Although PennDOT's FTA, FHWA, and FAA DBE programs are all pursuant to compliance with 49 CFR Part 26, each was distinct in terms of their administration. For example, PennDOT distributes the administration of its DBE Program across several operating units within the agency, including the following:

- Deputy Secretary of Administration
- Bureau of Equal Opportunity
- Office of Chief Counsel
- Bureau of Project Delivery
- Bureau of Aviation
- Bureau of Public Transportation
- Bureau of Planning and Research
- Bureau Office Services
- Center for Program Development
- Pennsylvania Department of Conservation and Natural Resources
- Twelve Engineering Districts

The Deputy Secretary of Administration, Bureau of Equal Opportunity, Bureau of Public Transportation, and Office of Chief Counsel are primarily responsible of the administration of PennDOT's FTA DBE program.

PennDOT's Disadvantaged Business Enterprise Liaison Officer (DBELO) was the Deputy Secretary for Administration. As PennDOT's DBELO, the Deputy Secretary of Administration was responsible for monitoring and enforcing the DBE program to ensure compliance with appropriate federal laws and regulation, including those required by 49 CFR Part 26 applicable to a state DOT certifying agency. The Deputy Secretary for Administration had direct access to the Secretary of Transportation. Although PennDOT named its Deputy Secretary of Administration as its DBELO, the BEO Director was most active in the administration and management of PennDOT's DBE program. For example, the BEO Director and DBE/Title VI Division Chief were active participants in networking events focused on small businesses and DBEs throughout Pennsylvania, and the BEO Director, DBE/Title VI Division Chief, and BPT staff were active participants in setting DBE goals and preparing and submitting semi-annual DBE reports in FTA's TEAM system. Chapter 6.3 of this report includes a detailed description of the findings related to PennDOT's DBELO designation.

PennDOT did not conduct a disparity study when formulating its triennial DBE goals; however, PennDOT's overall goals historically included race-neutral and race-conscious elements.

PennDOT also established a Business Development Program called the Disadvantaged Business Enterprise Supportive Services (DBE SS) Program. The DBE SS functioned to provide training, assistance, and services to DBE firms certified in the DBE program to facilitate their development into viable self-sufficient organizations capable of competing for, and performing on federally assisted highway projects. The DBE SS program was designed to

contribute to the growth and eventual self-sufficiency of certified DBE firms by providing assistance in the acquisition of skills and the identification of resources so that the firms can ultimately compete on an equal basis for contracts and subcontracts without the assistance of the DBE program. PennDOT used the DBE SS primarily for its FHWA DBE program.

5. Scope and Methodology

5.1 Scope

FTA specifies the implementation of the following DBE program components in this report:

- A DBE program in conformance with 49 CFR Part 26 that has been submitted to FTA
- A signed policy statement expressing a commitment to PennDOT DBE program, states its objectives, and outlines responsibilities for implementation [49 CFR 26.23]
- Designation of a DBE 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]
- Efforts made to use DBE financial institutions, by PennDOT as well as by prime contractors, if such institutions exist [49 CFR 26.27]
- 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]
- Determination that overconcentration does (not) exist and efforts to address this problem, if necessary [49 CFR 26.33]
- Assistance provided to DBEs through Business Development Programs to help them compete successfully outside of the DBE program [49 CFR 26.35]
- 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 DOT-assisted contracts; and proper mechanisms to implement the DBE goal [49 CFR 26.43–26.53]
- A shortfall analysis and corrective action plan when PennDOT did not achieve its DBE goal [49 CFR 26.47]
- A process that ensures transit vehicle manufacturers (TVMs) comply with the DBE requirements before bidding on FTA-assisted vehicle procurements. The process may include PennDOT seeking FTA approval to establish a project-specific goal for vehicle purchases [49 CFR 26.49].
- A non-discrimination and a prompt payment clause is included in all FTA-assisted contracts and a prompt payment verification process [49 CFR 26.7, 26.13, and 26.29].
- A certification process to determine whether potential DBE firms are socially and economically disadvantaged according to the regulatory requirements. The potential DBE firms must submit the standard DOT application, the standard DOT personal net worth form, along with the proper supporting documentation [49 CFR 26.65–26.71].
- The certification procedure includes document review, on-site visit(s), eligibility determinations consistent with Subpart D of the regulations, interstate certification review process, and a certification appeals process [49 CFR 26.83 and 26.86].
- Implementation of appropriate mechanisms to ensure compliance with the DBE requirements by all program participants and appropriate breach of contract remedies. [49 CFR Part 13]. The DBE program must also include monitoring and enforcement mechanisms to ensure DBEs actually perform the work committed to DBEs at contract

award [49 CFR Part 26.37]. Reporting must include information on payments made to DBE firms [49 CFR 26.11 and 26.55].

5.2 Methodology

The initial step 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. After reviewing this information, potential dates for the site visit were coordinated.

The FTA Office of Civil Rights sent a notification letter to PennDOT that informed the agency of the upcoming visit, requested necessary review documents, and explained the areas covered during the on-site visit. The letter also informed PennDOT of staff and other parties whom the review team would interview.

Before conducting the on-site visit, FTA asked PennDOT to provide the following documents:

- Most current DBE Program plan
- DBE goal methodology submissions
- DBE semi-annual reports and/or quarterly ARRA reports for the past three years
- A Memorandum of Understanding or similar documents indicating PennDOT's participation in the Unified Certification Program (UCP)
- A list of FTA-assisted contracts awarded during the current and previous fiscal years
- A list of DBE firms that have worked on FTA-assisted projects sponsored by PennDOT
- Documentation showing the "Good Faith Efforts" criteria and review procedures established by PennDOT
- Procedures for monitoring all DBE program participants to ensure compliance with the DBE requirements, including but not limited to a prompt payment verification process, a process for ensuring work committed to DBEs is actually performed by DBEs, and any DBE complaints against the agency or its prime contractors during a specified time period.

The review team conducted an opening conference at the beginning of the compliance review with FTA representatives, PennDOT staff, and the review team.

Following the opening conference, the review team examined PennDOT's DBE Program Plan and other documents submitted by the DBELO. The team then conducted interviews with PennDOT staff regarding DBE program administration, DBE goal implementation, record keeping, monitoring, and enforcement. These interviews included staff from PennDOT's diversity, procurement, and finance offices. The review team selected a sample of contracts and reviewed them for their DBE elements. The review also included interviews with prime contractors, subcontractors, and interested parties.

At the end of the review, FTA representatives, PennDOT staff, and the review team convened for the final exit conference. At the exit conference, FTA and the review team discussed initial findings and corrective actions with PennDOT.

Participants in the compliance review are in the table below.

Name	Title/Organization	Phone Number	E-mail Address
<i>Penn DOT</i>			
Jocelyn I. Harper	Director, Bureau of Equal Opportunity	717-787-5891	jocharper@pa.gov
Suzanne H. Itzko	Deputy Secretary for Administration	717-787-5628	sitzko@pa.gov
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Anthony Stever	Project Coordinator	717-783-9559	astever@pa.gov
Colton Brown	Rural Project Coordinator	717-787-1203	coltbrown@pa.gov
Dwan L. Lee	DBE/DB/SBE Programs Administrator	717-395-9199	dwlee@pa.gov
Dustin Hobough	Chief, DBE/Title VI Division	717-783-1081	dhobough@pa.gov
Joanne L. Lubart	Senior Counsel	717-787-5931	jlubart@pa.gov
John Levitsky	Manager, Urban Capital Division	717-787-1206	jlevitsky@pa.gov
William Kerney, Jr.	Chief, Contract Compliance Division, Bureau of Equal Opportunity	717-783-1038	wkerney@pa.gov
Trista Maurer	Equal Opportunity Specialist 2	717-783-1353	trmaurer@pa.gov
Matthew Auterson	Equal Opportunity Administrator	717-817-3035	mauterson@pa.gov
Keyla Evans	Equal Opportunity Specialist 1	717-783-0327	keevans@pa.gov
Samuel Plocinski	Rural Project Coordinator	717-214-9757	splocinski@pa.gov
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<i>Pennsylvania Department of General Services</i>			
Alfonso Robinson	Commodity Specialist	717-346-8181	arobinson@pa.gov
<i>Davenport Communications</i>			
Albert Davenport	Consultant	202-374-3302	albert@davenportcommunications.com
<i>Cheyney University of Pennsylvania</i>			
Sharron Cannon	Executive Director, Economic and Workforce Development Center	610-399-2057	scannon@cheyney.edu
<i>Disadvantaged Business Enterprises</i>			
Gary Shepherd	3rd Floor Media Productions	215-844-5710	gary@3fm.fm
	A Touch Above the Rest Commercial Cleaning	412-482-8911	gerrig1226@aol.com
Alfred D. Swailes	A & A Premium Paint Distributor, LLC	202-409-5173	alfred.swailes1@verizon.net
Myrofora Anastasi-Frantzis	A & F Engineers, LLC	301-404-2479	manastasi@af-engineers.com
Alicia Williams	Full Circle Computing, Inc.	610-594-9510	drw@fullcirclecomputing.com
Diane Garvey	Garvey Resources, Inc.	215-362-4444	diane@garveyresources.com
Nora Hopson	General Sewer Service, Inc.	610-461-1212	drsewer@aol.com
Steve Phelan	ESP Enterprises, Inc.	281-444-2377	dlphelan2@gmail.com
<i>Interested Parties</i>			

Name	Title/Organization	Phone Number	E-mail Address
David Metter	Hispanic Chamber of Commerce of Philadelphia	215-790-3723	dmetter@greaterphilachamber.com
Anonymous	Pittsburgh Metropolitan Area Hispanic Chamber of Commerce	412-577-4008	chamber@pmahcc.org
Anonymous	African American Chamber of Commerce of Western Pennsylvania	412-392-0610	information@aaccwp.com
FTA (via teleconference)			
Anita Heard	Equal Opportunity Specialist, FTA Office of Civil Rights	202-493-0318	anita.heard@dot.gov
Jennifer Riess	Equal Opportunity Specialist, FTA Office of Civil Rights	202-366-3084	jennifer.riess@dot.gov
Antoinette Davis	Equal Opportunity Specialist, FTA Office of Civil Rights	202-366-5190	antoinette.davis@dot.gov
Janelle Hinton	Program Analyst, FTA Office of Civil Rights	202-366-9259	janelle.hinton.ctr@dot.gov
Stacie Parkins	FTA Region III Civil Rights Officer		stacie.parkins@dot.gov
Reviewers			
John Potts	Lead Reviewer, The DMP Group	202-726-2630	johnpotts@thedmpgroup.com
Donald Lucas	Reviewer, The DMP Group	202-726-2630	donald.lucas@thedmpgroup.com
Khalique Davis	Reviewer, The DMP Group	202-726-2630	khalique.davis@thedmpgroup.com

Following the site visit, FTA compiled and transmitted a draft report to PennDOT for comments on April 22, 2016. This final report incorporates PennDOT's responses and identifies the remaining open corrective actions.

5.3 Stakeholder Interviews

During the DBE compliance review, the review team contacted 18 DBEs, two non-DBE prime contractors, and eight minority- and women-owned business advocacy organizations (other interested parties). The review team interviewed representatives of the following companies and organizations:

DBEs

3rd Floor Media Productions
432 School House Lane
Philadelphia, PA 19144
[3rd Floor Media Productions](#)

A & A Premium Paint Distributor, LLC
5521 Colorado Avenue
Suite 402
Washington, DC 20011

Other Interested Parties

Pittsburgh Metropolitan Area Hispanic Chamber of Commerce
One Oxford Centre
301 Grant Street, Suite 4300
Pittsburgh, PA 15219
[Pittsburgh Hispanic Chamber of Commerce](#)

DBEs**A&A Premium Paint Distributor**

A & F Engineering, Inc.
 9925 Bedfordshire Court
 Rockville, MD 20854
[A&F Engineering](#)

General Sewer Services, Inc.
 1408 Calcon Hook Road
 Sharon Hill, PA 19079
[General Sewer Services](#)

Garvey Resources, Inc.
 407 South Store Ridge Drive
 Lansdale, PA 19446
[Garvey Resources](#)

A Touch Above the Rest Commercial Cleaning
 1105 Norma Hill Drive
 Pittsburgh, PA 15201
[A Touch Above the Rest Commercial Cleaning](#)

ESP Services
 10963 Cutten Road
 Suite B101
 Houston, TX 77066
[ESP Services](#)

Full Circle Computing Inc.
 704 Springdale Drive
 Exton, PA 19341
[Full Circle Computing](#)

Frontier Technologies, Inc.
 1200 First State Blvd.
 Ste. 1248
 Wilmington, DE 19804
[Frontier Technologies](#)

Other Interested Parties

African American Chamber of Commerce
 of Western Pennsylvania
 436 7th Avenue
 Pittsburgh, PA 15219
[African American Chamber of Commerce
 of Western Pennsylvania](#)

Greater Philadelphia Hispanic Chamber
 of Commerce
 200 S. Broad Street, Suite 700
 Philadelphia, PA 19102
[Greater Philadelphia Chamber of
 Commerce](#)

Frontier Technologies, Inc.
 1200 First State Blvd.
 Ste. 1248
 Wilmington, DE 19804
[Frontier Technologies](#)

Disadvantaged Business Enterprises

The review team conducted interviews with nine of the 18 DBEs contacted. All nine of the DBEs interviewed were PennDOT certified and listed in its DBE Directory. Two of the DBEs learned about PennDOT contracting opportunities through notices from prime contractors or invitations to and attendance at pre-bid conferences. Three of the DBEs interviewed participated on DOT-

assisted contracts, one as a prime contractor and two as subcontractors. Of the three DBEs that had received contracts, none reported problems with retainage or prompt payment. Five of the DBEs felt PennDOT could do more to reach out to DBEs to notify them about contracting and subcontracting opportunities. Three DBEs suggested the establishment of an oversight body to hold PennDOT accountable on its DBE goal attainment.

Prime Contractors

The two prime contractors contacted declined the request for an interview.

Interested Parties

The review team conducted interviews with four of the eight interested parties contacted. The parties were not familiar with PennDOT's DBE program and indicated that PennDOT had not communicated opportunities to comment on its DBE goals. None of the agencies reported awareness of PennDOT contracting opportunities. One agency reported PennDOT contacted them to obtain a referral and this same agency attended a PennDOT outreach event. None of the agencies felt the PennDOT DBE program was effective. One of the parties felt PennDOT could do more outreach and provide more information on its contracting opportunities.

6. Findings and Advisory Comments

This chapter details the findings for each area pertinent to the DBE regulations (49 CFR Part 26) outlined in the Scope and Methodology sections above. Included in each area is an overview of the relevant regulations and a discussion of the regulations as they apply to PennDOT's DBE program. Each area also includes corrective actions, if needed, and a timetable to correct deficiencies for each of the requirements and sub-requirements.

FTA reports findings in terms of "deficiency" or "no deficiency." Findings of deficiency denote policies or practices that are contrary to the DBE regulations or matters for which FTA requires additional reporting to determine whether DBE compliance issues exist.

Findings of deficiency always require corrective action and/or additional reporting and expressed as

- A statement concerning the policy or practice in question at the time of the review,
- A statement concerning the DBE requirements being unsatisfied or potentially unsatisfied, and
- A statement concerning the required corrective action to resolve the issue.

Advisory comments are statements detailing recommended changes to existing policies or practices. The purpose of the recommendations is to ensure effective DBE programmatic practices or otherwise assist the entity in achieving or maintaining compliance.

6.1 DBE Program Plan

Basic Requirement (49 CFR Part 26.21)

Recipients must have a DBE program meeting the requirements of 49 CFR Part 26. The DBE Program Plan outlines the agency's implementation of the DBE program. Recipients do not have to submit regular updates of DBE programs. However, recipients must submit significant changes in the program for approval.

Discussion

During this compliance review, FTA found deficiencies with this requirement. U.S. DOT DBE regulations require PennDOT to develop and submit a DBE Program Plan and to update its plan when it makes significant changes to its program or plan. FTA's TEAM-Web showed that PennDOT submitted its most recent DBE Program Plan on February 28, 2012, and FTA approved the plan on July 18, 2012. During the site visit, there was some confusion on the part of PennDOT over the submission date reported in TEAM-Web. According to PennDOT, it had not updated its DBE Program Plan since the early 2000s. The review team determined that although PennDOT did not submit an updated DBE Program Plan, it submitted an update to its Small Business Element, which effectively updated its DBE program. PennDOT's submission of its Small Business Element coincided with the DBE Program Plan submission and approval dates reported in TEAM-Web. PennDOT submitted its DBE Program Plan dated October 2015 for this compliance review. During the site visit, PennDOT explained that the October 2015 DBE Program Plan was still in draft form and had not yet been submitted to FTA. Although PennDOT did not provide its previous DBE Program Plan (from the early 2000s) for review, it stated its

2015 draft version included several significant updates in the areas of monitoring, oversight, and enforcement. For example, PennDOT created new standard contract language to ensure that all contracts and subrecipient agreements contained the same required DBE contract assurance, prompt payment and retainage, and good faith effort language. PennDOT also included most of the 2014 U.S. DOT updates to 49 CFR Part 26, including updated certification standards (e.g. business size) and forms (e.g. personal net worth and uniform reporting). In addition, PennDOT developed new oversight checklist forms and procedures to monitor contractor and subrecipient DBE compliance. Although PennDOT's draft DBE Program Plan included nearly all the required elements, it did not include the requirements and procedures related to transit vehicle manufacturers (TVMs) as detailed in 49 CFR Part 26.49.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that includes all required elements and reflects actual practice.

6.2 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. Recipients must circulate this policy throughout the recipients' organization and to the DBE and non-DBE business communities.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In addition to specifying corrective action, FTA makes an advisory comment regarding this requirement. PennDOT's DBE Policy Statement contained all the required elements, and PennDOT designated and identified the Deputy Secretary for Administration as its DBE Liaison Officer. PennDOT also stated that it

disseminated this policy statement to its Deputy Secretaries, Bureau Directors, District Executives, Managers, Supervisors, and to every level of the Department. This policy statement has also been distributed to DBE and non-DBE business communities that perform work for the Department on DOT-assisted contracts.

During the compliance review, however, PennDOT did not provide documentation confirming it had disseminated its policy statement as it stated it would.

In addition, in its DBE Program Plan, PennDOT included a hyperlink to its DBE Policy Statement on its website. The hyperlink from within the plan, <http://www.dot.state.pa.us/public/Bureaus/beo/DBEPolicyStatement.pdf>, accessed its old policy statement signed on June 15, 2011, by its previous Secretary of Transportation, Barry J. Schoch. PennDOT also posted its updated and current DBE Policy Statement at http://www.penndot.gov/about-us/EqualEmployment/Documents/DBE%20Policy%20Statement_%208-31-15_%20LSR.pdf, which the current Secretary of Transportation, Leslie S. Richards, signed on August 31, 2015. During the site visit, PennDOT explained that due to recent and ongoing updates to its website,

some hyperlinks still required updating and that it would confirm the hyperlink in its DBE Program Plan referenced its current DBE Policy Statement.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights documentation confirming its DBE Program Policy Statement has been distributed as required by 49 CFR Part 26.23 and as stated in its DBE Program Plan. In addition, FTA advises PennDOT to update and ensure all references to its DBE Policy Statement refer to its current statement.

6.3 DBE Liaison Officer

Basic Requirement (49 CFR Part 26.25)

Recipients must have a designated DBE Liaison Officer (DBELO) 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 compliance review, FTA found deficiencies with this requirement. In addition to specifying corrective action, FTA makes an advisory comment regarding this requirement. In its DBE Program Plan, PennDOT states the following:

*The Deputy Secretary **or designee** [emphasis added] is responsible for directing all aspects of the DBE Program and for ensuring that the Department complies with all provisions of Part 26. This includes ensuring adequate staff to administer the program in compliance with Part 26. The Deputy Secretary has direct independent access to the Pennsylvania Secretary of Transportation concerning DBE Program matters.*

PennDOT must not allow its DBELO to “re-designate” his or her responsibilities to someone else. Once the DBELO “re-designates” DBE Program responsibilities to another staff member, then that staff member effectively becomes the agency’s DBELO.

Although no official “re-designation” occurred, throughout the compliance review, it was evident that the Director of the Bureau of Equal Opportunity (BEO), not the Deputy Secretary, functioned as the person most involved with and responsible for implementing all aspects of PennDOT’s DBE program, including managing and coordinating with other PennDOT staff to carry out the program. For example, in its DBE Program Plan, PennDOT listed the following duties and responsibilities of the BEO Director and the DBE/Title VI Division Chief (who reported to the BEO Director):

The BEO Director and the DBE/Title VI Division Chief are responsible for administering and monitoring the DBE Program, in coordination with other appropriate personnel. Duties and responsibilities include but are not limited to the following:

- *Gathering and reporting statistical data and other information required by DOT.*
- *Working with various Department bureaus to develop and submit the Department’s FAA, FHWA, and FTA DBE Methodologies and Goals.*

-
- *Managing the Department's DBE/SBE Supportive Services Program.*
 - *Administering the approved Small Business Element.*
 - *Ensuring that bid notices and requests for proposals are available to DBEs/SBEs in a timely manner.*
 - *Assisting in identifying contracting opportunities for DBEs/SBEs.*
 - *Analyzing the Department's progress toward goal attainment and identifying ways to improve progress.*
 - *Advising the Department's Secretary and Deputy Secretary for Administration/DBE Liaison Officer on DBE matters.*
 - *Participating with Department Executives, the Bureau of Project Delivery (BOPD), Districts, and the Department's Office of Chief Counsel in determining contractor compliance with good faith efforts.*
 - *Working to resolve disputes between prime contractors and DBEs/SBEs.*
 - *Providing DBEs/SBEs with information and assistance in preparing bids and obtaining bonding and insurance.*
 - *Planning and participating in DBE/SBE training seminars, workshops, and networking sessions.*
 - *Providing outreach to DBEs/SBEs and community organizations on how to do business with the Department and to promote contracting opportunities.*
 - *Certifying DBEs in accordance with the criteria set by DOT and acting as a liaison to the PA UCP.*
 - *Assisting in maintaining and updating the statewide directory of certified PA UCP DBEs.*
 - *Certifying SBEs in accordance with the criteria established by the Department.*
 - *Maintaining and updating the statewide directory of certified SBEs.*

The DBE program duties and responsibilities listed above are typically the direct responsibility of the DBELO. Although the Deputy Secretary's position description stated that the Deputy Secretary oversees all aspects of the DBE Program, during the site visit, the review team was unable to determine by either interview or documentation the Deputy Secretary's involvement in the execution of these program elements. In contrast, the BEO Director was the primary point of contact for this compliance review, was one of two PennDOT DBE contacts listed in TEAM-Web, and was integrally involved throughout the review process.

After the site visit, PennDOT provided e-mail correspondence to demonstrate the Deputy Secretary's involvement in the PennDOT DBE Program. Four of the nine examples confirmed that the Deputy Secretary was involved with PennDOT FTA DBE matters at a high level, including facilitating resources for the administration of the DBE Program and coordinating meetings of key internal FTA DBE Program administrators and stakeholders to discuss the status of DBE program elements. These same four examples also demonstrated that the Deputy Secretary had direct and independent access to the Secretary. Nevertheless, the BEO Director, in coordination with staff in various PennDOT Bureaus across different organizational units (e.g., Bureau of Public Transportation and Office of Chief Counsel), was primarily

responsible for implementing the details of PennDOT's DBE Program. Throughout the compliance review, the BEO Director provided information on and spoke to the substance of PennDOT's DBE Program and was well-positioned (and perhaps better-positioned) to advise, represent, and advocate on behalf of the program. Moreover, the review team noted that in addition to serving as PennDOT's DBELO, the Deputy Secretary for Administration had other duties and responsibilities, as described in the following section of the job description:

Serves as the Department of Transportation's Deputy Secretary for Administration and serves as one of the principal advisors to the Secretary.

Directs through the Director of the Bureau of Human Resources, the administration of human resource programs and services. These functions include recruitment, training, pay, classification, benefits, union contract administration, employee safety, travel, labor relations, and special employee awards.

