



FEDERAL TRANSIT ADMINISTRATION

Greater Lynchburg Transit Company (GLTC)

Disadvantaged Business Enterprise (DBE) Program
Compliance Review

Final Report

April 2017



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

Objective and Methodology – This report details the findings of a Compliance Review of Greater Lynchburg Transit Company's (GLTC) Disadvantaged Business Enterprise (DBE) program implementation. The Compliance Review examined this agency's DBE program procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and GLTC. In addition, the following public entities were interviewed as part of this review: GLTC officials, Town of Altavista, Amherst County Economic Development, Bedford Area Chamber of Commerce, Bedford County Office of Economic Development, Campbell County Office of Economic Development, Carolinas-Virginia Minority Supplier Development Council, Community Business Partnership, Lynchburg Business Development Center, Lynchburg Small Business Development Center, and the Virginia Department of Minority Business Enterprise. The following prime contractors and subcontractors were also interviewed: C. L. Lewis & Company, Inc., MB Contractors Inc., Hurt & Proffitt, Inc., Wendel Companies, GovSolutions, Inc., Action Resources Corporation, Augusta Steel Corporation, Baird Drywall and Acoustic, Lloyd Concrete Services, Inc., Mays Electric Service Corporation, Modern Door & Equipment Sales, Inc., W.A. Lynch Roofing Company, Womack Electric Co., Inc., Eastern States Paving, Inc., Northern Star Technologies, Inc., Piedmont Metal Products, Inc., and Signature Architectural Signage. The three-day review included interviews, assessments of data collection systems, and review of program and contract documents.

GLTC's DBE Program includes the following positive program elements –

Positive Program Elements

- Increased focus since late 2015 on implementing GLTC's DBE program, including staff attending training.
- Working with the Commonwealth of Virginia to extend reach of the DBE program.
- On time submittal of 2016 DBE reports, after several prior years of missing or late reporting.

The Program has the following administrative deficiencies –

Administrative Deficiencies

- The 2013 DBE Program Plan does not accurately reflect the roles and activities of the DBELO and support staff. The responsibilities of those involved in the DBE program are not clearly defined and are not correctly outlined in staff job descriptions.
- GLTC did not review the availability of DBE financial institutions as outlined in its submitted DBE Program Plan. GLTC did not encourage prime contractors to use DBE or socially and economically disadvantaged financial institutions as required by 49 CFR Part 26.27.
- GLTC has not determined if overconcentration of DBE firms exists, as required by 49 CFR Part 26.33.
- GLTC has not conducted an evaluation of the need for a Business Development Program, as required by GLTC's DBE Program Plan and 49 CFR Part 26.35.
- GLTC did not notify the FTA Office of Civil Rights of vehicle purchases made since November 13, 2014, within 30 days of award, as required by 49 CFR Part 26.49.
- GLTC does not maintain a bidders list with prime and subcontractor information, as required by 49 CFR Part 26.11(c).

The Program has the following substantive deficiencies –

Substantive Deficiencies

- Areas of GLTC's 2013 DBE Program Plan were not included, or required updating to comply with 49 CFR Part 26.21: DBELO contact details, DBELO and other staff responsibilities, DBE directory, public participation and consultation during the goal setting process, determination of race conscious / race neutral breakdown, shortfall analysis, reconsideration official, monitoring, and reporting.
- GLTC's signed and dated policy statement does not reflect the current DBE program. There is no documentation that the policy statement was circulated throughout GLTC and to the DBE and non-DBE community, as required by 49 CFR 26.23.
- When developing the FFY 2015–2017 goal, GLTC did not include all procurement opportunities with FTA participation in the determination of the base figure, as required by 49 CFR Part 26.45. Historical procurement activity was not reviewed to determine GLTC's local market area. The past participation data used in the Step 2 adjustment did not correspond to GLTC's submitted DBE reports. No findings or conclusions were presented from the disparity studies reviewed.
- During the FFY 2015- 2017 DBE goal setting process, GLTC did not conduct consultation with stakeholder groups, including a scheduled, direct, or interactive exchange with minority, women's and contractor groups as required by 49 CFR Part 26.45(g).
- GLTC has not fully implemented the race neutral measures listed in their DBE Program Plan, including its small business element, as required by 49 CFR Part 26.51(a-b) and 49 CFR Part 26.39 respectively.
- GLTC did not explain the basis for a totally race-neutral goal within the FFY 2015-2017 DBE goal methodology, as required by 49 CFR Part 26.51(c). GLTC does not have a clear methodology for determining specific contract goals, as indicated in 49 CFR 26.51(e).
- Where prime contractors committed to a contract goal, no evidence was found that GLTC reviewed the required documentation listing the DBE subcontractors, the work to be performed, the value of this work and commitments from the prime and DBE subcontractor. GLTC did not review good faith efforts as outlined in 49 CFR Part 26.53(b). The 2013 DBE Program Plan does not specify a current member of GLTC staff as the reconsideration official.
- GLTC did not ensure the appropriate termination provisions in all prime contracts and subcontracts on projects with contract goals. GLTC did not document the termination of a DBE subcontractor, including written consent from GLTC and good faith efforts made by the prime contractor, as required by 49 CFR 26.53(f).
- GLTC did not review bidder's submissions to ensure the type and amount of participation was consistent with the work specified in the solicitation and the DBEs had a commercially useful function. GLTC did not ensure bidders only counted work performed by DBEs in accordance with 49 CFR 26.55.
- GLTC did not complete timely shortfall analyses in any year for the period FFY 2013–2016. The FFY 2013 and 2014 shortfall analyses did not include specific steps and milestones to correct the problems identified in the analysis as required by 49 CFR Part 26.47(c).
- GLTC does not have a process for ensuring the correct clauses are included in prime contracts. GLTC does not have a procedure for reviewing the subcontracts to ensure that all the required DBE clauses are included and does not have policies for enforcement with prime contractors. Prime contracts and subcontracts did not include non-discrimination clauses as required by 49 CFR Part 26.13.

Substantive Deficiencies

- GLTC does not have an ongoing prompt payment and return of retainage verification process, as required by 49 CFR Part 26.29.
- GLTC does not have a procedure in place to ensure all contracts include the required provisions. GLTC has not taken action where breaches of contract have occurred, as required by 49 CFR Part 26.37.
- GLTC does not maintain a list of FTA-funded procurements, and the subcontract commitments on these contracts. There are no procedures in place to ensure on-time report submission and accurate reporting, as required by 49 CFR Part 26.11.
- GLTC does not monitor the DBE participation performance of its prime contractors, including maintaining a running tally of payments made to DBEs and ensuring work committed is actually performed by DBEs, as required by 49 CFR 26.37. GLTC has not used the enforcement measures outlined in its DBE Program Plan.

GLTC's DBE participation has remained the same over the past four (4) fiscal years: GLTC's reported DBE participation data reflects 0% DBE attainment over FFY 2013-2016. GLTC had a DBE goal of 4% in FFY 2012-2014 and 2% for FFY 2015-2017. According to GLTC's management, a number of factors contribute to its history of low DBE participation. GLTC underwent significant operational pressures, including management turnover, that led to a lack of focus on GLTC's DBE Program Plan. Since September 2015, GLTC's new management has begun to develop DBE practices, but the focus has been on large capital projects rather than reviewing smaller procurement opportunities such as those within their operating expenditures. Prior to September 2015, resources were not provided to properly manage their DBE program, set and track performance against goals, meet reporting requirements, or implement their race-neutral measures and small business enterprise program. Notwithstanding, this report highlights several steps to help ensure the DBE program is implemented in good faith.

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I. General Information

This chapter provides basic information concerning this Compliance Review of GLTC. Information on GLTC, the review team, and the dates of the review are presented below.

Grant Recipient:	Greater Lynchburg Transit Company
City/State:	Lynchburg, VA
Grantee Number:	1455
Executive Official:	Joshua Baker
On-site Liaison:	John Rayman
Report Prepared By:	Calyptus Consulting Group, Inc.
Dates of On-site Visit:	January 10-12, 2017
Compliance Review Team Members:	George Harris Philippa Drew Gregory Harnett

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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 subrecipients with Section 13 of the Master Agreement, Federal Transit Administration M.A. (21), October 1, 2014, and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs."

GLTC is the recipient of one or more federal transit grants, loans, and/or contracts that exceed \$250,000. Hence, GLTC 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 GLTC's DBE program and were the basis for this Compliance Review.

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3. Purpose and Objectives

3.1 Purpose

The FTA Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitment, as represented by certification to FTA, to comply with 49 CFR Part 26. FTA has determined that a Compliance Review of the GLTC's DBE Program is necessary.

The primary purpose of the Compliance Review is to determine the extent GLTC 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 GLTC'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 solely 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 the Department'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 GLTC is honoring its commitment to comply with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in DOT Programs."
- Examine the required components of GLTC's DBE Program Plan against the compliance standards set forth in the regulations, DOT guidance, and FTA policies.
- Document the compliance status of each component.

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

4. Background Information

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

4.1 Introduction to GLTC and Organizational Structure

GLTC is a regional transportation authority that provides transit service in Lynchburg, VA and a portion of Amherst County. The population of the service area is approximately 81,000. In October 1973, the City of Lynchburg bought the privately owned Lynchburg Transit Company and reorganized it to be a non-profit, publicly owned company renamed the Greater Lynchburg Transit Company (GLTC). The sole stockholder is the City of Lynchburg. GLTC is governed by a volunteer, nine-member Board of Directors, appointed by the City Council. The Board oversees the general policy of the company and selects a management company to run day-to-day operations. GLTC is currently managed by First Transit, Inc., a division of First Group America. The General Manager (GM) and the Assistant General Manager (AGM) are employed by First Transit, Inc. First Transit, Inc. established a subsidiary firm, Central Virginia Transit Management Company (CVTMC), as the operating unit for the service. All other staff are employed by CVTMC.

GLTC provides fixed route bus service and ADA complementary paratransit service called "PTS." GLTC operates a network of 14 fixed routes that serve Lynchburg, a portion of Madison Heights, and Liberty University Monday through Saturday. GLTC operates a fully accessible fleet of 39 buses for fixed route service and has 14 paratransit vehicles for its complementary paratransit service. The total ridership is approximately 3 million annually.

GLTC operates from a single maintenance and administration facility in Lynchburg, VA, currently located at 1301 Kemper Street. GLTC is building a new Operations and Maintenance facility which is due to open in 2017. GLTC's service is oriented around a multi-modal Transfer Center in downtown Lynchburg at 800 Kemper Street. This new facility opened in 2014 and is conveniently located adjacent to the Kemper Street Station where Amtrak and Greyhound services are housed.

