

FTA

FEDERAL TRANSIT ADMINISTRATION

Chatham Area Transit (CAT)

Disadvantaged Business Enterprise (DBE) Program
Compliance Review

Final Report

March 2019



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

This report details the findings of a Compliance Review of the Chatham Area Transit's (CAT) Disadvantaged Business Enterprise (DBE) program implementation. The Compliance Review team (1) examined the agency's DBE program procedures, management structures, actions, and documentation; (2) collected documents and information from the Federal Transit Administration (FTA) and CAT; and (3) interviewed CAT officials, prime contractor representatives, and community-based organizations that advocate on behalf of minority- and woman-owned businesses. The three-day review included interviews, assessments of data collection systems, and review of program and contract documents.

CAT's DBE program includes the following positive program elements –

Positive Program Elements

- CAT hired a full-time DBE Liaison Officer (DBELO) after an 18-month vacancy.
- CAT hired a full-time Procurement Manager after a 12-month vacancy.
- The DBELO is supported by staff within the Financial Services Department and Project Managers to administer DBE program responsibilities.

The Program has the following administrative deficiencies –

Administrative Deficiencies

- CAT has not documented or demonstrated implementation of a small business element to foster DBE and other small business participation.
- CAT must develop and implement procedures to (1) ensure the accuracy of information included in semi-annual DBE reports; (2) evaluate the availability of socially & economically disadvantaged financial institutions; (3) analyze and determine if DBE overconcentration exists; (4) set race-conscious goals; and (5) implement procedures for effective monitoring and tracking of DBE participation.

The Program has the following substantive deficiencies –

Substantive Deficiencies

- CAT has not completed a FFY 2017 shortfall analysis and corrective action plan.
- CAT has not set contract goals to help meet its overall goals in fiscal years 2016 and 2017.
- CAT has submitted inaccurate semi-annual DBE reports.
- CAT has not responded to FTA's in-review letter regarding the FFY 2017-2019 goal methodology.

CAT currently administers a 100% race-neutral DBE Program. CAT's DBE participation has decreased over the past three fiscal years. CAT's reported DBE participation data reflects goal attainments of 17.4%, 0%, and 0% over the past three completed fiscal years as shown in the table below.

CAT's Goal Attainment Summary

	DBE Goal: 2.3%		DBE Goal: 1.55%	Three-Year Totals
	FY 2015	FY 2016	FY 2017	
Total DBE Dollars	\$ 299,980	\$ -	\$ -	\$ 299,980
Total Prime Contract Dollars	\$ 1,724,028	\$ 463,070	\$ 236,153	\$ 2,423,251
DBE Goal Attainment	17.40%	0.00%	0.00%	12.38%

CAT's overall DBE goal for FFY 2014 - 2016 was set at 2.3%. In the review of CAT's goal attainment, the recipient exceeded its 2.3% overall DBE goal in FY 2015 by 15.1%. This attainment was due to one prime contract awarded to a DBE firm during the June 1, 2015 report period (see summary goal attainment chart above). Subsequently, in FY 2016 the DBE goal attainment was 0%. CAT's current overall DBE goal for FFY 2017 - 2019 is set at 1.55%. However, the recipient attained 0% DBE participation in FY 2017 and 0% DBE participation for the first half of FY 2018 (as of the June 1, 2018 semi-annual report).

According to CAT management, a number of factors have contributed to the low DBE participation. In FY 2016, CAT awarded one contract with specialized marine construction work (ferry dock repair). The type of work associated with the contract (i.e., underwater construction, pile driving) was performed by the marine contractor's in-house employees and did not lend itself to sub-contracting opportunities. In addition, due to a fraud investigation in December of 2015, all projects that were in progress were placed on hold. In order to allow time to complete an intensive review of CAT's contracts and projects, CAT did not award any new contracts until late summer of 2016. The suspension of capital projects severely limited total contract awards in FY 2016 and subsequently contributed to CAT's failure to meet its overall DBE goal in FY 2017.

Notwithstanding, this report highlights several actions to help ensure the DBE program is implemented in compliance with 49 CFR Part 26.

I. General Information

This chapter provides basic information concerning this Compliance Review of the Chatham Area Transit (CAT). Information on CAT, the review team, and the dates of the review are presented below.

Grant Recipient:	Chatham Area Transit (CAT)
City/State:	Savannah, GA
Grantee Number:	1103
Executive Official:	Curtis Koleber, Executive Director / CEO
On-site Liaison:	Terri Harrison, Chief Financial Officer (Interim DBELO)
Report Prepared By:	Milligan & Company, LLC
Dates of On-site Visit:	October 24 – 26, 2018
Compliance Review Team Members:	Lillie Claitt, Lead Reviewer Habibatu Atta, Reviewer Kristin Tighe, Reviewer

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2. Jurisdiction and Authorities

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct Civil Rights Compliance Reviews. The reviews are undertaken to ensure compliance of applicants, recipients, and sub recipients with Section 12 of the Master Agreement, Federal Transit Administration M.A. (24), October 1, 2017, and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs."

CAT awards contracts that exceed \$250,000 in FTA funds annually, hence it 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 CAT's DBE Program Plan 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 sub recipients 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 the CAT's DBE program is necessary.

The primary purpose of the Compliance Review is to determine the extent CAT has implemented 49 CFR Part 26, as represented in its DBE Program Plan. This Compliance Review is intended to be a fact-finding process to: (1) assess CAT'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 designed to 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 CAT's DBE program is narrowly tailored in accordance with applicable law.
- Ensure that only firms that fully meet the regulatory eligibility standards are permitted to 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 CAT is honoring its commitment to comply with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in DOT Programs."
- Examine the required components of CAT'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 CAT's DBE Program Plan from a variety of sources, including CAT management personnel, DBEs, prime contractors, DBE subcontractors, and other stakeholders.

4. Background Information

The purpose of this section is to provide an understanding of CAT's operations and scale. The section highlights CAT's services, budget, and the history of its DBE program.

4.1 Introduction to CAT and Organizational Structure

The Georgia State Assembly established CAT in 1986. It is governed by a nine-member Board composed of the three Chatham County Commissioners, four county citizens (including a representative of the disabled community) appointed by the Commission, one member of the City Council of Savannah, and a citizen of the City designated by the Council.

CAT provides transit service in Chatham County, Georgia. Chatham County includes municipalities of Savannah, Port Wentworth, Bloomingdale, Garden City, Thunderbolt, Vernonburg, and Tybee Island.

CAT operates a network of nineteen fixed routes with a fleet of 75 buses. The fixed-route service, known as "CAT" operates Monday through Friday from 5:30 a.m. to 1:30 a.m., Saturday from 5:30 a.m. to 2:00 a.m., and Sunday from 5:30 a.m. to 1:30 a.m. ADA complementary paratransit service, known as "Teleride," operates during the same days and hours as fixed-route service by CAT's contractor, Yellow Cab. CAT also operates the "Savannah Belles" ferry service, offering an alternative to the Talmadge highway bridge to Hutchinson Island.

Of the nineteen routes, two operate as express routes providing service from the Savannah Hilton Head International Airport to the transit center in downtown Savannah, and from the Gateway Park-and-Ride facility located at I-95 and SR 204 to the transit center. In addition to the fixed routes, CAT also operates a downtown circulator shuttle. The population of the 632 square mile service area is approximately 283,379.

The FTA-funded Savannah Bells Ferry service operates with one ferry vessel. CAT provides service across the Savannah River from the City of Savannah to Hutchinson Island; to and from three ferry landings. This complimentary service operates daily from 7:00 a.m. to 12:00 a.m.

CAT operates from an FTA-funded operations and administrative center at 900 East Gwinnett Street in Savannah. There is a satellite Customer Service office in the Chatham County complex located at 124 Bull Street in Savannah.

CAT is a stand-alone agency and direct recipient of FTA-funds. CAT has no subrecipients.

4.2 Budget and FTA-Assisted Projects

CAT's budget reflects state, local and federal funds, as well as revenue from fares and other sources. For Fiscal Year 2019, CAT's adopted Capital and Operating budget is as follows:

Funding Source	Funding Amount	
Federal – FTA	Total:	\$ 5,862,000
	Capital:	\$ 2,280,000
	Operating:	\$ 3,582,000
State:		\$ 4,684,800
Local:		\$ 1,741,200
Grand Total:		\$12,288,000

The adopted Fiscal Year 2019 Capital Budget (federal, state and local funding sources) identifies the following Program of Projects:

Fixed-Route Bus Purchase	\$ 5,856,000
Passenger Amenities	\$ 300,000
Maintenance Equipment & Office Reconfigurations	\$ 450,000
Water Ferry Dock Repair and Vessel Rehab	\$ 2,100,000
Total	\$ 8,706,000

The adopted Fiscal Year 2019 Operating Budget includes:

Operating Assistance (Grant Revenue)	\$ 3,582,000
Grand Total	\$12,288,000

CAT has several FTA-assisted projects currently underway, including:

- Multi-period Ferry Rehabilitation Project
- Hutchinson Island L-Dock Replacement
- Paratransit Vehicle Procurements
- Automatic Passenger Counters (APCs)

Additionally, CAT has developed a Transit Asset Management Plan (July 1, 2018) that includes an “*Investment Prioritization Table*” identifying the agency’s Projected Projects for Fiscal Years 2019 – 2022. CAT has listed the projects by category and priority status (High Priority-1, Medium Priority-2, and Low Priority-3). An excerpt from the project listing and explanation of the priority ratings follows:

Asset Category	Asset Class/Type	Project Description	Priority	Year	Funding Source
Rolling Stock	Cutaway Bus (CU)	Fixed Route/Paratransit Vehicle Purchase (22)	1	2019	FTA Section 5339
Rolling Stock	Van (VN)	Paratransit Vehicle Purchase (6)	1	2019	FTA Section 5339
Facility	Shell/Interior	Construct Marine Maintenance Facility	1	2019	FTA Section 5307(b)
Facility	Interior	JMR Transit Center – Reconfiguration	2	2019	FTA Section 5339
Facility	Interior	CAT Central Reconfiguration	2	2019	FTA Section 5339
Equipment	Automobile (AO)	Non-Revenue Service Vehicles (3)	1	2020	FTA Section 5307
Facility	Site	JMR Transit Center – Access Improvements	2	2020	FTA Section 5339
Equipment	Automobile (AO)	Non-Revenue Service Vehicles (3)	1	2021	FTA Section 5307
Facility	Site	CAT Central Parking Lot & Access Improvements	2	2021	FTA Section 5339
Equipment	Automobile (AO)	Non-Revenue Service Vehicles (3)	1	2022	FTA Section 5307

Project Ratings

1 – High Priority

- Critical to safe system, location or service delivery
- Asset condition indicates immediate replacement or repair
- Asset is beyond useful life
- High risk of asset failure

2 – Medium Priority

- Non-critical enhancement to system, location or service delivery
- Asset condition indicates some deterioration
- No safety risk
- Some risk of asset failure

3 – Low Priority

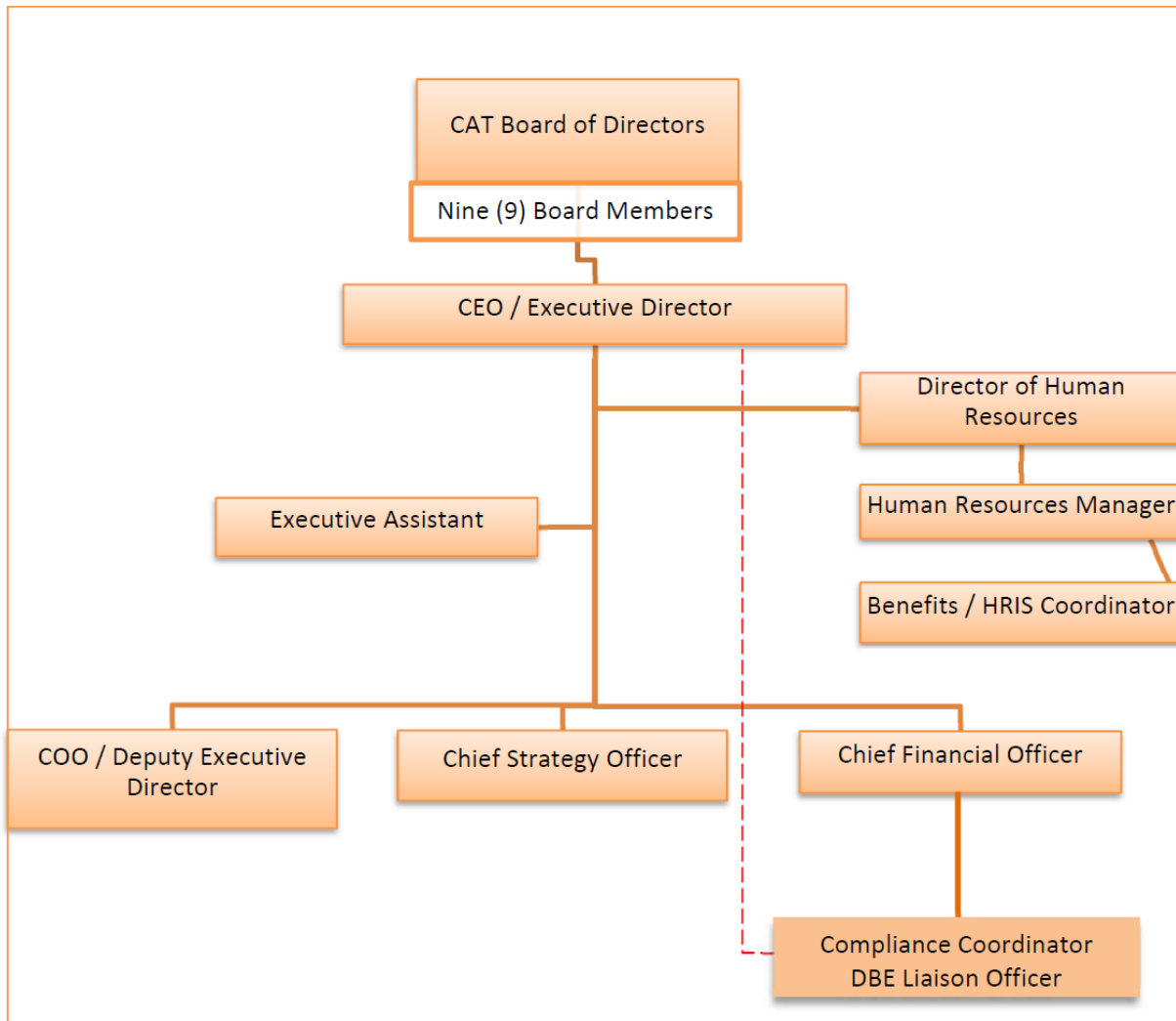
- Non-critical enhancement to system, location or service delivery
- Asset condition indicates state of good repair
- No safety risk
- No risk of asset failure

4.3 DBE Program

CAT's Compliance Coordinator is the designated Disadvantaged Business Enterprise Liaison Officer (DBELO) responsible for monitoring and enforcing the agency's DBE program to ensure compliance with appropriate federal and state laws and regulations. The agency's organization chart exhibits the Compliance Coordinator's dotted line reporting responsibility to the CEO. The DBELO is the sole staff person responsible for the administration of the DBE program. For the

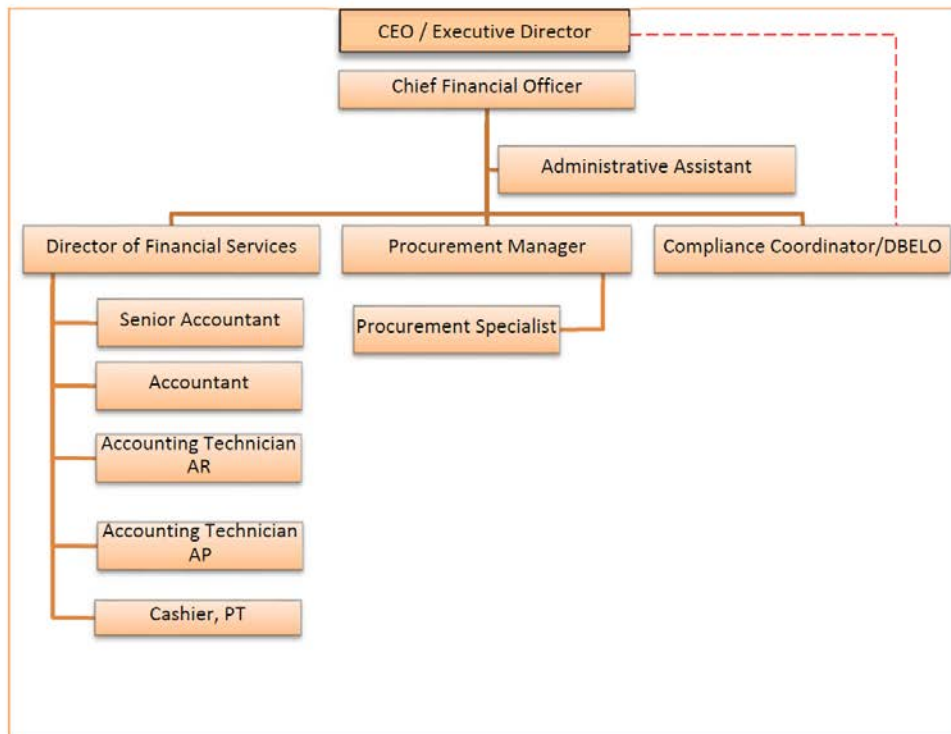
past eighteen months, the Compliance Coordinator position was vacant. During the position vacancy, the Chief Financial Officer (CFO) served as the interim DBELO. The Compliance Coordinator/DBELO position was recently filled, effective October 22, 2018.

CAT Organization Chart



The DBE program office is located within the Financial Services Department reporting to the Chief Financial Officer.

CAT – Financial Services Department– Organization Chart



In administering the DBE program, the DBELO receives support, as required, from the Procurement, Financial Services, Marine Operations, and Maintenance Departments. Procurement provides contract administration; Financial Services processes accounts payables and maintains documentation of contract awards and payment information for preparing semi-annual DBE reports; and the Marine Operations and Maintenance Departments perform project management and monitoring.

In the review of CAT's 2014-2016 and 2017-2019 DBE goal methodologies, the agency is administering an entirely race-neutral DBE program. The DBE Program Plan states that CAT will use contract goals to meet any portion of the overall goal it does not project being able to meet using race-neutral means. In FFYs 2016, 2017, and the first half of FFY 2018 (June 1 report), CAT did not attain its race-neutral DBE goals, and did not set contract goals to assist in meeting its goals as indicated in the DBE Program Plan.

CAT is a non-certifying participant in the Georgia Unified Certification Program (GA UCP), administered by the Georgia Department of Transportation (GDOT) and the Metropolitan Atlanta Rapid Transit Authority (MARTA).

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5. Scope and Methodology

5.1 Scope

Implementation of the following DBE program components specified by the FTA, are reviewed 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 CAT 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 CAT as well as 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 addresses 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 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 CAT did not achieve its DBE goal [49 CFR 26.47]
- A process that ensures transit vehicle manufactures (TVMs) comply with the DBE requirements before bidding on FTA-assisted vehicle procurements. The process may include CAT seeking FTA approval to establish a project specific goal for vehicle purchases [49 CFR 26.49]
- A non-discrimination and a prompt payment clause 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 that work committed to DBEs at contract award is actually performed by DBEs [49 CFR Part 26.37]. Reporting must include information on payments made to DBE firms [49 CFR 26.11, 26.55]

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 Transit Award Management System (TrAMS) 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 (Attachment A) to CAT that informed the agency of the upcoming visit, requested necessary review documents, and explained the areas that would be covered during the on-site visit. The letter also informed CAT of staff and other parties that would potentially be interviewed.