Directs through the Director of the Bureau of Fiscal Management, the administration of a comprehensive fiscal program and the implementation of the Department's \$6 billion budget.

Directs through the Director of the Bureau of Office Services, the administration of services relating to procurement and financial management, departmental building construction and renovations, centralized reproduction and printing activities, graphic services, materials and services management, and publication sales control.

Directs through the Director of the Bureau of Equal Opportunity, all aspects of the administration of the Department's State and Federal Equal Opportunity Program including diverse business (DB), disadvantaged business enterprise (DBE) contract compliance, and Title VI. As DBE Liaison Officer, oversees all aspects of the DBE Program ensuring that the Department complies with all provisions of Title 49, Parts 23 and 26 of the Code of Federal Regulations.

Directs through the Director of the Bureau of Innovations, all activities relating to modernizing and optimizing Department processes, policies, and operations to decrease project delivery time and improve customer services. Oversees all aspects of tourism services which includes management of the Department's 14 Welcome Centers.

Directs through the Chief Information Officer, the Department's telecommunications systems and information technology (IT) improvement functions. These functions include information systems and technology, IT business solutions, IT project development and delivery, and IT infrastructure and operations.

Controls the Department's budgeting activities. Supervises the development of revenue forecasts and monitors expenditures, cash flow, and federal-aid receipts. Responsible for the preparation and submission of financial plans and financial reports such as revenue and expenditure reports and commitment status updates. Ensures the Department's budget is realistic and reflects policy regulations. Identifies program or policy issues and makes recommendations to align the budget with current policy. Directs the development and implementation of agency spending plans. Approves and issues agency budget instructions and funding recommendations relating to revenue and cash flow trends.

Assists the Secretary in the formulation and implementation of Department priorities through the budgetary process, legislation, and providing leadership to Deputate employees. Facilitates the coordination of Deputate initiatives, program and policy development and execution, and the planning and establishment of Deputate objectives and goals to achieve the Secretary's priorities, vision, and mission.

Accomplishes financial objectives by anticipating necessities; preparing an annual budget; scheduling expenditures; analyzing variances; and initiating corrective actions. Establishes strategic goals by gathering pertinent business, financial, service, and operations information; identifying and evaluating trends and options; determining courses of action; defining objectives; and evaluating outcomes. Reviews policy statements received from program directors and others throughout the assigned area of responsibility to anticipate potential problems or inconsistencies.

Provides broad policy and managerial leadership regarding program areas for which the incumbent has direct responsibility. Reviews existing regulations to ensure conformance with program and policy objectives.

Coordinates or performs special projects of a highly sensitive nature upon request of the Secretary.

Performs related duties as assigned.

The BEO Director's scope of responsibilities and her direct and regular involvement with the implementation, management, and administration of PennDOT's DBE program in comparison to the scope of responsibilities of the Deputy Secretary make the BEO Director a more obvious choice for the agency's DBELO.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that removes all language communicating that the DBELO can designate DBELO responsibilities to another PennDOT staff member. PennDOT must ensure that the DBELO performs the roles/responsibilities associated with the position and has direct and independent access to the Secretary.

6.4 DBE Financial Institutions

Basic Requirement (49 CFR Part 26.27)

Recipients must investigate the existence of DBE financial institutions and make efforts to use them. Recipients must also encourage prime contractors to use these DBE financial institutions.

Discussion

During this compliance review, FTA found deficiencies with this requirement. PennDOT did not have procedures in place and had not taken steps to identify all minority-owned banks.

In its DBE Program Plan, PennDOT stated it had identified the United Bank of Philadelphia as the only minority-owned bank in the State. However, when asked how PennDOT identified this bank, PennDOT was uncertain, noting it included the bank in its current plan because the bank was included in previous DBE Program Plans. PennDOT confirmed it did not have a process for periodically researching the availability of DBE banks. In addition, although PennDOT stated in its DBE Program Plan that it, along with its DBE Supportive Services Consultant, “encourages and promotes use of this bank by consultants, contractors, and subrecipients,” neither PennDOT nor its consultant provided documentation confirming it did so.

The review team informed PennDOT that it must develop a procedure for periodically researching the availability of DBE banks and that its procedures should include referencing the current Federal Reserve Statistical Release (FRSR) at <http://www.federalreserve.gov/Releases/mob/current/default.htm>. At the time of this compliance review, the FRSR reported there were three minority-owned banks in Pennsylvania: United Bank of Philadelphia, Asian Bank, and Noah Bank.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights the following:

- An updated DBE Program Plan that includes procedures for investigating the availability of DBE financial institutions that are socially and/or economically disadvantaged and a list of DBE financial institutions that could possibly be used by PennDOT and/or its contractors that work on FTA-assisted projects, and
- Documentation confirming it has investigated and considered the services of the United Bank of Philadelphia, Asian Bank, and Noah bank for its own use and the use of its prime contractors.
- Documentation confirming it has disseminated information on the availability of DBE financial institutions to its FTA-assisted contractors encouraging them to use one or more of the DBE financial institutions identified by PennDOT.

6.5 DBE Directory

Basic Requirement (49 CFR Part 26.31)

A DBE directory must be available to interested parties that includes the addresses, phone numbers, and types of work the recipient has certified each DBE to perform. The recipient must update the directory at least annually and must be available to contractors and the public upon request.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. In the State of Pennsylvania, DBE program certification and administration, including DBE directory maintenance, was the responsibility of the Pennsylvania Unified Certification Program (PA UCP), comprised the five certifying participant agencies listed below:

- PennDOT,
- Southeastern Pennsylvania Transportation Authority,
- Port Authority of Allegheny County,
- Philadelphia International Airport's DBE Program Office, and
- Allegheny County Department of MBE/WBE/DBE.

PennDOT's DBE Directory included the information required for DBEs and was accessible online at www.paucp.com. PennDOT updated the DBE directory online in real time. On a quarterly basis, a hard copy of the PA UCP DBE Directory was printed and made available free upon request by contacting the Department or any of the other four certifying participants.

Corrective Actions and Schedule

FTA requires no corrective actions for the DBE Directory requirement.

6.6 Overconcentration

Basic Requirement (49 CFR Part 26.33)

Recipients must determine if overconcentration of DBE firms exists and address the problem, if necessary.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. However, FTA makes an advisory comment regarding this requirement. In its DBE Program Plan, PennDOT described its process for determining and addressing the occurrence of overconcentration. PennDOT took proactive and reactive steps to identify overconcentration through its DBE Support Services Center (DBE SS). PennDOT described its proactive steps as follows:

The Department relies upon DBE[s] to bring issues to its attention involving the DBE Program. This includes allegations of overconcentration by non-DBE firms. In its work DBE SS often interacts with non-DBE firms seeking to identify and solicit DBE firms to meet project goals. Through this effort DBE SS has a considerable understanding of the types of DBE firms that exist and in what locations of the State. This allows them to potentially identify concentrations of similar firms which could lead to overconcentration issues in particular work types. DBE SS also holds prime/DBE networking events to establish business relationships in an effort to get DBE firms more work. As part of these efforts and other activities conducted by DBE SS they often hear of issues that non-DBE firms may be experiencing. DBE SS is not only viewed as a neutral party by the DBE community but also by the non-DBE community. This puts them in a unique position to obtain information that might not otherwise be disclosed. Please note that DBE SS is encouraged to identify issues such as this as part of its quarterly reporting to PennDOT and FHWA. FHWA and PennDOT work collaboratively to review any such issues and determine if action can be taken to address if needed.

PennDOT stated that, in reaction to claims of overconcentration, it required a claimant to submit its claims in writing to the BEO Director and identify the challenging party, summarize the grounds for the challenge, and include all available information relevant to determining whether the challenge was valid. Based on the information submitted by the claimant, PennDOT would investigate the claim against its own records and sources, including information contained in the PA UCP. If PennDOT could not substantiate the claim, it would inform the claimant in writing of its findings and close the inquiry. If PennDOT substantiated the claim, PennDOT would do the following, as described in its DBE Program Plan:

If it is determined that there is reason to believe that the party has a valid claim, the Department will work with the concerned DOT operating administration on a determination of overconcentration and to devise measures to address it. The measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specified field in which the Department determined that non-DBEs are unduly burdened.

During the site visit, PennDOT reported only one recent claim of overconcentration filed by a non-DBE firm associated with its FHWA program. PennDOT provided a summary of its handling of the claim, which confirmed that PennDOT processed claims of overconcentration according to the procedures described in its DBE Program Plan. In this instance, PennDOT determined that the claim did not have merit and closed the inquiry. PennDOT informed the claimant of its rights to appeal the decision to the PennDOT Office of Chief Counsel; however, the claimant chose to make an appeal to the local FHWA office. FHWA considered the claimant's appeal, conducting its own investigation. FHWA agreed with PennDOT and upheld PennDOT's original decision.

PennDOT's proactive measures to identify and address occurrences of overconcentration are currently limited to its FHWA program. Unless and until PennDOT begins to increase its use of the DBE SS for the benefit of the portion of its DBE program related to FTA-assisted projects and opportunities, its proactive measures are less likely to be as effective for FTA concerns as they are for FHWA concerns. In addition, when investigating claims of overconcentration, PennDOT stated in its DBE Program Plan that it "will use the information available within ECMS maintained by the Department. ECMS contained project information regarding all subcontracting activity on highway construction projects. Information contained in the PA UCP database or other sources may also be used." If PennDOT maintained records and/or systems to track DBE involvement on FTA-assisted projects, it should reference those records and/or systems in its DBE Program Plan the same way it references its ECMS system for highway projects.

Corrective Actions and Schedule

FTA requires no corrective actions for the overconcentration requirement. However, FTA advises PennDOT to include FTA-assisted transit program concerns more substantially in its efforts to comply with 49 CFR Part 26.33.

6.7 Business Development Programs

Basic Requirement (49 CFR Part 26.35)

Recipients 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 compliance review, FTA found no deficiencies with this requirement. However, FTA makes an advisory comment regarding this requirement. PennDOT had a substantial DBE training and development program in place called the Disadvantaged Business Enterprise Supportive Services (DBE SS) Program. Cheyney University operated the DBE SS under contract to PennDOT and was responsible for program delivery and overall administration of the DBE SS. The purpose of the DBE SS, which was funded by the Federal Highway Administration (FHWA), was to provide training, assistance, and services to DBE firms certified in the DBE program to facilitate their development into viable, self-sufficient organizations capable of competing for and performing on federally assisted highway projects.

The DBE SS comprised two programmatic components, Supportive Services (SS) and the Business Development Program (BDP). The SS was open to all DBEs in the PA UCP, with the following qualification per the DBE SS Statement of Work:

The United States Department of Transportation (U.S. DOT), acting through the Federal Highway Administration (FHWA), is the entity that has ultimate oversight of the DBE SS Program. Therefore, [Cheyney University] will only provide DBE Supportive Services to those DBE firms determined to be eligible for participation in the federally-aided highway DBE SS program in accordance with 49 CFR Part 26 and Part 23, and have a work specialty related to the highway industry. [Cheyney University] will incorporate the FHWA DBE SS best practices into its offered services as it develops new strategies for service delivery.

Notwithstanding this qualification, in its FY 2014 shortfall analysis dated February 11, 2015, PennDOT stated the following:

Although the program is fully funded by the Federal Highway Administration, the DBE Supportive Services Center (DBE SSC) is able to communicate opportunities on non-FHWA funded projects as it supports the overall program objective of developing viable self-sufficient firms. PennDOT sent formal correspondence to its FTA sub-recipients encouraging them to work with DBE SSC to identify DBE's within their respective geographic areas who are capable of performing on projects in support of FTA funded grants. When opportunities are identified by FTA sub-recipients the DBE SSC will assist in disseminating them to relevant DBE firms via a number of methods including, but not limited to, email, fax, and posting on the DBE SSC website.

Although PennDOT specifically extended DBE SS assistance to FTA subrecipients, during the review, PennDOT reported there were no DBE firms associated with its FTA-assisted transit program projects that had used the services of the DBE SS.

The objectives of the SS were as follows:

- *Build relationships and communication networks with available expertise at all government levels in addition to the private, non-profit, and academic sectors; maintain a database of these contacts.*
- *Determine critical DBE needs relative to performance on PennDOT's federally assisted highway projects within the areas of business, construction, consulting, and technology management.*
- *Develop and deploy needs-based training for participating DBE firms.*
- *Conduct direct consultative assistance to participating DBE firms concerning PennDOT's federally assisted highway projects.*
- *Generate support services information through the collection, promotion, and dissemination of business, construction, consultant, and technical materials.*
- *Spearhead, coordinate, and attend conferences, meetings, and symposia.*
- *Evaluate and continuously improve the key supportive services activities by collecting, analyzing, and utilizing feedback from a variety of sources.*

The BDP, recently started in 2014, was open to a smaller number of certified DBEs based on program scope and the focus, capacity, and requirements placed on participant firms. The scope and focus of the BDP was on business planning. It was designed for certified DBEs with a goal to move DBEs towards less dependency on the DBE SS and ultimately to financial independence. The BDP typically takes two years to complete. In the first year, the BDP focuses on identifying a DBE's strengths and weakness and helps to develop, through customized training plans, the financial and managerial skills necessary to access and be competitive in relevant markets. The second year is transitional. DBE firms in the transitional stage bid on PennDOT and other opportunities as a prime contractor as often as possible. The BDP provides participant firms with training and business management services designed to assist firms with managing and sustaining income after program graduation.

The BDP requires participant firms to commit to the following:

- *Be certified as a DBE through PA UCP*
- *Agree to be transparent in sharing information about the business and its operation*
- *Agree to share financial statements, or develop a financial system, if one is not in place*
- *Be motivated and committed to participate in the BDP program for at least two (2) years*
- *Be interested in developing their businesses into viable, self-sufficient organizations capable of competing for and performing on federally-assisted highway projects*

- *Be interested in increasing their activity outside of the DBE Program*
- *The BDP enrolled firm must be willing to discuss their progress with Center Personnel via phone, email and/or online, on a weekly basis*
- *The BDP enrolled firm must be willing to engage in training, education and other learning events to increase the knowledge and skills of both the firm and its personnel, i.e., attend at least ten (10) trainings per year over the next two years.*
- *The BDP enrolled firm must agree to develop a Comprehensive Business Plan as well as, a Training Deficiency Plan, Training Plan, Marketing Plan and Annual Forecast.*
- *The BDP enrolled firm must agree to implement their Training Plan by attending the trainings in the plan.*
- *The BDP enrolled firm must agree to develop and utilize marketing materials as per the marketing plan.*
- *The BDP enrolled firm must agree to submit bids and statements of interest as guided by their business coach.*
- *The BDP enrolled firm must be willing to engage in outreach and networking events designed to increase their exposure to prime contractors, consultants and PennDOT personnel.*
- *The BDP enrolled firm must agree to an annual review of their progress and of their Comprehensive Business Plan.*

In its first year (October 2014–September 2015), PennDOT reported 20 DBEs participated in the BDP, all of which were DBE firms associated with its FHWA program.

During the site visit, the review team met with DBE SS leadership at Cheyney University to discuss the components of its program and involvement with PennDOT and was impressed with its potential to assist DBE firms and help PennDOT increase qualified DBE participation in its FTA-funded contracting opportunities. Although the DBE SS was funded by FHWA for the purpose of PennDOT's highway program, the DBE SS would likely be a valuable resource in support of its transit program should its resources be made fully available to DBE firms competing for transit program opportunities. During the site visit, the review team explained to PennDOT staff that PennDOT receives state administration funds with its grants eligible for spending on the DBE SS for the benefit of its transit program.

Corrective Actions and Schedule

FTA requires no corrective actions for the Business Development Program requirement. However, FTA advises PennDOT to utilize all the resources of its DBE Supportive Services Center in support of the FTA-assisted portion of its DBE program.

6.8 Determining/Meeting Goals

A) Calculation

Basic Requirement (49 CFR Part 26.45)

To begin the goal-setting process, recipients must first develop a base figure for the relative availability of DBEs. After the base figure is calculated, recipients must examine all other available evidence to determine whether goals warrant an adjustment. Adjustments are not required and recipients should not be make adjustments without supporting evidence.

Discussion

During this compliance review, FTA found deficiencies with this requirement. PennDOT did not calculate its DBE goals in accordance with the regulations. For the last three DBE goal cycles, PennDOT had the following FTA DBE goals:

Period	Race-Neutral Goal	Race-Conscious Goal	Overall Goal
FY 2015–FY 2017 (revised)	6.01%	2.99%	9.00%
FY 2015–FY 2017 (original)	0.65%	4.18%	4.83%
FY 2012–FY 2014	2.55%	4.40%	6.95%
FY 2010–FY 2011 (annual)	0.83%	3.98%	4.80%

For the most recent triennial DBE goal cycle, PennDOT submitted a document entitled *2015-17 DBE Methodology and Goal for PennDOT Federal Transit Administration Sub-recipients—Developed by the Pennsylvania Department of Transportation July 27, 2015*. PennDOT revised the document from the original submittal on July 31, 2014, after the FTA Office of Civil Rights identified inadequacies with the original goal submission and requested an updated DBE goal. As noted in the table above, PennDOT revised its overall DBE goal from 4.83 to 9.0 percent, its race-neutral goal from 0.65 to 6.01 percent, and its race-conscious goal from 4.18 to 2.99 percent. The DBE goal methodology was inadequate because it did not consider all the FTA-assisted contracting opportunities in the calculation as required by the regulations. PennDOT stated that it considered only the contracting opportunities of its subrecipients, as reflected in the title of the document submitted, when the regulations require the consideration of all FTA-assisted contracting opportunities, including those contracted by PennDOT. A review of PennDOT FTA grant activity revealed that PennDOT had not considered the following contracting opportunities in its DBE goal calculation:

- PennDOT ITS Bus Livability Program \$20 million Service Transportation Technology Project in FTA grant numbers PA-04-0100, PA-04-0091, PA-18-X030, and PA-18-X033; and
- Subrecipient contracting opportunities in FTA grant numbers
 - PA-20-X003 – DVRPC Wildlife Planning Study,
 - PA-58-0007 – Facility Upgrades for CNG, and
 - PA-04-0045 – Philadelphia Zoo Parking/Streetscape/Shuttle.

PennDOT also used a formula to make Step 2 adjustments based on data “for sub-recipients performing similar work types to those performed under FAA Airport Improvement Grants,” not

FTA subrecipients. If PennDOT determines that it needs to use the formula, it should use data that PennDOT is required to collect as part of its FTA DBE program.

In addition to identifying the specific deficiencies in PennDOT's DBE goal setting methodology, the review team noted a general lack of understanding by the PennDOT DBE Program staff and stakeholder community of PennDOT's use of a formula to adjust its goals. During the review, the review team encountered almost no one, other than the consultant responsible for its development, who understood PennDOT's methodology. One source described widespread frustration with PennDOT's goal methodology among DBE participants at PennDOT goals-setting public participation events.

PennDOT must develop a process for its FY 2018-2020 triennial goal that improves the goal calculation process.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights a detailed process for its FY 2018–2020 triennial goal that

- Has a comprehensive list of potential contracting opportunities;
- Excludes factoring past participation in Step One;
- Uses relevant data to make Step Two adjustments, if needed; and
- Uses appropriate goal attainment adjustments in Step 2.

PennDOT must obtain prior FTA approval before including anything not recommended by the U.S. DOT in its new goal-setting process.

B) Public Participation

Basic Requirement (49 CFR Part 26.45)

In establishing an overall goal, recipients 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. Recipients must publish a notice announcing the overall goal on the recipients' official websites and may publish the notice in other media outlets with an optional 30-day public comment period.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. PennDOT's efforts to facilitate public participation in its DBE goal development process for its FY 2015–FY 2017 goals were responsive to the requirements in 49 CFR Part 26.45. PennDOT's public participation process included a consultative process and public comment period. The agency's consultative process included hosting meetings at strategic locations throughout the State. Meetings were held in Philadelphia on April 3, 2014 (24 attendees), Erie on April 8, 2014 (13 attendees), Pittsburgh on April 9, 2014 (19 attendees), and Harrisburg on April 16, 2014 (27 attendees). PennDOT invited all PA UCP registered DBEs, transit organizations and entities, various minority and women organizations, and prime contractor and consultant trade associations to each of the four meetings. PennDOT's outreach efforts were coordinated through its BDP contractor, Cheyney University, which the review team confirmed during its site

visit to the DBE SS. Cheyney University representatives from the DBE SS attended each of the meetings. A list of interested parties invited to each of the four meetings included, but was not limited to, the following agencies:

- African American Chamber of Commerce
- Allegheny County Minority Women and DBE Agency
- City of Philadelphia
- Diversity Business Resource Center
- Dollar Bank of Pittsburgh
- Harrisburg Regional Diversity Coalition
- Hispanic Chamber of Commerce
- Mid-Atlantic Regional U.S. DOT Small Business Transportation Center
- Minority Business Development Agency
- Northwest Commission
- Office of Diversity and Inclusion, Pennsylvania Turnpike Commission
- Office of Economic Opportunity, City of Philadelphia
- Pennsylvania Department of General Services, Bureau of Diversity, Inclusion and Small Business Opportunities
- Pennsylvania Department of Community and Economic Development
- Pennsylvania Department of Labor and Industry
- Philadelphia Financial and Technical Assistance Agency (FINANTA)
- Philadelphia Industrial Development Corporation
- Philadelphia Urban League
- Port Authority of Allegheny County
- Riverside Center for Innovation
- Southeastern Pennsylvania Transportation Authority (SEPTA)
- The Enterprise Center
- U.S. DOT Bonding Education Program

After completing its consultative outreach, PennDOT made its proposed DBE Goal Methodology available for public comment as required by 49 CFR Part 26.45. PennDOT posted the proposed goal and its rationale on its website and made it available for inspection during normal business hours at PennDOT's principal place of business for 30 days following the date of the notice. As required, the notice invited public comments on the goals for 45 days from the date of the notice. PennDOT's notice seeking public comment also appeared in the following minority newspapers: *Al Día*, *The Scranton Times*, *The Philadelphia Tribune*, *The Philadelphia Inquirer*, *The Patriot-News*, *The Pittsburgh Post-Gazette*, *The New Pittsburgh Courier*, and *The Erie Times News*. PennDOT reported it received no comments in response to its public notice.

Corrective Actions and Schedule

FTA requires no corrective actions for the public participation requirement at this time however, PennDOT must maintain its goal on its website for the entire triennial period.

C) Race-Neutral DBE Participation

Basic Requirement (49 CFR Part 26.51)

Recipients must meet the maximum feasible portion of the overall goal using race-neutral means of facilitating DBE participation. As of 2011, the Small Business Element described in 49 CFR Part 26.39 is a mandatory race-neutral measure. The regulations provide additional examples of how to reach this goal amount.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In its DBE Program Plan, PennDOT stated that it attempted to meet the maximum feasible portion of its overall goal by using race-neutral means. PennDOT's DBE SS, Small Business Element Support Services Center (SBE SS), Contractor Prequalification Program (CPP), Designated Race-Neutral Programs and Contracts (DRNPCs), and Small Business Element provided a framework for the accomplishment of its race-neutral objective.

PennDOT's DBE SS and SBE SS provided the following services to DBE firms and small businesses: bid assistance, bonding assistance, business plan development, computer training, construction management training, construction technology training, financial management assistance, marketing and communications, on-site assistance, overhead rate calculation assistance, and prime contractor–DBE matchmaking. The CPP enabled contractors prequalified in one work classification to become prequalified in an additional work classification based on agreed-upon training from an existing prime contractor or by employing staff who possess the requisite skills to perform in an additional work classification. The DRNPCs were race neutral–only contracting opportunities (no contract goals) of a size and complexity that DBEs and small businesses would likely be able to perform. PennDOT did not consider them set asides, however. Language was included in the requests for proposals, invitations for bids, grants, and contracts encouraging the utilization of DBEs, SBEs, and other small business concerns.