The GLTC GM is a First Transit Inc. employee who reports to the GLTC Board of Directors, and is supported by the AGM. The AGM is the DBE Liaison Officer (DBELO) and oversees the Transportation Manager and Maintenance Manager. Also reporting to the GM are the Human Resources Manager, Finance and Grants Manager, Information Technology Manager, and Customer Experience and Marketing Manager. GLTC has volunteer Customer Advisory Committees, including Customer Service Advisory and ADA Advisory Committees.

GLTC is a subrecipient of Virginia Department of Rail and Public Transportation (Virginia DRPT) for the Operations and Maintenance Facility, which was under construction at the time of the site visit.

4.2 Budget and FTA-Assisted Projects

GLTC's budget comprises local, state, and federal funds, as well as revenue from fares and other sources. The FY2016 budget was as noted on the following page:

Funding Source	Funding Amount	
Federal – FTA (Non-ARRA)	Total:	\$9,119,528
	Planning:	\$0
	Capital:	\$7,100,333
	Operating:	\$ 2,019,195
State:		\$5,415,434
Local:		\$ 2,626,714
Farebox:		\$870,732
Liberty University:		\$1,453,250
Total:		\$19,485,658

GLTC has several FTA-assisted projects currently underway. Based on open grants as of January 2017, these projects included:

- Operations and Maintenance Facility – a \$23 Million construction project using advanced technologies, due to complete in early 2017. Engineering and construction management activities were FTA-funded
- Purchase of shop equipment for the new Operations and Maintenance facility
- Replacement and expansion of the paratransit bus fleet – six (6) new vans were placed in service during FFY 2017, the rest of the fleet is slated for replacement in the next few years
- Replacement of support vehicles that have met the end of their useful life
- Purchase and replacement of fare collection equipment and radios for vehicles
- Purchase of Automatic Passenger Counters, improvements to network equipment and new security systems
- Construction of new bus passenger shelters
- Bus stop improvements, including purchase of new bus stop signs, and digital bus stop signage
- Ongoing funding of transit operations by a third party contractor.

4.3 DBE Program

GLTC's AGM is the DBELO and is responsible for developing, monitoring, and enforcing the DBE program to ensure compliance with appropriate federal and state laws and regulations. The DBELO has direct access to the GM. The DBELO is also responsible for transit operations, supervising the Transportation Manager and Maintenance Manager.

The DBELO undertakes most of the activities relating to the DBE program. In October 2016, GLTC hired a Finance and Procurement Specialist that reports to the Finance and Grants Manager. Prior to this appointment, the responsibility for procurement management was spread across different members of the management team, including the GM. GLTC intends for this new Finance and Procurement Specialist role to provide support to the DBELO on some elements of the DBE program, including the review of potential procurements for DBE participation, bid advertising, public outreach, compliance in procurement processes and

bidders list maintenance, but these activities were not established at the time of the site visit. The Finance and Grants Manager is responsible for payments made to contractors, and provides payment and grant project information to the DBELO to inform the goal setting process.

The DBELO currently completes the following duties and responsibilities:

- Gathers and reports statistical data and other information, as required
- Develops the DBE goal methodology and sets DBE goals
- Analyzes GLTC's progress towards goal attainment and identifies ways to improve
- Develops shortfall analysis as required
- Advises the GM on DBE matters
- Revises the DBE Program Plan if needed.

GLTC's current DBE Program Plan was submitted to FTA on September 6, 2013. Concurrence was provided by FTA on September 9, 2013. GLTC recognizes that this DBE Program Plan needs to be revised and re-submitted to FTA. The approved DBE program includes contact details of the previous DBELO, rather than the current AGM who joined GLTC in September 2015. The DBELO provided a working draft of a revised DBE Program Plan dated September 14, 2016.

GLTC's DBE goal for FFY 2012-2014 was 4% and was wholly race-neutral, as documented with the 2013 DBE program. A 4% race-neutral goal for the FFY 2015-2017 period was submitted to FTA in November 25, 2014. After revisions were requested, GLTC submitted a revised goal of 2% for FFY 2015-2017 on May 16, 2016, which was concurred by FTA on May 23, 2016. The current goal has a race-conscious / race-neutral split of 0% and 2% respectively. The next DBE goal is due August 1, 2017.

During FFYs 2011-2014, GLTC faced significant financial difficulties and underwent management and staff turnover. During this period, the DBE Program Plan was not fully implemented and current GLTC staff have not been able to provide all the requested documentation from this period. The current GM began at GLTC in February 2015 and the AGM in September 2015. Issues in implementing the DBE program were highlighted in the FY 2015 Triennial Review which noted three (3) DBE findings:

- DBE uniform reports not submitted semi-annually,
- DBE goal achievement analysis not completed or not submitted, and
- Grantee does not monitor DBE compliance.

DBE uniform reports for FFY 2013-2015 were submitted as part of GLTC's Triennial Review corrective actions. These reports show no DBE awards and commitments were made in any fiscal year. The submitted FFY 2016 DBE reports also indicated no DBE awards and commitments were made. The June 2012 report showed no DBE participation, but the December 2012 DBE report was not submitted so it is not possible to determine the final goal achievement for this year. Submitted DBE reports show that GLTC did not meet its DBE goals in any year from FFY 2013-2016.

During the last few years, GLTC has constructed two (2) large facilities, a Transfer Center, that was FTA-funded and opened in 2014, and a new Operations and Maintenance Facility, as a subrecipient to Virginia DRPT, which is due to open in 2017. The Architectural Design and Engineering Services contract for these facilities was executed in August 24, 2010 and was FTA-funded. The Construction contract for the Transfer Center was executed December 18, 2012. The Operations and Maintenance construction contract was signed on March 19, 2015. GLTC received funding for this project as a subrecipient of Virginia DRPT. Staff confirmed that procurements for this project followed the same practice as directly FTA-funded procurements. Due to the limited number of FTA-funded procurements undertaken by GLTC, procurements and DBE program management relating to the Operations and Maintenance project have been included in this review as an example of more recent procurement and DBE compliance activities. GLTC is responsible for reporting DBE participation on this project to Virginia DRPT. The table on the following page describes the procurement files reviewed.

Areas that have been problematic for GLTC in terms of implementing its program include: staff turnover, lack of resources to manage the program, and significant operational priorities that meant the DBE Program Plan was not actively monitored and managed. The review team noted a number of positive elements that will support implementation of the DBE Program Plan going forward, including training undertaken by the DBELO, revisions underway to the DBE Program Plan and a newly created Finance and Procurement Specialist role.

Capital Project	Procurement	Direct FTA funding?	Prime Execution Date	Prime Contractor	Race-Conscious DBE Goal in solicitation?	Subcontracts Reviewed
Transfer Center and Operations and Maintenance Facility	Architectural Design and Engineering Services	Yes	8/24/2010	Wendel Companies	Yes	Construction Cost Systems (DBE)
Transfer Center	Transfer Center	Yes	12/18/2012	C. L. Lewis & Co, Inc.	Yes	Lloyd Concrete Services, Inc. (DBE), Burkhardt's Nursery, Inc. (DBE)
Transfer Center	Inspection Services	Yes	11/21/2012	Hurt & Proffitt, Inc.	No	None
N/A	Professional Transit Contract Management Services	Yes	4/19/2013	First Transit, Inc.	No	None. Solicitation specifies no subcontractors
Operations and Maintenance Facility	Operations and Maintenance Facility	No	3/19/2015	MB Contractors, Inc.	Yes	Modern Door & Equipment Sales, Inc., Eastern States Paving, Inc., Baird Drywall and Acoustic, Inc.
Operations and Maintenance Facility	Inspection Services	No	6/17/2015	Hurt & Proffitt, Inc.	No	None
Operations and Maintenance Facility	Furniture, Fixtures and Equipment	No	12/28/2016	Harris Office Furniture Co, Inc.	Yes	None

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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 GLTC's 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 GLTC 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 GLTC did not achieve its DBE goal [49 CFR 26.47]
- A process that ensures transit vehicle manufacturers (TVMs) comply with the DBE requirements before bidding on FTA-assisted vehicle procurements. The process may include GLTC seeking FTA approval to establish a project specific goal for vehicle purchases. [49 CFR 26.49]
- A non-discrimination and a prompt payment clause is 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 TrAMS System and other sources. After reviewing this information, potential dates for the site visit were coordinated.

The FTA Office of Civil Rights sent a notification letter to GLTC informing the agency of the upcoming visit, requesting necessary review documents, and explaining the areas that would be covered during the on-site visit. The letter also informed GLTC of staff and other parties that would potentially be interviewed.

Before conducting the on-site visit, GLTC was asked to provide the following documents:

- Current DBE Program Plan (including GLTC's organization chart)
- Fiscal Years 2010–2012, 2013–2015 and 2016–2018 goal methodology submissions
- Any ARRA reports for 2011
- Current Memorandum of Understanding or similar documents for GLTC's participation in the Unified Certification Program
- Any additional certification criteria/guidelines used by GLTC in determining DBE eligibility
- The number of DBE applications GLTC reviewed, approved, and denied each year from FFY 2012-2016, including the number of DBE applications and the names of applicants that are currently pending review
- A list of ongoing FTA-assisted contracts, the names of DBE firms that are currently working on those contracts, and worksite locations, where applicable
- Contract records including:
 - The last 15 FTA-assisted contracts awarded by GLTC in FFY 2016
 - The last 15 FTA-assisted contracts completed by GLTC in FFY 2016
 - The last 15 FTA-assisted contracts with DBE goals awarded by GLTC in FFY 2016
 - The last 15 FTA-assisted contracts with DBE goals completed by in FFY 2016
- Identification of firms, if any, that have worked on GLTC's projects and have graduated from GLTC's DBE program, i.e., exceeded the threshold dollar amounts and are no longer certified.
- A list of FTA-funded contracts awarded during FFY 2012 to present by GLTC and its subrecipients, including 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
- Good Faith Effort criteria established by GLTC
- Procedures for monitoring that work committed to DBEs is actually performed by those DBEs (e.g., prompt payment procedures and monitoring and enforcement mechanisms)

- Small Business Element as implemented by GLTC
- FTA-assisted transit vehicle procurements/contracts for the last five (5) years, including the entire contract between GLTC and the transit vehicle manufacturer
- FTA-assisted transit vehicle request for proposals (RFPs) for the last five (5) years
- List of bids accepted for the FTA-assisted transit vehicle RFPs
- Shortfall analysis and corrective action plan for the last three (3) years
- List of all subrecipients and the amount of FTA funds allocated to each subrecipient from 2013 through present
- Names of interested parties (external organizations) with which GLTC has interacted on the DBE program issues
- Any complaints received concerning GLTC's DBE program over the past five (5) years
- Any protests received based on DBE requirements in procurements
- Any requests for reconsideration and all relevant data for each request
- Copies of disparity studies and studies of overconcentration
- The DBELO official position description
- Other pertinent information determined by GLTC's staff to shed light on its DBE compliance efforts.