Before conducting the on-site visit, CAT was asked 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 CAT'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 had worked on FTA-assisted projects sponsored by CAT
- Documentation showing the "Good Faith Efforts" criteria and review procedures established by CAT
- 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.

An opening conference was conducted at the beginning of the Compliance Review with FTA representatives, CAT staff, and the review team. The following people attended the meeting:

Federal Transit Administration

John Day	Program Manager for Policy and Technical Assistance – (by telephone)
Dee Foster	Region IV Civil Rights Officer – (in person)
Janelle Hinton	Equal Opportunity Specialist – (by telephone)

Chatham Area Transit (CAT)

Terri Harrison	Chief Financial Officer
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Milligan and Company, LLC

Sandra Swiacki	Project Director – (by telephone)
Lillie Claitt	Lead Reviewer
Habibatu Atta	Reviewer
Kristin Tighe	Reviewer

Following the opening conference, the review team reviewed their analysis and understanding of CAT's DBE Program Plan and other documents submitted by the DBE Liaison Officer. The team then conducted interviews with CAT staff regarding DBE program administration, DBE goal implementation, record keeping, monitoring, and enforcement. These interviews included staff from its Procurement, Financial Services, Marine Operations Department, Maintenance Department, and outside legal counsel representative. A sample of contracts were then selected and reviewed for their DBE elements. Additional interviews were also conducted with prime contractors and interested parties.

At the end of the review, FTA representatives, CAT staff, and the review team convened for the final exit conference. At the exit conference, initial observations were discussed with CAT. Attending the conference were:

Federal Transit Administration

John Day	Program Manager for Policy and Technical Assistance – (by telephone)
Dee Foster	Region IV Civil Rights Officer – (in person)
Janelle Hinton	Equal Opportunity Specialist – (by telephone)

Chatham Area Transit (CAT)

Curtis Koleber	Chief Executive Officer
Terri Harrison	Chief Financial Officer
David Stern	Procurement Manager
Andy Adkins	Compliance Coordinator/DBELO

Milligan and Company, LLC

Sandra Swiacki	Project Director – (by telephone)
Lillie Claitt	Lead Reviewer
Habibatu Atta	Reviewer
Kristin Tighe	Reviewer

FTA provided CAT with a draft copy of the report for review and response. CAT did not provide any response to the draft report.

5.3 Stakeholder Interviews

This section discusses information gathered during interviews with community representatives, stakeholder groups, and contractors regarding CAT's DBE program.

During the on-site, the review team contacted two prime contractors, Myrick Marine Contracting Corporation and Thunderbolt Marine, Inc. Thunderbolt Marine was non-responsive, but the president of Myrick Marine Contracting Corporation agreed to participate.

In 2016, Myrick Marine was the prime contractor on the Floating Dock Replacement project. There were no subcontractors on the project. Mr. Myrick stated that the work the company performed was highly specialized, so they did not use any subcontractors for the project.

CAT staff indicated that no DBE firms have participated on any of their federally funded contracts during the review period of FFY 2016 – FFY 2018. They identified a DBE firm, Momentum Corporation, who participated as a DBE subcontractor on a federally funded contract in 2012. CAT staff contacted the owner of the company, requesting their participation. The review team contacted the owner after the on-site, but the owner did not respond to several requests for an interview.

The review team also contacted nine (9) business advocacy organizations regarding their interaction with CAT on DBE program issues. The purpose of this activity was to invite the organizations to participate in interviews to determine their relationship with CAT and to see how CAT presents its DBE program to external stakeholders.

The nine organizations contacted were:

- Carver State Bank
- Chatham County
- Chatham County - Purchasing
- City of Savannah Office of Business Opportunity
- GDOT DBE Supportive Services
- Greater Atlanta Economic Alliance
- Savannah Airport Commission
- Savannah Area Chamber of Commerce
- Small Business Assistance Corporation

Three organizations agreed to participate: Chatham County – Purchasing, Georgia Department of Transportation (GDOT) Supportive Services, and Savannah Airport Commission.

The interview questions presented were:

- *Are you familiar with the agency's DBE program?*
- *Have you been requested to participate in the development of or comment on the agency's DBE goal?*
- *Is your organization made aware of contracting/subcontracting opportunities on the agency's contracts? If so, how?*
- *How often is your organization contacted to provide referrals for the agency's contracting opportunities?*
- *Do you participate in any outreach efforts organized by the agency?*
- *What is your view of the effectiveness of the agency's DBE program?*
- *Are you aware of any concerns about the DBE program from members?*
- *Do you have any suggestions for the agency to improve their DBE program?*

Representatives from two of the organizations were familiar with CAT's DBE program. Only one of the representatives stated that they participated in the development of the DBE goal, although that occurred in 2015 or 2016.

One representative stated that CAT made their organization aware of contracting opportunities through one of the organization's outreach events. This occurred in June or July of 2018. One representative said that they have not been contacted directly regarding referrals for contracting opportunities in the past two or three years and have not participated in any outreach activities organized by CAT. One representative indicated that CAT has not made them aware of any contracting opportunities with the agency.

Two of the representatives indicated they have previously worked with CAT's new Compliance Coordinator/DBELO and believe that with the new appointment, participation in outreach activities, collaboration with other stakeholder groups, and communication of opportunities within the DBE community will increase.

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6. Findings and Advisory Comments

This section details the findings for each area pertinent to the DBE regulations (49 CFR Part 26) outlined in the Scope and Methodology section above. For each area, an overview of the relevant regulations and a discussion of the regulations as they apply to CAT's DBE program is provided. Corrective actions and a timetable to correct deficiencies for each of the requirements and sub-requirements are also presented below.

Findings are expressed 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 will always be expressed as:

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

Advisory comments are statements detailing recommended changes to existing policies or practices. The recommendations are designed 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, significant changes in the program must be submitted for approval.

Discussion

During this compliance review, deficiencies were found with the requirement for DBE Program Plan.

The Civil Rights Information in TrAMS indicates CAT has an 8/20/13 DBE Program Plan approved on 5/23/14. According to CAT, it recently uploaded an updated DBE Program Plan dated 6/11/18. However, the plan was not submitted to FTA for approval.

Although the plan contains all of the requirements set forth in the DBE regulations, the corrective actions and recommendations listed in this report will necessitate additional updates to the DBE Program Plan.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights an updated DBE Program Plan.

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. This policy must be circulated throughout the recipient's organization and to the DBE and non-DBE business communities.

Discussion

During this compliance review, deficiencies were found with the requirement for DBE Policy Statement.

The policy statement contained in CAT's updated DBE Program Plan has the signature of Curtis Koleber, Executive Director/CEO, and is dated 6/11/18. However, the policy statement posted on the recipient's website has no signature or date.

The Policy Statement indicates: "*CAT has disseminated this policy statement to the Chatham Area Transit Authority Board of Directors and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.*"

There was no documentation provided evidencing how CAT disseminates the policy throughout the organization or to the DBE and non-DBE business communities.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights, evidence that the policy statement posted on its website includes a signature and date. Additionally, CAT must provide evidence that the policy statement is disseminated internally and externally.

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, no deficiencies were found with the requirement for DBE Liaison Officer.

CAT's updated DBE Program Plan states that the Compliance Coordinator is the designated DBELO. The position reports to the Chief Financial Officer (CFO), with a dotted line reporting responsibility to the Executive Director/CEO. CAT's organization chart displays the Compliance Coordinator/DBELO's position within the organization.

According to the job description, the position is responsible for maintaining CAT's Civil Rights/Equal Employment Opportunity (EEO) programs, and serves as CAT's DBELO. The job description summarizes the duties and responsibilities associated with DBE program administration/implementation, which include:

- maintaining and implementing CAT's DBE program
- compiling, completing and submitting all required regulatory reporting
- dotted line reporting responsibility allowing direct access to CEO for information on DBE Program matters
- educating department managers and staff as it relates to federal DBE program regulation and compliance; and
- coordinating efforts with staff to maintain CAT's compliance with local, state and federal regulations that include reporting requirements, support document retention and external regulatory review preparation.

There do not appear to be any apparent conflicts of interest for the Compliance Coordinator position in the performance of duties required to implement the DBE Program Plan. According to the CFO/interim DBELO, the time allowed to perform the Compliance Coordinator's assigned duties and responsibilities is:

- DBE program – 60%
- EEO program – 20%
- Other regulatory assistance – 20%

The DBE program office is located within the Financial Services Department and is a direct report to the Chief Financial Officer. The DBELO is the sole DBE program staff member. As required, the DBELO receives support in administering various aspects of the DBE program from the following Financial Services Department staff and outside departments. During the on-site, interviews were conducted with each of the support staff identified below regarding their involvement in the administration of DBE program responsibilities.

- Procurement Department - Procurement Manager, coordinates with the DBELO to include DBEs in solicitations, ensure solicitations and contracts contain required DBE language, responsible for contract compliance.
- Financial Services Department - Director of Financial Services, is responsible for payment of invoices and final payments at contract completion; and a Senior Accountant is responsible for maintaining contract award and payment information obtained by the DBELO for completion of semi-annual DBE reports.