PennDOT submitted its Small Business Element in February 2012 that FTA approved in July 2012. However, at the time of the site visit, PennDOT had not incorporated the Small Business Element strategies recommended in 49 CFR Part 26.39, nor had it implemented all the measures it stated it would.

The table below illustrates PennDOT's incorporation of the race-neutral requirements described in 49 CFR Part 26 in its DBE program.

49 CFR Part 26.51 Race-Neutral Recommended Measures	DBE SS	SBE SS	CPP	DRNPC	Small Business Element
1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to	X			X	

49 CFR Part 26.51 Race-Neutral Recommended Measures	DBE SS	SBE SS	CPP	DRNPC	Small Business Element
small businesses, by means such as those provided under §26.39 of this Part.					
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing).	X	X			
3. Providing technical assistance and other services.	X	X	X		X
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate).	X	X			X
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses.	X	X			
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.	X	X	X		X
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low.					
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.	X				

49 CFR Part 26.51 Race-Neutral Recommended Measures	DBE SS	SBE SS	CPP	DRNPC	Small Business Element
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.	X	X			

In its 2012 Small Business Element for FTA-funded projects, PennDOT set forth its approach to unbundling large contracts and its seven strategies for meeting the requirements described in 49 CFR Part 26.39. Those requirements are as follows:

Structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

In response to the requirement to eliminate unnecessary and unjustified bundling of contracts, PennDOT's 2012 Small Business Element included the following statement:

Given the structure, purpose and size of the Department's FTA funded programs, the unbundling of contracts does not apply. The Department does not contract for services directly, therefore eliminating the need to unbundle contracts. The main purpose of the Departments FTA programs is to support transit operations through operating and capital assistance. The majority of FTA funded projects are transit vehicle procurements and not applicable to small businesses.

PennDOT further reported in its Small Business Element that, from 2009 through 2011, nearly 60 percent of its FTA-funded non-vehicle purchase projects were less than \$500,000, and, therefore, the majority of its contracting opportunities were of a size that facilitated and encouraged small business participation without the need to unbundle large contracts.

A review of PennDOT grants and related projects in TEAM-Web executed between 2012 and 2015 showed that PennDOT did contract directly for services and that it did have large projects (particularly those related to its Keystone Corridor Project) managed by its FTA subrecipients or itself. For example, grant PA-04-0091-00 included PennDOT's Statewide Human Service Transportation Technology Project, valued at nearly \$2.7 million and implemented by PennDOT. In addition, although the City of Coatesville, a PennDOT subrecipient, originally received the FTA grant to manage the Train Station Enhancement Project, FTA transferred the funds for this project to PennDOT in grant PA-04-0125-00.

PennDOT included the following seven strategies in its 2012 Small Business Element:

- Small business enterprise certification,
- Data reporting and collection,
- Recruitment and marketing strategies for SBEs,
- New SBE specifications,
- Small business supportive services,
- Emergency projects, and
- Subcontracting enhancements.

As shown in the following table, PennDOT's Small Business Element strategies did not reflect the race-neutral strategies recommended in 49 CFR Part 26.39.

49 CFR Part 26.39 Race-Neutral Recommended Strategies	PennDOT 2012 Small Business Element
1. Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.	PennDOT does not proactively take all reasonable steps to eliminate obstacles to small business participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. Although many of its non-vehicle purchase projects are small enough for small businesses to compete on, PennDOT does implement larger projects for which proactive unbundling, and other recommended actions listed below, could be appropriate and useful in helping PennDOT achieve greater race-neutral participation.
2. Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).	This strategy is not included in PennDOT's Small Business Element.
3. In multi-year design-build contracts or other large contracts (e.g., for "megaprojects") requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.	This strategy is not included in PennDOT's Small Business Element.
4. On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can	This strategy is not included in PennDOT's Small Business Element. PennDOT's subcontracting enhancements strategy as described in its Small Business Element states the following:

49 CFR Part 26.39 Race-Neutral Recommended Strategies	PennDOT 2012 Small Business Element
reasonably perform, rather than self-performing all the work involved.	<p><i>The Department's transit grant programs are mainly for vehicle purchases and operating expenses of subrecipients. Accordingly, the Department does procure services directly.</i></p> <p>PennDOT did not provide additional information.</p>
5. Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.	This strategy is not included in PennDOT's Small Business Element.
6. To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.	Based on the nature of its transit program and related contracting opportunities, PennDOT likely has a reasonable number of prime contracts that are of a size that small businesses, including DBEs, can reasonably perform. However, PennDOT does not have a process in place to proactively implement or manage its Small Business Element such that it ensures the continued availability of contracts of this type.

The strategies contained in its 2012 Small Business Element were limited by the conclusions PennDOT made about its contracting opportunities at the time the Small Business Element was prepared. PennDOT's 2012 Small Business Element did not include strategies as described in 49 CFR Part 26.39 that were proactive in identifying and/or creating race-neutral contracting opportunities at that time or in the future. For example, if 60 percent of its non-vehicle purchase contracting opportunities were small, then 40 percent of its non-vehicle purchases were of a size and type that could be unbundled or otherwise structured to facilitate greater small business participation. In addition, since its 2012 Small Business Element was prepared, the nature of PennDOT's contracting opportunities had changed somewhat. As stated above, PennDOT had directly managed its own projects and had implemented large projects that are FTA funded. Whether or not PennDOT or its subrecipients directly managed those large projects, PennDOT must take reasonable steps to foster small business participation as a good faith implementation of its DBE program.

In brief, PennDOT did not achieve its DBE goal in FY 2013 or FY 2014, did not consider its Small Business Element in relation to all of its possible contracting opportunities, and did not implement the strategies recommended in 49 CFR Part 26.39.

Finally, in its 2012 Small Business Element, PennDOT stated the following:

The Department will fully implement the program within nine (9) months of receipt of approval from the three operating administrations. The full nine (9) months will be most likely be required, given the information technology (IT) enhancements necessary to

track and report utilization of SBEs on federally-assisted projects. Upon approval from the impacted operating administrations, the Department intends to fulfill its mandate to ensure that its sub-recipients implement the small business element. This will be done via ongoing direct communications and oversight. The Department understands and appreciates that this is a requirement of implementing its DBE program in good faith.

During the site visit, PennDOT confirmed it had not fully implemented its Small Business Element as it said it would.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- An updated Small Business Element that incorporates the strategies described in 49 CFR Part 26.39 for all of PennDOT's FTA-funded projects, and
- An implementation plan for its updated Small Business Element, including a schedule and timeline.

D) Race-Conscious DBE Participation

Basic Requirement (49 CFR Part 26.51)

The recipient must establish contract goals to meet any portion of the goal it does not project being able to meet using race-neutral measures.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In its three most recent triennial DBE goal cycles, dating back to 2010, PennDOT incorporated race-conscious goals. PennDOT's goal methodology describes a process by which it identified projected contracting opportunities by subrecipient and then determined the portion of those contracting opportunities that could possibly be subcontracted based on the past performance of similar projects. The resulting subcontracting opportunities represented PennDOT's gross race-conscious contracting opportunities by subrecipient. PennDOT then weighed its subcontracting opportunities by NAICS code to create a narrowly tailored race-conscious goal. The aggregate of all race-conscious subcontracting opportunities represented the race-conscious portion of PennDOT's triennial goal.

In its DBE Program Plan, PennDOT stated that over the course of a fiscal year it reviewed monthly reports submitted by each subrecipient identified in its methodology to ensure that appropriate DBE goals were set on contracts and that it monitored its DBE commitments and attainments. Additionally, each District provided a detailed monthly report of DBE commitments and attainments on its highway construction contracts. PennDOT adjusted the DBE contract goals as required based on attainment and the overall goal. PennDOT's DBE/Title VI Division Chief sent quarterly reports of goal attainment along with recommendations to adjust individual market area goals, if warranted.

As discussed in the Calculation section, PennDOT relied on non-FTA data to determine overall and race-conscious DBE goals for its FTA DBE program. In addition, PennDOT only considered

subrecipient contracting opportunities for construction and engineering services in its methodology. During the site visit, PennDOT provided a copy of a computer software and support contract between PennDOT and Dell Computer Company valued at \$20 million that included DBE participation. The term of the contract was 2010-2016; however, this contract was not included in PennDOT's overall or race-conscious goal calculation.

PennDOT also stated in its race-conscious calculation that it considered past performance when narrowly tailoring its DBE goal, including the race-conscious portion. However, PennDOT's triennial goal adjustments did not appear to reflect past performance. For example, PennDOT did not achieve its DBE goal in FY 2013 or FY 2014, when its race-neutral goal was 2.55 percent and its race-conscious goal was 4.4 percent. Nevertheless, for FY 2015 through FY 2017, PennDOT established a race-neutral goal of 6.01 percent and a race-conscious goal of 2.99 percent. Notwithstanding its inability to meet its DBE goals in FY 2013 and FY 2014, PennDOT increased its race-neutral goal percentage and decreased its race-conscious percentage in FY 2015. PennDOT's methodology, although complex and detailed in the interest of narrowly tailoring its DBE goal, does not include an explanation in clear and understandable terms of how it calculates race-neutral and race-conscious goal percentages.

Finally, during the review, PennDOT did not provide examples of FTA-assisted contracts that included race-conscious DBE goals, or monthly goal-tracking reports and related adjustments, to confirm the application of its goal methodology and monitoring procedures included in its DBE Program Plan.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights a detailed process for calculating the race-conscious portion of its DBE goals for the upcoming FY 2018–2020 triennial goal cycle that includes the following:

- A narrative explanation that includes specific reasoning and data in support of its projected race-neutral DBE goal attainment,
- An explanation of its race-conscious projections in terms of making up the difference between its projected race-neutral attainment and overall DBE goal,
- All FTA-assisted contracting opportunities, and
- Final adjustments based on the data from the FTA program.

E) Good Faith Efforts

Basic Requirement (49 CFR Part 26.53)

Recipients may award contracts with DBE goals only to bidders who have either met the goals or conducted good faith efforts (GFE) to meet the goals. Bidders must submit the names and addresses of the DBE firms that will participate on the contract; a description of the work each DBE will perform; the dollar amount of DBE participation; written commitment to use the DBE(s) submitted in response to the contract goal; written confirmation from each DBE listed; or good faith efforts as explained in Appendix A of 49 CFR Part 26. The bidders must submit documentation of these efforts as part of the initial bid proposal—as a matter of responsiveness; or no later than 7 days after bid opening—as a matter of responsibility. Recipients must review

bids using either the responsiveness or responsibility approach and document which approach it uses in its DBE Program Plan.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In addition to specifying corrective action, FTA makes an advisory comment regarding this requirement. PennDOT addressed the relevant GFE requirements (those related to its FTA-funded transit program elements) in four sections within its DBE Program Plan, as follows.

Section 26.53 DBE Good Faith Effort Procedures. In this section, PennDOT described GFE requirements applicable to all affected PennDOT Bureaus. PennDOT only required the application of GFEs for FTA-assisted contracts that had race-conscious percentage goals for DBE participation. PennDOT treated the GFE requirement as a matter of responsiveness; however, PennDOT initially required the submission of GFEs by the low bidder only (further discussed below). If the contractor met the DBE goal, there was an abbreviated listing of prescriptive information required by PennDOT to demonstrate GFEs.

If the contractor did not meet the race-conscious DBE contract goal, PennDOT applied the standards set forth in 49 CFR Part 26, Appendix A, which is very detailed. Attachment A to the PennDOT DBE Program Plan substantially captured this information.

Section 26.53 DBE Good Faith Effort Procedures, Bureau of Public Transportation (BPT). This section stated that the GFE approval process for public transportation projects was contained in Attachment N to the PennDOT DBE Program Plan. BPT's oversight process included questions confirming compliance with GFE requirements on Form PT-27, *DBE Project Compliance Review Checklist for Transit Systems*.

Attachment A: DBE Requirements Contract Appendix. This section detailed the GFEs a contractor should take and submit prior to contract award should the contractor submit a bid that did not meet the race-conscious DBE contract goal. These GFEs included the following:

- *Efforts made to solicit through all reasonable and available means (e.g., use of the DBE Directory, attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The selected vendor must provide written notification, at least fifteen (15) calendar days prior to the bid due date, to allow the DBEs to respond to the solicitation. The selected vendor must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.*
- *Efforts made to select portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the selected vendor might otherwise prefer to perform these work items with its own forces.*
- *Efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.*

- *Efforts made to negotiate in good faith with interested DBEs. It is the selected vendor's responsibility to make a portion of the contract work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. A vendor using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract DBE goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a vendor's failure to meet the contract's DBE goal, as long as such costs are reasonable. Also, the ability or desire of the selected vendor to perform the work of a contract with its own work force does not relieve the vendor of the responsibility to make GFE. The selected vendor is not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable. In situations where the selected vendor chooses to reject a DBE firm's quote over a non-DBE firm solely due to cost, copies of the quotes received from both the DBE and non-DBE firm must be included in the GFE documentation.*
- *The selected vendor's determination of a DBE as being unqualified without sound reasons based on a thorough investigation of their capabilities. The selected vendor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or nonsolicitation of bids in the selected vendor's efforts to meet the DBE contract goal.*
- *Efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance.*
- *Efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.*
- *Efforts to effectively use the services of the Department's DBE and/or SBE Supportive Services Centers, services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.*

This section also described PennDOT's "two-tier" GFE review process. When a contractor had not met the contract goal in its bid but submitted the good faith efforts it made to meet the goal, PennDOT's Interdisciplinary Review Team (IRT) got involved. The IRT functioned as Tier 1 of the GFE review process. The IRT reviewed the GFE information submitted by the contractor and rendered a determination within seven business days. The IRT forwarded its recommendation to the BEO Director for approval or disapproval. If the BEO Director disapproved the IRT's recommendation, PennDOT's Tier II review process occurred.

The Tier 2 process was administered by the Good Faith Effort Review Committee (GFERC) and provided the bidder an opportunity for administrative reconsideration. This committee included

the Deputy Secretary for Multimodal Transportation (who served as Chairperson), the Director of Public Transportation, and the Director of the Bureau of Aviation. GFERC received input from the Office of Chief Counsel (OCC) as needed, but OCC did not vote on appeal determinations. The IRT Chairperson provided the GFERC with background information. The contractor filing the appeal could attend meetings of the IRT and GFERC to present its case. Although the contractor could attend the committees' meetings, it could not introduce any new information and was required to make its case with the previously submitted information. The decision of GFERC was final and was not administratively appealable to the U.S. DOT.

The same Tier 1 and Tier 2 approach applied when a contractor that had received an award requested an adjustment in the DBE goal.

Attachment N: Good Faith Efforts for Public Transportation. This section largely echoed the GFE review procedures described in *Attachment A: DBE Requirements Contract Appendix* and Appendix A of 49 CFR Part 26. The only apparent difference was that in this section PennDOT established that it recognized the U.S. DOT Office of General Counsel's Official FAQs on DBE Program Regulations (49 CFR Part 26) as applicable guidance for its GFE review procedures.

During the review, PennDOT did not provide examples of FTA-assisted contracts confirming its implementation of its GFE procedures. However, during the site visit, PennDOT described the application of its procedures in cases where contractors submitted good faith efforts when bidding on FHWA-assisted contracts. PennDOT indicated that its GFE procedures were the same regardless of whether contracts were FTA- or FHWA-assisted.

There was considerable discussion about PennDOT's understanding and application of the requirement for contractors to submit GFEs as a matter of responsiveness or responsibility. In its DBE Program Plan, PennDOT stated the following:

The Department treats bidders' compliance with good faith effort requirements as a matter of responsiveness that requires serious consideration under Part 26. Each proposal for which a contract goal has been established requires the low bidder to submit the following information within seven days (to be reduced to five days beginning 1/1/2017) after the bid opening.

PennDOT's statement was conflicting. According to 49 CFR Part 26.53, PennDOT's statement described the submission of GFEs as a matter of responsibility, not responsiveness. In the DBE program context, responsiveness means the contractor submits its GFEs with its initial bid. In this same context, responsibility means the contractor has seven days after submitting its bid to submit its GFEs. PennDOT cannot require contractors to submit their GFEs as a matter of responsiveness and at the same time allow them seven days after the submission of their initial bids to submit their GFEs. If PennDOT chooses to allow contractors to submit GFEs within seven days after submitting their bids, then its policy is to require the submission of GFEs as a matter of responsibility, and it must state this policy in its DBE Program Plan.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that accurately describes its requirement to submit GFEs as a matter of responsiveness or responsibility per 49 CFR Part 26.53.

FTA advises PennDOT to consolidate its GFE requirements related to FTA-funded projects by moving the entire contents of *Attachment N: Good Faith Efforts for Public Transportation*, to the main body of its DBE Program Plan in Section 26.53, *DBE Good Faith Effort Procedures: Bureau of Public Transportation*. As the information in Attachment N appears to be applicable to and referenced by this subsection, FTA advises PennDOT to include it in this section.

F) Protecting Against Termination for Convenience

Basic Requirements (49 CFR Parts 26.53 and 26.13)

Recipients must implement appropriate mechanisms to ensure prime contractors do not terminate DBE subcontractors for convenience (e.g., to perform the work of the terminated subcontract with its own forces or those of an affiliate, or reducing the scope of DBE contract) without the transit agency's prior written consent. Failure to obtain written consent is a material breach of contract.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In addition to specifying corrective action, FTA makes an advisory comment regarding this requirement. In its DBE Program Plan, the review team found inconsistencies related to prime contractors' requirement to obtain written approval before terminating or substituting a DBE firm on FTA-funded contracts. In its DBE Program Plan, PennDOT stated, "If a prime intends to terminate a DBE subcontractor, the prime must request approval from the Department prior to termination" (*Section 26.53, DBE Good Faith Effort Procedures*). Later in its DBE Program Plan, PennDOT stated, "Obtain written consent from the impacted business area before substituting a DBE or making any change to the approved DBE Participation or any other DBE performing on the project" (*Attachment A: DBE Requirements Contract Appendix, VIII: Actions Required by the Selected Vendor During Performance of the Contract, (b) DBE Revised Participation*).

In addition, for several of the PennDOT Bureaus affected by its DBE program, PennDOT provided Bureau-specific measures related to DBE termination and substitution. For example, PennDOT's DBE Program Plan stated that the Bureau of Public Transportation (the Bureau primarily responsible for overseeing FTA-funded transit projects) uses Form PT-27, *DBE Project Compliance Review Checklist for Transit Systems*. Form PT-27 included questions designed to confirm compliance with the requirement to make GFEs to prevent termination or substitution of DBEs for convenience. However, there were no questions confirming whether the contractor obtained written approval prior to terminating or substituting a DBE firm.

During the site visit, the review team requested PennDOT provide FTA-funded contracts that included DBE participation to verify that it included the requirement to obtain prior written approval on all DBE terminations and substitutions. PennDOT provided two contracts: Dell Software License and Monroe County Fare Box Upgrades. Neither of these contracts contained the required language.

PennDOT must be consistent in its communication of what is required to protect against termination for convenience, and therefore, must review its DBE Program Plan in its entirety, making sure all references to DBE termination or substitution include the requirement to obtain prior written approval from PennDOT. In addition, PennDOT must update Form PT-27 to include question(s) confirming prior written approval from PennDOT when prime contractors terminate

or substitute DBE subcontractors. PennDOT must also confirm all FTA-funded contracts with DBE participation by it or its subrecipients include the requirement to obtain prior written approval before terminating or substituting DBE firms.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- An updated DBE Program Plan that explicitly requires obtaining written approval from PennDOT before terminating or substituting DBE firms on FTA-funded contracts;
- An updated Form PT-27 that includes questions confirming PennDOT's prior written approval on all DBE terminations and substitutions; and
- Procedures ensuring the inclusion of the termination for convenience provision found in 49 Part 26.53 in all future prime contracts and subcontracts.

FTA advises PennDOT to ensure that all Bureaus responsible for ensuring compliance with this Part for FTA-funded projects understand the requirement and apply it consistently. FTA also advises that PennDOT's Bureau of Equal Opportunity concur on all DBE termination and substitution requests made by prime contractors on FTA-funded projects.

G) Counting DBE Participation

Basic Requirement (49 CFR Part 26.55)

Recipients must count only the value of work actually performed by the DBE when assessing the adequacy of DBE participation submitted in response to a contract. Recipients must review a bidder's submission to ensure the type and amount of participation are consistent with the items of work and quantities in the contract and that the bidder is only counting work performed by the DBE's own forces in accordance with the DBE requirements.

Discussion

During this compliance review, FTA found deficiencies with this requirement. PennDOT provided two completed monthly DBE statements: one for the Central Area Transit Authority (CATA) Bus Maintenance, Servicing, and Storage Facility Expansion Project (October 2015) and one for the Cambria County Transit Authority (CamTrans) Operations and Maintenance Facility (May 2013). The statements contained signatures certifying the accuracy of the information entered in the statement, which reported on the following:

- Project
- Prime contractor
- DBE goal
- Date of contract
- Original contract amount
- Current contract amount
- Name of DBE subcontractor
- Classification

- Value of executed contract
- Dollar amount paid this month
- Check number
- Dollar amount paid to date

The CATA statement reported payments to one of two DBEs and the CamTrans statement listed four DBEs; however, neither DBE received payment in the example provided. The only inconsistency in the two statements was the information entered in the “Classification” field on both statements. The CATA statement reported the classification of the two DBE firms as “WBE,” and the CamTrans statement reported the classification of the four DBE firms as “Landscaping,” “Misc. Materials,” “Install Rebar,” and “Signage.” CATA seemed to report the firms’ business enterprise status, and CamTrans reported the type of goods or services the firms provided (NAICS classification). Although the statements functioned to record DBE activity in terms of DBE contract value and related payments, PennDOT did not provide any guidelines or procedures that explained how the grantees counted DBE participation in relation to the requirements described in 49 CFR Part 26.55. In addition, per these examples, it appeared that some PennDOT grantees may not understand what was expected concerning counting DBE participation (at least as it relates to the classification data) and could benefit from more guidance and oversight than was currently being provided by PennDOT. During the compliance review, PennDOT stated that in addition to using the monthly DBE statements as a monitoring tool, it used third-party consultants to confirm DBEs were performing a commercially useful function on FTA-assisted contracts. However, PennDOT had not developed a standardized way of documenting the consultants’ activities.

PennDOT stated it was developing new DBE oversight and monitoring procedures and planned to use this compliance review to help refine and implement its new procedures. Accordingly, in its DBE Program Plan, PennDOT described its Form EO-354PT, *DBE Commercially Useful Function Report*. As described by PennDOT during the site visit, it recently developed Form EO-354PT as an oversight tool (checklist) primarily designed to confirm that DBE subcontractors working on FTA-assisted contracts were performing a commercially useful function. PennDOT also provided a draft of its *Designated Special Provision (DSP) Disadvantaged Business Enterprises Requirements for Federally Funded Public Transportation Projects*. As described by PennDOT, the DSP will be included in all future FTA-assisted contracts with DBE goals. The DSP consolidated and addressed most of the requirements found in 49 CFR Part 26, including the requirements for properly counting DBE participation. The requirements for counting DBE participation were comprehensively included in the DSP and provided clear guidance on what was required of subrecipients, prime contractors, and DBEs. The combination of Form EO-354PT and the DSP are significant developments that will help correct PennDOT’s deficiency in this area and improve its DBE program overall.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- An updated DBE Program Plan that includes a detailed description of PennDOT’s guidelines for counting DBE participation pursuant to 49 CFR Part 26.55,

- An updated DBE Program Plan that includes a detailed description of how PennDOT monitors subrecipients and prime contractors to confirm they are counting DBE participation in accordance with 49 CFR Part 26.55, and
- Documentation confirming it has implemented the use of Form EO-354PT and the Designated Special Provision.

H) Quotas

Basic Requirements (49 CFR Part 26.43)

Recipients cannot use quotas. Recipients may not use set-aside contracts unless they do not reasonably expect other methods to redress egregious instances of discrimination.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. In its DBE Program Plan, PennDOT stated it did not use quotas in the administration of its DBE Program. A review of two recent PennDOT contracts and one subrecipient agreement, along with interviews with PennDOT staff, confirmed PennDOT did not use quotas in its contracting practices related to FTA-funded projects.