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

- Joshua Baker, GLTC, General Manager
- John Rayman, GLTC, Assistant General Manager
- Margaret (Peggy) Whitaker, GLTC, Board President
- Anita Heard, Office of Civil Rights (by teleconference)
- Janelle Hinton, FTA, Office of Civil Rights (by teleconference)
- Lynn Bailey, FTA, Regional Civil Rights Officer Region III (by teleconference)
- George Harris, Calyptus Consulting Group, Team Lead, SME
- Philippa Drew, Calyptus Consulting Group, Analyst
- Gregory Harnett, Calyptus Consulting Group, Analyst

Following the opening conference, the review team examined GLTC's DBE Program Plan and other documents submitted by the DBELO. The team then conducted interviews with GLTC regarding DBE program administration, DBE goal implementation, record keeping, monitoring, and enforcement. These interviews included the GM, AGM, and the Finance and Procurement Specialist. A sample of prime contracts and subcontracts was reviewed for their DBE elements. Additional interviews with prime contractors and subcontractors were also conducted.

At the end of the review, FTA representatives, GLTC staff and the review team convened for an exit conference. At the exit conference, initial findings and corrective actions were discussed with GLTC. Attending the conference were:

- Joshua Baker, GLTC, General Manager
- John Rayman, GLTC, Assistant General Manager
- Margaret (Peggy) Whitaker, GLTC, Board President

- Janelle Hinton, FTA, Office of Civil Rights (by teleconference)
- Lynn Bailey, FTA, Regional Civil Rights Officer Region III (by teleconference)
- Linda Balderson, Virginia DRPT (by teleconference)
- George Harris, Calyptus Consulting Group, Team Lead, SME
- Philippa Drew, Calyptus Consulting Group, Analyst
- Gregory Harnett, Calyptus Consulting Group, Analyst

Following the site visit, a draft report was compiled and transmitted to GLTC for comments on March 27, 2017. The final report incorporates GLTC's responses and identifies the remaining open corrective actions.

5.3 Stakeholder Interviews

The Calyptus review team conducted a series of interviews with stakeholders of GLTC's DBE and small business program. This included interviews with four (4) non-DBE prime contractors that performed work for GLTC and one (1) DBE prime contractor that was interested in performing work for GLTC, but ultimately did not submit a proposal. Interviews were also completed with twelve (12) subcontractors that worked on GLTC projects, including one (1) DBE and eight (8) Small Women-owned and Minority (SWaM) businesses, and eleven (11) community organizations in the Lynchburg area. The SWaM certification program is a state program of the Commonwealth of Virginia, with the purpose to enhance procurement opportunities for SWaM businesses participating in state-funded projects. SWaM businesses are not DBEs, unless otherwise noted. The results of these interviews are summarized below.

A. Prime Contractors

The review team interviewed four (4) prime contractors. Wendel Companies provided Architectural Design and Engineering Services for GLTC's Transfer Center and Operations and Maintenance Facility projects. C. L. Lewis & Company, Inc. served as the prime contractor for the construction of the Transfer Center. C. L. Lewis & Company, Inc. now does business under the name Jamerson-Lewis Construction, Inc. MB Contractors, Inc. provided construction services for the Operations and Maintenance Facility. MB Contractors, Inc. used a number of subcontractors on this project, but no DBEs were utilized. Hurt & Proffitt, Inc., a SWaM business, performed inspection services for both the Transfer Center and Operations and Maintenance Facility. Hurt & Proffitt Inc. did not have any subcontracts on either project. The interviews included questions on the solicitation of DBE work, performance issues, substitution, lending and leasing of equipment, on-site monitoring, prompt payment, retainage, and joint payments.

Solicitation

C. L. Lewis & Company, Inc. reported that it solicits DBE work through advertising in the local paper and utilizing the SmartBid online platform. Wendel Companies identified subcontractors by using a list of DBE firms providing professional Architectural and Engineering Services, which was provided by the Virginia Department of Minority Business Enterprise (DMBE). MB Contractors, Inc. reported that it identifies DBEs through the UCP DBE directory, and also draws upon standing relationships with DBEs to obtain utilization. For the Operations and Maintenance Facility project, MB Contractors, Inc. indicated that it was unable to use any DBE subcontractors as the DBE firms contacted lacked the capacity to perform the required work.

Performance Issues and Substitution

C. L. Lewis & Company, Inc. reported that a DBE on the Transfer Center project did not perform work as needed to fulfill their contract requirements and keep the project on schedule. Another non-DBE subcontractor was brought in to complete the remainder of the work. The prime indicated that the process was discussed with GLTC, and the Project Management Contractor Wendel Companies instructed them to proceed with a different company to meet the schedule. The interviewee believed that the DBE had been given a cure notice, but no documentation of this process was provided to the review team. Wendel Companies did not note any performance issues with their DBE subcontractors on the Architectural Design and Engineering Services project.

Lending or Leasing of Equipment

The prime contractors indicated that they did not lend or lease equipment to DBEs.

On-Site Monitoring

C. L. Lewis & Company, Inc. indicated that it was unsure if GLTC had conducted any on-site monitoring of DBE participation on the Transfer Center construction project. Wendel Companies indicated that GLTC had requested information about the DBE subcontractors, but did not confirm that on-site monitoring occurred.

Prompt Payment

Wendel Companies indicated it paid its subcontractors within 30 days of receipt of payment from GLTC. Both MB Contractors, Inc. and C. L. Lewis & Company, Inc. reported payment within seven (7) days of receipt of payment.

Retainage

C. L. Lewis & Company, Inc. reported that it withheld a 5% retainage from DBEs on the Transfer Center project, which was returned to the DBE when GLTC reduced the retainage on the prime contract. MB Contractors, Inc. reported that it withheld retainage from subcontractors that mirrored the retainage that was assessed against it by GLTC. Wendel Company stated that no retainage was withheld from its DBE subcontractors.

Joint Payment

The prime contractors indicated that no joint check payments were made to DBEs on their projects with GLTC.

B. Outreach to Potential DBE Prime Contractor

The review team interviewed GovSolutions, Inc., a DBE that expressed interest in serving as the prime contractor on the Furniture, Fixtures and Equipment project for GLTC's Operations and Maintenance Facility. While GovSolutions Inc. toured the facility with GLTC and prepared a proposal for the work, it ultimately did not submit a proposal.

GovSolutions Inc. indicated that it was unable to submit a proposal due to its manufacturer having a distribution agreement in place with a non-DBE for the territory in which the GLTC

facility is located. GovSolutions Inc. asserted, however, that the manufacturer could have circumvented this agreement if GLTC indicated in the RFP that it was actively seeking DBE participation. GovSolutions Inc. explained that when DBE participation is an evaluation factor, the manufacturer will work with a DBE over a non-DBE that has been assigned the territory.

Further, GovSolutions Inc. noted that there was confusion over the portion of its work that GLTC would count as DBE participation.

C. Subcontractors

The review team conducted interviews with twelve (12) subcontractors that have performed work on GLTC's projects.

Of the twelve (12) subcontractors interviewed, the following eight (8) were certified as SWaM businesses: Action Resources Corporation, Augusta Steel Corporation, Baird Drywall and Acoustic, Lloyd Concrete Services, Inc., Mays Electric Service Corporation, Modern Door & Equipment Sales, Inc., W.A. Lynch Roofing Company, and Womack Electric Co., Inc. Only Lloyd Concrete Services, Inc. was also certified as a DBE.

The following four (4) interviewed subcontractors were not DBE or SWaM-certified businesses: Eastern States Paving, Inc., Northern Star Technologies, Inc., Piedmont Metal Products, Inc., and Signature Architectural Signage.

It should be noted that six (6) of the interviewed subcontractors performed work on GLTC's Operations and Maintenance Facility, which is a project that did not receive direct FTA assistance: Action Resources Corporation, Baird Drywall and Acoustic, Eastern States Paving, Inc., Modern Door & Equipment Sales, Inc., Northern Star Technologies, Inc., and Womack Electric Co., Inc. These subcontractors were interviewed in order to identify any differences between the treatment of subcontractors that worked on directly FTA-assisted projects and those that worked on other projects. Additionally, work on the Operations and Maintenance project began in 2015 and is ongoing, unlike GLTC's FTA-assisted Transfer Center, which began in 2010 and completed in 2015. This allowed the review team to identify any changes in the treatment of subcontractors over time.

The review team found that there was no meaningful distinction between the interview responses from the two groups of subcontractors, and as such, they are both included in the below interview summaries.

The interviews included questions on the work performed, how the subcontractor was solicited for the work, if the subcontractor owned or leased equipment from the prime contractor, subcontracted work, prompt payment, retainage, change orders, and experience on other GLTC or FTA-assisted contracts.

Solicitation

Two (2) subcontractors reported that they contacted the prime contractors that were bidding on the project to express their interest.

Additionally, two (2) subcontractors reported having an existing relationship with the prime contractor and were notified by the prime contractor when the opportunity was identified.

Equipment

None of the subcontractors reported leasing or borrowing equipment from prime contractors on GLTC projects.

Subcontracted Work

Three (3) subcontractors reported utilizing a subcontractor to perform a portion of their work.

Payment

None of the subcontractors reported issues surrounding the promptness of their payment.

Retainage

Four (4) subcontractors reported a 5% retainage in connection with their work. None of these subcontractors experienced issues regarding the retainage being withheld.

One (1) subcontractor reported that there was no retainage in connection with their work.

Change Orders

None of the subcontractors reported issues surrounding the commitment level for their work based on change orders.

Complaints/Other Issues

Two (2) subcontractors reported that they needed to fix minor aspects of their work.

Other Work with GLTC

None of the subcontractors reported having worked on other GLTC or FTA-assisted projects.

D. Community Organizations

The review team conducted eleven (11) interviews with community organizations in the Lynchburg area, which included questions on the organization's familiarity with GLTC's DBE and small business program, level of participation during the development of GLTC's DBE goal, communication with GLTC regarding contracting opportunities, outreach efforts conducted by GLTC, suggestions for improving GLTC's DBE and small business utilization, and any resources or services available to GLTC for the improvement of its DBE and small business program.

The individuals interviewed were representatives of the following organizations: Town of Altavista, Amherst County Economic Development, Bedford Area Chamber of Commerce, Bedford County Office of Economic Development, Campbell County Office of Economic Development, Carolinas-Virginia Minority Supplier Development Council, Community Business Partnership, Lynchburg Business Development Center, Lynchburg Small Business Development Center, and Virginia Department of Minority Business Enterprise.