- Planning Department - Grants Manager, applies for grants and is involved in identifying and planning solicitations for CAT's federally funded projects.
- Marine Services Department - Director of Marine Operations, is involved in identifying and planning solicitations for marine operations, and monitors the work performed by all primes and subcontractors.
- Maintenance Department - Director of Maintenance, is involved in identifying and planning TVM solicitations, and inspects and approves the vehicles for payment.
- Legal Counsel - External Law Firm (Bouhan Falligant LLP), has served as CAT's external legal counsel since 1987, involved in the development and review of contract clause provisions, which includes CAT's Procurement Policy, Buy America requirements, and DBE program contract clauses.

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, deficiencies were found with the requirement for DBE Financial Institutions.

CAT's updated DBE Program Plan states, "*It is the policy of the Authority to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions*". The Plan also states that CAT has "*...made the following efforts to identify and use such institutions*:"

1. *Reviewed Georgia State Unified Certification Program Directory of DBE vendors for DBE certified financial institutions available to provide services to CAT.*
2. *Reviewed published list of local and/or regional financial institutions in order to determine if institutions eligible for DBE certification could benefit assistance provided by CAT's outreach program."*

The DBE Program Plan states further that the agency has not identified any such institutions, and that it will re-evaluate the availability of DBE financial institutions annually.

The reviewer conducted an independent search of the U.S. Treasury Department's website for minority-owned banks located within CAT's locality, and found the Carver State Bank, a

minority-owned financial institution located in the Savannah-Chatham County area. The reviewer shared this information with CAT's CFO/Interim DBELO during the site visit. CAT indicated that it had previous interaction with the Carver State Bank, but the agency was not in a financial position to establish a business relationship with the institution.

Furthermore, there is no evidence that CAT has encouraged its prime contractors to make use of the Carver State Bank's financial services, nor is there a documented procedure describing how CAT evaluates the availability of minority-owned financial institutions annually.

Corrective Actions and Schedule

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

- Evidence encouraging bidders, proposers, and contractors to use minority-owned financial institutions: and
- Evidence that a procedure has been developed and implemented to evaluate the availability of DBE financial institutions on a regular basis.

6.5 DBE Directory

Basic Requirement (49 CFR Part 26.31)

A DBE directory must be available to interested parties, including addresses, phone numbers, and types of work each DBE is certified to perform. This directory must be updated at least annually and must be available to contractors and the public upon request.

Discussion

During this compliance review, no deficiencies were found with the requirement for DBE Directory. An advisory comment, however, is made regarding the requirement.

CAT relies upon a DBE directory maintained by the Georgia Unified Certification Program (GA UCP). The Georgia Department of Transportation (GDOT) and the Metropolitan Atlanta Rapid Transit Authority (MARTA) are the certifying agencies for the state, and certify on behalf of all DOT recipients in Georgia.

A review of the UCP directory websites indicates that data is maintained in real time as firms are added, updated, and removed from the database. The directory identifies all firms eligible to participate as DBEs, includes the required vendor information, and is made available to the public electronically. Selected queries can be downloaded in Excel format or printed as a PDF document. Contractors and the public can search the databases for certified DBEs by firm name, NAICS codes, business description, and other criteria.

DBE information included in the GA UCP DBE Directory:

- Company name;
- Contact person;
- Business address;

- Telephone number;
- Email address;
- Description of class of work the firm has been certified to perform; and
- Applicable NAICS codes

The DBE Program Plan states that CAT makes the DBE directory available to the public through a link in the DBE section of their website, a link on the GDOT website, and by email request to the DBELO.

Upon review of the website, reviewers found that there is a section entitled “Helpful DBE Information” with three links: “DBE Basic Info”, “DBE Certification Application”, and “DBE Personal Net Worth Statement”. A direct link to the GA UCP DBE Directory, for access by contractors and the public, was not available on the website.

Advisory Comment

CAT should immediately update its webpage to prominently display a direct link to the GA UCP DBE directory for public accessibility, as indicated in its DBE Program Plan.

6.6 Overconcentration

Basic Requirement (49 CFR Part 26.33)

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

Discussion

During this compliance review, deficiencies were found with the requirement for Overconcentration.

CAT’s updated DBE Program Plan indicates the recipient has not determined that DBE overconcentration exists, and that the recipient will re-evaluate the existence of overconcentration annually.

The DBE Program Plan does not describe the procedures CAT has used to determine overconcentration or describe the measures it would take should it occur. Nor is there evidence that CAT has evaluated the existence of overconcentration annually.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights, procedures for determining if overconcentration exists, and the measures it will take to address overconcentration, if applicable.

6.7 Business Development Programs

Basic Requirement (49 CFR Part 26.35)

The recipient may establish a Business Development Program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program.

Discussion

During this compliance review, no deficiencies were found with the requirement for Business Development Programs.

CAT's DBE Program Plan indicates the agency has not established a formal business development program, and that it will re-evaluate the need for such a program annually.

6.8 Determining/Meeting Goals

A) Calculation

Basic Requirement (49 CFR Part 26.45)

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

Discussion

During this compliance review, deficiencies were found with the requirement for Determining/Meeting Goals.

CAT submitted a FFY 2017-2019 triennial goal to FTA for approval on 8/1/2016. FTA advised CAT by letter dated August 26, 2016 that the goal had a number of missing elements in the following areas: Overall Goal Submission; Goal-Setting Methodology, Step 1; and Goal Setting Methodology, Step 2. At the time of the site visit, CAT had not provided a response to FTA's request for additional information. According to TrAMS, CAT's DBE triennial goal will expire as of December 7, 2018.

In its goal methodology, CAT states:

*"The Authority's overall goal for FY 2017 is the following: **1.55%** of the Federal financial assistance it will expend in USDOT FTA-assisted contracts. Given the amount of DOT-assisted contracts Chatham Area Transit Authority expects to expend during this fiscal year, \$1,225,000, this means that the Authority has a set goal of expending \$18,988 with DBEs during this fiscal year. CAT expects procurement levels to remain consistent during the triennial period, FY 2017 – FY 2019 but will review and adjust this goal if necessary."*

There is no evidence CAT identified its program of projects anticipated for FY 2017 that totaled \$1,225,000 or identified the total federal dollars and projects anticipated for the remaining FFYs 2018 and 2019.

Step One: Determining the Base Figure

CAT identified its local market area as the State of Georgia, asserting that the *vast majority of local and statewide DBEs are highway and road construction and the majority of those DBEs are located in the north Georgia / Atlanta area.* No further explanation or rationale was provided for the statewide market area.

CAT utilized the DBE directory and the Census Bureau's County Business Pattern database to determine the number of ready, willing and able DBEs in the market, stating:

“CAT determined the number of all ready, willing and able businesses available in the market that perform work in the same NAICS codes. Out of the one hundred forty five (145) ready, willing and able DBEs in Chatham County, thirty-one (31) perform the work in the same NAICS codes. Out of the two thousand eighty (2,080) ready, willing and able DBEs in the State of Georgia, four hundred nine (409) perform the work in the same NAICS codes. Out of the one hundred thirty seven (137) ready, willing and able DBEs in the City of Savannah, sixteen (16) perform the work in the same NAICS codes.”

CAT has not sufficiently researched its local market area in order to determine a base figure for the relative availability of DBEs in Step One and the analysis used to determine the number of ready, willing and able DBEs from the DBE directory and the Census Bureau County Business Pattern data. CAT has not refined its data by identifying the specific areas of work and applicable NAICS codes in the analysis or followed the recommended analysis formula to determine the overall relative availability of DBEs, which is:

$$\text{Step One Base Figure} = \frac{\text{Ready, willing and able DBEs}}{\text{All firms ready, willing and able (including DBEs and non-DBEs)}}$$

Alternatively, CAT has established a Step One base figure of 8.81%, stating it is the goal of another DOT recipient. CAT does not identify the DOT recipient from which the goal originated or the market similarities. The regulation §26.45(c)(4) states, *If another DOT recipient in the same, or substantially similar market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal”.*

Step Two: Adjustment the Base Figure

The methodology indicates CAT did not use its DBE participation on past projects to adjust its DBE goal, stating:

“CAT completed several large capital projects during 2013 and 2014; a Transit Center, an Operations and Maintenance Facility Renovation and an Intelligent Transit System implementation. These projects are deemed to be non-typical and therefore we will not use the average DBE participation on past projects to adjust our current and upcoming DBE goal.”

The methodology states further that CAT completed a review of area MWBE and DBE listings for its adjustment calculation data, stating:

“CAT staff reviewed community disadvantaged vendor listings in order to tabulate a proportion of DBE vendors to total vendors available as an adjustment factor to our base goal. These adjustment factors were determined to be 20%, 22% and 11% using the Chatham County, City of Savannah, and the State of Georgia data bases.”

There is no evidence provided to substantiate CAT’s adjustment factors. CAT applied the specified factors in calculating an adjustment to the 8.81% Step One base figure as follows:

<p><i>Reductions for availability:</i></p> <p style="padding-left: 40px;"><i>Base x Adjustment Factor = 8.81 x 20% (State) = 1.76</i></p> <p style="padding-left: 40px;"><i>Base x Adjustment Factor = 8.81 x 22% (County) = 1.94</i></p> <p style="padding-left: 40px;"><i>Base x Adjustment Factor = 8.81 x 11% (City) = .96</i></p> <p><i>Adjusted Base Figure: CAT will take the average of the three DBE Base Figure alternatives above as the final DBE Base Figure.</i></p> <p>Calculations: $1.67 + 1.93 + .96 = 4.67\%$ 4.67% divided by 3 = 1.55% Final Adjusted Base Figure: 1.55%</p>

In the review of CAT’s calculation above, several errors were found:

Calculations: $1.67 + 1.93 + .96 = 4.56\%$, not 4.67% - - (1.67 should be 1.76 and 1.93 should be 1.94). The correct calculations would be - $1.76 + 1.94 + .96 = 4.66\%$ - 4.66% divided by 3 = 1.55%.