Corrective Actions and Schedule

FTA requires no corrective actions for the quotas requirement at this time.

6.9 Shortfall Analysis and Corrective Action Plan

Basic Requirement (49 CFR Part 26.47)

Recipients must conduct a shortfall analysis and implement a corrective action plan in any fiscal year they do not meet their overall DBE goal.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In addition to specifying corrective action, FTA made an advisory comment regarding this requirement. PennDOT's DBE Program Plan stated that in the event of a shortfall, "the Department shall analyze the reasons for the shortfall and create a corrective action plan in accordance with Part 26, Section 26.47." PennDOT did not achieve its DBE goals for FY 2013 or FY 2014. PennDOT conducted a shortfall analysis and corrective action plan (CAP) for its FY 2013 DBE shortfall, but it did not conduct a shortfall analysis and CAP for its FY 2014 DBE shortfall, as required.

The review team noted a 2014 PennDOT FTA Triennial Review finding that stated PennDOT's 2013 DBE shortfall analysis was inadequate and did not include an acceptable CAP. In February 2015, PennDOT submitted a revised and final shortfall analysis and CAP, and in July 2015, FTA closed the finding.

As stated in its final FY 2013 shortfall analysis, PennDOT's DBE goal for FY 2011 through FY 2014 was 6.7 percent. However, PennDOT only achieved 0.42 percent through commitments

and awards to DBE firms, leaving a shortfall of 6.28 percent. PennDOT attributed its shortfall in FY 2013 to unanticipated delays in three major rail station construction projects (City of Coatesville, Middletown Borough, and Mount Joy Borough). Collectively, these three projects represented 97 percent of the planned DBE contracting opportunities in FY 2013.

PennDOT's FY 2013 CAP identified the following two actions it would take to address the shortfall:

- Encourage its FTA subrecipients to utilize its DBE and SBE Supportive Services Centers to communicate opportunities to certified DBEs, and
- Facilitate outreach and networking meetings designed to encourage interaction between and among prime, DBE, and small business contractors.

PennDOT provided documentation confirming communication with its FTA subrecipients per its CAP in a letter dated February 11, 2015. During the site visit, the review team requested PennDOT provide an update on whether its FTA subrecipients were using the recommended resources, to what degree, and whether PennDOT was making progress toward creating opportunities that would help to offset or address its FY 2013 shortfall. PennDOT had not provided the requested information as of the draft report. The review team confirmed through its site visit to DBE SS that PennDOT continued its outreach and networking facilitation efforts. For example, on May 20, 2015, the DBE SS hosted "Getting Ready for Primetime: Technical Assistance and Networking Event for PennDOT Primes and DBEs" in Reading, PA.

The review team also advised PennDOT to re-assess its contracting opportunities periodically, understanding that in any given cycle, plans and related opportunities change. The review team noted that in 2013, for example, PennDOT did not include in its list of planned contracting opportunities its Service Transportation Technology Project (PA-04-0091-00) or DVRPC Wildlife Planning Study (PA-20-X003-00).

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- A shortfall analysis and CAP for its FY 2014 DBE goal shortfall, and
- An updated DBE Program Plan that includes PennDOT's procedures for conducting DBE shortfall analyses and CAPs pursuant to the requirements in 49 CFR Part 26.47.

FTA advises PennDOT, as a part of its DBE goal-monitoring process for FTA-funded projects, to evaluate and take advantage of all available contracting activities, whether or not the projects are included in the development of its DBE goals, as a way of offsetting or otherwise addressing anticipated DBE goal shortfalls in any given year.

6.10 Transit Vehicle Manufacturers (TVMs)

Basic Requirement (49 CFR Part 26.49)

Recipients must require that each transit vehicle manufacturer (TVM) certify it has complied with the regulations before accepting bids on FTA-assisted vehicle purchases. Recipients should not

include vehicle procurements in their DBE goal calculations and must receive prior FTA approval before establishing project goals for vehicle purchases. Recipients are also required to submit, to FTA, the name of the successful TVM bidder and the amount of the vehicle procurement within 30 days of awarding an FTA-assisted vehicle contract.

Discussion

During this compliance review, FTA found deficiencies with this requirement. PennDOT did not document its procedures in its DBE Program Plan for ensuring TVM compliance with 49 CFR Part 26.49 prior to awarding contracts for the purchase of transit vehicles. In addition, during the site visit, a review of signed TVM certifications revealed PennDOT used inconsistent TVM certification language. For example, the TVM certification associated with the Red Rose Transportation Authority's bus procurement from Gillig, Inc., differed from the TVM certification associated with other bus procurements. PennDOT must check FTA's website at <http://www.fta.dot.gov/civilrights/12891.html> and/or contact FTA to confirm TVMs are eligible. FTA's TVM web site provides a list of all FTA-certified TVMs that have submitted a goal methodology to FTA that the FTA approved or did not disapprove.

In its TVM procedures, PennDOT must also address the following requirement, as described in 49 CFR Part 26.49:

FTA recipients are required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

PennDOT is also responsible for reporting its subrecipient vehicle purchases and ensuring that its subrecipient vehicle purchase are also awarded to certified TVMs.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that includes procedures for meeting all applicable TVM requirements described in 49 CFR Part 26.49.

6.11 Required Contract Provisions

A) Contract Assurance

Basic Requirement (49 CFR Part 26.13)

Each FTA-assisted contract signed with a prime contractor (and each subcontract the prime contractor signs with a subcontractor) must include non-discrimination clauses detailed by the DBE regulations.

Discussion

During this compliance review, FTA found deficiencies with this requirement. In addition to specifying corrective action, FTA makes an advisory comment regarding this requirement. 49 CFR Part 26.13 requires the inclusion of the following clause in all DOT-assisted contracts:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;*
- (2) Assessing sanctions;*
- (3) Liquidated damages; and/or*
- (4) Disqualifying the contractor from future bidding as non-responsible.*

PennDOT included the required contract assurance in its DBE Program Plan, requiring all FTA-assisted prime contractor and subcontractor contracts to include the assurance. In addition, PennDOT required all subrecipients to ensure their prime contractor and subcontractor contracts include the assurance.

During the compliance review, PennDOT provided the review team with a very small sampling of PennDOT contracts and subrecipient agreements. PennDOT did not provide any subcontract agreements during this review. The team reviewed the PennDOT contracts and subrecipient agreements shown in the table below to confirm whether they contained the required contract provisions discussed in this section.

Contract or Subrecipient Agreement	Contract Assurance	Prompt Payment	Legal Remedies
4400007199 – Dell (contract)	No	No	Yes
New Castle Area Transit Authority Capital Agreement (subrecipient agreement)	Yes	No	Yes
New Castle Area Transit Authority Operating Agreement (subrecipient agreement)	Yes	No	Yes

As shown above, the subrecipient agreements reviewed contained the contract assurance and the one contract reviewed did not. During the site visit, PennDOT acknowledged that until recently, it lacked procedures ensuring the inclusion of the required DBE non-discrimination assurance in its and its subrecipients' FTA-assisted contracts.

The review team noted that at the time of the site visit, PennDOT confirmed it had recently developed new standard contract provisions for all future contracts involving FTA funding. PennDOT described these provisions, including the required contract assurance, in its DBE Program Plan. PennDOT also provided an example of its new contract provisions during the site visit (filename 00 21 13 Bidding and Contract Requirements NEW). The review team noted that

the required assurance found at 49 CFR Part 26.13 and included in PennDOT's DBE Program Plan was not the same as the assurance included in its example. The DBE contract assurance included in PennDOT's example was as follows:

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of this DOT assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

This assurance did not enumerate the possible remedies, in addition to termination, as did the assurance found in 49 CFR Part 26.13 and in PennDOT's DBE Program Plan.

In addition to its newly developed standard contract provisions, PennDOT developed a new form, *DBE Project Compliance Review Checklist for Transit Systems* (Form PT-27). Although PennDOT indicated that the form was not in use as of the site visit, the "Post Award (Pre-Construction/Design) Project Checklist" section of the form included a review of DBE contracts and subcontracts. However, this section did not include questions confirming that the contracts contained the required contract assurance.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- An updated DBE Program Plan that includes procedures for ensuring all of PennDOT's and its subrecipients' FTA-assisted prime contracts and subcontracts contain the same DBE contract assurance,
- Documentation confirming all references to its required contract assurance (e.g., in the DBE Program Plan, sample contracts, and agreements) are consistent, and
- Documentation it has implemented the use of its new contract provisions that include the required contract assurance.

PennDOT is further advised to update its *DBE Project Compliance Review Checklist for Transit Systems* (Form PT-27) to include questions confirming inclusion of the required contract assurance found at 49 CFR Part 26.13 in all FTA-funded contracts and agreements.

B) Prompt Payment

Basic Requirement (49 CFR Part 26.29)

Recipients 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 compliance review, FTA found deficiencies with this requirement. As shown in the table in the previous section, none of the FTA-assisted contracts or subrecipient agreements reviewed during the site visit contained the required prompt payment clause.

PennDOT's DBE Program Plan included a requirement for prime contractors to make prompt payment as required by 49 CFR Part 26.29, and the following language was included in PennDOT's standard contract provisions example:

The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 10 days after the Contractor's receipt of payment for that work from the Owner. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Owner and Contractor's receipt of the partial retainage payment related to the subcontractor's work.

The review team noted that the prompt payment language in PennDOT's DBE Program Plan differed from the language included in its example. PennDOT included more detailed language in its example than it did in its DBE Program Plan. FTA recommends that PennDOT include the example's language in its DBE Program Plan to make its prompt payment references consistent.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- An updated DBE Program Plan that includes procedures for ensuring all of PennDOT's and its subrecipients' FTA-assisted prime contracts and subcontracts contain the required prompt payment clause,
- Documentation confirming all references to the prompt payment clause (e.g., in the DBE Program Plan, sample contracts, and agreements) are consistent, and
- Documentation confirming it has implemented the use of its newly developed standard contract provisions that include the required prompt payment clause.

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. Recipients should use Breach of contract remedies as appropriate.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. However, FTA makes an advisory comment regarding this requirement. All the contracts reviewed contained legal remedies to enforce non-compliance with contract terms and conditions. However, the remedies included in the subrecipient agreements reviewed (which were numerous and distributed throughout the agreements) differed from the remedies in the one contract reviewed. Moreover, the remedies in both the subrecipient agreements and the one contract were different from those contained in PennDOT's DBE Program Plan. PennDOT stated the following with respect to legal remedies in its DBE Program Plan:

The Department brings to the attention of the DOT any known activities that appear to be inconsistent with Part 26 of this program so that the DOT can take the steps provided in Part 26, Section 26.107 (e.g., referral to the United States Department of Justice for criminal prosecution, referral to the DOT Inspector General and/or the Commonwealth's Office of Inspector General, or action under suspension and debarment or Program Fraud and Civil Penalties rules).

The language included in its DBE Program Plan was not included in any of the contracts or subrecipient agreements reviewed.

Although PennDOT included legal remedies to enforce non-compliance with contract terms and conditions in its contracts and subrecipient agreements, it did not do so consistently. In its new contract provision example, PennDOT included several enforcements that were collectively responsive to the requirement in this Part and were different from those included in the documents previously mentioned. PennDOT did not provide examples of instances when it needed to utilize its legal remedies on FTA-assisted contracts.

Corrective Actions and Schedule

FTA required no corrective actions for the legal remedies requirement. However, FTA advises PennDOT to include the enforcements in its new contract provisions in its DBE Program Plan and all future contracts so all parties clearly understand what remedies are available to PennDOT.

6.12 Certification Standards

Basic Requirements (49 CFR Parts 26.67–26.71)

Recipients must have a certification process in place to determine whether a potential DBE firm is legitimately socially and economically disadvantaged according to the regulatory standards. The DBE applicant must submit the required DOT application and personal net worth (PNW) form with appropriate supporting documentation, as needed.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. However, FTA makes advisory comments regarding this requirement. PennDOT was a certifying member of

the Pennsylvania Unified Certification Program (PA UCP) and had accordingly established and implemented DBE certification standards as required by 49 CFR Part 26 Subpart D. During the site visit, the review team interviewed PennDOT DBE certification staff and reviewed DBE certification files confirming PennDOT's compliance with this Part.

49 CFR Part 26 Subpart D describes in detail the seven requirements for each of the following DBE certification standards:

- 26.61 – How are burdens of proof allocated in the certification process?
- 26.63 – What rules govern group membership determinations?
- 26.65 – What rules govern business size determinations?
- 26.67 – What rules determine social and economic disadvantage?
- 26.69 – What rules govern determinations of ownership?
- 26.71 – What rules govern determinations concerning control?
- 26.73 – What are other rules affecting certification?

In its DBE Program Plan, PennDOT stated the following in its introduction to its certification standards [emphasis added]:

*As a member of the PA UCP, the Department uses the certification standards of Part 26, Subpart D, to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts To be certified as a DBE, a firm must meet all certification eligibility standards. **The firm seeking certification has the burden of proving by a preponderance of the evidence that it meets the requirements concerning group membership or individual disadvantage, business size, ownership, and control.***

Immediately after its introduction, PennDOT included the following sections in its DBE Program Plan: 26.65, *Business Size Standards*; 26.67, *Social and Economic Disadvantage Standards*; and 26.73, *Other Standards*. Under each section heading, PennDOT described in detail the respective certification standard and related requirements.

PennDOT did not list all the required certification standards in its introductory statement (omitting "Other rules affecting certification"), and only described in detail three of the seven required certification standards. In addition, Section 26.67, *Social and Economic Disadvantage Standards*, contained a typographical error in reference to the personal net worth threshold. In different locations within the same section, PennDOT represented the threshold as \$1.32 million and \$1.23 million. Finally, Section 26.73, *Other Standards*, did not include all of the "other rules affecting certification" required in this Part. For example, PennDOT included the following language in this section:

When making certification decisions, the Department may consider whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or the requirements of the DBE program. In all other situations, the eligibility of the firm for certification will be evaluated only on present circumstances.

In addition to this statement, 49 CFR Part 26.73 requires the following:

- c) *DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process.*

Failure or refusal to provide such information is a ground for a denial or removal of certification.

- d) *Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.*
- e) *An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm—even a DBE firm—cannot be an eligible DBE.*

Corrective Actions and Schedule

FTA requires no corrective actions for the certification standards requirement. However, FTA advises PennDOT to do the following:

- Update its DBE Program Plan to include detailed descriptions for each of the seven DBE certification standards described in 49 CFR Part 26 Subpart D;
- Correct the personal net worth threshold error in Section 26.67, *Social and Economic Disadvantage Standards*; and
- More fully describe the other rules affecting certification per 49 CFR Part 26.73.

6.13 Certification Procedures

A) On-site Visits and Document Review

Basic Requirement (49 CFR Part 26.83)

Recipients must determine the eligibility of firms as DBEs consistent with the standards of Subpart D of the regulations. The recipients' review must include performing an on-site visit and analyzing the proper documentation.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. However, FTA makes an advisory comment regarding this requirement. As a member of the PA UCP, PennDOT abided by a Cooperative Memorandum of Agreement, as amended, which established a Unified DBE Certification Program between and among PennDOT recipients in the Commonwealth of Pennsylvania. The PA UCP received approval of the original agreement from PennDOT in 2001, and on its most recent amendment on January 20, 2004. Certifying participants in the PA UCP are the Allegheny County Department of MBE/WBE/DBE, Philadelphia International Airport's DBE Program Office, the Port Authority of Allegheny County, the Southeastern Pennsylvania Transportation Authority, and PennDOT.

PennDOT was an integral part of the PA UCP and performed a detailed determination of whether an applicant firm was legitimately socially and economically disadvantaged. PennDOT's certification procedures include the use of the U.S. DOT's *Uniform Certification Application* and *Personal Net Worth Statement* (updated November 2014), as well as PennDOT's *DBE Annual Affidavit* and *Notice of Change Affidavit* forms. PennDOT required the

submission of additional information as needed to substantiate applicant responses. PennDOT's Office of Chief Counsel conducted on-site reviews of applicant worksites prior to making eligibility determinations. PennDOT received and reviewed *Annual Affidavits of No Change*, as well as *Notice of Change Affidavits*, to determine firms' continuing eligibility for DBE Certification.

In its DBE Program Plan and PA UCP Procedures Manual, PennDOT described its procedures for certification by narrative and workflow diagram. The procedures were responsive to 49 CFR Part 26 requirements and described in detail initial application, interstate certification, denials of initial requests for certification, PA UCP certification appeals procedures, removal of eligibility, summary suspension of certification, and U.S. DOT certification appeals decisions.

In addition to reviewing PennDOT's DBE Program Plan, the PA UCP Procedures Manual (included as an attachment to its DBE Program Plan), and information on the PA UCP website (www.paucp.com), the review team interviewed PennDOT staff involved in the DBE certification process and reviewed several DBE certification files. The interviews with PennDOT DBE certification staff and certification file review confirmed that PennDOT was carrying out its DBE certification function according to its documented procedures and in accordance with 49 CFR Part 26.83 requirements.

The review team reviewed seven DBE applicant files, two of which included information from out-of-state applicants. All the certification files reviewed contained the required forms and additional supporting documentation provided by the applicant. In those instances, when PennDOT requested additional information from the applicant firm, PennDOT sufficiently documented the request. Five of the applications resulted in denials. PennDOT initially denied certification to one of the applicant firms and the firm appealed PennDOT's decision; however, the PA UCP DBE Certification Appeals Committee upheld the initial decision. PennDOT approved two of the applications. One of the approvals was for the certification of a wholesale trade brokerage, and the other approval was for a general construction contractor. Two of the seven firms applied for certification after the 2014 implementation of the new *Uniform Certification Application* and *Personal Net Worth Statement* and submitted their information on the correct and current forms at the time of application, as required. PennDOT approved one of the firms in June 2011; the certification file for this firm included *DBE Annual Affidavits* for 2012, 2013, and 2014. PennDOT approved the second firm in August 2015, and thus this firm was not yet required to submit its annual affidavit. Each certification file reviewed contained the *Certification Checklist* below.

Certification Checklist

_____ DBE, SBA or SDB certifications certificates/letters, denials and/or decertifications (HOME STATE CERT)

_____ Ownership pages = 100%

_____ PNW – all sections completed, signed, dated, and notarized (owner(s) completing => 51% ownership)

_____ Affidavit of certification – signed and notarized (for each owner completing PNW)

_____ 3 years federal personal taxes (for each owner completing PNW)

_____ 3 years income statements / balance sheets (or life of firm <3 yrs)

_____ 3 years federal business taxes

_____ Resumes w/ experience and dates of ownership/employment (all owners, officers, key personnel)

_____ Documented proof of contributions to acquire business (cancelled checks, etc)

_____ Signed loan agreements, security agreements, bonding forms

_____ Descriptions of real estate deeds or lease/rental agreements (office, storage space, warehouses, etc)

_____ List of equipment / vehicles (owned – proof of ownership) (leased – copy of lease)

_____ Documented proof of transfers of assets (last 2 years)

_____ Relevant licenses, license renewal forms, permits, & haul authority forms

_____ Bank signature card / corporate bank resolution

_____ Schedule of salaries paid to officers / managers/ owners/ directors

_____ List of all employees, job titles, and dates of employment

_____ Trust agreements held by any owner claiming DBE status

_____ **Trucking only**

_____ Insurance agreements

_____ Titles/registration cards for each truck owned or operated

_____ List of all DOT #'s for each truck (if applicable)

_____ **Supplier only**

_____ List of product lines carded

_____ List of distribution equipment owned/leased

Corporation

_____ Articles of incorporation (stamped/signed by the state)

_____ Corporate by-laws and any amendments

_____ Stock certificates (both sides)

_____ Stock ledger

_____ Shareholder's agreement

_____ Meeting minutes; _____ Election of officers; _____ Election of Directors

Limited Liability Company/Corp

_____ Certificate of Organization (stamped/signed by the state)

_____ Operating agreement including exhibits and/or any amendments

_____ Membership certificates (both sides) – *if applicable, refer to certificate of organization

_____ Meeting minutes; _____ Election of officers

Partnership/Joint Venture

_____ Partnership/Joint Venture agreement and any amendments

Sole Proprietor

_____ Fictitious name registration (stamped/signed by the state)

Although this review confirmed that PennDOT documented and implemented the certification process and procedures described in 49 CFR Part 26.83, PennDOT is advised to include in its administration of the PA UCP a process for ensuring it is using the most current revisions of the U.S. DOT Uniform Certification Application and *Personal Net Worth Statement*. During the site visit, the review team explained to PennDOT that these two documents, which were available for download from its PA UCP website, had November 3, 2014, revision dates. The same documents available for download from U.S. DOT's website and FTA's DBE website had more recent revision dates. November 18, 2014, was the revision date for the [Uniform Certification Application](#) available on U.S. DOT's website, and January 16, 2015, was the revision date for the [Personal Net Worth Statement](#) available on FTA's DBE website. There were minor differences in the various document revisions.

Corrective Actions and Schedule

FTA requires no corrective actions for the on-site visit and document review requirement. However, FTA advises PennDOT to update its DBE Program Plan to include procedures for periodically checking the U.S. DOT and FTA DBE websites to make sure it is using the most current versions of the *Uniform Certification Application* and *Personal Net Worth Statement*.

B) Annual Affidavit

Basic Requirement (49 CFR Part 26.83)

DBE firms must submit an annual affidavit affirming their DBE status. Recipients may not require DBE firms to reapply for certification or undergo a recertification process.

Discussion

During this compliance review, FTA found no deficiencies with this requirement. However, FTA makes an advisory comment regarding this requirement. As a member of the PA UCP, PennDOT was responsible for carrying out certification reviews and approving applicants for DBE certification. This responsibility includes the administration of the PA UCP *Notice of Change Affidavit* and *DBE Annual Affidavit*, which are available for download on the PA UCP website. These instruments were used to determine if there were circumstances, factors, or changes that may have affected a firm's continuing ability to meet the size, disadvantaged status, ownership, or control criteria of 49 CFR Part 26. PennDOT considered this information within the context of the firm's original certification information, along with data submitted for previous *Notice of Change Affidavit* and *DBE Annual Affidavit* submissions.

PennDOT had a process in place to administer the requirement to confirm a DBE firm's continuing eligibility per 49 CFR Part 26. PennDOT required DBE firms to submit the required sworn affidavits before a person authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. The *Notice of Change Affidavit* was due within 30 days of the change action, and the *DBE Annual Affidavit* was due every year on the anniversary of the firm's certification. According to PennDOT's DBE Program, a DBE may be required to provide additional information to determine continued eligibility for the program. Additionally, PennDOT's DBE Program noted that the Department reserved the right to revisit or investigate a firm if there was a reason to suspect the firm was no longer eligible to participate as a DBE.

According to the PA UCP Memorandum of Understanding and the PA UCP December 2014 Standards and Procedures Manual, the PA UCP participant that did the original certification was responsible for handling the *DBE Annual Affidavit* for review. This was the case unless the original certifying participant was dealing with a significant backlog, lack of resources, or geographic constraints, in which case another certifying participant with capacity reviewed the affidavits with the DBE firms' consent. In contrast, in PennDOT's DBE Program Plan, workflow diagrams 9B (*DBE Notice of Change Affidavit Submission*) and 9D (*DBE Annual Affidavit To Maintain DBE Status Submission*) indicated that affidavits should be submitted to the Bureau of Equal Opportunity.

Corrective Actions and Schedule

FTA requires no corrective actions for the annual affidavit requirement. However, FTA advises PennDOT to update its DBE Program Plan to ensure it communicates its procedures for its *Notice of Change Affidavit* and *DBE Annual Affidavit* consistently and accurately.

C) Interstate Certification

Basic Requirement (49 CFR Part 26.85)

Recipients may accept out-of-state certifications and certify DBE firms without further procedures. Otherwise, DBEs certified in one or more states and certifying entities should follow the procedure outlined in 49 CFR Parts 26.85(c)-(g).