Familiarity with GLTC's DBE/Small Business Program

Three (3) of the eleven (11) interviewees indicated that they were vaguely familiar with GLTC's DBE/small business program. None of these organizations reported having a recent interaction with GLTC that was specific to the topic of the DBE/small business program. One (1) interviewee reported that GLTC reached out approximately ten (10) years ago seeking assistance in accessing Virginia's online DBE directory. No organizations indicated that they were aware of any concerns surrounding GLTC's DBE/small business program from their organization's members or networks.

Participation During the Development of GLTC's DBE Goal

None of the organizations interviewed reported having participated in the development of GLTC's 2015-2017 DBE goal.

Communication with GLTC Regarding Contracting Opportunities

None of the organizations reported being in communication with GLTC regarding contracting opportunities.

Outreach Efforts Conducted by GLTC

Only one (1) organization indicated having been contacted by GLTC regarding DBE or small business outreach efforts. The individual representing this organization reported that GLTC reached out approximately ten (10) years ago seeking to increase its DBE utilization. The individual recalled assisting GLTC in accessing Virginia's online DBE vendor directory in an effort to help the agency meet its participation goal.

Suggestions for Improving GLTC's DBE/Small Business Program

Two (2) organizations expressed an interest in reviewing GLTC's planned procurements for the purpose of sharing relevant contracting opportunities with their members and networks.

One (1) organization suggested that GLTC contact transit agencies in the surrounding market – including Blacksburg, Charlottesville, Richmond, and Roanoke – in order to inform their DBE goal and identify resources for DBE and small business outreach.

Six (6) interviewees specifically indicated that their organization could actively support GLTC's DBE and small business outreach efforts, through publicizing contracting opportunities to agency members or contact lists, involvement in GLTC's DBE goal development or reviewing the GLTC's DBE program.

E. Major Issues or Concerns

None of the contractors or community organizations reported major issues or concerns in connection with GLTC's DBE or small business program, with the exception of the previously discussed DBE prime contractor that was interested in performing work for GLTC but was unable to submit a proposal.

It should be noted, however, that a DBE subcontractor for the construction of GLTC's Transfer Center Facility was terminated because of performance issues and the work was completed by

a non-DBE. The review team was unable to make contact with the terminated DBE for interview despite multiple attempts.

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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 GLTC's DBE program is provided below. 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 this requirement.

GLTC submitted a DBE Program Plan including the Fostering Small Business Participation Element on September 6, 2013. This was concurred by FTA on September 9, 2013. The approved DBE Program Plan does not reflect the current organizational structure of the agency and the name of the current DBELO. The current DBELO joined GLTC in September 2015. GLTC recognizes that it needs to update its DBE Program Plan, and provided the review team with a working draft dated September 14, 2016. GLTC's website does not attach the DBE Program Plan, but notes that the full DBE Program Plan can be reviewed on request.

GLTC's 2013 DBE Program Plan did not include all the requirements of 49 CFR Part 26.21. The required areas to be updated will be discussed throughout this report, but include: DBELO contact details, DBELO and other staff responsibilities, DBE directory, public participation and

consultation during the goal setting process, determination of race-conscious / race-neutral breakdown, shortfall analysis, reconsideration official, monitoring, and reporting.

Corrective Actions and Schedule

Within 90 days of the issuance of the final report, GLTC must update the DBE Program Plan with the required changes. The DBE Program Plan must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

GLTC's DBE policy statement was signed by the General Manager on September 6, 2013 and submitted to FTA along with the 2013 DBE Program Plan. This policy expresses GLTC's commitment to its DBE program, states objectives, and outlines responsibilities for implementation.

Both the 2013 policy statement and the language included in the current draft DBE Program Plan include six (6) of the eight (8) objectives listed in 49 CFR Part 26.1. The statements do not include the following objectives:

- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The 2013 policy states that GLTC disseminated the policy statement to the Board of Directors and GLTC staff, and that the policy statement was distributed to the DBE and non-DBE business communities through minority and disadvantaged community and business organizations and publication in local media. No documentation was provided of this policy statement being disseminated to staff or the community in 2013 or afterward. The complete policy statement is not included on GLTC's website.

The policy statement included in the 2016 draft DBE Program Plan includes more specific details about where the notice will be placed, including bulletin boards, and on the website.

The policy statement included in the 2013 DBE Program Plan is out of date as it references a 4% DBE goal. GLTC gained approval for a 2% goal FFY 2015–2017 in May 2016. The DBE policy statement included in the current working draft DBE Program Plan does not include reference to DBE goals.

GLTC's signed and dated policy statement does not reflect the current DBE program. There is no documentation that the policy statement was circulated throughout GLTC and to the DBE and non-DBE community, as required by 49 CFR 26.23.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must formulate and distribute a signed and dated DBE policy, stating the required objectives and commitment to the DBE program. This policy should be reflected in GLTC's revised DBE program. This policy must be circulated throughout the recipient's organization and to the DBE and non-DBE business communities. The DBE policy and evidence of distribution must be submitted to the FTA's Office of Civil Rights.

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, **deficiencies** were found with this requirement.

GLTC's 2013 DBE Program Plan describes the DBELO's duties and responsibilities to implement the DBE program. The DBE Program Plan does not include the correct name and contact details of the current DBELO and AGM, John Rayman, who joined GLTC in September 2015. The 2013 DBE Program Plan indicates that the DBELO has direct, independent access to the GM concerning DBE program matters. This is supported by the organizational chart included in the 2013 DBE Program Plan. The DBELO's reporting relationship to the GM is still accurate, but there have been changes to the rest of the organizational structure since 2013. As AGM, the DBELO meets with the GM frequently. There is no established process of reporting at regular intervals on DBE matters: updates are provided when activities such as procurements, goal setting, DBE reporting and race-neutral activities occur.

The AGM has significant collateral duties, including responsibilities for GLTC's transit operations and maintenance. GLTC has recently hired a Finance and Procurement Specialist who reports to the Finance and Grants Manager. This creates a greater formal separation of roles between the DBELO and the procurement function. However, there are no apparent conflicts of interest in performing his duties as DBELO and other responsibilities, as none of these other duties require the DBELO to manage or keep FTA-funded projects on schedule.

GLTC's 2013 DBE Program Plan does not describe any staff that assist the DBELO in the administration of the program. The DBELO has no dedicated DBE staff and has historically undertaken most of the DBE program activity, but other staff do contribute. The Finance and Grants Manager provides data for reporting awards, commitments and payments, and guidance on planned future projects to inform the DBE goal analysis. The new Finance and Procurement Specialist role is currently being defined, but GLTC intends for this role to support DBE compliance within FTA-funded procurements, and may provide additional support to the DBELO

such as maintaining the bidders list, tracking procurements and outreach to potential DBE bidders. The job descriptions for both the Finance and Grants Manager and Finance and Procurement Specialist include a brief statement that the staff “prepares the annual DBE goals report, annual DBE public notice and certifies DBE applications”. This statement is not accurate as GLTC does not certify DBE firms, and the DBELO is responsible for DBE goal analysis, reporting and updating the public notice included in the DBE Program Plan.

GLTC’s 2013 DBE Program Plan lists the DBELO responsibilities, but these are not included in the job description for the position of the AGM. The position description states that the AGM serves as GLTC’s DBE and EEO Liaison Officer. The DBELO is not completing the responsibilities listed in the DBE Program Plan in the following areas:

- Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance: In practice, procurements have historically been undertaken by several management staff, including the GM. The new Finance and Procurement Specialist role will provide assistance going forward. The Finance and Procurement Specialist recently worked with one DBE to support their involvement in a Furniture, Fixtures and Equipment procurement for the Operations and Maintenance facility. No examples of support obtaining bonding or insurance were provided.
- Plans and participates in DBE training seminars: In practice, GLTC has not organized any training seminars. Since joining GLTC, the DBELO has attended a National Transit Institute (NTI) DBE seminar.
- Certifies DBEs according to the criteria set by DOT and acts as a liaison to the Uniform Certification Process in Virginia: In practice, GLTC does not certify DBEs.
- Maintains GLTC’s updated directory on certified DBEs: In practice GLTC does not maintain their own DBE directory, but uses the Virginia UCP directory.

GLTC has historically suffered a lack of resources focused on implementing the DBE Program Plan. GLTC recognizes this shortfall and intends for the new Finance and Procurement Specialist role to provide support to the DBELO. A renewed focus on the program was put in place as of September 2015.

The 2013 DBE Program Plan does not accurately reflect the roles and activities of the DBELO and support staff. The responsibilities of those involved in the DBE program are not clearly defined and are not correctly outlined in staff job descriptions.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must revise relevant staff job descriptions to align with their current DBE roles and responsibilities and revise the appropriate sections of their DBE program. The job responsibilities of the DBELO must be evaluated and revised, as necessary, in GLTCs DBE Program Plan.

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 this requirement.

The 2013 DBE Program Plan states that GLTC will investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals, make reasonable efforts to use these institutions, and encourage prime contractors on DOT-assisted contracts to use these institutions. The program indicates that no institutions have been identified within GLTC's market area, but that GLTC will re-evaluate the availability of DBE institutions ever year. No evidence of GLTC's annual reviews of the availability of DBE or socially and economically disadvantaged financial institutions was provided on-site.

None of the six (6) solicitation documents reviewed included a statement encouraging prime contractors to use DBE financial institutions.

GLTC did not review the availability of DBE financial institutions as outlined in its submitted DBE Program Plan. GLTC did not encourage prime contractors to use DBE or socially and economically disadvantaged financial institutions as required by 49 CFR Part 26.27.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must re-evaluate the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals and incorporate this information into the revised DBE Program Plan. GLTC must develop a process to encourage firms to use DBE financial institutions. A copy of the DBE Program Plan, process and a solicitation document or template must be submitted to the FTA's Office of Civil Rights.

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 this requirement. An Advisory Comment, however, is made regarding the requirement.

GLTC's 2013 DBE Program Plan indicates that GLTC maintains a directory identifying all firms eligible to participate as DBEs within the Greater Lynchburg urbanized area and that perform work in one of five (5) NAICS categories (hydro seeding services, fencing contractors, highway, street and bridge construction, wholesalers, finance and insurance). Attachment 2 of the 2013 DBE Program Plan lists two (2) DBEs that were identified by this search. The 2013 DBE Program Plan suggests that the directory of DBE businesses is revised annually and is available by contacting the DBELO. This does not comply with 49 CFR Part 26.81 and Part 26.31 that relate to the need to include a DBE directory containing all the firms eligible to participate in your DBE program, as certified by the UCP.

The draft September 2016 DBE Program Plan provides a different description of the DBE directory. This revised plan provides information about the DBE directory maintained by the Virginia Department of Small Business and Supplier Diversity (DSBSD) and provides a link to the directory. A review of this directory showed that each firm listing in the directory included the address, phone number, and type of work the firm had been certified to perform as a DBE, along with the associated NAICS code. The directory is updated in real time when firms are certified. The DBE directory referenced in the draft DBE Program Plan complies with the requirements of 49 CFP Part 26.31.