Nonetheless, CAT did not include sufficient evidence or statistical data to support the Step Two calculation for the 8.81% base goal adjustment.

Breakout of Estimated Race-Neutral / Race-Conscious Participation

CAT has indicated that it will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation, and estimates that it will obtain 1.55% from race-neutral participation and 0% through race-conscious measures but did not provide a basis for that conclusion.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights a revised FFY 2017-2019 DBE goal addressing all of the elements noted in FTA’s DBE Goal Setting Review Checklist.

B) Public Participation

Basic Requirement (49 CFR Part 26.45)

In establishing an overall goal, the recipient must provide for public participation through consultation with minority, women, and contractor groups regarding efforts to establish a level playing field for the participation of DBEs. A notice announcing the overall goal must be published on the recipient's official website and may be published in other media outlets with an optional 30-day public comment period.

During this compliance review, deficiencies were found with the requirement for Public Participation.

According to the goal methodology,

"CAT staff consulted with various agencies in Chatham County to determine the availability of DBE vendors and the possibility of outreach in order to increase the number of available DBE vendors in areas the Authority is most likely to utilize. These consultations included scheduled, direct, teleconferences and face-to-face meetings with several groups and individuals of the minority, women's, and general contractor groups and other officials within the local and regional agencies and entities. As a result of the consultations, several comments and feedback were recorded and considered in the development of the goal. The majority of the comments circled around the topic of which the majority of local and statewide MBE's being highway/ road construction. This can present a problem for CAT's DBE participation, in that the majority of certified DBE's may not be able to provide the goods and services deemed necessary for the list of CAT's upcoming projects for FY17 – FY19. The other frequently discussed topic was that of the current six (6) to twenty four (24) month delay for certification once applying to the state of Georgia with GDOT. While several local business owners have applied for and await status on their application, during our consultations period, CAT discovered there are far more W/MBE's that may qualify for certification but do not know how or where to apply, or, were discouraged by the length and details required in the application process".

Documentation of CAT's public participation process was not included with the goal submission. During the on-site visit, CAT reiterated that it did conduct consultation meetings, and that a Public Notice was posted on the website. The reviewer found the Public Notice posted on the website; however, the notice is dated January 4, 2017, five months past the August 1, 2016 goal submission due date, and the public meeting dates are January 10, 11, 12, 2017.

Additionally, during the on-site, CAT provided the reviewer with documentation of the public participation that included a copy of the Public Notice, an undated Public Meeting Agenda, a four-slide DBE PowerPoint presentation, and a DBE/Small Business Outreach memo dated February 1, 2017. The memo is written by CAT's former DBELO, to Disadvantaged Business Enterprises, documenting the DBELO's dialog with two external organizations and comments received. Additional documentation provided includes an email dated February 27, 2017, from the former DBELO to the CFO regarding the DBE goal, stating, in part, *"Though I did receive valuable feedback from county / city groups during the comment period. However, none of the comments deemed an adjustment to the goal methodology necessary."* The documentation

does not include a list of who was invited to the meetings or minutes from any of the January 10, 11, 12, 2017 meeting dates.

From the reviewer's examination of the documentation, CAT's public participation process was conducted after the August 1st goal submission due date, and is not fully compliant with the requirements of 49 CFR Part 26.45(g)(1)(i) & (ii) described as follows:

- (i) *"Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.*
- (ii) *A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site. "*

Corrective Actions and Schedule

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

- A process and timeline to ensure that the consultation process, including all publications and requests for comments and feedback is completed prior to the August 1st goal submittal deadline; and
- A plan to ensure that the consultation process is adequately documented and included with the goal submission, providing evidence with specific details as to when the meeting was held, the participants in the meeting, evidence of request for comments and whether comments were received from the participants, and proof that the goal is posted on the website.

C) Race-Neutral DBE Participation

Basic Requirement (49 CFR Part 26.51)

The recipient 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 26.39 is a mandatory race-neutral measure. Additional examples of how to reach this goal amount are listed in the regulations.

Discussion

During this compliance review, deficiencies were found with the requirement for Race-Neutral DBE Participation.

CAT's updated DBE Program Plan and FFY 2017-2019 DBE goal methodology states the recipient will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The DBE Program Plan indicates CAT has incorporated several non-discriminatory elements in its program in order to facilitate DBE and non-DBE small business participation, specifically stating:

- (1) *CAT will not include unnecessary and unjustified bundling of contract requirement*
- (2) *CAT will require bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation*
- (3) *CAT will develop acquisition strategies and structure procurements to facilitate bids by and awards to small business consortia or joint ventures*
- (4) *CAT will let prime contracts of a size that small businesses can reasonably compete for and perform*
- (5) *CAT will conduct seminars and participate in County organized events which target small businesses in an effort to inform possible contractors of upcoming procurements and projects*
- (6) *CAT will conduct seminars targeting small businesses that will educate attendees as to the DBE certification process and provide assistance to those interested in applying for certification.*

In administering a 100% race-neutral DBE program, CAT achieved 0% DBE participation in FFYs 2016, 2017 and 2018 (as of the June 1 report). There is no evidence that CAT implemented any of the above race-neutral measures to facilitate DBE participation.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights procedures for implementing and documenting race-neutral measures to facilitate DBE and small business participation.

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.

During this compliance review, deficiencies were found with the requirement for Race-Conscious DBE Participation.

CAT's updated DBE Program Plan states the agency "*will use contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means*". The agency established 100% race-neutral goals for FFYs 2014-2016 and FFYs 2017-2019. CAT attained zero percent DBE participation in FFYs 2016 and 2017, and did not set race-

conscious goals to meet the portion of its overall goal it was unable to meet using race-neutral means.

The recipient has not established procedures describing how and when race-conscious goals will be set.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights procedures describing how and when it will set race-conscious goals.

E) Good Faith Efforts

Basic Requirement (49 CFR Part 26.53)

The recipient 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 DBEs 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. The recipient must review bids using either the responsiveness or responsibility approach and document which approach will be used in its DBE Program Plan.

Discussion

During this compliance review, no deficiencies were found with the requirement for Good Faith Efforts.

In its updated DBE Program Plan, CAT documented Good Faith Efforts procedures that comply with 49 CFR Part 26.53 requirements. However, because CAT did not set contract goals, the agency's Good Faith Efforts were not required. CAT's Good Faith Efforts procedures state:

CAT treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

- 1. The names and addresses of DBE firms that will participate in the contract;*
- 2. A description of the work that each DBE will perform;*
- 3. The dollar amount of the participation of each DBE firm participating;*
- 4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;*
- 5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and*
- 6. If the contract goal is not met, evidence of good faith efforts.*

The Good Faith Efforts section of CAT's DBE Program Plan references an Attachment 5, which is a sample of two documents bidders are required to submit in response to a bid with a DBE goal:

- A. DBE Utilization Form – indicating:
 - 1. the bidder/offeror is committed to meet the DBE goal
 - 2. the bidder/offeror is unable to meet the DBE goal
 - 3. the bidder/offeror is committed to a minimum of ___% DBE utilization and submits documentation of good faith efforts

- B. Letter of Intent – identifying:
 - 1. Name & address of DBE firm
 - 2. Description of work
 - 3. Estimated dollar value of the work
 - 4. Affirmation (signature) of designated DBE firm that it will perform the portion of the contract for the estimated dollar value stated. (A separate Letter of Intent is required for each designated DBE subcontractor.)

Additionally, the DBE Program Plan states:

“In those instances where a contract-specific DBE goal is included in a procurement/solicitation, CAT will not award the contract to a bidder who does not either (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.”

The Administrative Consideration section of the DBE Program Plan states:

“Within 30 days of being informed by [Recipient] that it is not [responsive or responsible] because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Mr. Curtis Koleber
Chief Executive Officer
Chatham Area Transit Authority
900 E. Gwinnett Street
Savanna, Georgia 31401
(912) 629-3936
Curtis.Koleber@catchacat.org

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.”

F) Protecting Against Termination for Convenience

Basic Requirement (49 CFR 26.53 and 26.13)

Recipients must implement appropriate mechanisms to ensure that 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, no deficiencies were found with the requirement for Protecting Against Termination for Convenience.

In the review of CAT's updated DBE Program Plan, "Section 3.6 - Good Faith Efforts Procedures, 49 CFR Part 26 Section 53 (a) – (f)", includes the following statements:

"CAT requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without CAT's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to CAT its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to CAT prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise CAT of why it objects to the proposed termination. (Time limit may be shortened when certain risks are present, for example, public safety concerns)."

CAT has not set DBE contract goals; therefore, the DBE terminations statement is currently not applicable in the recipient's procurements and contracts.

G) Counting DBE Participation

Basic Requirement (49 CFR Part 26.55)

The recipient must count only the value of work actually performed by the DBE when assessing the adequacy of DBE participation submitted in response to a contract. The recipient must review a bidder's submission to ensure the type and amount of participation is 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, deficiencies were found with the requirement for Counting DBE Participation.

In the Counting DBE Participation section of the DBE Program Plan, CAT states, "We will count DBE participation toward overall and contract goals as provided in 49 CFR Part 26.55," but did

not provide specifics as to how it would do so. Furthermore, during the site visit, CAT could not describe the process or procedure it currently has in place for counting DBE participation.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights, procedures for counting DBE participation in accordance with 49 CFR Part 26.55.

H) Quotas

Basic Requirements (49 CFR Part 26.43)

The recipient is not permitted to use quotas. The recipient may not use set-aside contracts unless no other method could be reasonably expected to redress egregious instances of discrimination.

During this compliance review, no deficiencies were found with the requirement for Quotas.

CAT's DBE Program Plan states the agency "*does not use quotas in any way in the administration of this DBE program*". There is no evidence indicating that CAT has used quotas or set-asides in the administration of its DBE program.