Discussion

During this compliance review, FTA found no deficiencies with this requirement. In its DBE Program Plan, PennDOT stated the following:

A firm certified as a DBE in its home state may apply for certification in Pennsylvania. The Department may, at its discretion, accept the home state's certification and certify the firm without further procedure. To obtain certification in this manner, the firm shall provide the Department with a copy of its certification notice from its home state and the Department will confirm the validity of the certification from the home state.

If the Department chooses not to accept the home state's certification, the firm shall provide the information required by Part 26, Section 26.85(c)(1), to the Department, which shall make a determination of certification as required by Part 26, Section 26.85.

During the site visit, PennDOT confirmed that it did not approve any interstate certification requests. Out-of-state applicant firms had been and were currently required to confirm they were certified in their home state and provide the information described in 49 CFR Part 26, Section 26.85(c)(1). The two out-of-state applicant certification files reviewed during the site visit contained the required information.

Corrective Actions and Schedule

FTA requires no corrective actions for the interstate certification requirement.

D) Certification Appeals

Basic Requirement (49 CFR Part 26.86)

Recipients must provide a written explanation for all DBE certification denials. The document must explain the reasons for the denial and specifically reference evidence in the record to support the denial. Recipients must allow the firm to reapply for certification within 12 months or less of the initial denial. The DBE firm may appeal the certification decision to the DOT.

Discussion

During this compliance review, FTA found deficiencies with this requirement. PennDOT had a documented process for handling certification appeals that it briefly explained in the main body of its DBE Program Plan and described in detail in workflow diagram 9E (DBE Certification Appeal Letter Submission) and the PA UCP Standards and Procedures Manual included as an attachment to its DBE Program Plan. The PA UCP Standards and Procedures Manual included an example of the transmittal letter used by PennDOT to communicate to an applicant firm that it did not approve the firm's certification application. The letter included a reference to evidence in the record to support the denial, as well as notice of the firm's right to appeal the decision to the PA UCP's Certification Appeals Committee (PCAC) and/or the U.S. DOT. The letter also informed the applicant firm that it could still bid on PennDOT projects as a non-DBE and could reapply after six months.

PennDOT's certification appeals procedure included steps an applicant must take should it choose to appeal a decision by PennDOT to deny its application for certification. In the main body of its DBE Program Plan, PennDOT stated the following:

In the event of a denial of certification or an ineligibility determination, a firm may reapply for certification six months from the date the denial was issued. Firms are advised of the right to receive an informal administrative hearing/appeal before the PA UCP's Certification Appeals Committee (Committee) or to appeal a decision directly to the DOT. Department procedures related to the Committee are contained in Workflow 9E in Attachment F.

Although PennDOT provided information on how to file an appeal with the U.S. DOT later in the main body of its DBE Program Plan, it did not provide the same information on how to file an appeal with the PCAC. Filing appeals with the PCAC was PennDOT's preferred method of appeal as stated by PennDOT during the site visit and as illustrated in workflow diagram 9E (DBE Certification Appeal Letter Submission). Moreover, the PA UCP Standards and Procedures Manual, included as an attachment to PennDOT's DBE Program Plan, provided certification appeals procedures that required applicants to file appeals with the certifying participant, not necessarily the PennDOT Bureau of Equal Opportunity or the U.S. DOT. PennDOT must ensure the procedures in its DBE Program Plan and PA UCP Standards and Procedures Manual are the same. In addition, PennDOT must confirm it is consistently communicating its certification appeals procedures at all times.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- Documentation clarifying whether certification appeals are to be filed with the certifying participant, PennDOT's Bureau of Equal Opportunity, and/or PennDOT's Office of Chief Counsel in addition to the U.S. DOT;
- An updated DBE Program Plan that includes clear and complete instructions on how to file a certification appeal; and
- Documentation confirming that the certification appeals procedures contained in PennDOT's DBE Program Plan and the PA UCP Standards and Procedures Manual are the same.

6.14 Record Keeping and Enforcements

Basic Requirements (49 CFR Parts 26.11 and 26.37)

Recipients must provide data about their DBE program to FTA on a regular basis. Recipients must submit Semi-Annual Uniform Reports on June 1 and December 1 of each fiscal year by using the FTA electronic grants management system, unless otherwise notified by FTA. (State Departments of Transportation must also report the percentage of DBE minority women, non-minority women, and minority men to the DOT Office of Civil Rights by January 1 of each year.) In addition, recipients must implement appropriate monitoring mechanisms to ensure overall compliance by all program participants. Recipients must conduct enforcement measures in conjunction with monitoring contract performance for purposes such as closeout reviews for contracts.

Lastly, recipients 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 compliance review, FTA found deficiencies with this requirement. At the time of the site visit, PennDOT had not adequately developed and implemented procedures for monitoring FTA-assisted contract performance. During the site visit, PennDOT acknowledged that although it was working on developing procedures and tools for monitoring the portion of its DBE program related to FTA-assisted projects, its efforts were incomplete. Prior to the site visit, PennDOT's only method of monitoring compliance was the collection of DBE Semi-Annual Report data. PennDOT stated that it intended to use feedback from this compliance review to complete and implement its DBE program monitoring and enforcement mechanisms for its transit program, as well as its system of record keeping. PennDOT had developed its *DBE Project Compliance Review Checklist for Transit Systems* (Form PT-27), *DBE Commercially Useful Function Report – Public Transportation* (Form EO-354PT), *DBE Participation for Federal Projects – BPT* (Form EO-380PT), and its *Designated Special Provision (DSP) for Disadvantaged Business Enterprises Requirements for Federally Funded Public Transportation Projects*. PennDOT must develop comprehensive procedures for the use of these monitoring, enforcement, and record-keeping tools and document in detail its procedures in its DBE Program Plan.

A review of PennDOT's Semi-Annual Uniform Reports for the past three years showed that PennDOT prepared its reports as required and submitted its reports on time. During the review, PennDOT explained that each year at the end of April and October it sends a spreadsheet pre-formatted with column headings to its subrecipients. Each column heading represents a semi-

annual report element. Subrecipients must complete the spreadsheet and return it to PennDOT within two weeks. PennDOT reviews the information and addresses any concerns it has with the subrecipient prior to the semi-annual reports deadline.

In its DBE Program Plan, PennDOT stated that its Bureau of Public Transportation “maintains a list of all Pennsylvania transit agencies, which serves as the equivalent of a bidder’s list for [transit] projects.” PennDOT’s list of Pennsylvania transit agencies did not satisfy the requirement to develop a bidders list. Regarding the bidders list requirement, 49 CFR Part 26.11 states the following:

(c) You must create and maintain a bidders list.

(1) The purpose of this list is to provide you as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

(2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts:

(i) Firm name;

(ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) rather than requesting an exact figure from the firm.

(3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after the bid due date. You can conduct a survey that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (e.g., collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information).

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, PennDOT must submit the following to the FTA Office of Civil Rights:

- An updated DBE Program Plan that includes a detailed description of its monitoring and record-keeping procedures specific to the FTA-assisted portion of its DBE program,
- Documentation confirming it has implemented its newly developed monitoring and record-keeping procedures, and

- Documentation confirming it has developed a bidders list as required by 49 CFR Part 26.11.

7. Summary of Findings

Item	Requirement of 49 CFR Part 26	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Response Days/Date
1.	DBE Program Plan	26.21	D	<p>Finding: PennDOT's DBE Program Plan is out of date.</p> <p>Corrective Action: PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that includes all required elements and reflects actual practice.</p>	60 Days
2.	DBE Policy Statement	26.23	D, AC	<p>Finding: PennDOT did not provide documentation that it distributed its DBE Policy Statement to the DBE and non-DBE business communities as described in its DBE Program Plan.</p> <p>Corrective Action: PennDOT must submit to the FTA Office of Civil Rights documentation confirming it distributed its DBE Policy Statement as stated in its DBE Program Plan. FTA advises PennDOT to confirm all references to its DBE Policy Statement, including its DBE Program Plan, reference its current statement.</p>	60 Days
3.	DBE Liaison Officer	26.25	D, AC	<p>Finding: PennDOT's DBE Program Plan contained language allowing its DBELO to designate DBELO responsibilities to another PennDOT staff member. PennDOT's BEO Director performed most of PennDOT's DBELO responsibilities.</p> <p>Corrective Action: PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that removes all language communicating that the DBELO can designate DBELO</p>	60 Days

				<p>responsibilities to another PennDOT staff member. Alternatively, PennDOT must add language communicating that in the event the DBELO designates DBELO responsibilities to another staff member, the designee becomes the DBELO.</p> <p>FTA advises PennDOT to designate its BEO Director as the agency's DBELO.</p>	
4.	DBE Financial Institutions	26.27	D	<p>Finding: PennDOT did not sufficiently investigate the availability or encourage the use of DBE banks.</p> <p>Corrective Actions: PennDOT must submit to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> An updated DBE Program Plan that includes procedures for investigating the availability of DBE financial institutions that are socially and/or economically disadvantaged and a list of DBE financial institutions that could possibly be used by PennDOT and/or its contractors that work on FTA-assisted projects; and Documentation confirming it has disseminated information on the availability of DBE financial institutions to its prime contractors, encouraging them to use one or more of the banks identified by PennDOT. 	60 Days
5.	DBE Directory	26.31	ND		
6.	Overconcentration	26.33	AC	FTA advises PennDOT to include FTA-assisted transit program concerns more substantially in its efforts to comply with 49 CFR Part 26.33.	
7.	Business Development Programs	26.35	AC	FTA advises PennDOT to utilize all the resources of its DBE Supportive Services Center in support of the FTA-assisted portion of its DBE program.	
8.	Determining/Meeting Goals				

8.a	Calculation	26.45	D	<p>Finding: PennDOT's DBE goal calculation methodology was inadequate.</p> <p>Corrective Actions: Within 60 days of the issuance of the final report, PennDOT must submit to the FTA Office of Civil Rights a detailed process for its FY 2018–2020 triennial goal that</p> <ul style="list-style-type: none"> • Has a comprehensive list of potential contracting opportunities; • Excludes factoring past participation in Step One; • Uses FTA data to make Step Two adjustments, if needed (not Federal Aviation Administration data); and • Uses appropriate goal attainment adjustments in Step 2. <p>PennDOT must obtain prior FTA approval before including anything not recommended by DOT in its new goal setting process.</p>	60 Days
8.b	Public Participation	26.45	ND		
8.c	Race-Neutral DBE Participation	26.51	D	<p>Finding: PennDOT's 2012 Small Business Element did not include strategies as described in 49 CFR Part 26.39 that were proactive in identifying and/or creating race-neutral contracting opportunities. PennDOT did not implement the strategies in its 2012 Small Business Element as it said it would.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p>	60 Days

				<ul style="list-style-type: none"> • An updated Small Business Element that incorporates the strategies described in 49 CFR Part 26.39 for all its FTA-funded projects. • An implementation plan for its updated Small Business Element, including a schedule and timeline. 	
8.d	Race-Conscious DBE Participation	26.51	D	<p>Findings: PennDOT did not adequately demonstrate or support its race-conscious goal calculation or consider all contracting opportunities in the calculation of its race-conscious and overall goals. It used data unrelated to its FTA DBE program when establishing the race-conscious portion of its DBE goal.</p> <p>Corrective Actions: PennDOT must submit to the FTA Office of Civil Rights a detailed process for calculating the race-conscious portion of its DBE goals for the upcoming FY 2018–2020 triennial goal cycle that includes the following:</p> <ul style="list-style-type: none"> • A narrative explanation of its projected race-neutral DBE goal attainment, • All FTA-assisted contracting opportunities, and • Final adjustments based on the data from the FTA program. 	

8.e	Good Faith Efforts	26.53	D, AC	<p>Finding: PennDOT did not accurately communicate its requirement for contractors to submit good faith efforts (GFEs) as a matter of responsiveness or responsibility.</p> <p>Corrective Action: PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that accurately describes its requirement to submit GFEs as a matter of responsiveness or responsibility per 49 CFR Part 26.53.</p> <p>FTA advises PennDOT to consolidate its GFE requirements associated with FTA-funded public transportation projects into its DBE Program Plan Section 26.53, <i>DBE Good Faith Effort Procedures: Bureau of Public Transportation</i>.</p> <p>FTA also advises PennDOT to update its DBE Program Plan to consolidate references to its GFE procedures.</p>	60 Days
8.f	Protecting Against Termination for Convenience	26.53 and 26.13	D, AC	<p>Finding: PennDOT did not consistently communicate its requirement for contractors to obtain written approval prior to terminating a DBE subcontractor in its DBE Program Plan.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • An updated DBE Program Plan that explicitly requires obtaining written approval from PennDOT before terminating or substituting DBE firms on FTA-funded contracts, • An updated Form PT-27 that includes questions confirming PennDOT's prior written approval on all DBE terminations and substitutions, and 	60 Days

				<ul style="list-style-type: none"> Procedures ensuring the inclusion of the termination for convenience provision found in 49 Part 26.53 in all future prime contracts. <p>FTA advises PennDOT to ensure all Bureaus responsible for ensuring compliance with this Part for FTA-funded projects understand the requirement and apply it consistently. FTA further advises PennDOT to require that the Bureau of Equal Opportunity concur on all DBE termination and substitution requests made by prime contractors on FTA-assisted projects.</p>	
8.g	Counting DBE Participation	26.55	D	<p>Finding: PennDOT did not have documented procedures for counting DBE participation that were responsive to the requirements described in 49 CFR Part 26.55.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> An updated DBE Program Plan that includes a detailed description of PennDOT's guidelines for counting DBE participation pursuant to 49 CFR Part 26.55, An updated DBE Program Plan that includes a detailed description of how PennDOT monitors subrecipients and prime contractors to confirm they are counting DBE participation in accordance with 49 CFR Part 26.55, and Documentation confirming PennDOT has implemented the use of Form EO-354PT and the Designated Special Provision. 	
8.h	Quotas	26.43	ND		

9.	Shortfall Analysis and Corrective Action Plan	26.47	D, AC	<p>Findings: PennDOT did not conduct a shortfall analysis or develop a corrective plan (CAP) for its DBE goal shortfall in FY 2014, as required by 49 CFR Part 26.47, and as it stated it would in its DBE Program Plan.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • A shortfall analysis and CAP for its FY 2014 DBE goal shortfall, and • An updated DBE Program Plan that includes PennDOT's procedures for conducting DBE shortfall analyses and CAPs pursuant to the requirements in 49 CFR Part 26.47. <p>FTA also advises PennDOT, as a part of its DBE goal-monitoring process for FTA-funded projects, to evaluate and take advantage of all available contracting activities, whether or not the projects are included in the development of its DBE goals, as a way of offsetting or otherwise addressing anticipated DBE goal shortfalls in any given year.</p>	60 Days
10.	Transit Vehicle Manufacturers (TVMs)	26.49	D	<p>Finding: PennDOT did not document its procedures for ensuring TVM compliance with 49 CFR Part 26.49 prior to awarding contracts for the purchase of transit vehicles in its DBE Program Plan.</p> <p>Corrective Action: PennDOT must submit to the FTA Office of Civil Rights an updated DBE Program Plan that includes procedures for meeting all applicable requirements described in 49 CFR Part 26.49.</p>	60 Days
11.	Required Contract Provisions and Enforcements				

11.a	Contract Assurance	26.13	D, AC	<p>Finding: PennDOT did not ensure that the required contract non-discrimination assurance was included in all prime contractor and subcontractor agreements.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • An updated DBE Program Plan that includes procedures for ensuring all of its and its subrecipients' FTA-assisted prime contracts and subcontracts contain the same DBE contract assurance; • Documentation confirming all references to its required contract assurance (i.e., DBE Program Plan, sample contracts, and agreements) are consistent; and • Documentation it has implemented the use of its current contract provisions that include the required contract assurance. <p>PennDOT is advised to update its <i>DBE Project Compliance Review Checklist for Transit Systems</i> (Form PT-27) to include questions confirming inclusion of the required contract assurance found at 49 CFR Part 26.13 in all FTA-funded contracts and agreements.</p>	60 Days
11.b	Prompt Payment	26.29	D	<p>PennDOT did not ensure that the required contract prompt-payment provision was included in all prime contractor and subcontractor agreements.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • An updated DBE Program Plan that includes procedures for ensuring all its and its subrecipients' 	60 Days

				<p>FTA-assisted prime contracts and subcontracts contain the required prompt payment clause,</p> <ul style="list-style-type: none"> • Documentation confirming all references to the prompt payment clause (i.e., DBE Program Plan, sample contracts, and agreements) are consistent, and • Documentation confirming it has implemented the use of its newly developed standard contract provisions that include the required prompt payment clause. 	
11.c	Legal Remedies	26.37	AC	FTA advises PennDOT to include the enforcements in its new contract provision example in its DBE Program Plan and all future contracts so stakeholders can clearly understand what remedies are minimally available to PennDOT.	
12.	Certification Standards	26.67–26.71	AC	<p>FTA advises PennDOT to do the following:</p> <ul style="list-style-type: none"> • Update the DBE Program Plan to include detailed descriptions for each of the seven DBE certification standards described in 49 CFR Part 26 Subpart D; • Correct the personal net worth threshold error in Section 26.67, <i>Social and Economic Disadvantage Standards</i>; and • More fully describe the other rules affecting certification per 49 CFR Part 26.73. 	
13.	Certification Procedures				
13.a	On-site Visits and Document Review	26.83	AC	FTA advises PennDOT to update its DBE Program Plan to include procedures for periodically checking the U.S. DOT and FTA DBE websites to make certain it is using the most current versions of the <i>Uniform Certification Application</i> and <i>Personal Net Worth Statement</i> .	
13.b	Annual Affidavit	26.83	AC	FTA advises PennDOT to update its DBE Program Plan to ensure it communicates its procedures for its <i>Notice of</i>	

				<i>Change Affidavit and DBE Annual Affidavit consistently and accurately.</i>	
13.c	Interstate Certification	26.85	ND		
13.d	Certification Appeals	26.86	D	<p>Finding: PennDOT's certification appeals procedures in its DBE Program Plan and PA UCP Standards and Operations Manual were inconsistent.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • Documentation clarifying whether certification appeals are to be filed with the certifying participant, PennDOT's Bureau of Equal Opportunity, and/or PennDOT's Office of Chief Counsel, in addition to the U.S. DOT; • An updated DBE Program Plan that includes clear and complete instructions on how to file a certification appeal; and • Documentation confirming that the certification appeals procedures contained in PennDOT's DBE Program Plan and the PA UCP Standards and Procedures Manual are the same. 	60 Days

14.	Record Keeping and Enforcements	26.11 and 26.37	D	<p>Finding: PennDOT did not maintain a bidders list of firms that submit bids or proposals.</p> <p>Corrective Action: PennDOT must submit to the FTA Office of Civil Rights documentation confirming it has developed a bidders list as required by 49 CFR Part 26.11.</p> <p>Finding: PennDOT did not document its monitoring of contract performance or payments to subrecipients.</p> <p>Corrective Actions: PennDOT must submit the following to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> • An updated DBE Program Plan that includes a detailed description of its monitoring and record-keeping procedures specific to the FTA-assisted portion of its DBE program, and • Documentation confirming it has implemented its newly developed monitoring and record-keeping procedures. 	60 Days
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Findings at the time of the site visit: ND = no deficiencies found; D = deficiency; NA = not applicable; AC = advisory comment.

Attachment A

FTA Notification Letter to PennDOT



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

Headquarters

East Building, 5th Floor, TCR
1200 New Jersey Ave., SE
Washington, D.C. 20590

September 18, 2015

Leslie S. Richards
Secretary of Transportation
Pennsylvania Department of Transportation
Commonwealth Keystone Building
400 North Street – 8th Floor
Harrisburg, PA 17120

Dear Ms. Richards:

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs” by its grant recipients and subrecipients. As part of its ongoing oversight efforts, the FTA Office of Civil Rights conducts a number of on-site DBE compliance reviews of these grant recipients. For this reason, the Pennsylvania Department of Transportation (PennDOT) has been selected for a review of its overall DBE program to take place December 1-4, 2015.

The purpose of this review will be to determine whether PennDOT is honoring its commitment, as represented by certification to FTA, to comply with the all applicable provisions of 49 CFR Part 26.

The review process includes data collection before the on-site visit, an opening conference, an on-site review of DBE program implementation (including, but not limited to discussions to clarify items previously reviewed and interviews with staff), interviews with participating prime and DBE contractors and external interested parties, and an exit conference. FTA has engaged the services of the DMP Group, LLC (DMP) of Washington, D.C. to conduct this compliance review. The DMP team and FTA representatives will participate in the opening and exit conferences, with FTA participating by telephone.

We request your attendance at an opening conference scheduled for December 1, 2015 at 9:00 a.m. to introduce the DMP team and FTA representatives to PennDOT. Attendees should include you (or your designee), the DBE Liaison Officer (DBELO), and other key staff. During the opening conference, the review team members will present an overview of the on-site activities.

Because review team members will spend considerable time on site during the week, please provide them with temporary identification and a workspace within or near your offices for the duration of their visit. Please let us know if you will designate a member of your staff to serve as

PennDOT's liaison with the review team and to coordinate the on-site review and address questions that may arise during the visit.

So that we may properly prepare for the site visit, we request that you provide the information described in Enclosure 1, which consists of items that the review team must receive within 21 days of the date of this letter. Please provide electronic versions of the requested documents. Electronic versions of the requested documents can be emailed (size permitting), sent via U.S. Mail on electronic media (CD-ROM or USB Drive), or by making the documents available for download over the Internet (FTP). Please send these materials to the following contact person or provide document download instructions to:

Donald G. Lucas
The DMP Group, LLC
2233 Wisconsin Avenue NW, Suite 405
(202) 726-2630
Donald.Lucas@thedmpgroup.com


We request the exit conference be scheduled for December 4, 2015 at 10:30 a.m. to afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you (or your designee), the DBELO, and other key staff attend the exit conference.

The FTA Office of Civil Rights will make findings and will provide a Draft Report. You will have an opportunity to correct any factual inconsistencies before FTA finalizes the report. The Draft and Final Reports, when issued to PennDOT, will be considered public documents subject to release under the Freedom of Information Act, upon request.

PennDOT representatives are welcome to accompany the review team during the on-site activities, if you so choose. If you have any questions or concerns before the opening conference, please contact Brian Whitehead, Program Manager for this compliance review, at 202-366-3051 or via e-mail at brian.whitehead@dot.gov.

Thank you in advance for your assistance and cooperation as we undertake this process. We look forward to working with your staff.

Sincerely,



John Day
Program Manager for Policy & Technical Assistance

cc: Terry Garcia-Crews, FTA Region III Administrator
Stacie Parkins, FTA Region III Civil Rights Officer
Toby Fauver, PennDOT, Deputy Secretary for Multimodal Transportation
Jocelyn I. Harper, PennDOT, Director Bureau of Equal Opportunity
John Potts, The DMP Group, Lead Reviewer

Pennsylvania Department of Transportation
Disadvantaged Business Enterprise Program Compliance Review

Enclosure 1

You must submit the following information to the DMP contact person within 21 calendar days from the date of this letter.

1. Current DBE Program Plan (which should include PennDOT's organization chart).
2. Fiscal years (FYs) FYs 2010- 2012, FYs 2013 - 2015, and FYs 2016 – 2018 goal methodology submissions.
3. Any ARRA reports for FY2011. The reviewers are able to access PennDOT's other ARRA and DBE semi-annual reports through FTA's TEAM system or as attachments to the TEAM recipient screen.
4. DBE goal shortfall analyses and corrective action plans for any year (FYs 2011-2014) in which PennDOT did not meet its DBE goal.
5. Current Memorandum of Understanding or similar documents for PennDOT's participation in the Unified Certification Program.
6. Any additional certification criteria/guidelines used by PennDOT in determining DBE eligibility, if applicable.
7. The identification of firms, if any, that have worked on PennDOT projects and have graduated from PennDOT's DBE program, i.e., exceeded the threshold dollar amounts and are no longer certified as a DBE.
8. Information identifying FTA-funded contracts awarded from FY2011 to present by PennDOT and its subrecipients. The federal fiscal year begins October 1 and ends September 30. The information should identify the names of prime and DBE participants, the DBE schedule of participation or good faith efforts submitted by the prime, the scope of work, and the amounts awarded and actually paid to each DBE.
9. Good Faith Effort criteria established by PennDOT.
10. Procedures for monitoring that work committed to DBEs is actually performed by those DBEs (e.g., prompt payment procedures and monitoring and enforcement mechanisms).
11. Small Business element as implemented by PennDOT.