In one (1) of five (5) procurement files, GLTC provided a link to the DSBSD directory within the solicitation documents. The current GLTC website does not provide a link to the DSBSD DBE vendor directory.

Advisory Comment: It is an effective practice to make the DBE directory available to interested parties through a link on the GLTC website and include a reference to the directory in solicitation documents.

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 this requirement.

GLTC's 2013 DBE Program Plan states that GLTC has not identified that overconcentration exists and that GLTC will re-evaluate for overconcentration every 18 months. There is no evidence that an overconcentration analysis was completed either prior to or since September 2013. GLTC does not have a process for completing this analysis every 18 months, as required by their submitted DBE Program Plan.

GLTC has not determined if overconcentration of DBE firms exists, as required by 49 CRF Part 26.33.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must conduct an overconcentration analysis and implement a plan for completing the required overconcentration analysis as indicated in its DBE Program Plan. The overconcentration analysis and plan must be submitted to the FTA's Office of Civil Rights.

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, **deficiencies** were found with this requirement.

Both GLTC's submitted 2013 DBE Program Plan and the 2016 draft states that GLTC has not established a Business Development Program, but the need for such a program would be re-evaluated every 18 months. The need for a Business Development Program has not been evaluated since the DBE program was submitted in September 2013.

GLTC has not conducted an evaluation of the need for a Business Development Program, as required by GLTC's DBE Program Plan.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must develop a plan for completing the evaluation of the need for a Business Development Program at least every 18 months. GLTC must also conduct the evaluation. The evaluation and plan must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

The submitted 2013 DBE Program Plan indicates that GLTC will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The plan

contains a brief explanation of GLTC's methodology, and includes the FFY 2012-2014 goal calculation, noting that this will be revised every three (3) years.

GLTC had a 4% race-neutral goal during FFY 2012-2014. The FFY 2015-2017 goal was initially submitted November 25, 2014, after the due date of August 1, 2014. FTA provided feedback through an In Review Letter on June 24, 2015. After several revisions the final DBE goal methodology was submitted by GLTC on March 30, 2016 and the methodology received FTA concurrence on May 23, 2016. The FFY 2015-2017 goal is 2% and is wholly race-neutral.

Step 1: Determining the Base Figure

The FFY 2015-2017 goal methodology was reviewed for compliance with 49 CFR Part 26.45. The DBELO received information from the Finance and Grants Manager to determine the future contracting opportunities for the goal calculation. This included all the projects that GLTC had programmed throughout FFY 2015-2017.

The table below indicates the projects included in the FFY 2015-2017 goal calculation and the projected FTA-funded expenditures in each year.

Projects included in DBE Goal Calculation	2015	2016	2017
Ongoing Preventative Maintenance Projects to Enhance Life of Motorbuses (Includes Parts and Equipment)	\$144,998	N/A	\$256,000
Capital to Rebuild Engine, Transmission and Msc. Drivetrain parts	\$64,000	N/A	N/A
Purchase Non-Revenue Maintenance Support Vehicles (Pickups)	\$75,919	\$55,001	N/A
Shop Tools and Equipment (Hydraulic Floorjacks, Vices, Torque Multiplier, Shop Vacuum and Various handheld non-power tools such as wrenches, screwdrivers, sockets)	\$40,000	N/A	N/A
Bus Shelter (New and Replacement) and funding to lay concrete pads (contracted out). Our staff construct the shelters.	\$55,571	N/A	N/A
Purchase Non-Revenue Operations Support Vehicle	N/A	\$64,444	\$113,307
Replacement Security Cameras in Paratransit Vehicles	N/A	\$73,048	N/A
Replacement Handheld Radios for Supervisors and Replacement On-Board Radio Head Units for Paratransit Vehicles and Motor Buses	N/A	\$25,818	\$20,654
Mobile Computer Tablets	N/A	\$27,856	N/A
ADP Hardware (VOIP Phones, Servers, Laptops, Desktops, Printers, Copiers, Wi-Fi equipment)	N/A	N/A	\$336,240

Projects included in DBE Goal Calculation	2015	2016	2017
ADP Hardware (Automated Passenger Counters)	N/A	N/A	\$102,004
ADP Software	N/A	N/A	\$53,340
Fare Collection Equipment Replacement	N/A	N/A	\$1,207,600
Automated External Defibrillators	N/A	N/A	\$6,269
Security Equipment (Badge and Control Systems)	N/A	N/A	\$7,550
Bus Stop Amenities (Bus Stop Signs and Trash Cans)	N/A	N/A	\$14,672
Bus Stop Amenities (Digital Bus Stop Signage)	N/A	N/A	\$311,600
Vehicle Overhaul	N/A	N/A	\$28,000
Transit Enhancements (Advertisement Sign Enhancement)	N/A	N/A	\$20,456
Total	\$380,488	\$246,167	\$2,477,693

The table above indicates that parts and equipment for preventive maintenance were included for FFY 2015 and FFY 2017, but not for FFY 2016. Although many major capital projects were considered, a review of vendor payments during FFY 2016 indicated that FTA-funded operational expenses, relevant to each fiscal year, were not included in the goal calculation. These projects included: landscaping services (\$13,687), fuel (payments to one vendor totaled \$238,949) and uniforms (\$6,231).

GLTC defined its market area as the state of Virginia and justified this because many of the DBEs listed in the Virginia UCP directory were identified to be in the Northern Virginia area. GLTC did not analyze the area where the substantial majority of contractors and subcontractors from past procurements are located and the area in which the substantial majority of contracting dollars are spent, as suggested in the FTA guidance document - Tips for Goal Setting in the DBE Program. GLTC did not analyze past procurement activity to identify if different types of projects might have a different geographic market area.

GLTC determined NAICS codes for each of the projects listed in the above table using the Census Bureau website. The number of ready, willing and able DBEs was determined for each project through a search of the Virginia UCP directory. Data from the U.S. Census Bureau was examined to identify the total number of firms able to participate within the same geographic market area. GLTC calculated the number of ready, willing, and able DBEs as a percentage of all firms and weighted the calculation to reflect the contract dollars expected for each project. The weighted base rate goal was not clearly stated: one of the calculation tables indicated 3.54%, while the narrative referenced 3.9%.

Step 2: Adjusting the Base Figure

GLTC determined that an adjustment to the weighted base rate goal was required based on a review of past participation. The goal methodology documents 0% goal achievement in each year for the period FFY 2010-2013, and 4% in FFY 2014, with a median of 0%. This does not

correspond with the uniform reports submitted for FFY 2014, which show payments made to DBEs, but no awards or commitments during this year. The goal methodology explained that past DBE participation was expected due to the construction of the Transfer Center, but no similar project was planned FFY 2015-2017. GLTC adjusted the weighted base rate goal to 2% due to past participation, but did not document the calculation that led to this adjustment.

GLTC referenced a review of a Virginia Disparity Study (2003), a VA Disparity Study Report (2004) and the VA Strategic Plan from the DSBSD, although the findings from these studies and any implications for the GLTC goal were not discussed in the goal methodology. Discussion with GLTC staff showed that the disparity studies' findings had been misunderstood and incorrectly used to inform GLTC's goal calculation.

When developing the FFY 2015–2017 goal, GLTC did not include all procurement opportunities with FTA participation in the determination of the base figure, as required by 49 CFR Part 26.45. Historical procurement activity was not reviewed to determine GLTC's local market area. The past participation data used in the Step 2 adjustment did not correspond to GLTC's submitted DBE reports. No findings or conclusions were presented from the disparity studies reviewed.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must develop the FFY 2018–2020 goal methodology including all future FTA-funded procurement opportunities and justifying the chosen market area. The goal calculation must be submitted to the FTA's Office of Civil Rights.

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.

Discussion

During this compliance review, **deficiencies** were found with this requirement.

GLTC's 2013 DBE Program Plan indicates that before establishing the overall goal, GLTC would consult with the Virginia Department of Minority Business Enterprises (now Virginia DSBSD) and would publish a notice of the proposed overall goals informing the public that the goal and rationale are available for inspections for 30 days and comments will be accepted for 45 days from the date of the notice. The 2013 DBE Program Plan does not incorporate the changes from the DBE Final Rule relating to consultation and publication outlined in 49 CFR Part 26.45. The draft 2016 DBE Program Plan includes a reference that consultation should include minority, women's and general contractor groups, community organizations, and other officials or organizations, but does not provide detailed guidance on how this would occur.

The FFY 2015–2017 DBE goal methodology includes the following outreach efforts by GLTC:

- Advertisement placed on company bulletin boards, on buses and public facilities encouraging interested small, minority, or women-owned businesses to contact GLTC
- Met with the Lynchburg Regional Chamber of Commerce
- Sent a flyer to members of the Chamber of Commerce, including seeking interested vendors and indicating that GLTC can provide certification information
- Consultation with the area Minority Business Leader

The flyers included in the goal methodology do not reference the DBE goal. The goal methodology does not document any feedback provided by stakeholders that informed the goal setting process. None of the eleven (11) community representatives and stakeholder groups interviewed by the review team, including the Lynchburg Business Development Center, Lynchburg Small Business Development Center, and Virginia Department of Minority Business Enterprise, were asked to participate or comment on GLTC's DBE goal.

The USDOT DBE Questions and Answers note that,

By definition, the process of consultation involves a scheduled face-to-face conference or meeting of some kind with individuals or groups of interested persons for the purpose of developing and/or assessing a proposed goal and methodology and seeking information or advice before a decision is made. Publication of the proposed goal to the general public is not synonymous with, or a substitute for, consultation with interested or affected groups.

Recipients should identify groups within their contracting market that are likely to have information relevant to the goal setting process or that have a stake in the outcome of the process. Those groups should be contacted and invited to participate in a face-to-face exchange (which may occur at a public meeting) aimed at obtaining the kind of information set out in the regulation regarding establishing the overall DBE goal. Efforts should be made to engage in a dialogue with as many interested stakeholders as possible. An advisory committee may be one method of consultation (but not the exclusive method, since this could lead to a recipient talking only to the same people all the time). A description of the consultation process and its purpose should be provided to all invitees.

GLTC did not complete the consultative process required by 49 CFR Part 26.45.

GLTC published notice of the DBE goal in a local newspaper on October 29, 2015 and indicated that it would accept comments on the goal for 45 days. GLTC described that the proposed FFY 2015-2017 goal was placed on GLTC's website www.gltconline.com, but no documentation that this was done prior to submission to FTA in March 2016 was provided. The approved March 30, 2016 Methodology is currently on GLTC's website. No comments were received during the consultation process.

During the FFY 2015-2017 DBE goal setting process, GLTC did not conduct consultation with stakeholder groups, including a scheduled, direct, or interactive exchange with minority, women's and contractor groups as required by 49 CFR Part 26.45(g).