6.9 Shortfall Analysis and Corrective Action Plan

Basic Requirement (49 CFR Part 26.47)

The recipient must conduct a shortfall analysis and implement a corrective action plan in any fiscal year it does not meet its overall DBE goal.

Discussion

During this compliance review, deficiencies were found with the requirement for Shortfall Analysis and Corrective Action Plan.

In the examination of CAT's FFY 2015-2017 semi-annual reports, the recipient attained 0% DBE participation in FFYs 2016 and 2017. A summary of CAT's DBE goal attainment for the past three federal fiscal years is as follows:

FFY 2015 – DBE Goal: 2.3%
 Prime Dollars: \$1,724,028
 DBE Dollars: \$ 299,980
 Goal Attainment: 17.4%

FFY 2016 – DBE Goal: 2.3%
 Prime Dollars: \$463,070
 DBE Dollars: \$ -
 Goal Attainment: 0.0%

FFY 2017 – DBE Goal: 1.55%
 Prime Dollars: \$236,153
 DBE Dollars: \$ -
 Goal Attainment: 0.0%

CAT provided a copy of the FFY 2016 shortfall analysis and corrective action plan in its document submittals. A copy of the FFY 2017 shortfall analysis was requested, but was never submitted or made available for review at the on-site visit.

In the review of CAT's FFY 2016 shortfall analysis and corrective action plan, the recipient's overall goal was 2.3%, with 0% DBE participation. CAT's reason for the shortfall was stated that one contract, with specialized marine construction work (ferry dock repair, valued at \$374,177), was awarded during the reporting period. The type of work and the size of the contract did not lend itself to sub-contracting opportunities. The analysis stated further that CAT did not move forward with many federally-assisted projects or procurements as planned for FFY 2016. Due to a December, 2015 fraud investigation (mail fraud and contract rigging), CAT's management placed a hold on all projects that were in-progress in order to allow time to complete intensive review of all CAT current contracts and projects. As a result, CAT did not award any new contracts until late summer of 2016. The suspension of capital projects severely limited total contract awards and commitments and contributed to CAT's failure to meet its overall FFY 2016 DBE goal.

CAT's FY 2016 corrective action plan included steps such as:

- increase the pool of DBEs available to meet the material and service needs
- provide services to help DBE and other small businesses improve long-term development
- increase opportunities for DBE and other small businesses to participate in a variety of contracting opportunities
- collaborate with County and City MWBE outreach efforts as they occur during FY 2017. (Seminars/technical assistance held quarterly, March, June, September & December 2017)

CAT's FY 2016 corrective plan indicates the recipient will increase DBE participation by:

- improving DBE guidance provided to contractors in bid documents and post-award
- ensure distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors
- work closely with qualified DBE vendors to ensure that their certification is up-to-date
- better inform the DBE community of upcoming projects through website and local media
- include contract-specific goals on eligible projects

The corrective action plan did not include a specific time-line for implementation, but indicated CAT's corrective actions will be implemented on an ongoing basis throughout FY 2017. There is no evidence or documentation of CAT's implementation of the stated corrective actions.

Corrective Actions and Schedule

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

- Evidence that the FFY 2017 shortfall analysis was completed and evidence of implementation of a corrective action plan; and
- Documentation detailing how corrective action steps described in the FFY 2016 shortfall analysis were implemented, and the level of effectiveness of the measures.

6.10 Transit Vehicle Manufacturers (TVMs)

Basic Requirement (49 CFR Part 26.49)

The recipient must require that each transit vehicle manufacturer (TVM) certify that it has complied with the regulations before accepting bids on FTA-assisted vehicle purchases. The recipient should not include vehicle procurements in its DBE goal calculations and must receive prior FTA approval before establishing project goals for vehicle purchases. The recipient is also required to submit, to FTA, the names of the successful TVM bidder and the amount of the vehicle procurement within 30 days of awarding a FTA-assisted vehicle contract.

Discussion

During this compliance review, deficiencies were found with the requirement for Transit Vehicle Manufacturers (TVMs).

Prior to the on-site visit, CAT submitted a list of six solicitations and contracts for transit vehicle purchases. Four of the six vehicle purchases were made from a Georgia state contract, one vehicle purchase was made from a bus consortium, and one purchase was a piggyback from an Oklahoma state contract. The review team selected the following four transit vehicle agreements to examine:

Project	Contract Number	Awarded to:
Trolleys Awarded: May 2018	2018-2324	Gillig (Manufacturer: Gillig)
Dedicated Mobility Access Vehicles Awarded: June 2015	2105-1028	Creative Bus Sales (Manufacturer: Mobility Ventures, LLC.)
Cutaway Paratransit Vehicles Awarded: August 2015	2016-0245	National Bus Sales (Manufacturer: Goshen Coach, Inc.)
Paratransit Vehicles Awarded: November 2017	2018-0843	Alliance Bus Group (Manufacturer: Glaval Bus)

The review team found that only one of the TVM contracts included a signed TVM certification, which referenced the appropriate DBE circular.

Three of the contract files did not include sufficient documentation of the original state contract or consortium contract to verify that the list of certified TVMs was checked to determine eligibility to bid or otherwise confirmed TVM eligibility with FTA. Only the Alliance Bus purchase included a verification of Glaval Bus as an eligible TVM.

For contracts after November 2014, the regulation requires recipients 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. For the applicable contracts examined by the review team, none of the contract files included documentation of notification to FTA of the successful bidder by name within the required 30 days of award.

Corrective Actions and Schedule

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

- Procedures for confirming TVM eligibility prior to awarding contracts for transit vehicle purchases and verifying that the TVM contract file contains all required TVM documentation; and
- Procedures for notifying the FTA within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract, as required by 49 CFR Part 26.49. Notification must be made by entering all required information into FTA's online Transit Vehicle Award Reporting Form found at: <https://www.surveymonkey.com/r/vehicleawardreportsurvey>.

6.11 Required Contract Provisions and Enforcement

A) Contract Assurance

Basic Requirements (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, deficiencies were found with the requirement for Contract Assurance.

CAT submitted a list of nine contracts awarded during FFYs 2015-2018. The contracts listed are as follows:

Vendor Name	Project/Contract	Grant Number
Indra, USA	IT Onsite Training & System Services	GA90-X-346
CoachCrafters, Inc.	Bus Rehabilitation Amendment	GA 04-0043
Myrick Marine Contracting Corporation	Ferry Dock Repair	GA 2017-011-00
Williams Communication	Fleet Radios	GA 2017-030-00
Indra, USA	ITS Monitors	GA 04-0043
Thunderbolt Marine, Inc.	Ferry Vessel Rehabilitation	GA 2016 017-00
Creative Bus	CAT Freedom Vehicles	GA 57-003
Schottell, Inc.	Ferry Vessel Rehabilitation – (Drive System Repair, Sole Source Purchase Order)	GA 2016-017-00
Alliance Bus Group	Paratransit Vehicle C/O	GA 2017-018-00

Three contracts were selected for examination and listed in the table below. None of the contracts had a DBE goal or a DBE subcontractor.

Prime Contractor	Project	Contract Number	DBE Subcontractor
CoachCrafters, Inc. (Non-DBE) Awarded – 8/4/15	Bus Rehabilitation Services	Project # 2015-07	None
Myrick Marine Contracting Corporation (Non-DBE) Awarded – 9/30/16	Ferry Dock Repair	Project # 2016-07	None
Thunderbolt Marine, Inc. (Non-DBE) Awarded – 3/15/18	Ferry Vessel Rehabilitation	Project # 2018-03	None

CAT's DBE Program Plan states that it will ensure that the following clause is placed in every FTA- assisted contract and subcontract:

“The contractor 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.”

This contract assurance clause is not verbatim as required by the current version of 49 CFR Part 26.13.

The contract assurance statements found in the CoachCrafters, Myrick Marine, and Thunderbolt contracts include the contract assurance language found in the DBE Program Plan, which is not compliant with the regulation.

Corrective Actions and Schedule

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

- Evidence that the contract assurance language is verbatim and compliant with the DBE regulation; and
- Evidence of a procedure to ensure that the revised language is included in all future FTA-assisted contracts.

B) Prompt Payment

Basic Requirements (49 CFR Part 26.29)

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

Discussion

During this compliance review, deficiencies were found with the requirement for Prompt Payment.

Prompt Payment

CAT's DBE Program Plan states that it will include the following clause in “each DOT-assisted prime contract”:

“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from CAT. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of CAT. This clause applies to both DBE and non-DBE subcontracts.”

The prompt payment terms in the CoachCrafters contract are not consistent with the DBE program statement. The executed contract stated:

“When payment is received from the Authority, the Contractor shall within fourteen (14) calendar days pay all subcontractors and suppliers the amounts they are due for the work covered by such payment.”

However, in the DBE section of this solicitation which was incorporated as part of the conformed contract, the following clause is included:

“the contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from the Chatham Area Transit Authority.”

The prompt payment terms in the Myrick Marine and Thunderbolt Marine contracts, state that the DBE will be paid 30 days from the date of the prime contractor’s receipt of payment, which is consistent with the DBE Program Plan.

Retainage

CAT’s DBE Program Plan states the following retainage terms will be included in all federally-assisted prime contracts:

“The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Authority. This clause applies to both DBE and non-DBE subcontracts.”

The retainage clause included in the CoachCrafters, Myrick Marine, and Thunderbolt Marine contracts were consistent with the DBE Program Plan, stating [the contractor]:

“...is required to return any retainage payments to those subcontractors within 30 days after the subcontractor’s work related to this contract is satisfactorily complete.”

Although CAT requires the return of retainage in contract language as indicated in their Program Plan, they have not included the requirement to *“provide for prompt and regular incremental acceptances of portions of the prime contract and pay retainage to the prime contractor based on these acceptances,”* as required by 49 CFR Part 26.29.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, CAT must submit to the FTA Office of Civil Rights, a procedure for ensuring that prompt payment and return of retainage language placed in every DOT-assisted contract and subcontract is consistent and in compliance with DBE regulations.