Pennsylvania Department of Transportation
Disadvantaged Business Enterprise Program Compliance Review

12. FTA-assisted transit vehicle procurements/contracts for the last five (5) years. This information should include the complete/executed contract between your agency and the transit vehicle manufacturer.
13. FTA-assisted transit vehicle requests for proposals (RFPs) for the last five (5) years.
14. List the names of all transit vehicle manufacturers that submitted bids for the RFPs provided in response to Item 13.
15. Names, titles, telephone numbers, and email addresses of interested parties (external organizations) with which PennDOT has interacted on the DBE program issues.
16. Any complaints received or lawsuits filed concerning PennDOT's DBE program over the past five (5) years.
17. The DBELO official position description, including the DBELO's roles and responsibilities.
18. A listing of all PennDOT subrecipients, and the amount of FTA funds passed through these subrecipients.
19. Other pertinent information determined by PennDOT staff to be pertinent and demonstrative of its DBE compliance efforts.

Attachment B

PennDOT Response to Draft Report

Pennsylvania Department of Transportation
Response to the
March 2016 FTA Disadvantage Business Enterprise Program Compliance Review Draft Report

On Page 12

- Third paragraph, first sentence:

“The Department was composed of the following five divisions, each headed by a Deputy Secretary: Administration, Planning, Driver and Vehicle Services, Highway Administration, and **Multi-Modal** Transportation.”

Correct Deputate name is “Multimodal”, i.e. no hyphen.

- Fourth paragraph, first sentence:

“The administration of PennDOT’s DBE Program is essential trifurcated by two bureaus spanning different division (Administration and **Multi-Modal** Transportation) and PennDOT’s Office of Chief Counsel.”

Correct Deputate name is “Multimodal”, i.e. no hyphen.

- Fourth paragraph, fourth sentence:

“The Bureau of Public Transportation (BPT), within the **Multi-Modal** Transportation division, supported the BEO by providing post-certification oversight inasmuch as it was also responsible for administering FTA Section 5310, 5311, 5316, and 5317 Programs and the PennDOT subrecipients that received funding through these programs.

Correct Deputate name is “Multimodal”, i.e. no hyphen.

- Fifth paragraph, third sentence:

“The Equal Opportunity Specialists had different responsibilities and focus areas, as follows: DBE/Small Business Enterprise (SBE) Certification, Title VI, DBE field **agency**, and DBE/SBE Program...”

Correct area is DBE Field “Agent”.

On Page 20

- Within the participants chart:

“Dwan L. Lee **DBE Program** Administrator”

Mr. Lee’s responsibilities extend beyond the DBE Program and include the Diverse Business and Small Business Enterprise Programs. Correct title is “DBE/DB/SBE Programs Administrator”

Pennsylvania Department of Transportation
Response to the
March 2016 FTA Disadvantage Business Enterprise Program Compliance Review Draft Report

- Within in the participants chart:

“Keyla Evans Equal Opportunity **Special 1**”

Correct title is “Equal Opportunity Specialist 1”. Should be consistent as it appears earlier in the document.

On Page 38

- Third paragraph, second sentence:

“During the review, the review team encountered almost no one, other than the consultant responsible for its development, who understood PennDOT’s methodology.”

This comment is overly broad and ignores the extensive understanding of the DBE Methodology held by the BEO Director, the DBE/Title VI Division Chief, and the Department's DBE Counsel. Both the Director and DBE Counsel have been working with the Department's Methodology and Goal for over 15 years. The Division Chief has been working with the Methodology for over 10 years. All three parties are intricately involved in developing the Methodology.

Attachment C

PennDOT DBE Program Plan



July 31, 2014

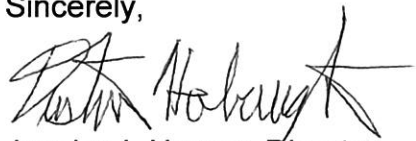
Dr. Stacie Parkins
U.S. Department of Transportation
Federal Transit Administration
230 Peachtree, NW
Suite 800
Atlanta, GA 30303

Dear Dr. Parkins:

The Department is submitting its 2015-2017 FTA DBE Methodology and Goal for your review and approval. This methodology reflects an overall goal of 4.83%, 4.18% race conscious, and 0.65% race neutral. Please be advised that the Department did not receive any public comments concerning the proposed methodology.

Should you have any questions regarding this document, please feel free to contact me at (717) 787-5891 or (800) 468-4201.

Sincerely,



Jocelyn I. Harper, Director
Bureau of Equal Opportunity

Enclosure

2015-17 DBE METHODOLOGY
AND GOAL FOR PENNDOT
FEDERAL TRANSIT
ADMINISTRATION
SUBRECIPIENTS

DEVELOPED BY THE
PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION

August 1, 2014

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Overall Goal for Participation by DBEs in the Department's Federally-Assisted Contracts	7
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OVERVIEW OF THE DBE GOAL-SETTING PROCESS

The following narrative chronicles the efforts of the Commonwealth of Pennsylvania, acting through the Pennsylvania Department of Transportation (“Department”), to establish a triennial DBE participation goal and methodology for federally-aided contracts using funds disbursed by the Federal Transit Administration (“FTA”). The federal regulatory mandate is set forth in Title 49 Code of Federal Regulations Part 26 (Part 26). Under Part 26, goals must be established and submitted to the FTA, as well as to the Federal Highway Administration and the Federal Aviation Administration, on a triennial basis. This document is designed to deal exclusively with the FTA goals. The Federal Highway Administration and Federal Aviation Administration goals are discussed in separate narratives. The Department’s most recent Federal Aviation triennial goals were submitted in August of 2013 pursuant to the calendar established this submission.

The Regulatory Mandate:

The Department is required to submit new overall goals for DBE participation using the two-step goal-setting process set forth in Section 26.45 of Part 26 by establishing a base figure for DBE availability; describing the evidence with which it was calculated; by making adjustments to that figure, where appropriate; and, describing the evidence relied upon for such adjustments. Under Step One of the goal-setting process, the Department is compelled to calculate DBE availability to set a new triennial overall goal for FTA-assisted contracts based upon “demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate” on its FTA-assisted contracts. Under Step Two, the Department must examine all relevant evidence for consideration of a possible adjustment to the base figure to reflect the “effects of the DBE program and the level of participation that would be expected but for the effects of past and present discrimination.”

As an extension of this process, Section 26.45 requires that the Department meet the “maximum feasible portion” of its overall DBE utilization goal through race-neutral means. Under Section 26.51(b), race-neutral means include providing assistance in overcoming limitations such as the inability to obtain bonding or financing by simplifying the bonding process; reducing bonding requirements; eliminating the impact of surety costs from bids; and, providing services to help DBEs and other small businesses obtain bonding and financing. Race-neutral participation includes, but is not limited to situations such as a DBE wins a prime contract through customary competitive procurement procedures; is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in awarding the contract (e.g. a prime contractor that uses a strict low bid system to award subcontracts).

Contract Goal Administration, Implementation, and Monitoring Requirements

Establishing goals for submission by August 1st every three years is only the beginning of a narrowly tailored DBE program as Part 26 provides guidelines that must be adhered to in implementing goals.

Following the implementation of a new overall goal, the Department is charged with a monitoring function relative to goal commitments and goal attainments. The Department fulfills this mandate by gathering and analyzing data collected and reported to its Bureau of Equal Opportunity (BEO) by impacted program areas within the market sectors of the Department that set and implement project goals on a regular basis.

Quality of the Goal-setting Data and Collaborative, Interdisciplinary and Stakeholder Approach to Goal-setting

The Department strives to find the best available data. Each year, the quality and the quantity of the data improves as the Department builds upon historical information obtained during its initial attempt to set goals during the period when annual goals were required by Part 26 and following the mandate imposed for triennial goal submissions. The data collected to date results in a more panoramic view of the local market conditions.

With this background, the Department takes its triennial goal-setting obligations seriously by recognizing that it must obtain the best available documentation relative to its local marketplace. Consistent with Part 26, the Department continues to avail itself of the best data available from its marketplace, and has compiled this data and other information in the manner set forth in Sections 26.45 and 26.51 of Part 26. The Department obtains its measurements from local marketplace data, and uses the best evidence available to establish a goal that is as fair and accurate a representation as possible of the availability of DBEs in the Department's geographic and procurement marketplaces.

To facilitate this effort, the Department convenes an interdisciplinary internal team, comprised of representatives from all areas of the Department who work with the DBE program in general and with the FTA-funded projects in particular, including the Bureau of Equal Opportunity, the Office of Chief Counsel, and the Bureau of Public Transit. The overall direction of the goal-setting effort is molded by these individuals working in conjunction. Together, the parties bring to the table the requisite knowledge and experience needed to accurately depict the state of the Commonwealth's transportation contracting experience and to comply with the Part 26 mandate.

As in previous years, the Department has expended its own funds for highly qualified research professionals and statistical analysts equipped to analyze and organize local market sector data from an economic, statistical, and sociological perspective. Since, by definition, the establishing of the goal requires analysis of available and applicable data in the local marketplace, and these professionals work with such data on a regular basis, the inclusion of these professionals has been deemed essential to the Department's

efforts. The outside organizations utilized are the Indiana University of Pennsylvania working in conjunction with the Pennsylvania State University.

As evidence of its further commitment to consultation and the collection of the best data available in the local marketplace, the Department builds upon the relationships established early on in the goal-setting process with its customers by meeting with members of the impacted transit organizations entities as well as small businesses, trade associations, and DBEs. The data and anecdotal information resulting from this collaborative effort is reflected in the goal and its rationale, and will also serve as a benchmark for the Department's next round of goal-setting as the Department continues to expand upon this outreach initiative.

As the Department establishes subsequent goals, it intends to increase the involvement of stakeholders in the process through the use of focus groups, surveys, and interactive sessions between representatives of the Department and its stakeholders/customers. The Department intends to collect more information and anecdotal evidence relative to the barriers and discrimination that have and continue to exist in the local marketplace.

The Critical Public Notice and Public Comment Component of DBE Goal-setting

As part of the goal-setting process, the Department adheres to the public participation component of the goal-setting process required by Section 26.45 (j). Public participation efforts include consulting with minority, women's, and general contractor groups, as well as community organizations and other officials or organizations that could be expected to have information relative to the availability of both DBEs and non-DBEs; the effects of discrimination on opportunities for DBEs; and efforts to establish a level playing field for the participation of DBEs in federally-assisted, transportation-related contracting. While this occurs during the actual goal-setting effort, it continues by way of the town meetings described later in this narrative.

Once these regulatory requirements have been fulfilled, the Department publishes a notice announcing its proposed overall goal and the methodology used to calculate the goal, and informs the public that the goal and its "rationale" are available for inspection during normal business hours at the Department's principal place of business for 30 days following the date of the notice. As required, the notice invites public comments on the goals for 45 days from the date of the notice. Consistent with Section 26.45 (g), the Department provides the public with addresses to which comments may be sent, and publishes its proposed overall goals in general circulation media (including newspapers) and available minority-focused media and trade association publications.

The Department consistently adheres to the public notice requirements of Part 26. As required by Section 26.45 (g) (2), the Department has published a notice announcing its proposed goal and noting that its rationale, methodology, and goal are available for inspection during the Department's normal business hours at its central office location in Harrisburg, Pennsylvania. As in previous years, the notice has also been published in the *Pennsylvania Bulletin*, a publication recognized by the public as the location for public notices issued by executive agencies of the Commonwealth. The notice also appears in

general circulation media (newspapers) and available minority-focused media and trade association publications.

The notice advised all interested parties of their ability to provide public comments for forty-five (45) days from the date of the notice. The Department encourages public comments and notes that these comments add real value to the goal-setting effort and the Department's DBE program. In the past, public comments have resulted in the collection of additional data and/or provided anecdotal information that, ultimately, was factored into the adjustment phase of goal-setting.

To the extent that additional data is reflected in public comments received during the public comment period discussed below, it is included in a package of submissions to FTA. It has and continues to be the Department's practice to allow the FTA to review the public comments the Department receives during the forty-five (45) day public comment period.

The Town Meeting Component:

During the consultation period, the Department continues its practice of conducting town meetings throughout the Commonwealth. This year, the Department convened separate meetings in the Philadelphia, Pittsburgh, Erie, and Harrisburg areas, attempting to reach out to as much of the Commonwealth's contracting community as possible. The meetings were well-publicized and were used as an extension of the Department's consultation process. Invitations were extended to all Pennsylvania Unified Certification Program (PA UCPs) DBEs and to transit organizations and entities, various minority and women organizations, as well as to prime contractor and consultant trade associations. During the meetings, Department program personnel and the Department's goal-setting consultants make every effort to solicit questions about the Department's goals and methodology and other issues that arise under the DBE program.

Since these meetings were conducted during the workday (mornings or afternoons), the Department continues to be mindful of the challenge of attracting a large audience. Nonetheless, the Department continues to see members of the representative groups at these sessions. In addition, the sessions also facilitate person-to-person discussions that prove to be productive and that facilitate candid discussions between and among the attendees.

Following the Public Comment Period

At the conclusion of the public comment period, the Department convened a meeting among DBE program personnel and representatives from Department organizations impacted by the DBE program to discuss the public comments received. The Department's Office of Chief Counsel also participated in this endeavor. If there is a need to revise the methodology and/or recalculate the overall goal, the Department immediately commences this exercise.

The Department forwards all public comments to FTA along with its goal submission. The Department also responds to each separate comment as quickly as possible after the

public comment period concludes and forwards copies of its responses to the public comments to FTA, as well.

SUMMARY OF THE PROPOSED OVER ALL DBE GOAL TWO STEP GOAL-SETTING EFFORT

Step 1 calls for "determining a base figure for the relative availability of DBEs" (49 C.F.R. § 26.45(c)). "Relative availability of DBEs" means "the availability of ready, willing and able DBEs relative to all businesses ready willing and able to participate on DOT-assisted contracts" (49 C.F.R. § 26.49(b)). This determination was made for each of the six market categories in which DBEs perform work for the Department. The federal regulation does not contain a definition of "ready, willing, and able." However, as in previous years, the Department has crafted its own definition which is set forth in the introductory material.

Step-1-The Department's goal is in fact an aggregate of the goals of FTA subrecipients each narrowly tailored to local market conditions. The Department looked to the subrecipients receiving federal funds administered by the Department. The Department passes through funds to fifteen (15) transit authorities, five (5) bus lines, and three (3) municipalities. The Department surveyed these subrecipients to determine the amount, if any, of contracting opportunity planned for FFY 2015-17.

For larger scale contracting opportunity such as design or construction, the Department determined local markets by including counties where the county seat is within 100 miles of the work site. The firms in these counties were counted for each pertinent NAICS code to determine the universe of contractors for each transit authority. For smaller scale contracting such as fuel purchases, vehicle maintenance, or transportation services, the Department assumed the subrecipient's county or counties of operation to be the market area unless the subrecipient indicated otherwise.

The Department looked to the UCP database to determine the types of work each DBE firm in the market performed based on the North American Industrial Classification System (NAICS) codes each DBE firm identified in the database. The Universe of firms was taken from the U.S. Census Bureau's County Business Pattern Database.

The Department also looked to its history to determine the likely amount of subcontracting each type of contract might entail.

Step-2-Under Step 2 of the goal-setting process, the Department is compelled by Part 26 to examine all relevant evidence in its jurisdiction to determine what adjustments, up or down, need to be made to the base figure to arrive at the overall goal. Step 2 necessarily takes into account a litany of conditions or variables impacting DBEs in the Commonwealth. The Department looked to past DBE participation to make Step-2 adjustments as well.

To facilitate understanding of the Department's methodology and goal, a starting point is an examination of the working definitions. The Department uses the following program terms:

PROGRAM TERMS TAILORED TO THE LOCAL CONDITIONS OF THE COMMONWEALTH OF PENNSYLVANIA CONSISTENT WITH 49 C.F.R. PART 26.

DEPARTMENT – As used in this document, the Department refers to the Pennsylvania Department of Transportation of the Commonwealth of Pennsylvania.

DBE – A small, for-profit business that meets the size, ownership, control, and definitional requirements of 49 C.F.R. Part 26.5 and has been certified by the UCP under the federal regulation set forth in 49 C.F.R. Part 26.

READY, WILLING AND ABLE BUSINESSES/ENTERPRISES – The current universe of businesses interested, capable, and authorized to perform work on the Department’s federally-assisted, transportation-related contracts. *Ready* refers to those businesses that perform a trade, function or service that may be utilized on the Department’s federally-assisted contracts. *Willing* refers to ready businesses that have either performed or expressed a bona fide interest in performing a function on the Department’s federally-assisted contracts. *Able* refers to ready and willing businesses that have fulfilled the Department’s requirements to participate in the performance of its federally-assisted contracts including becoming a registered Business Partner. In sum, those businesses that are ready, willing, and able to perform on the Department’s federally-assisted contracts are businesses that are authorized by the Department and have either expressed or demonstrated an interest in doing so.

READY, WILLING AND ABLE DBEs – Those businesses that meet the definition of “ready, willing and able businesses” and that have been certified by the Department or any of the other entities that certify DBEs in the Commonwealth under the Commonwealth’s approved Unified Certification Program (PA UCP) as a DBE consistent with the provisions of 49 C.F.R. Part 26. In sum, the Department’s universe of ready, willing and able DBEs within the meaning of 49 C.F.R. Part 26, consists of certified DBEs that have either expressed or demonstrated an interest in participating in federally-assisted Department contracts and have been authorized to do so.

RELATIVE AVAILABILITY OF DBEs – Consistent with 49 C.F.R. Part 26.45, “relative availability” of DBEs refers to demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on the Department’s federally-assisted transportation-related contracts.

RACE-NEUTRAL MEASURES – Consistent with Section 26.5, the definitional section of the federal regulation set forth in 49 C.F.R. Part 26, the Department’s race-neutral measures are those designed to assist all small businesses, as opposed to measures designed to benefit DBEs alone.

RACE-CONSCIOUS MEASURES – Consistent with the definitional section of the federal regulation set forth in 49 C.F.R. Part 26, the Department’s race-conscious measures are those that are focused exclusively on DBEs. These include traditional contract goals.

OVERALL GOAL FOR PARTICIPATION BY DBEs IN THE DEPARTMENT'S FEDERALLY-ASSISTED CONTRACTS

As the result of efforts advanced by the Department to date, the overall goal for participation by DBEs in the Department's federally assisted contracts will be 4.83 percent. Of this, the Department proposes to meet 4.18 percent by means of race-conscious or traditional contract goals and an additional 0.65 percent by means of race-neutral measures. This goal will remain in effect until September 30, 2017.

TECHNICAL ADDENDUM

PENNDOT's FTA subrecipients receive funds from various sources in addition to these pass-through federal funds as part of the block grant program. The Department also provides state funding, some subrecipients receive direct federal funding, local government funding, and many entities collect fares.

Unless the subrecipient stated otherwise, the Department assumed that all funds go into each sub-recipient's budget commonly, and are then disbursed. Based on this assumption, funds that entities receive directly from the FTA and are earmarked for specific projects are not included in the Department's calculations. Each disbursement is made up of funds from each source in proportion to their part of the entity's income. Consequently, contracting opportunity dollars are also divided in this manner. For example, if federal money from PENNDOT constitutes 25% of the entity's income, then the Department is required to calculate a goal for 25% of that entity's anticipated contracting opportunity. This is the PENNDOT-attributable contracting opportunity (PACO).

SUBCONTRACTING MODELS

The Department looked to its dotGrants database and past experience to determine the likely amount of subcontracting available on each type of design or construction project. Additionally, the Department reviewed its track record as to meeting past goals. This research revealed two key data points, the actual percentage of DBE participation and the shortfall, if any, from past goals. These figures were incorporated into the goal calculation as follows: The percentage of likely subcontracting opportunity is multiplied by the preliminary Step-1 ratio (DBEs divided by EUs) to provide the final Step-1 ratio representing the anticipated percentage of work on the entire project DBE subcontractors should receive absent discrimination and other factors. **Note:** Should a DBE be awarded a prime contract, it would be considered race-neutral attainment and therefore does not influence the goal for subcontracting.

In Step-2, the Department looks to the past participation and averages this figure with the final Step-1 figure to arrive at a preliminary Step-2 figure. Historically, actual attainment has generally lagged behind annual goals. To compensate for this, the Department makes an attainment adjustment to correct for shortfalls on past projects. The attainment adjustment is the median annual percentage of attainment for FTA-assisted projects over the last five years. That figure is .3353. On design and construction projects, the preliminary Step-2 figure is divided into the attainment adjustment figure to yield the final Step-2 ratio.

The Department's models indicate an expected amount to be subcontracted on specific types of projects. The figures for the project types anticipated on FTA-assisted projects over the FFY2015-2017 period are as follows:

Horizontal Construction

Subcontracting opportunity: 15.03% or .1503

Vertical Design

Subcontracting opportunity: 10.55% or .1055

Vertical Construction

Subcontracting opportunity: 10.55% or .1055

To calculate the appropriate percentages, the Department used the most recent figures available from SFY2014 and projected them for the next three federal fiscal years. In cases where direct federal funds are earmarked directly for a specific contract, the net figure shows in the “Contracting Opportunity” column. Additionally, the subrecipients supplied information concerning other income when completing Department surveys. The Department then married the income figures to the contracting opportunity data provided by the sub-recipients. The results for those entities currently known to anticipate contracting opportunity appear in Table 1 below.

Table 1- Sub-Recipient Funding

Sub-Recipient	PDOT Federal Funds	State & Local Funds	Fares	Total Funds	Cont. Opp.	PDOT Federal Pct.	PACO
ATA	\$6,750,000	\$11,194,386	\$1,420,347	\$19,364,733	\$5,868,468	0.3486	\$2,045,583
BCTA	\$510,000	\$798,477	\$139,407	\$1,447,884	\$131,250	0.3522	\$46,231
Butler	\$5,508,240	\$3,296,703	\$501,237	\$9,306,180	\$3,345,198	0.5919	\$1,979,991
CATA (Crawford)	\$813,000	\$1,984,026	\$565,848	\$3,362,874	\$765,000	0.2418	\$184,944
Coatesville	\$16,000,000	\$0	\$0	\$16,000,000	\$16,000,000	1.0000	\$16,000,000
Mid-County	\$1,073,739	\$1,655,850	\$91,224	\$2,820,813	\$7,500	0.3806	\$2,855
Middletown	\$29,000,000	\$0	\$0	\$29,000,000	\$29,000,000	1.0000	\$29,000,000
Monroe County	\$1,735,000	\$5,012,841	\$444,195	\$7,182,036	\$1,259,679	0.2402	\$302,553
Mt. Joy	\$12,480,000	\$0	\$0	\$12,480,000	\$12,480,000	1.0000	\$12,480,000
NCATA	\$5,222,328	\$10,994,460	\$2,494,986	\$18,711,774	\$198,000	0.2791	\$55,260
Schuylkill Co.	\$1,172,928	\$4,060,074	\$520,167	\$5,753,169	\$2,500,000	0.2039	\$509,688
Venango Co.	\$540,885	\$1,054,308	\$119,940	\$1,571,382	\$15,000	0.9301	\$13,951
Washington Co.	\$443,850	\$377,907	\$47,130	\$868,887	\$900,000	0.5108	\$459,743
\$63,080,800							

Numbers in the table above are rounded for display purposes.

The Department created weightings for each entity by dividing the PACO figure for each entity by the total PACO figure. The Department then calculated Step-1 ratios for each entity. The Step-1 ratio calculations for each entity appear below.