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must undertake a consultative process prior to publishing the FFY 2018-2020 goal on its website and submitting the DBE goal methodology to FTA. The DBE goal methodology must be submitted to FTA's Office of Civil Rights.

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 this requirement.

GLTC's 2013 DBE Program Plan states that GLTC will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Both GLTC's FFY 2012-2014 and 2015-2017 goals were entirely race-neutral.

The DBE Program Plan lists nine (9) race-neutral means to increase DBE participation. The FFY 2015-2017 DBE goal methodology did not provide any description of race-neutral activities. Although limited information was available on procurements completed in FFY 2013-2015, GLTC was able to provide evidence of the following activities in the 2016 Furniture, Fixtures and Equipment procurement, which was part of the Operations and Maintenance facility project that received FTA subrecipient funding:

- The Company will consider breaking down contracts into smaller parts, where economically feasible, prorating payments and delivery schedules: Elements of the Operations and Maintenance facility project, such as Furniture, Fixtures and Equipment, have been procured separately from the construction project.
- The Company will use the least complicated bid forms appropriate to each procurement solicitation, and will consider adjusting time, whenever feasible, in order to minimize bidding constraints: The Furniture, Fixtures and Equipment procurement for the Operations and Maintenance facility was originally opened in Spring 2016, but no DBE firms bid and the procurement was put on hold. GLTC identified a DBE contractor that was interested in the project and encouraged their involvement when the procurement was re-opened later in 2016. GLTC granted a deadline extension requested by the DBE to enable the firm to participate.
- The Company will provide information on business opportunities for DBEs through the use of local newspaper and other media and by periodically informing the DBEs of such opportunities: In addition to publication in the local newspaper and on their website, GLTC has recently started to use the PublicPurchase.com and eVA systems to send notifications, as evidenced in the 2016 Furniture, Fixtures and Equipment procurement.

No information about the numbers of DBEs on these mailing lists was available, but 417 of the 823 vendors on the eVA mailing list for this procurement were SWaM-registered.

- The Company will offer information on its organization and contractual needs: GLTC lists its Current Bid Opportunities on its website and has a copy of the current DBE goal methodology on its website, which includes information on future projects. GLTC attended the local Minority Business Expo on April 22, 2016, in order to reach out to minority businesses, share information about the DBE program and procurement opportunities.
- The Company will hold pre-bid conferences on all major contracts to provide firms with the opportunity to have questions answered and to provide the Company an opportunity to explain DBE requirements: A pre-bid meeting for the 2016 Furniture, Fixtures and Equipment procurement was scheduled at a time convenient for all parties, including the interested DBE. A memorandum was given to attendees, including information about DBE requirements.
- The Company will make available its DBE directory through print and electronic means to the widest feasible universe of prime contractor: A link was provided in the solicitation document of the Furniture, Fixtures and Equipment project. In addition, GLTC identified a potential DBE vendor and directly notified them about the project.

The following race-neutral means indicated in the 2013 DBE Program Plan have not been implemented by GLTC:

- The Company will work closely with financial institutions, insurance and bonding companies and prime contractors in an effort to alleviate financial barriers to participation. The company will consider waiving, or reducing bonding and insurance where legally possible.
- The Company will encourage the formation of joint ventures among DBEs and between disadvantaged and non-disadvantaged firms, which will provide the opportunity for DBEs to gain experience.
- The Company will provide DBEs with the opportunity to review and evaluate similar successful bid documents.

Small business program

GLTC's 2013 DBE Program Plan includes a detailed Small Business Participation program which includes strategies for major construction projects, small capital procurements and general operations procurements. GLTC stated that the program would be fully implemented by December 31, 2013. GLTC has not analyzed the impact of its race-neutral activities and small business element. The following elements have been partially implemented:

- Prime contractors on construction contracts will be required to provide information with their bid that identifies small businesses that will participate as subcontractors including the scope of work undertaken. Lack of small business participation would require evidence of good faith efforts: The Furniture, Fixtures and Equipment solicitation (2016) required bidders to complete forms specifying SWaM participation (see Attachment 1).

No evidence of good faith efforts relating to small business participation was noted in the procurement file.

- Outreach to small businesses to make them aware of potential contracting and subcontracting opportunities: Contracting opportunities are publicized on the GLTC website. During FFY 2015-2016 advertisements were placed on the bulletin boards, on buses, at public facilities and on the GLTC website encouraging small, minority or women-owned business leaders to contact the DBELO to find out more about doing business with GLTC and eligibility for certification. Advertisements were also included in a mass mailing to the membership of the Lynchburg Regional Chamber of Commerce.

The following elements of the small business program have not been implemented:

- The DBELO and purchasing department will review operations and maintenance activities and prepare an annual assessment for increasing small business participation.
- Developing lists of the small business organizations identified.
- Requiring A&E firms and / or construction management firms to prepare a written assessment of opportunities that may exist for small businesses to compete as part of the overall scope of a construction project. This would identify any opportunities for unbundling.
- Include in its construction contract documents a provision that will prohibit prime contractors from requiring performance and labor and materials payment bonds from subcontractors that meet the definition of a small business or a DBE firm as long as bonds provided by the prime contractor are adequate to protect the financial interest of the GLTC and USDOT.

GLTC has not fully implemented the race-neutral measures listed in their DBE Program Plan, including its small business element, as required by 49 CFR Part 26.51(a-b) and 49 CFR Part 26.39 respectively.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must provide a detailed plan of how race-neutral measures, including its small business element, will be fully implemented. The plan must be submitted to the FTA's Office of Civil Rights.

D) Race-Conscious DBE Participation

Basic Requirement (49 CFR Part 26.51)

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

Discussion

During this compliance review, **deficiencies** were found with this requirement.

GLTC's 2013 DBE Program Plan indicates that it will use contract goals to meet any portion of the overall goal GLTC does not project being able to meet using race-neutral means. The program does not include a detailed methodology for determining when to use contract goals. GLTC's FFY 2012-2014 and FFY 2015-2017 goals are entirely race-neutral. The FFY 2015-2017 goal methodology did not explain the basis for the race-conscious / race-neutral split. The methodology included past participation data, but this was not used to project the portion of the goal expected to be met through race-neutral means.

Of the seven (7) prime contracts reviewed, four (4) procurements included contract goals. These procurements are listed below. Two (2) were directly FTA-funded and two (2) received funding as a subrecipient of Virginia DRPT. Payment data provided indicated 7% of payments to the prime contractor on the Transfer Center project went to DBE firms, but the exact DBE participation could not be verified with GLTC or the prime contractor. No payment information was available for the Architectural Design and Engineering Services contract and neither GLTC nor the prime contractor could verify the DBE participation achieved on this contract. GLTC staff indicated that if this information had been collected, it may have been lost during staff turn-over and system issues which caused some email records to be lost. No documentation was provided that this information had been requested and tracked by GLTC during the project.

Contract	Direct FTA funding?	Prime Contractor	Prime Execution Date	DBE Goal in solicitation document	DBE Commitment by Prime Contractor	DBE Participation Achieved
Architectural Design and Engineering Services	Yes	Wendel Companies	8/24/2010	10%	10%	Unknown. Payment data not provided.
Transfer Center	Yes	C. L. Lewis & Co, Inc.	12/18/2012	4%	4%	Payment data indicated 7% spend to DBE firms
Operations and Maintenance Facility	No	MB Contractors, Inc.	3/19/2015	4%	4%	0%
Furniture, Fixtures and Equipment	No	Harris Office Furniture Co, Inc.	12/28/16	4%	0%	Ongoing

No information was available as to how the race-conscious contract goals were determined. The Furniture Fixtures and Equipment solicitation did not originally include a DBE contract goal, but a memorandum issued at the pre-bid meeting in December, 2016 referenced a goal of 4%. A DBE contractor who participated in the pre-bid conference for this procurement indicated that it did not bid because its manufacturer had an existing distribution agreement in place with another non-DBE. This agreement could have been circumvented if the solicitation document had clearly shown that DBE participation was sought.

GLTC was not aware of the need to determine specific goals for procurements based on factors such as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract, as indicated in 49 CFR 26.51(e).

GLTC did not explain the basis for a totally race-neutral goal within the FFY 2015-2017 DBE goal methodology, as required by 49 CFR Part 26.51(c). GLTC does not have a clear methodology for determining specific contract goals, as indicated in 49 CFR 26.51(e).

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must revise the DBE Program Plan to include a process for determining the race-conscious/race-neutral split in the DBE goal methodology, and an approach for determining contract goals. The revised program must be submitted to the FTA's Office of Civil Rights.

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 DBE 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, **deficiencies** were found with this requirement.

Good faith efforts

GLTC's 2013 DBE Program Plan indicates that the bidder/ offerors' compliance with good faith efforts requirements is a matter of responsibility. The AGM is responsible for determining that good faith efforts are sufficient. The DBE Program Plan lists the documentation that must be submitted by bidders on contracts with DBE goals, as required by 49 CFR Part 26.53(b). Attachment F of the DBE Program Plan provides a form for documenting the bidders DBE

commitment and a template letter of intent. The draft 2016 GLTC DBE Program Plan indicates that demonstration of good faith efforts will be a matter of responsiveness.

Four (4) contracts with contract goals were reviewed on site: The Architectural Design and Engineering Services (2010) and Transfer Center (2012), which were directly FTA-funded and the Operations and Maintenance Facility (2015) and Furniture Fixtures and Equipment (2016) project. Both the Architectural Design and Engineering Services and Transfer Center procurement files included a written commitment to meet or exceed the contract DBE goal provided by the successful vendor at the time of bidding. The Architectural Design and Engineering Services procurement included letters of intent for two (2) DBEs and one (1) SWaM, but did not include specific information about the work that the DBEs would perform and the dollar amount of DBE participation as requested on the procurement forms (see Attachment 2). The Transfer Center bid provided a copy of a newspaper advertisement and a list of DBEs that had been solicited, but did not state on the required Equal Opportunity Report Template (see Attachment 3) which DBEs would be utilized. No additional documentation about the confirmed DBE subcontractors was provided. There was no evidence that GLTC conducted a good faith efforts review of submissions for either FTA-funded procurement. Therefore, it was not possible to determine whether documentation required by 49 CFR Part 26.53(b) was requested and submitted within 7 days after bid opening, and had been reviewed by GLTC prior to final selection. Neither procurement used the forms included as Attachment F noted in the 2013 DBE Program Plan. GLTC did not complete an analysis of good faith efforts on any FTA-funded procurement.