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. Breach of contract remedies should be used as appropriate.

Discussion

During this compliance review, no deficiencies were found with the requirement for Legal Remedies.

The DBE Program Plan states the following:

“Chatham Area Transit Authority has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

- 1. Breach of contract action, pursuant to the terms of the contract;*
- 2. Breach of contract action, pursuant to Georgia State Code;*
- 3. Inform GUCP who may initiate suspension or debarment proceedings against the DBE firm in accordance with federal and state law.*

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

- 1. Suspension or debarment proceedings pursuant to 49 CFR part 26*
- 2. Enforcement action pursuant to 49 CFR part 31*
- 3. Prosecution pursuant to 18 USC 1001.”*

The CoachCrafters, Myrick Marine, and Thunderbolt Marine contracts contained breach and dispute resolution, as well as termination for cause and convenience clause language.

According to staff, CAT has not had the need to initiate any legal remedies for its federally funded contracts to date.

6.12 Certification Standards

Basic Requirements (49 CFR Part 26.67- 26.71)

The recipient 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, no deficiencies were found with the requirement for Certification Standards.

CAT is a non-certifying member of the Georgia Unified Certification Program (GA UCP). CAT submitted a copy of its GA UCP Memorandum of Understanding (MOU), signed by Curtis Koleber, Executive Director, and dated 2/5/18.

6.13 Certification Procedures

A) Onsite Visits and Document Review

Basic Requirement (49 CFR Part 26.83)

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

Discussion

CAT does not conduct DBE certifications; therefore, this section is not applicable.

6.14 Record Keeping and Enforcements

Basic Requirement (49 CFR Part 26.11 and 26.37)

The recipient must provide data about its DBE program to FTA on a regular basis. The recipient must submit Semi-Annual Uniform Reports on June 1st and December 1st of each fiscal year 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 1st of each year.) In addition, the recipient must implement appropriate monitoring mechanisms to ensure overall compliance by all program participants. The monitoring and enforcement measures must be conducted in conjunction with monitoring contract performance for purposes such as close-out reviews for contracts.

Lastly, the recipient must maintain a bidders list complete with subcontractor firm names, addresses, DBE status, age of firm, and annual gross receipts of the firm.

Discussion

During this compliance review, deficiencies were found with the requirement for Record Keeping and Enforcement.

Reporting

In the review of TrAMS, CAT has submitted all semi-annual DBE reports, as required. Two reports were submitted late in federal fiscal years 2016 and 2017; on June 2, 2016 and December 8, 2017, respectively.

Chatham Area Transit TrAMS DBE Reporting		
	Semi-Annual Report	
	Due Date	Date Submitted
FY 2015	1-Jun	05/29/15
	1-Dec	11/30/15
FY 2016	1-Jun	06/02/16
	1-Dec	11/30/16
FY 2017	1-Jun	06/01/17
	1-Dec	12/08/17

CAT's DBELO is responsible for completing the semi-annual reports. CAT's source information for the report is collected by the Financial Services Department and maintained in Excel spreadsheets. The source data examined did not provide the percentage used to calculate the federal share of a contract award or indicate when an award was made to a DBE prime and/or a DBE subcontractor. In addition, CAT has not demonstrated that it has a reliable system to verify the information included in its semi-annual DBE reports.

The source information for FFY 2015 June 1 and December 1 semi-annual DBE reports was not available for examination. In the review of the source information provided for FFYs 2016 – 2018 semi-annual DBE reports, it was found that some information was reported incorrectly. See table below.

CAT Semi-Annual DBE Reports

	Report	Source Information Verifications
	June 1	N/A
FFY 2016	Dec 1	<ul style="list-style-type: none"> Report Section: Actual Payments on Contracts Completed This Period - Row 20(B) – Total Dollar Value of Completed Prime Contracts: <p>One (1) completed contract was reported. CAT incorrectly reported a completed TVM contract. In addition, the dollars reported (\$196,563 federal share) reflects the final payment made to the vendor, National Bus Sales and Leasing, not the total federal share dollars paid at completion of the contract.</p>

FFY 2017	June 1	<ul style="list-style-type: none"> Report Section: Prime Contracts and Subcontracts Awarded – Row 8(A) Prime Contracts Awarded/Total Dollars Two (2) prime contract awards were reported. CAT incorrectly reported the total value of the contract awards as \$67,060. The federal share of the contract awards is \$53,648, which is the correct amount to be included in the report. Report Section: Actual Payments on Contracts Completed This Period - Row 20(B) – Total Dollar Value of Completed Prime Contracts: One (1) completed contract was reported. CAT incorrectly reported the final payment of \$2,000 made to the vendor, Public Development Management, not the total federal share dollars paid at completion of the contract.
	Dec 1	<ul style="list-style-type: none"> Report Section: Prime Contracts and Subcontracts Awarded – Row 8(A) Prime Contracts Awarded/Total Dollars Two (2) prime contract awards were reported. One contract is a TVM procurement that is incorrectly included in the report; the second is a non-TVM contract. CAT reported the total value of the two contract awards (\$169,093), not the federal share. The total value of the non-TVM contract is \$31,633; the federal share is \$25,306, which is the correct amount to be included in the report.
FY 2018	June 1	<ul style="list-style-type: none"> Report Section: Prime Contracts and Subcontracts Awarded – Row 8(A) Prime Contracts Awarded/Total Dollars Three (3) prime contract awards were reported. One contract is a TVM change order that is incorrectly included in the report. The remaining two are non-TVM contracts. CAT reported the total value of the three contract awards (\$1,233,046), not the federal share. The total value of the two non-TVM contracts is \$1,212,688; the federal share is \$242,538, which is the correct amount to be included in the report.
	Dec 1	N/A

Monitoring

The Monitoring and Enforcement Mechanisms section of the DBE Program Plan, states:

- “CAT will provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by review of required reporting from contractors to include verification by site visit by CAT’s project management team. These procedures will occur for each contract/project on which DBEs are participating.
- We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.”

During the site visit, CAT did not provide documentation confirming it had implemented the stated monitoring and enforcement mechanism. Furthermore, CAT does not have a process in place to monitor the work performed by DBEs or mechanism for tracking payments to DBEs.

Bidders List

The *Record Keeping Requirements* section of the *DBE Program Plan*, states,

“CAT will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this list will be to allow use of the bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in one or more of the following ways:

- 1) A contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.*
- 2) A staff-directed survey of a statistically sound sample of firms on a name/address list to get age/size information*
- 3) Notice in all solicitations, which is otherwise widely disseminated, requesting firms quoting on subcontract to report information directly to the recipient.”*

There is no evidence or documentation that CAT has maintained a bidders list as indicated in its DBE Program Plan.

Corrective Actions and Schedule

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

- Evidence that the semi-annual DBE reports for FFYs 2016, 2017, and 2018 are revised to contain accurate information for each report period and uploaded in TrAMS;
- A procedure to ensure that semi-annual DBE reports are submitted accurately and timely;
- Evidence that a bidders list is being compiled in accordance with §26.11(c), and accurately reflected in the DBE Program Plan; and
- A procedure for monitoring work performed by DBEs and mechanism for tracking payments.

7. Summary Findings

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
1.	Program Plan	26.21	D	An updated DBE Program Plan, dated 6/11/18, is found in TrAMS, but has not been submitted to the FTA for approval.	Submit to the FTA Office of Civil Rights an updated DBE Program Plan.	Within 60 days of the issuance of the final report
2.	Policy Statement	26.23	D	The policy statement posted on the recipient's website does not have a signature or date. There is no evidence of how the policy is disseminated internally or externally.	Submit to the FTA Office of Civil Rights, evidence that the policy statement posted on its website includes a signature and date. Additionally, CAT must provide evidence that the policy statement is disseminated internally and externally.	Within 60 days of the issuance of the final report
3.	DBE Liaison Officer	26.25	ND		None	
4.	Financial Institutions	26.27	D	CAT has not thoroughly investigated the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals, or have evidence that it has encouraged prime contractors to use such financial institutions.	Submit to the FTA Office of Civil Rights: <ul style="list-style-type: none"> •Evidence encouraging bidders, proposers, and contractors to use minority-owned financial institutions: and •Evidence that a procedure has been developed and implemented to evaluate the availability of DBE financial institutions on a regular basis. 	Within 60 days of the issuance of the final report

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
5.	DBE Directory	26.31	AC	CAT should update its webpage to prominently display a direct link to the GA UCP DBE directory for public accessibility, as indicated in its DBE Program Plan.	None	Within 60 days of the issuance of the final report
6.	Overconcentration	26.33	D	CAT does not have a procedure to analyze if DBE overconcentration exists.	Submit to the FTA Office of Civil Rights, procedures for determining if overconcentration exists, and the measures it will take to address overconcentration, if applicable.	Within 60 days of the issuance of the final report
7.	Business Development Programs	26.35	ND		None	
8.						
8.a	Calculation	26.45	D	CAT submitted a proposed overall DBE goal calculation of 1.55% for FFYs 2017-2019, but has not made necessary corrections to submit a revised goal in response to the FTA 8/26/16 goal review letter.	Submit to the FTA Office of Civil Rights a revised FFY 2017-2019 DBE goal addressing all of the elements noted in FTA's DBE Goal Setting Review Checklist.	Within 60 days of the issuance of the final report