ATA

The Area Transportation Authority of North Central Pennsylvania serves the counties of Cameron, Clearfield, Elk, Jefferson, McKean, and Potter. ATA plans to purchase a variety of services such pertaining to fleet maintenance and transit services totaling \$768,

468 of remaining contracting opportunity. No DBEs in the Authority's market area provide fleet maintenance or transit services.

ATA is also planning \$5,100,000 in construction on their facility. In addition to the counties it serves, ATA's market area for the construction project would include Armstrong, Cambria, Centre, Clarion, Crawford, Forest, Huntingdon, Indiana, and Warren counties in Pennsylvania and Allegany, Cattaraugus, and Chautauqua counties in New York. The table below shows the step-1 calculation for ATA.

Table 2- ATA Step-1 Calculation

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cont. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Commercial Construction (236220)	\$5,100,000	0.8691	3	101	0.0297	0.1055	0.0031	0.0027
Fleet Maintenance, Transit Services	\$768,468	0.1309	0	n/a	0.0000	0.0000	0.0000	0.0000
Total Step-1 Ratio								0.0027

BCTA

The Beaver County Transportation Authority anticipates constructing a Park & Ride and performing some repairs and seal existing parking lots. This project will cost \$460,000. BCTA is receiving direct federal funding of \$368,000 for this project leaving \$92,000 to come out of its general fund. This is horizontal construction performed under NAICS code 237310. For this type of work, Beaver County's geographic market includes the Pennsylvania counties of Armstrong, Beaver, Butler, Clarion, Fayette, Greene, Indiana, Jefferson, Lawrence, Washington, and Westmoreland; the West Virginia counties of Brooke, Hancock, Marshall, and Ohio; and the Ohio counties of Ashtabula, Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, and Tuscarawas.

BCTA also plans to build new shelters at a cost of \$196,250. It will receive \$157,000 in direct FTA funding for this project leaving \$39,250 in PACO. Industrial construction is performed under NAICS code 236220.

The Authority also anticipates \$60,000 in boiler repairs of which it will receive \$48,000 in direct FTA funding leaving \$12,000 of PACO. Boiler repair work is performed under NAICS code 238220. Table 3 below shows BCTA's step-1 calculation.

Table 3- BCTA Step-1 Calculation

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cont. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Horizontal Construction (237310)	\$80,000	0.6095	17	114	0.1491	0.1503	0.0224	0.0137
Commercial Construction (236220)	\$39,250	0.2990	9	248	0.0363	0.1055	0.0038	0.0011
Boiler Repair (238220)	\$12,000	0.0914	5	589	0.0085	1.0000	0.0085	0.0008
Total Step-1 Ratio								0.0156

Butler

Butler County plans to spend \$51,000 for accounting services. There is one (1) DBE accountant in Butler County out of Universe of 52, a ratio of 0.0192. The county also anticipates expenditures of \$1,979,838 for transit service. There are no DBE transit providers in the market. The County will purchase \$642,000 of fuel over the next three years. Because DBE regulations only provide credit of 60% of purchases made from DBE Regular Dealers, this only represents \$385,200 of DBE contracting opportunity. There are no DBE regular dealers in the market. Similarly, the Authority will contract out \$918,000 in bus maintenance, but again there are no ready, willing, and able DBEs in the market. Butler County plans \$11,160 in HVAC maintenance. There are two (2) DBEs out of a universe of 64 who perform this work in this market. Weighting each of these ratios according to the contracting opportunity figures yields a Step-1 ratio of 0.0004.

CATA (Crawford)

CATA plans to contract for vehicle maintenance, legal and auditing services. No DBEs in their market perform these services. The Step-1 ratio is 0.

Coatesville

Coatesville is rebuilding its train station. The Department identified the Pennsylvania counties of Adams, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York; the New Jersey counties of Atlantic, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, and Salem; the Maryland counties of Anne Arundel, Baltimore County, Baltimore City, Carroll, Cecil, Howard, Kent and Queen Anne; and New Castle County in Delaware, as Coatesville's geographic market. The table below shows the identified work types with NAICS codes, estimated expenditures for each, the number of DBE and universe firms, and the contracting opportunity adjustments from Department models.

Table 4- Coatesville Step-1 ratio calculation.

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cont. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Engineering & Construction Management (541330)	\$2,758,621	0.1724	103	2588	0.0398	0.1055	0.0042	0.0007
Railroad Realignment (237310)	\$3,310,345	0.2069	81	409	0.1980	0.1503	0.0298	0.0062
Commercial Construction (236220)	\$9,931,034	0.6207	54	1569	0.0344	0.1055	0.0036	0.0023
Total Step-1 Ratio								0.0091

Numbers in the table above are rounded for display purposes.

Mid-County Transit Authority

Mid-County Transit Authority is located in Armstrong County. It plans to contract \$7,500 in printing services. There are no DBEs who perform this work in this market. The Step-1 ratio is 0.

Middletown

Middletown is rebuilding its train station. The Department the Pennsylvania counties of Adams, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York; the Maryland Counties of Baltimore, Frederick, Howard, and Washington as well as Baltimore City; and New Castle County in Delaware, The table below shows the identified work types with NAICS codes, estimated expenditures for each, and the number of DBE and universe firms.

Table 5- Middletown Step-1 ratio calculation.

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cont. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Engineering & Construction Management (541330)	\$5,000,000	0.1724	81	1947	0.0416	0.1055	0.0044	0.0008
Railroad Realignment (237310)	\$6,000,000	0.2069	65	294	0.2211	0.1503	0.0332	0.0069
Commercial Construction (236220)	\$18,000,000	0.6207	46	1231	0.0374	0.1055	0.0039	0.0024
Total Step-1 Ratio								0.0101

Numbers in the table above are rounded for display purposes.

Monroe County Transit Authority

Monroe County anticipates \$101,400 in printing costs. \$2,187,293 in fuel costs, \$171,562 in auditing and payroll services and \$54,500 in legal costs. The market for these services would be Monroe County. The authority receives federal funds to cover its fixed route services or 53% of its fuel costs. If purchased from a DBE regular dealer, the authority would receive 60% credit so the contracting opportunity for the fuel purchases would be $\$2,187,293 * .47 * .6$ or \$616,817. The Authority also plans \$327,000 in commercial construction and is receiving direct federal funds to cover 80% of these costs leaving contracting opportunity of \$65,400. The Authority also plans \$240,000 in engineering services. The geographic market for the construction and engineering services would be the Pennsylvania counties of Berks, Bradford, Bucks, Carbon, Columbia, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Pike, Schuylkill, Union, Wayne, and Wyoming; the New Jersey counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren; and the New York Counties of Broome, New York, Orange, and Sullivan. Table 6 below shows the Monroe County Step-1 ratio calculation.

Table 6. Monroe County Transit Authority Step-1 Ratio Calculation

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cont. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Printing	\$101,400	0.0805	0	n/a	0.0000	n/a	0.0000	0.0000
Fuel	\$616,817	0.4897	1	423	0.0024	n/a	0.0024	0.0012
Accounting	\$171,562	0.1362	0	n/a	0.0000	n/a	0.0000	0.0000
Attorney	\$64,500	0.0512	0	n/a	0.0000	n/a	0.0000	0.0000
Engineering (541330)	\$240,000	0.1905	69	2666	0.0259	0.1055	0.0027	0.0005
Commercial Construction (236220)	\$65,400	0.0519	34	1803	0.0189	0.1055	0.0020	0.0001
Total Step-1 Ratio								0.0018

Mt. Joy

Mt. Joy is rebuilding its train station and has completed phase I. The Department the Pennsylvania counties of Adams, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York; Gloucester County in New Jersey, New Castle County in Delaware, and the Maryland Counties of Anne Arundel, Baltimore, Howard County and Baltimore City. Table 7 below shows the identified work types with NAICS codes, estimated expenditures for each, and the number of DBE and universe firms.

Table 7- Mt. Joy Step-1 ratio calculation

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cont. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Phase II, Platform, Elevator, ADA Construction (236220)	\$11,232,000	0.9000	50	1269	0.0394	0.1055	0.0042	0.0037
Phase II, Platform, Elevator, ADA, Design (541310)	\$1,248,000	0.1000	21	687	0.0306	0.1055	0.0032	0.0003
Total Step-1 Ratio								0.0041

Numbers in the table above are rounded for display purposes.

New Castle Transit Authority

NCTA anticipates \$75,000 in auditing services, \$69,000 in legal services, \$42,000 in HVAC maintenance services and \$90,000 in grounds maintenance services. The authority receives direct federal funding in the amounts of \$30,000 for auditing services, \$27,600 for legal services, \$16,800 for HVAC maintenance services and \$36,000 for grounds maintenance services. Subtracting these amounts leaves \$198,000 in contracting opportunity. New Castle's geographic area for these services is Lawrence County. There are no DBEs who are ready, willing, and able to perform these services in this market. NCTA's Step-1 ratio is 0.

Schuylkill County Transit Authority

Schuylkill County Transit Authority anticipates spending \$2,500,000 to expand its current building. The Department estimates that ten percent of this cost will be for design with the remaining portion for construction. The Department identified Schuylkill's market area as the Pennsylvania counties of Adams, Berks, Bradford, Bucks, Carbon, Chester, Columbia, Cumberland, Dauphin, Delaware, Franklin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Susquehanna, Tioga, Union, Wayne, Wyoming, and York; Hunterdon and Warren counties in New Jersey; Cecil County in Maryland; and New Castle County in Delaware. Table 8 shows Schuylkill County's Step-1 calculation.

Table 8. Schuylkill County Transit Authority Step-1 calculation

Work Type (NAICS Code)	CO	Wt.	DBE Firms	EU firms	Prelim. Step-1 Ratio	Cnt. Opp. Adj.	Final Step-1 Ratio	Weighted Final Step-1 Ratio
Construction (236220)	\$2,250,000	0.9000	43	1111	0.0387	0.1055	0.0041	0.0037
Design (541330)	\$250,000	0.1000	77	1564	0.0492	0.1055	0.0052	0.0005
Total Step-1 Ratio								0.0042

Numbers in the table above are rounded for display purposes.

Venango County

Venango County Transit Authority anticipates \$15,000 in snow removal services. No DBEs in Venango County perform this work. The Step-1 ratio is 0.

Washington County

Washington County Transit Authority anticipates \$900,000 in transit services. No DBEs in Washington County perform this work. The Step-1 ratio is 0.

Table 9-- PENNDOT Step-1 Calculation

Sub-Recipient	PACO	Weights	Step-1 Ratio	Weighted Step-1 Ratio
ATA	\$2,045,583	0.0324	0.0027	0.0001
BCTA	\$46,231	0.0007	0.0156	0.0000
Butler	\$1,979,991	0.0314	0.0004	0.0000
CATA	\$184,944	0.0029	0.0000	0.0000
Coatesville	\$16,000,000	0.2536	0.0091	0.0023
Mid-County	\$2,855	0.0000	0.0000	0.0000
Middletown	\$29,000,000	0.4597	0.0101	0.0046
Monroe County	\$302,552	0.0048	0.0018	0.0000
Mt. Joy	\$12,480,000	0.1978	0.0041	0.0008
NCATA	\$55,260	0.0009	0.0000	0.0000
Schuylkill Co.	\$509,688	0.0081	0.0042	0.0000
Venango Co.	\$13,951	0.0002	0.0000	0.0000
Washington Co.	\$459,743	0.0066	0.0000	0.0000
Total	\$61,851,738	1.0000		0.0079 or 0.79%

Numbers in the table above are rounded for display purposes.

STEP-2 ADJUSTMENTS

Step-2 adjustments were made on largely on the basis of past DBE participation. For the last five years, the Department's total DBE attainment on FTA-assisted contracts was 2.54%. The median attainment relative to the Department's goal over the last five years was 33.53% (median relative attainment) meaning that in the most representative year out of the last five the Department obtained 33.53% of that year's DBE goal.

Each Step-1 ratio was averaged with the Department's attainment figure of 2.54% as the first Step-2 adjustment. For larger construction and design contracts, the Department divided the adjusted Step-2 ratio by the median relative attainment figure to compensate for historical attainment shortfalls.

ATA

ATA's Step-1 ratio is 0.0027. The Department averaged the Step-1 ratio of 0.0031 for the vertical construction project ratio with the Department's five-year attainment figure of 0.0254 to yield a preliminary Step-2 ratio for that project of 0.0143. This was further adjusted by dividing it into the Department's vertical construction model adjustment figure of 0.3353 to yield a final step-2 ratio for the project of 0.0425. Because only 3 DBEs are available in this market to perform this work, the entire goal for the project will be race neutral.

The Step-1 ratio for the remaining contracting opportunity is 0 because no DBEs are available in the market to perform those services. This ratio will be averaged with the Department's past participation figure or 0.0254 to yield a final step-2 ratio for those services of 0.0127. When weighted according to the contract opportunity (.8691 for the

vertical construction ratio and .1309 for the remaining services), the calculation yields a final step-2 ratio for the Authority of .0386 all of which will be race-neutral.

BCTA

BCTA's Step-1 ratio is 0.0156, which is the dollar-weighted average of the horizontal construction step-1 ratio of 0.0224, the vertical construction step-1 ratio of 0.0011, and the boiler repair step-1 ratio of 0.0085. The Department averaged the Step-1 ratio with the Department's five-year attainment figure with the final step-1 ratio for each work type to yield preliminary Step-2 ratios of 0.0195, 0.0133, and 0.0131 respectively. They were then adjusted by median relative attainment figure of 0.3353 to yield final step-2 ratios of 0.0582, 0.0395, and 0.0390 respectively.

The 0.0582 Step-2 ratio for the horizontal construction is lower than the preliminary Step-1 ratio indicating that sufficient DBE capacity exists to meet this goal, therefore the the goal for this project will be entirely race-conscious. An amount equal to the preliminary Step-1 ratio of 0.0363 will be the race-conscious portion of the vertical construction with the remaining 0.0033 being race-neutral. The entire 0.0390 ratio for the boiler repair will be race-neutral due to the fact that this type of project has little or no subcontracting opportunity, therefore should a DBE win the bid for the project the attainment would be race-neutral.

Dollar-weighting the final step-2 ratios will produce an overall race-conscious goal of 0.0463 and a race-neutral goal of 0.0141 for a total goal of 0.0604.

Butler

Butler's Step-1 ratio was 0.0004. The Department averaged the Step-1 ratio with the Department's five-year attainment figure to yield a Step-2 ratio of 0.0129. An amount equal to the Step-1 ratio (0.0004) will be the race-conscious portion of the goal with the remaining 0.0125 being race-neutral.

CATA (Crawford)

CATA's Step-1 ratio is 0. The Department averaged the Step-1 ratio with the Department's five-year attainment figure to yield a Step-2 ratio of 0.0127. The entire goal will be race-neutral.

Coatesville

The Step-1 ratio for engineering on the Coatesville project is 0.0007. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0148. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0441. An amount equal to the unadjusted Step-1 ratio of 0.0398 will be race-conscious and the remaining 0.0043 will be race-neutral.

The Step-1 ratio for the horizontal construction component is 0.0062. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0276. The Department then adjusted this figure by the median relative attainment

figure of 0.3353 to yield a ratio of 0.0822. Because this figure is less than the unadjusted Step-1 ratio, the entire goal will be race-conscious.

The Step-1 ratio for vertical construction is 0.0023. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0145. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0432. An amount equal to the unadjusted Step-1 ratio of 0.0344 will be race-conscious and the remaining 0.0088 will be race-neutral.

The Step-2 ratios were weighted according to the expenditure weights for each category to yield a project Step-2 ratio of 0.0515 with a race-conscious goal of 0.0452 and a race-neutral figure of .00062.

Mid-County

Mid-County's Step-1 ratio is 0. The Department averaged the Step-1 ratio with the Department's five-year attainment figure to yield a Step-2 ratio of 0.0127. The entire goal will be race-neutral.

Middletown

The Step-1 ratio for engineering on the Middletown project is 0.0044. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0149. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0444. An amount equal to the unadjusted Step-1 ratio of 0.0416 will be race-conscious and the remaining 0.0028 will be race-neutral.

The Step-1 ratio for the horizontal construction component is 0.0069. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0293. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0874. Because this figure is less than the unadjusted Step-1 ratio, the entire goal will be race-conscious.

The Step-1 ratio for vertical construction is 0.0024. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0147. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0437. An amount equal to the unadjusted Step-1 ratio of 0.0374 will be race-conscious and the remaining 0.0063 will be race-neutral.

The Step-2 ratios were weighted according to the expenditure weights for each category to yield a project Step-2 ratio of 0.0529 with a race-conscious goal of 0.0484 and a race-neutral figure of .00044.

Monroe County Transit Authority

Monroe County's Step-1 ratio is 0.0018. All ratios were adjusted by averaging the Department's five-year attainment figure of 0.0254 with the Step-1 ratios. This yielded a Step-2 ratio of 0.0127 each for printing, legal and accounting services and 0.0139 for fuel purchases. The same process produced a preliminary Step-2 ratio of 0.0140 for engineering services and a 0.0137 for construction services. These were then adjusted by the median attainment figure of 0.3353 to yield final Step-2 ratios of 0.0419 for engineering and 0.0408 for construction. When all the Step-2 ratios were weighted

according to their contracting opportunity, they yield a Step-2 ratio of 0.0203. In each case, an amount equal to the unadjusted Step-1 ratio was used as the race-conscious portion of the goal yielding a race-conscious goal of 0.0071 and a race-neutral goal of 0.0132.

Mt. Joy

The Step-1 ratio for design on the project is 0.0032. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0143. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0426. An amount equal to the unadjusted Step-1 ratio of 0.0306 will be race-conscious and the remaining 0.0121 will be race-neutral.

The Step-1 ratio for vertical construction is 0.0042. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0148. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0440. An amount equal to the unadjusted Step-1 ratio of 0.0394 will be race-conscious and the remaining 0.0046 will be race-neutral.

The Step-2 ratios were weighted according to the expenditure weights for each category to yield a project Step-2 ratio of 0.0439 with a race-conscious goal of 0.0385 and a race-neutral figure of .0.0054.

NCATA

NCATA's Step-1 ratio is 0. The Department averaged the Step-1 ratio with the Department's five-year attainment figure to yield a Step-2 ratio of 0.0127. The entire goal will be race-neutral.

Schuylkill County

The Step-1 ratio for design on the project is 0.0052. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0153. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0456. Because this figure is less than the unadjusted Step-1 ratio, the entire goal will be race-conscious.

The Step-1 ratio for vertical construction is 0.0041. When averaged with the Department's past participation rate of 0.0254 it yields a preliminary Step-2 ratio of 0.0147. The Department then adjusted this figure by the median relative attainment figure of 0.3353 to yield a ratio of 0.0439. An amount equal to the unadjusted Step-1 ratio of 0.0387 will be race-conscious and the remaining 0.0052 will be race-neutral.

The Step-2 ratios were weighted according to the expenditure weights for each category to yield a project Step-2 ratio of 0.0441 with a race-conscious goal of 0.0394 and a race-neutral figure of .0.0047.

Venango County

NCATA's Step-1 ratio is 0. The Department averaged the Step-1 ratio with the Department's five-year attainment figure to yield a Step-2 ratio of 0.0127. The entire goal will be race-neutral.

Washington County

NCATA's Step-1 ratio is 0. The Department averaged the Step-1 ratio with the Department's five-year attainment figure to yield a Step-2 ratio of 0.0127. The entire goal will be race-neutral.

Table 10. PENNDOT Final Goal Calculation

Sub-Recipient	PACO	Weight	Step-2 Ratio	Goals		Weighted Goals		Wtd. Goal
				RC	RN	RC	RN	
ATA	\$2,045,582	0.0324	0.0386	0.0000	0.0386	0.0000	0.0013	0.0013
BCTA	\$46,231	0.0007	0.0604	0.0463	0.0141	0.0000	0.0000	0.0000
Butler	\$1,979,991	0.0314	0.0129	0.0004	0.0125	0.0000	0.0004	0.0004
CATA (Crawford)	\$184,944	0.0029	0.0127	0.0000	0.0127	0.0000	0.0000	0.0000
Coatesville	\$16,000,000	0.2536	0.0515	0.0452	0.0062	0.0115	0.0016	0.0131
Mid-County	\$2,855	0.0000	0.0127	0.0000	0.0127	0.0000	0.0000	0.0000
Middletown	\$29,000,000	0.4597	0.0529	0.0484	0.0044	0.0223	0.0020	0.0243
Monroe County	\$302,553	0.0048	0.0203	0.0071	0.0132	0.0000	0.0001	0.0001
Mt. Joy	\$12,480,000	0.1978	0.0439	0.0385	0.0054	0.0076	0.0011	0.0087
NCATA	\$55,260	0.0009	0.0127	0.0000	0.0127	0.0000	0.0000	0.0000
Schuylkill Co.	\$509,688	0.0081	0.0441	0.0394	0.0047	0.0003	0.0000	0.0004
Venango Co.	\$13,951	0.0002	0.0127	0.0000	0.0127	0.0000	0.0000	0.0000
Washington Co.	\$459,743	0.0073	0.0127	0.0000	0.0127	0.0000	0.0001	0.0001
Total	\$63,080,800	1.0000				0.0418	0.0065	0.0483 or 4.83%

Numbers are rounded for display purposes.

FINAL GOAL

As a result of efforts advanced by the Department to date, the overall goal for participation by DBEs in the Department's federally-assisted FTA contracts will be 4.83 percent. Of this 4.83 percent, the Department proposes to meet 4.18% by race-conscious means and 0.65% by race-neutral measures. As required by Section 26.45 of the DBE rule, the proposed goal will be forwarded to the FTA. It will remain in effect until the time that the Department is required to submit a new goal, which is currently projected to be August 1, 2017.

DATA SOURCES

All Universe of Contractors figures for Step-1 derived from U.S. Census Bureau's County Business Patterns.

All DBE information obtained from the Pennsylvania UCP at <http://www.paucp.com>

Figures for state funding, fares, and federal funding flowing through PENNDOT to sub-recipients obtained from PENNDOT's Bureau of Public Transportation.

Direct federal funding to sub-recipients and anticipated contracting information provided by the sub-recipients.

Past DBE participation from PENNDOT's Bureau of Public Transportation records.

Data for project models obtained from PENNDOT's dotGrants system and discussion with Department personnel.

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Commonwealth of Pennsylvania } SS
County of Philadelphia

Elizabeth S. Guaracao being duly sworn, deposes and says that Al Dia Newspaper Inc. is a weekly newspaper published at 1835 Market St., 4th Floor, Philadelphia County, Pennsylvania, which was established in the year 1992, since which date says newspaper has been regularly published and distributed in said County and that a copy of the printed notice of publication is attached to exactly as the same as was printed and published in the regular editions and issues of said weekly newspaper on the following:

Notice published June 12, 2014 issue dated
June 15-21, 2014

_____ and the _____ day of _____ A.D. 20____

Affiant further deposes that he/she is duly authorized by Al Dia Newspaper Inc. a weekly newspaper to verify the foregoing statement under oath and also declares that affiant is not interested in the subject matter of the aforesaid notice or publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

Copy of notice or publication

NOTICE
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
PROPOSED DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOALS FOR
PARTICIPATION IN FEDERAL HIGHWAY ADMINISTRATION (FHWA) AND FEDERAL
TRANSIT AUTHORITY (FTA) CONTRACTS
FOR FEDERAL FISCAL YEARS 2015-2017

The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.

- The overall goal for DBE participation in federally-assisted highway contracts is 6.85 %.
- The overall goal for DBE participation in federally-assisted transit contracts is 4.82 %.

The proposed methodologies used in determination of the goals are available for inspection during normal business hours at:

Pennsylvania Department of Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or (800) 468-4201
Fax: (717) 772-4026

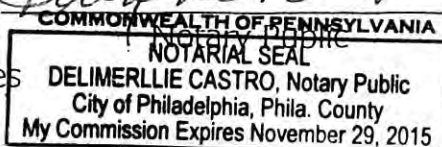
The documents can also be viewed online at: <http://www.padbegoals.org/>

Documents will be available for inspection for 30 days from the date of this notice. PennDOT also will accept written comments on the methodologies and proposed goals for 45 days from the date of this notice. All comments, questions, or suggestions regarding this notice may be directed in writing to Ms. Jocelyn I. Harper, Director, at the above-listed address.