GLTC did not require the Operations and Maintenance Facility prime contractor to provide documentation of the DBEs it had identified or good faith efforts prior to award. GLTC identified this oversight and the prime contractor provided documentation (dated April 28, 2016) of good faith efforts made during and after the bid process, but this data was not reviewed by GLTC as a condition for award. GLTC did not treat the Furniture Fixtures and Equipment project as though it had a DBE goal and there was no documentation of a review of good faith efforts. GLTC did not review good faith efforts prior to award of these contracts.

Administrative Reconsideration

GLTC's 2013 DBE Program Plan includes administrative reconsideration procedures as outlined in 49 CFR Part 26.53. The reconsideration official listed no longer works at GLTC. The draft 2016 DBE Program Plan does not specify a replacement for the reconsideration official. During the review period, no procurements have required administrative reconsideration.

Where prime contractors committed to a contract goal, no evidence was found that GLTC reviewed the required documentation listing the DBE subcontractors, the work to be performed, the value of this work and commitments from the prime and DBE subcontractor. GLTC did not review good faith efforts as outlined in 49 CFR Part 26.53(b). The 2013 DBE Program Plan does not specify a current member of GLTC staff as the reconsideration official.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must revise the DBE Program Plan to include a procedure for good faith effort analysis as part of its determination of responsiveness and update the reconsideration official listed in the DBE Program Plan. This procedure must be submitted to the FTA's Office of Civil Rights.

F) Protecting Against Termination for Convenience

Basic Requirements (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, **deficiencies** were found with this requirement.

The 2013 DBE Program Plan states that GLTC will require good faith efforts to replace a DBE that is terminated or has failed to complete its work with another certified DBE, to the extent needed to meet the contract goal. The plan states that the prime contractor must notify the DBELO immediately and provide reasonable documentation of the DBE's inability or unwillingness to perform. The prime contractor must also obtain GLTC's approval of the substitution and provide documentation of new subcontracts or good faith efforts. If the prime does not comply, payments could be stopped and eventually termination for default could be issued. Neither the 2013 DBE Program Plan, nor the 2016 draft version, includes reference to the notice that the prime must give to the DBE subcontractor, allowing five (5) days for the DBE to respond, as required by 49 CFR 26.53(f).

Three (3) solicitations with DBE contract goals were reviewed. It was not possible to validate the clauses included in the Architectural Design and Engineering Services (2010) project as the solicitation that included the clauses was not available for review. The Furniture, Fixtures and Equipment (2016) solicitation was not designed to have a DBE contract goal, and did not include the required clause. The Operations and Maintenance Facility (2015) solicitation included a clause that when a DBE subcontractor is terminated or fails to complete its work, prior consent from the recipient will be required and good faith efforts must be made to engage another DBE subcontractor to perform at least the same amount of work. The Transfer Center (2012) solicitation included FTA clauses from the Procurement Best Practice Manual, including reference to termination of DBEs; however, the clauses remained in a template format without specific reference to GLTC. The exact provisions listed in 49 CFR 26.53(f) (ii) were not included in the procurement documents reviewed on site.

All three (3) solicitations with DBE contract goals included termination for convenience and termination for default clauses. Three (3) DBE subcontracts were also reviewed and included termination clauses. Two (2) DBE subcontracts on the Transfer Center project included a statement that termination for cause could occur if a subcontractor failed to cure within three (3) days of a written notice, which does not reflect the five (5) day provision in 49 CFR 26.53(f). One (1) DBE subcontract for the Architectural Design and Engineering Services included seven (7) days for cure.

During a review of payments to DBEs on the Transfer Center project it was noted that one (1) subcontractor, Burkhardt's Nursery, Inc. did not receive the full contracted amount. GLTC described that this subcontractor was unresponsive causing significant delay to the project, so the GLTC Board requested that the DBE subcontractor be terminated. No documentation of this

process was provided by GLTC or the prime contractor, so it is not possible to determine the exact steps taken. It is not clear whether the DBE subcontractor was given notice, including the need to respond to GLTC and the prime contractor within five (5) days. A non-DBE subcontractor completed the remainder of the work, but no documentation of good faith efforts to replace the DBE with another DBE subcontractor was provided. Another DBE subcontractor, Lloyd Concrete Services, Inc., had received additional work through change orders on the Transfer Center. Data provided on the payments to the prime contractor, and payments made from the prime to the two (2) DBE subcontractors, appears to show that even with the termination of Burkhardt's Nursery, Inc., the Transfer Center project achieved 7% DBE participation, exceeding the 4% DBE goal. This could not be verified with GLTC or the prime contractor as no running tally of payments was maintained.

GLTC did not ensure the appropriate termination provisions in all prime contracts and subcontracts on projects with contract goals. GLTC did not document the termination of a DBE subcontractor, including written consent from GLTC and good faith efforts made by the prime contractor, as required by 49 CFR 26.53(f).

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must document and implement a procedure for cases where a DBE is terminated. The implemented procedure must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

GLTC's 2013 DBE Program Plan states that DBE participation towards overall and contract goals will be counted as provided in 49 CFR 26.55, but no further explanation is provided. The draft 2016 DBE Program Plan includes the same statement.

Four (4) procurement files containing DBE goals were reviewed. None of the procurement files included details of the specific work to be completed by proposed DBEs. The FTA-funded Architectural Design and Engineering Services (2010) solicitation included a template for prime contractors to specify the proposed DBEs and describe the work that they would perform (see Attachment 2), but this section of the form was not completed. The FTA-funded Transfer Center (2012) project included an Equal Opportunity Report Template that provided space for DBE firms to be listed, but there was no direction to specify the type and dollar value of work to be performed by DBE subcontractors (see Attachment 3). The same form was used on the Operations and Maintenance Facility (2015) project. The procurement files did not show that

this information had been requested separately. GLTC was not able to count DBE participation and determine whether proposed DBE firms had a commercially useful function as insufficient information was provided by the prime contractors and no additional requests were made by GLTC.

The Furniture, Fixtures and Equipment procurement (2016) required bidders to complete DBE Letter of Intent and DBE Affidavit forms (see Attachment 1), including details of the work to be completed by proposed DBE subcontractors. This information would have enabled DBE participation to be counted appropriately by GLTC, but no DBE participation was identified for this project.

GLTC did not review bidder's submissions to ensure the type and amount of participation was consistent with the work specified in the solicitation and the DBEs had a commercially useful function. GLTC did not ensure bidders only counted work performed by DBEs in accordance with 49 CFR 26.55.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must revise the DBE Program Plan to include a procedure for counting DBE participation and assessing the commercially useful function of proposed DBEs during review of bids / proposals. The procedure must be submitted to the FTA's Office of Civil Rights.

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.

Discussion

During this compliance review, **no deficiencies** were found with this requirement.

Both the submitted 2013 DBE Program Plan and the current draft plan indicate that GLTC does not use quotas in any way in the administration of its DBE program. The review team did not note any evidence that GLTC had used quotas or set-aside contracts during the review of procurement documentation.

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 this requirement.

The 2013 DBE Program Plan states that if the goal is not met at the end of a fiscal year, GLTC must analyze in detail the reason for the difference between goal and actual awards/commitments and establish specific steps and milestones to correct the problems identified. There is no reference in the draft 2016 DBE program to undertaking a shortfall analysis.

GLTC's DBE reports show no DBE awards or commitments across FFY 2013-2016. The December 2012 report was not submitted in the EAMS or as a 2015 Triennial Review corrective action and so it is not possible to determine the goal achievement in this year.

As a corrective action from the 2015 Triennial Review, GLTC completed shortfall analysis for FFY 2013 and 2014. The shortfall analysis documents possible reasons why the shortfall occurred, but does not present a clear corrective action plan. Each shortfall analysis includes a table with noted capital projects occurring during the year, but these list the contract value of ongoing projects, not new awards or commitments during that period that would impact the goal achievement. No shortfall analyses for FFY 2015 or 2016 were provided. GLTC did not complete required shortfall analyses within 90 days of the end of the fiscal year.

The FFY 2013 and 2014 shortfall analyses indicate that the goal methodology was flawed and did not reflect the procurement opportunities available during this period. The reasons for the shortfall in FFY 2015 and 2016 were discussed with GLTC. It is only since the current AGM was appointed that GLTC has started to implement more proactive race-neutral and small business element activities. As GLTC has focused on larger capital projects, it has missed potential opportunities for DBE participation in smaller procurements funded through operating assistance.

GLTC did not complete timely shortfall analyses in any year for the period FFY 2013–2016. The FFY 2013 and 2014 shortfall analysis did not include specific steps and milestones to correct the problems identified in the analysis as required by 49 CFR Part 26.47(c).

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must submit a shortfall analyses for FFY 2015-2016 including accurate performance data and a clear corrective action plan. The shortfall analyses and corrective action plan must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

GLTC's 2013 DBE Program Plan states that GLTC will require each transit vehicle manufacturer to certify that it has complied with the requirements of 49 CFR Part 26.49, or, with FTA approval, GLTC can establish project specific DBE goals for vehicle procurements. The draft 2016 DBE program additionally states that GLTC must report vehicle contract awards to FTA via the on-line reporting procedures and form.

The following vehicle procurements were reviewed on site.

Date of Purchase	Type of Contract	Vehicle	Vendor Name/ Manufacturer	Total Award
12/10/10	Piggyback – base contract awarded 9/18/2008	Four (4) 35' Low floor hybrid transit buses	Gillig	\$2,435,220
5/6/2016	State Contract – awarded 6/19/2013	Six (6) 15 Passenger Body on Chassis Buses	Sonny Merryman, Inc./ Starcraft	\$561,000

TVM documentation from the original base procurements was noted in the purchase files. GLTC could not provide evidence that it had checked the FTA website listing of certified TVMs or communicated with FTA's Office of Civil Rights to validate TVM certification prior to award. GLTC could not verify that it had notified the FTA Office of Civil Rights of the vehicle award on May 6, 2016 through the TVM Award Reporting Form located on FTA's Civil Rights DBE Webpage.

GLTC did not notify the FTA Office of Civil Rights of vehicle purchases made since November 13, 2014, within 30 days of award, as required by 49 CFR Part 26.49.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must develop a procedure and checklist to ensure TVM certifications are reviewed prior to award and that purchases are reported on the Civil Rights DBE webpage. GLTC must submit a report identifying all vehicle purchases since November 13, 2014. The procedure, checklist and report must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

GLTC's 2013 DBE Program Plan includes contract assurance language that must be placed in every DOT-assisted contract and subcontract. The text of this clause was modified in November 2014 and the DBE Program Plan should be updated to include the following language providing examples of remedies: "which may include, but is not limited to:

- Withholding monthly progress payments;
- Assessing sanctions;
- Liquidated damages; and/or
- Disqualifying the contractor from future bidding as non-responsible."