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
8.b	Public Participation	26.45	D	CAT did not include documentation of the public participation process with its goal submission. Documentation provided during the on-site indicated public participation meetings were scheduled in January 2017, five months after the August 1 st goal submission due date	Submit to the FTA Office of Civil Rights: <ul style="list-style-type: none"> •A process and timeline to ensure that the consultation process, including all publications and requests for comments and feedback is completed prior to the August 1st goal submittal deadline; and •A plan to ensure that the consultation process is adequately documented and included with the goal submission, providing evidence with specific details as to when the meeting was held, the participants in the meeting, evidence of request for comments and whether comments were received from the participants, and proof that the goal is posted on the website. 	Within 60 days of the issuance of the final report
8.c	Race-Neutral	26.51	D	CAT has not implemented race-neutral measures to meet its overall goal.	Submit to the FTA Office of Civil Rights, procedures for implementing and documenting race-neutral measures to facilitate DBE and small business participation.	Within 60 days of the issuance of the final report
8.d	Race-Conscious	26.51	D	CAT has not met its 100% race-neutral DBE goals in FFYs 2016 and 2017, and has not set race-conscious goals.	Submit to the FTA Office of Civil Rights, procedures describing how and when it will set race-conscious goals.	Within 60 days of the issuance of the final report

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
8.e	Good Faith Efforts	26.53	ND		None	
8.f	Protecting Against Termination for Convenience	26.53	ND		None	
8.g	Counting DBE Participation	26.55	D	CAT does not have procedures describing how it will track and count DBE participation.	Submit to the FTA Office of Civil Rights, procedures for counting DBE participation in accordance with 49 CFR Part 26.55.	Within 60 days of the issuance of the final report
8.h	Quotas	26.43	ND		None	
9.	Shortfall Analysis and Corrective Action Plan	26.47	D	CAT had DBE shortfalls in FY 2016 and 2017. The 2017 shortfall analysis was not available for review.	Submit to the FTA Office of Civil Rights: <ul style="list-style-type: none"> •Evidence that the FFY 2017 shortfall analysis was completed and evidence of implementation of a corrective action plan; and •Documentation detailing how corrective action steps described in the FFY 2016 shortfall analysis were implemented, and the level of effectiveness of the measures. 	Within 60 days of the issuance of the final report

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
10.	TVM	26.49	D	<p>TVM contracts did not include sufficient documentation of the original state contract or consortium contract to verify that the list of TVMs were checked to determine eligibility to bid or confirmed TVM eligibility with FTA. Contracts files examined, did not included documentation of notification to FTA of the successful bidder within the required 30 days of award.</p>	<p>Submit to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> •Procedures for confirming TVM eligibility prior to awarding contracts for transit vehicle purchases and verifying that the TVM contract file contains all required TVM documentation; and •Procedures for notifying the FTA within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract, as required by 49 CFR Part 26.49. Notification must be made by entering all required information into FTA's online Transit Vehicle Award Reporting Form found at: https://www.surveymonkey.com/r/vehicleawardreportsurvey. 	<p>Within 60 days of the issuance of the final report</p>

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
11.						
11.a	Contract Assurance	26.13	D	The contract assurance statements found in the CoachCrafters, Myrick Marine, and Thunderbolt contracts is not verbatim with 49 CFR Part 26.13.	Submit to the FTA Office of Civil Rights: •Evidence that the contract assurance language is verbatim and compliant with the DBE regulation; and •Evidence of a procedure to ensure that the revised language is included in all future FTA-assisted contracts.	Within 60 days of the issuance of the final report
11.b	Prompt Payment	26.29	D	Prompt payment clause in the CoachCrafters contract is not consistent with the DBE Program Plan of 30 days. Retainage clause does not provide for incremental acceptances of work as required by 49 CFR Part 26.29.	Submit to the FTA Office of Civil Rights a procedure for ensuring that prompt payment and return of retainage language placed in every DOT-assisted contract and subcontract is consistent and in compliance with DBE regulations.	Within 60 days of the issuance of the final report
11.c	Legal Remedies	26.37	ND		None	
12.	Certification Standards	26.67-26.71	N/A		None	
13.	Certification Procedures	26.83-26.86	N/A		None	

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Corrective Actions	Response Days/Date
14.	Record Keeping and Enforcements	26.11 and 26.37	D	<p>CAT has not maintained a Bidders List.</p> <p>CAT has submitted late semi-annual DBE reports, and semi-annual DBE reports covering FFYs 2016-2018 are incorrect. TVM procurements are included in reports; and total payment information for completed contracts is incorrect.</p> <p>CAT has not developed or implemented procedures to monitor and enforce DBE contract compliance</p>	<p>Submit to the FTA Office of Civil Rights:</p> <ul style="list-style-type: none"> •Evidence that a bidders list is being compiled in accordance with §26.11(c), and accurately reflected in the DBE Program Plan; •Evidence that the semi-annual DBE reports for FFYs 2016, 2017, and 2018 are revised to contain accurate information for each report period and uploaded in TrAMS; and •A procedure to ensure that semi-annual DBE reports are submitted accurately and timely. •A procedure for monitoring work performed by DBEs and mechanism for tracking payments. 	<p>Within 60 days of the issuance of the final report</p>

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 Chatham Area Transit (CAT)



U.S. Department
Of Transportation
Federal Transit
Administration

Headquarters

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

July 13, 2018

Mr. Curtis Koleber
Executive Director/CEO
Chatham Area Transit
900 E. Gwinnett Street
Savannah, GA 31401

Dear Mr. Koleber:

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, Chatham Area Transit (CAT) has been selected for a review of its overall DBE program to take place October 24-26, 2018.

The purpose of this review will be to determine whether CAT 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, work-site visits, and interviews with staff), interviews with participating prime and DBE contractors and external interested parties, possible work-site visits, and an exit conference. The reviewers will complete the on-site portion of the review within a three-day period. FTA has engaged the services of Milligan and Company, LLC (Milligan) of Philadelphia, PA to conduct this compliance review. Milligan 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 Wednesday, October 24, 2018 at 9:00 a.m. EDT, to introduce the Milligan team and FTA representatives to CAT. Attendees should include you, 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. The review team will need adequate working space and the use of privately controlled offices with internet access to conduct interviews and review documents. Please let us know if you will designate a member of your staff to serve as CAT's liaison with

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the review team and will 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. Electronic copies of documents are preferred. Please upload them to Milligan's file transfer protocol (FTP) site. Your reviewer will reach out to you concerning the use of the FTP site. Please be prepared to designate a point of contact for your agency, for which user access should be provided. You also have the option of sending the documents via email to Sandra Swiacki at sswiacki@milligancpa.com.

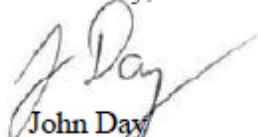
We request the exit conference be scheduled for Friday, October 26, 2018, 3:00 p.m. EDT, to afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you, the DBELO, and other key staff attend the exit conference.

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 report, when issued to CAT will be considered public documents subject to release under the Freedom of Information Act, upon request.

CAT 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 me at 202-366-1671, or via e-mail at john.day@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
and Technical Assistance

Enclosure

cc: Yvette Taylor, Regional Administrator, FTA Region IV
Doretha Foster, Regional Civil Rights Officer, FTA Region IV
Janelle Hinton, Equal Opportunity Specialist, FTA
Terri Harrison, Chief Financial Officer, CAT

Disadvantaged Business Enterprise Program Compliance Review

Enclosure 1

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

1. Current DBE Program Plan (which should include CAT's organization chart). The reviewers will access CAT's DBE Program through FTA's TrAMS system, if available.
2. Fiscal years (FYs) 2014 - 2016 and FYs 2017- 2019 goal methodology submissions. The reviewers will access CAT's goal submissions through FTA's TrAMS system, if available.
3. CAT's DBE semi-annual reports for FYs 2015 to present. The reviewers will access CAT's DBE semi-annual reports through FTA's TrAMS system, if available.
4. Current Memorandum of Understanding or similar documents for CAT's participation in the Unified Certification Program.
5. Any additional certification criteria/guidelines used by CAT in determining DBE eligibility, if applicable.
6. Provide the number of DBE applications CAT has reviewed, approved, and denied each year from FY2016 through FY2018. Include the number of DBE applications and the names of applicants that are currently pending review.
7. Provide a list of ongoing FTA-assisted contracts, the names of DBE firms that are currently working on those contracts, and worksite locations, where applicable.
8. Provide contract records to include:
 - a) the last 15 FTA-assisted contracts awarded by CAT in FYs 2018/2017
 - b) the last 15 FTA-assisted contracts completed by CAT in FYs 2018/2017
 - c) the last 15 FTA-assisted contracts with DBE goals awarded by CAT in FYs 2018/2017
 - d) the last 15 FTA-assisted contracts with DBE goals completed by CAT in FYs 2018/2017.
9. The identification of firms, if any, that have worked on CAT's projects and have graduated from CAT's DBE program, i.e., exceeded the threshold dollar amounts and are no longer certified.

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10. Information identifying FTA-funded contracts awarded during FYs 2016 to present by CAT 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.
11. Good Faith Effort criteria established by CAT.
12. Procedures for monitoring that work committed to DBEs is actually performed by those DBEs (e.g., prompt payment procedures and monitoring and enforcement mechanisms).
13. Small Business element as implemented by CAT.
14. FTA-assisted transit vehicle procurements/contracts for the last five (5) years. This information should include the entire contract between your agency and the transit vehicle manufacturer.
15. FTA-assisted transit vehicle request for proposals (RFPs) for the last five (5) years.
16. List of all bids accepted for the RFPs provided in response to Item 14.
17. Shortfall analysis and corrective action plan for the last three (3) years, if applicable.
18. List of all subrecipients and the amount of FTA funds allocated to each subrecipient from 2016 through present.
19. Names of interested parties (external organizations) CAT has interacted with on DBE program issues.
20. Any complaints received concerning CAT's DBE program over the past five (5) years.
21. The DBELO official position description.
22. Other pertinent information determined by CAT's staff to shed light on its DBE compliance efforts.