Barry J. Schoch, P.E.
Secretary of Transportation

Sworn to and subscribed before me this 11
day of July 2014

My Commission Expires



The Scranton Times (Under act P.L. 877 No 160. July 9, 1976)
Commonwealth of Pennsylvania, County of Lackawanna

PENNDOT/BUREAU OF EQUAL OPP
PO BOX 3251
400 NORTH STREET, 5 WEST HARRISBURG PA 17120-41

Account # 38989
Order # 81505640
Ad Price: 292.65

LEGAL NOTICE PENNSYLVANIA

Gina Krushinski

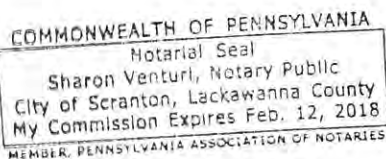
Being duly sworn according to law deposes and says that (s)he is Billing clerk for The Scranton Times, owner and publisher of The Scranton Times, a newspaper of general circulation, established in 1870, published in the city of Scranton, county and state aforesaid, and that the printed notice or publication hereto attached is exactly as printed in the regular editions of the said newspaper on the following dates:

06/08/2014

Affiant further deposes and says that neither the affiant nor The Scranton Times is interested in the subject matter of the aforesaid notice or advertisement and that all allegations in the foregoing statement as time, place and character or publication are true Gina Krushinski

Sworn and subscribed to before me
this 9th day of June A.D., 2014

Sharon Venturi
(Notary Public)



LEGAL NOTICE

PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION

PROPOSED DISADVANTAGED
BUSINESS ENTERPRISE (DBE)
GOALS FOR PARTICIPATION IN
FEDERAL HIGHWAY
ADMINISTRATION (FHWA) AND
FEDERAL TRANSIT AUTHORITY
(FTA) CONTRACTS FOR FEDERAL
FISCAL YEARS 2015-2017

The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.

*The overall goal for DBE participation in federally-assisted highway contracts is 6.85%.

*The overall goal for DBE participation in federally-assisted transit contracts is 4.82%.

The proposed methodologies used in determination of the goals are available for inspection during normal business hours at:

Pennsylvania Department of
Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or
(800) 468-4201
Fax: (717) 772-4026

The documents can also be viewed online at: <http://www.padbegoals.org/>

Documents will be available for inspection for 30 days from the date of this notice. PennDOT also will accept written comments on the methodologies and proposed goals for 45 days from the date of this notice. All comments, questions, or suggestions regarding this notice may be directed in writing to Ms. Jocelyn I. Harper, Director, at the above-listed address.

Barry J. Schoch, P.E.
Secretary of Transportation



THE PHILADELPHIA TRIBUNE

PROOF OF PUBLICATION

RECEIVED
JUN 26 2014

STATE OF PENNSYLVANIA
COUNTY OF PHILADELPHIA

BY: [Signature]

Antonia Jnobaptiste, being duly sworn, deposes and says that The Philadelphia Tribune is a newspaper published at 520-26 S. 16th Street, Philadelphia, Pennsylvania. The publication attached herein is exactly the same as the printed notice published in the regular edition of the said newspaper on the following date (s) viz:

June 10, 11

AD 2014

Affiant further deposes and says that she is an employee of the publisher of the said newspaper, and has been authorized to verify the foregoing statement that she is not interested in the subject matter of the aforesaid notice or publication and that all allegations in the foregoing statement as to time, place and character of publication are true.

COPY OF NOTICE OF PUBLICATION

NOTICE
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION
PROPOSED DISADVANTAGED BUSINESS
ENTERPRISE (DBE)
GOALS FOR PARTICIPATION IN
FEDERAL HIGHWAY ADMINISTRATION (FHWA)
AND FEDERAL TRANSIT AUTHORITY (FTA)
CONTRACTS
FOR FEDERAL FISCAL YEARS 2015-2017

The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.

d The overall goal for DBE participation in federally-assisted highway contracts is 6.85 %.

d The overall goal for DBE participation in federally-assisted transit contracts is 4.82 %.

The proposed methodologies used in determination of the goals are available for inspection during normal business hours at:

Pennsylvania Department of Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or (800) 468-4201
Fax: (717) 772-4026

The documents can also be viewed online at:
<http://www.padbegoals.org/>

Documents will be available for inspection for 30 days from the date of this notice. PennDOT also will accept written comments on the methodologies and proposed goals for 45 days from the date of this notice. All comments, questions, or suggestions regarding this notice may be directed in writing to Ms. Jocelyn I. Harper, Director, at the above-listed address.

PL

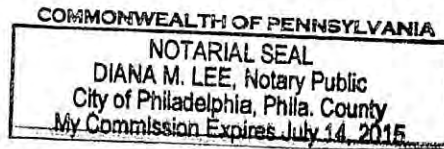
Barry J. Schoch, P.E.
Secretary of Transportation

SING COST

[Signature]
Antonia Jnobaptiste

Sworn to and subscribed before me
this 17 day of June 2014

[Signature]
Diana M. Lee



STATEMENT OF ADVERTISING COSTS

PennDOT

Bureau of Equal Opportunity

400 North Street, 5 West

Harrisburg, PA 17120-0041

TO: THE PHILADELPHIA TRIBUNE for publishing the notice of advertising attached hereto on the above dates

\$
The Philadelphia Tribune Co., Inc.

Publishers of The Philadelphia Tribune hereby acknowledge receipt of the aforesaid advertising and advertising costs, and certified that the same has been fully paid.

OFFICE: 520 South 16th Street
Philadelphia, PA 19146
Phone: 215 893-4050

The Philadelphia Tribune Co., Inc.
By
Fax: 215 735-3612

Proof of Publication in The Philadelphia Inquirer
Under Act. No 160, P.L. 877, July 9, 1976

STATE OF PENNSYLVANIA
COUNTY OF PHILADELPHIA

Florence Devlin being duly sworn, deposes and says that **The Philadelphia Inquirer** is a daily newspaper published at 8th and Market Street, Philadelphia, Pennsylvania, which was established in the year 1829, since which date said daily newspaper has been regularly published and distributed in said County, and that a copy of the printed notice of publication is attached hereto exactly as the same was printed and published in the regular editions and issues of said daily newspaper on the following dates:

June 8, 2014

Affiant further deposes and says that she is an employee of the publisher of said newspaper and has been authorized to verify the foregoing statement and that she is not interested in the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.



Sworn to and subscribed before me this 9th day of
June, 2014.


Notary Public

My Commission Expires:

NOTARIAL SEAL
Mary Anne Logan, Notary Public
City of Philadelphia, Phila. County
My Commission Expires 3/30/2013

Copy of Notice of Publication

NOTICE
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION
PROPOSED DISADVANTAGED BUSINESS
ENTERPRISE (DBE) GOALS FOR
PARTICIPATION IN
FEDERAL HIGHWAY ADMINISTRATION
(FHWA) AND FEDERAL TRANSIT AUTHORITY
(FTA) CONTRACTS FOR FEDERAL
FISCAL YEARS 2015-2017

The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.

- The overall goal for DBE participation in federally-assisted highway contracts is 6.85 %.
- The overall goal for DBE participation in federally-assisted transit contracts is 4.82 %.

The proposed methodologies used in determination of the goals are available for inspection during normal business hours at:

Pennsylvania Department of Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or (800) 468-4201
Fax: (717) 772-4026

The documents can also be viewed online at:
<http://www.padbegoals.org/>
Documents will be available for inspection for 30 days from the date of this notice. PennDOT also will accept written comments on the methodologies and proposed goals for 45 days from the date of this notice. All comments, questions, or suggestions regarding this notice may be directed in writing to Ms. Jocelyn I. Harper, Director, at the above-listed address.

Barry J. Schoc^h P.E.
Secretary of Transportation

The Patriot-News Co.
2020 Technology Pkwy
Suite 300
Mechanicsburg, PA 17050
Inquiries - 717-255-8213

The Patriot-News
Now you know

BUREAU OF EQUAL OPPORTUNITY
ATTN: TIFFANY D. BARKSDALE
P.O. BOX 3251
400 NORTH STREET - 5 WEST
HARRISBURG PA 17105

THE PATRIOT NEWS
THE SUNDAY PATRIOT NEWS

Proof of Publication

Under Act No. 587, Approved May 16, 1929
Commonwealth of Pennsylvania, County of Dauphin} ss

Marianne Miller, being duly sworn according to law, deposes and says:

That she is a Staff Accountant of The Patriot News Co., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal office and place of business at 2020 Technology Pkwy, Suite 300, in the Township of Hampden, County of Cumberland, State of Pennsylvania, owner and publisher of The Patriot-News and The Sunday Patriot-News newspapers of general circulation, printed and published at 1900 Patriot Drive, in the City, County and State aforesaid; that The Patriot-News and The Sunday Patriot-News were established March 4th, 1854, and September 18th, 1949, respectively, and all have been continuously published ever since;

That the printed notice or publication which is securely attached hereto is exactly as printed and published in their regular daily and/or Sunday/ Community Weekly editions which appeared on the date(s) indicated below. That neither she nor said subject matter of said printed notice or advertising, and that all of the allegations of this statement as to the truth of the facts aforesaid and is duly authorized and empowered to verify this statement on behalf of The Patriot News Co. aforesaid by virtue and pursuant to a resolution unanimously passed and adopted severally by the directors of the said Company and subsequently duly recorded in the office for the Recording of Deeds in Dauphin in Miscellaneous Book "M", Volume 14, Page 317.

NOTICE
PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION
PROPOSED DISADVANTAGED
BUSINESS ENTERPRISE (DBE)
GOALS FOR PARTICIPATION IN
FEDERAL HIGHWAY
ADMINISTRATION (FHWA) AND
FEDERAL TRANSIT AUTHORITY
(FTA) CONTRACTS FOR FEDERAL
FISCAL YEARS 2015-2017
The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.
- The overall goal for DBE participation in federally-assisted highway contracts is 6.85 %.
- The overall goal for DBE participation in federally-assisted transit contracts is 4.82 %.
The proposed methodologies used in determination of the goals are available for inspection during normal business hours at:
Pennsylvania Department of Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or (800) 468-4201
Fax: (717) 772-4026
The documents can also be viewed

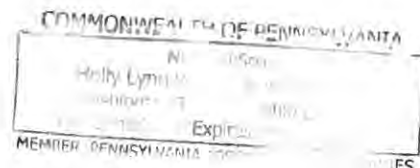
online at: <http://www.padbegoals.org/>
Documents will be available for inspection for 30 days from the date of this notice. PennDOT also will accept written comments on the methodologies and proposed goals for 45 days from the date of this notice. All comments, questions, or suggestions regarding this notice may be directed in writing to Ms. Jocelyn L. Harper, Director, at the above-listed address.
Barry J. Schach, P.E.
Secretary of Transportation

This ad # 0002302967 ran on the dates shown below:

June 08, 2014

Sworn to and subscribed before me this 12 day of June, 2014 A.D.

Notary Public




Proof of Publication of Notice in Pittsburgh Post-Gazette

Under Act No 587, Approved May 16, 1929, PL 1784, as last amended by Act No 409 of September 29, 1951

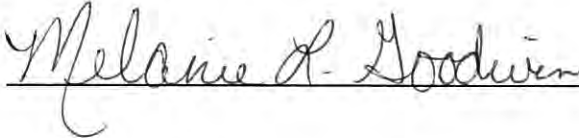
Commonwealth of Pennsylvania, County of Allegheny, ss K. Flaherty, being duly sworn, deposes and says that the Pittsburgh Post-Gazette, a newspaper of general circulation published in the City of Pittsburgh, County and Commonwealth aforesaid, was established in 1993 by the merging of the Pittsburgh Post-Gazette and Sun-Telegraph and The Pittsburgh Press and the Pittsburgh Post-Gazette and Sun-Telegraph was established in 1960 and the Pittsburgh Post-Gazette was established in 1927 by the merging of the Pittsburgh Gazette established in 1786 and the Pittsburgh Post, established in 1842, since which date the said Pittsburgh Post-Gazette has been regularly issued in said County and that a copy of said printed notice or publication is attached hereto exactly as the same was printed and published in the _____ regular _____ editions and issues of the said Pittsburgh Post-Gazette a newspaper of general circulation on the following dates, viz:

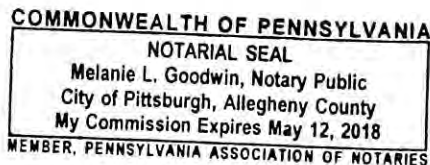
08 of June, 2014

Affiant further deposes that he/she is an agent for the PG Publishing Company, a corporation and publisher of the Pittsburgh Post-Gazette, that, as such agent, affiant is duly authorized to verify the foregoing statement under oath, that affiant is not interested in the subject matter of the afore said notice or publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.


PG Publishing Company

Sworn to and subscribed before me this day of:
June 09, 2014



**STATEMENT OF ADVERTISING COSTS**

PA Dept of Transportation
Bureau of Equal Opportunity
400 NORTH ST FL 5 W
HARRISBURG PA 17120-0041

To PG Publishing Company

Total ----- \$591.30

Publisher's Receipt for Advertising Costs

PG PUBLISHING COMPANY, publisher of the Pittsburgh Post-Gazette, a newspaper of general circulation, hereby acknowledges receipt of the aforesaid advertising and publication costs and certifies that the same have been fully paid.

Office
34 Boulevard of the Allies
PITTSBURGH, PA 15222
Phone 412-263-1338

PG Publishing Company, a Corporation, Publisher of
Pittsburgh Post-Gazette, a Newspaper of General Circulation

By _____

I hereby certify that the foregoing is the original Proof of Publication and receipt for the Advertising costs in the subject matter of said notice.

**COPY OF NOTICE
OR PUBLICATION**

NOTICE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION PROPOSED DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOALS FOR PARTICIPATION IN FEDERAL HIGHWAY ADMINISTRATION (FHWA) AND FEDERAL TRANSIT AUTHORITY (FTA) CONTRACTS FOR FEDERAL FISCAL YEARS 2015-2017.

The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.

- The overall goal for DBE participation in federally-assisted highway contracts is 6.85 %.
- The overall goal for DBE participation in federally-assisted transit contracts is 4.82 %.

The proposed methodologies used in determination of the goals are available for inspection during normal business hours at:

Pennsylvania Department of Transportation, Bureau of Equal Opportunity, 400 North Street, 5th Floor, Harrisburg, PA 17120-0041, Phone: (717) 787-5891 or (800) 468-4201, Fax: (717) 772-4026. The documents can also be viewed online at: <http://www.padbgoals.org/>

Documents will be available for inspection for 30 days from the date of this notice. PennDOT also will accept written comments on the methodologies and proposed goals for 45 days from the date of this notice. All comments, questions, or suggestions regarding this notice may be directed in writing to Ms. Jocelyn I. Harper, Director, at the above-listed address.

Barry J. Schoch, P.E.
Secretary of
Transportation

PROOF OF PUBLICATION OF NOTICE IN THE
NEW PITTSBURGH COURIER PUBLISHING COMPANY

Under Act No. 587, Approved May 16, 1929, P.L. 1784

State of Pennsylvania)
County of Allegheny)

Eric Gaines

Advertising Manager

Name.....Title....., of the New Pittsburgh
Courier Publishing Company, a corporation of the County and State aforesaid being duly sworn, deposes and says that the *New Pittsburgh Courier* is a newspaper published once a week at 315 East Carson Street, City of Pittsburgh, County and State aforesaid, which was established in the year 1966, since which date said newspaper has been regularly issued in said county, and that a copy of the printed notice or publication is attached hereto exactly as the same was printed and published in the regular editions and issues of the said weekly newspaper on the following dates, viz.....

PENNDOT DBE GOALS

11th June 2014

and theday of.....A.D.....

Affiant further deposes the he/she is an officer duly authorized by the New Pittsburgh Courier Publishing Company, a corporation, publisher of the *New Pittsburgh Courier* a newspaper published weekly, to verify the foregoing statement under oath and also declares that the affiant statement as of the aforesaid notice or publication, and that all allegations in the foregoing are true.

**NOTICE
PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION
PROPOSED DISADVANTAGED
BUSINESS ENTERPRISE (DBE)
GOALS FOR PARTICIPATION IN
FEDERAL HIGHWAY
ADMINISTRATION (FHWA) AND
FEDERAL TRANSIT AUTHORITY
(FTA) CONTRACTS
FOR FEDERAL FISCAL
YEARS 2015-2017**

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•The overall goal for DBE participation in federally-assisted transit contracts is 4.82 %.

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**Pennsylvania Department
of Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or
(800) 468-4201
Fax: (717) 772-4026**

The documents can also be viewed online at: <http://www.padbegoals.org/>
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**Barry J. Schoch, P.E.
Secretary of Transportation**

New Pittsburgh
publisher of the
weekly, hereby
and publication

in,
lished
ertising

Eric Gaines

Advertising Manager

(Name)

(Title)

New Pittsburgh Courier, Publishing
Company, a corporation:

Sworn to and subscribed before me this 11th
day of June 2014

Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Joan Ann Alli, Notary Public

City of Pittsburgh, Allegheny County

My Commission Expires June 18, 2015

MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Statement of Advertising Costs to:

Tiffany D. Barksdale, Admin. Asst.
PennDot Bureau of Equal Opportunity
Commonwealth Keystone Bldg.-5 West
400 North Street
Harrisburg, PA 17120

For publishing the notice or advertisement as attached hereto on the
above stated dates:

414.99

\$.....

5.00 Notary Fee

\$.....

\$.....

419.99

Total--\$.....

Office:

315 East Carson Street

Pittsburgh, PA 15219

Established: 1966

Phone: 412-481-8302

I hereby notify that the foregoing is the original proof of publication
for the advertising costs in the subject matter of said notice.

New Pittsburgh Courier Publishing Company, a corporation,
publisher of the *New Pittsburgh Courier*, a newspaper published
weekly; I hereby certify that the foregoing is the original proof of
publication and advertising costs in the subject matter of said
notice.

(Affiant's Signature)

Eric Gaines

Advertising Manager

(Name)

(Title)

PROOF OF PUBLICATION
In
THE ERIE TIMES-NEWS
COMBINATION EDITION

PA DEPT OF TRANSPORTATION
400 NORTH ST
HARRISBURG PA 17120

REFERENCE: 128986 73089
NOTICE PENNSYLVANIA DEPARTMENT OF TR

STATE OF PENNSYLVANIA)
COUNTY OF ERIE) SS:

Debra McGraw, being duly sworn, deposes and says that: (1) he/she is a designated agent of the Times Publishing Company (TPC) to execute Proofs of Publication on behalf of the TPC; (2) the TPC, whose principal place of business is at 205 W. 12th Street, Erie, Pennsylvania, owns and publishes the Erie Times-News, established October 2, 2000, a daily newspaper of general circulation, and published at Erie, Erie County Pennsylvania; (3) the subject notice or advertisement, a true and correct copy of which is attached, was published in the regular edition(s) of said newspaper on the date(s) referred to below. Affiant further deposes that he/she is duly authorized by the TPC, owner and publisher of the Erie Times-News, to verify the foregoing statement under oath, and affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statement as to time, place and character of publication are true.

PUBLISHED ON: 06/08/14

TOTAL COST: \$244.80 AD SPACE: 59 Lines

FILED ON: 06/08/14

NOTICE
PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION
PROPOSED DISADVANTAGED
BUSINESS ENTERPRISE (DBE)
GOALS FOR PARTICIPATION IN
FEDERAL HIGHWAY
ADMINISTRATION (FHWA) AND
FEDERAL TRANSIT
AUTHORITY (FTA) CONTRACTS
FOR FEDERAL FISCAL YEARS
2015-2017

The Pennsylvania Department of Transportation (PennDOT) is providing notice of its proposed goals for DBE participation (expressed as a percentage of total FHWA and FTA funding) for Federal Fiscal Years (FFY) 2015 through 2017. These goals apply to contracts in which FHWA and FTA funding for FFY 2015 through 2017 is utilized.

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Pennsylvania Department of
Transportation
Bureau of Equal Opportunity
400 North Street, 5th Floor
Harrisburg, PA 17120-0041
Phone: (717) 787-5891 or
(800) 468-4201
Fax: (717) 772-4026

The documents can also be viewed online at: <http://www.padbgoals.org/>.

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Barry J. Schoch, P.E.
Secretary of Transportation
(6-73089-NT-8)

Sworn to and subscribed before me this 9th day of June 2014

Affiant: Debra McGraw

NOTARY: Barbara J. Moore

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Barbara J. Moore, Notary Public

City of Erie, Erie County

My Commission Expires March 23, 2016

MEMBER PENNSYLVANIA ASSOCIATION OF NOTARIES



NewsMedia

1835 Market St., 4th Floor • Philadelphia, PA 19103 • 215-569-4666

Ad ID: 16572
RECEIPT

Please return stub with payment.

Rep ID: **AX**

Terms: **Prepay**

Description

Classification of Ad: 150 – Legal

Zone:

Text: Proposed DBE Goals for FHWA and FTA Contracts, 2015-201...
11.25 Inches

Charges from 6/15/14 to 6/15/14

Date	Pub	Type	Description	Price	Discount	Ad Charge
6/15/14	AD	ad	Legal	\$776.25		\$776.25

\$776.25

\$776.25

Payments

Date	Type	Check / Card ID	Description	Applied
6/26/14	Pmt Applied	MC #0797		-\$776.25

-\$776.25

RECEIVED
JUN 26 2014
BY: [Signature]

Please return this portion with your payment.

Remit Payment to:
ALDIA News
1835 Market St.
Philadelphia, PA 19103
Fax: 215-569-2721

Tiffany Barksdale
Pennsylvania Department of Transportation,
Bureau of Equal Opportunity (Penndot)
400 North Street, 5th Floor
Harrisburg, PA 17120

Advertising Receipt

Amount Due

\$0.00

Amount Enclosed _____

Issue Date: 6/15/2014

Prebill Date: 6/26/2014

Ad # 16572

Account # 5015

Pennsylvania Department of Transportation
2015-2017 FHWA and FTA DBE Methodology and Goal Consultation Meeting
April 3, 2014
King of Prussia, PA



Attendance Sheet

	Name	Organization	Phone Number/E-Mail
✓	Ronald G. Swerdon	Urban Engineers, Inc.	215-922-8080 ext. 1984 rgswerdon@urbanengineers.com
✓	RAJBI MALLIK	MALLIK ENG.	(215) 698-8303 rmallikinc@comcast.net
	Sharon Cannon	DBE SUPPORTIVE SERVICES CENTER	
✓	Cynthia Moultrie	DBE Supportive Service	215-399-2093 cmoultrie@mindspring.com
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Pennsylvania Department of Transportation
2015-2017 FHWA and FTA DBE Methodology and Goal Consultation Meeting
April 3, 2014
King of Prussia, PA



Attendance Sheet

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	Kyron Robinson	ProRank	BSS ProRank
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Pennsylvania Department of Transportation
2015-2017 FHWA & FTA DBE Methodology and Goal Consultation Meeting
April 16, 2014
Harrisburg, PA



Attendance Sheet

	Name	Organization	Phone Number/E-Mail
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✓	Dustin Hobough	PennDOT	717-783-1081 dhobough@pa.gov
✓	Wade West	ProPlan	Wade@proplanllc.com 855-PRO-PLAN
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Pennsylvania Department of Transportation
2015-2017 FHWA & FTA DBE Methodology and Goal Consultation Meeting
April 16, 2014
Harrisburg, PA



Attendance Sheet

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5 1 Pennsylvania Department of Transportation
 2014-2016 FAA DBE Methodology and Goal Consultation Meeting
 FHWA & FTA April 9, 2014
 Oil City, PA

Attendance Sheet



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5 7 Pennsylvania Department of Transportation
 2014-2016 DBE Methodology and Goal Consultation Meeting
 FHWA + FTA April 10, 2014
 Bridgeville, PA

Attendance Sheet



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Attendance Sheet

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