The review team examined six (6) prime solicitation documents, three (3) DBE subcontracts and (3) non-DBE subcontracts for compliance with contract assurance. In addition, the Architectural Design and Engineering Services procurement file was requested, but the solicitation document that included the contract clauses was not provided. Of the six (6) prime contract files reviewed, two (2) did not include the non-discrimination clause, two (2) included the clause, but without the additional language required after November 2014, and two (2) included a copy of the FTA Best Practice Procurement Manual Clauses, without amending the clauses to relate to GLTC. None of the six (6) subcontracts contained a non-discrimination clause.

The reviewed subcontracts are noted in the table on the following page.

Project	Direct FTA funding?	Prime Execution Date	Prime Contractor	DBE Goal in Solicitation Document?	Subcontracts Reviewed
Architectural Design and Engineering Services	Yes	8/24/2010	Wendel Companies	Yes	Construction Cost Systems (DBE)
Transfer Center	Yes	12/18/2012	C. L. Lewis & Co, Inc.	Yes	Lloyd Concrete Services, Inc. (DBE), Burkhardt's Nursery, Inc. (DBE)
Operations and Maintenance Facility	No	3/19/2015	MB Contractors, Inc.	Yes	Modern Door and Equipment Sales, Inc., Eastern States Paving, Inc., Baird Drywall and Acoustic, Inc.
Furniture, Fixtures and Equipment	No	12/28/16	Harris Office Furniture Co, Inc.	Yes	None
Inspection Services (Transfer Center)	Yes	11/21/12	Hurt & Proffitt, Inc.	No	None
Professional Transit Contract Management Services	Yes	4/19/13	First Transit, Inc.	No	None. Solicitation specifies no subcontractors
Inspection Services (Operations and Maintenance Facility)	No	6/17/15	Hurt & Proffitt, Inc.	No	None

GLTC does not have a process for ensuring the correct clauses are included in prime contracts. GLTC does not have a procedure for reviewing the subcontracts to ensure that all the required DBE clauses are included and does not have policies for enforcement with prime contractors. Prime contracts and subcontracts did not include non-discrimination clauses as required by 49 CFR Part 26.13.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must develop a procedure for reviewing prime contracts and subcontracts to ensure all DBE provisions are included. The procedure must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

Prompt payment

GLTC's 2013 DBE Program Plan states that GLTC will include a clause in each DOT assisted contract that the prime contractor will pay each subcontractor for satisfactory performance no later than 20 days from receipt of each payment the prime contractor receives from GLTC. Failure to comply may constitute a breach of contract and may result in termination.

Five (5) prime contract files and six (6) subcontracts were reviewed. The Architectural Design and Engineering Services solicitation document was not provided, so it was not possible to determine the clauses included. The Professional Transit Contract Management Services contract prohibited subcontracting. Prompt payment clauses varied across the different prime contracts, and none reflected the 20-day provision in the DBE Program Plan, as indicated in the table on the following page.

Project	Direct FTA funding?	Prime Contractor	Prompt Payment clause in prime contract	Return of Retainage clause in prime contract
Transfer Center	Yes	C. L. Lewis & Co, Inc.	Payment to be made within 7 days. Also, includes 30 days within the FTA clauses section which uses a standard template not edited to be specific to GLTC	Standard template clause not edited to be specific to GLTC
Operations and Maintenance Facility	No	MB Contractors, Inc.	Within 30 days	Within 30 days following final acceptance of work and contractors receipt of partial retainage payment relating to the subcontractors' work
Furniture, Fixtures and Equipment	No	Harris Office Furniture Co, Inc.	Within 7 days	Not included
Inspection Services (Transfer Center)	Yes	Hurt & Proffitt, Inc.	Within 30 days. Standard template clause not edited to be specific to GLTC	Standard template clause not edited to be specific to GLTC
Inspection Services (Operations and Maintenance Facility)	No	Hurt & Proffitt, Inc.	Within 30 days	Contractor may not withhold retainage from subcontractor

Two (2) contracts, for the Transfer Center and Furniture, Fixtures and Equipment projects included provisions that the contractor would be obliged to pay the subcontractor interest on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from GLTC.

Six (6) subcontracts were reviewed, relating to three (3) different projects. The prompt payment clauses within the subcontracts varied across the three (3) projects. When interviewed, the Architectural Design and Engineering Services prime contractor indicated that they paid subcontractors within thirty (30) days of payment by GLTC, while the clause in their subcontracts stated ten (10) days. The prompt payment clause contained in the Operations and Maintenance Facility subcontract does not comply with DBE regulations. This project is not directly funded by FTA, but has subrecipient funding through Virginia DRPT. The chart on the following page provides more details per contract:

Project	Prime Contractor	Subcontractors	Prompt Payment clause in subcontract	Return of Retainage clause in subcontract
Architectural Design and Engineering Services	Wendel Companies	Construction Cost Systems (DBE)	Within 10 days of prime receiving payment	No retainage taken by prime contractor
Transfer Center	C. L. Lewis & Co, Inc.	Lloyd Concrete Services, Inc. (DBE), Burkhardt's Nursery, Inc. (DBE)	Within 7 days as long as the subcontractor has provided all required waivers of all liens and claims for the work completed	5% retainage. No clause stating when retainage would be paid
Operations and Maintenance Facility	MB Contractors, Inc.	Modern Door and Equipment Sales, Inc., Eastern States Paving, Inc., Baird Drywall and Acoustic, Inc.	Within 7 days of prime receiving payment if the subcontractor provides the application for payment by close on the 20 th of the month. Otherwise payable on the last day of the second following month assuming payment is received from the Owner in the interim	After the contractor is in receipt of the final payment from the Owner

GLTC does not have a procedure in place for reviewing subcontracts to ensure the required contract language is included. GLTC does not review payment dates to track if prime contractors are complying with prompt payment provisions. Dates of payment to subcontractors are not submitted during or at the end of a contract. When requested, the payment amounts and dates were provided by the prime contractors for the Transfer Center and Operations and Maintenance Facility projects. The Transfer Center prime contractor indicated during an interview that subcontractors had been paid within seven (7) days in accordance with the contract. It was not possible to track exactly to the payments made to the prime contractor by GLTC to determine prompt payment because GLTC was not able to provide a link between payments made under the prime contract, and the payments made to the subcontractors. No payment data was available for the Architectural Design and Engineering Services project.

Return of Retainage

GLTC's 2013 DBE Program Plan states that the prime must return retainage payments to each subcontractor within 20 days after the subcontractor's work is satisfactorily completed and any delay can only occur for good cause and with GLTC's written approval.

As noted in the tables above, of the five (5) prime contracts reviewed, one (1) did not include reference to retainage payments and two (2) included the template clauses from the FTA Best Practice Procurement Manual without revisions specifying GLTC as the recipient. Within the six (6) subcontracts reviewed, one (1) did not take retainage, which was confirmed in interview with the prime contractor. Two (2) stated that 5% retainage would be taken, but no guidance on the timing of this payment was given. An interview with the Transfer Center prime contractor indicated that payment was made when GLTC reduced the retainage on the prime contract, but no provision was made for this in either the prime contract, or subcontracts. Three (3) subcontracts for the Operations and Maintenance Facility project included the provision that retainage would be paid only after final payment from the prime contractor. This does not align with the retainage clause in the prime contract, GLTC's DBE Program Plan or 49 CFR Part 26.29. An interview with the prime contractor indicated that retainage held from DBEs reflected the retainage held by GLTC for the project as a whole.

GLTC had not monitored when retainage payments were made to subcontractors. Payment data from the Transfer Center project indicated that retainage was paid after the subcontractors' work was complete, but did not conclusively show that this was paid within 30 days of payment by GLTC to the prime contractor. The data indicated that retainage was withheld from the DBE that was terminated, but GLTC was unable to confirm this analysis. No retainage data was provided for the Architectural Design and Engineering Services and Operations and Maintenance Facility projects. Interviews with subcontractors did not indicate any issues with either prompt payment or return of retainage. GLTC had not received any complaints from subcontractors relating to payment.

The USDOT DBE Questions and Answers note that,

Recipient's DBE programs must include contractual provisions that unambiguously require contractors to make retainage payments to their subcontractors as soon as the subcontractor's work has been satisfactorily completed. This is a race-neutral feature that applies to all subcontractors, not just DBEs.

GLTC does not have an ongoing prompt payment and return of retainage verification process, as required by 49 CFR Part 26.29.

Corrective Actions and Schedules:

Within 90 days of the issuance of the final report, GLTC must develop a procedure for monitoring prime contractor compliance with all payment terms including retainage. GLTC must implement a prompt payment verification procedure. The procedures must be submitted to the FTA's Office of Civil Rights.

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, **deficiencies** were found with this requirement.

The 2013 DBE Program Plan, in Appendix C, states that it may enforce the DBE requirements contained in its contracts through breach of contract action pursuant to the terms of the contracts, and pursuant to the Virginia Code.

Six (6) prime contracts were reviewed. One (1) FTA-funded prime contract for the Inspection Services (2012) for the Transfer Center included boilerplate clauses from the FTA Best Practice procurement manual, but the template was not amended to be specific to GLTC as the recipient. One (1) prime contract for the Furniture, Fixtures and Equipment (2016) project included termination clauses and referenced that the contract is governed by the laws of the Commonwealth of Virginia and any litigation would be brought to the courts of the Commonwealth. Compliance with applicable Federal, State and Local laws and regulations was referenced, but no dispute or resolution provisions were included. Four (4) prime contracts included both termination for cause, and dispute and resolution provisions.

All the six (6) subcontracts reviewed included termination clauses and dispute provisions including use of mediation.

The review team found one (1) instance where GLTC has not notified prime contractors of non-compliance or used breach of contract remedies. On the Transfer Center contract, prime contractor C. L. Lewis & Company Inc. terminated a DBE subcontractor for non-compliance. Although interviews with staff indicated that GLTC may have requested the termination, no documentation was provided to the review team of a request by the prime to GLTC, notice to the DBE prior to termination, or good faith efforts to find another DBE to complete the work.

GLTC does not have a procedure in place to ensure all contracts include the required provisions. GLTC has not taken action where breaches of contract have occurred, as required by 49 CFR Part 26.37.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must implement a process to monitor prime contractor DBE performance and establish a program to take action when performance does not meet the contract terms. The program must be submitted to the FTA's Office of Civil Rights.

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 this requirement.

The 2013 DBE Program Plan indicates that GLTC is a member of the Unified Certification Program (UCP) administered by Virginia DOT and GLTC has submitted written documentation to VDOT to have it act as the certifying agency. A letter concurring and acknowledging a revision to the UCP agreement was signed by the GLTC General Manager in September 2004. The UCP agreement states that all certification decisions will follow 49 CFR Part 26 and that the certification decisions of the UCP will be binding on all USDOT recipients in the State. The Virginia Department of Minority Business Enterprise (DMBE) and the Metropolitan Washington Airports Authority are the two (2) Certifying Members of the UCP. The UCP DBE directory is maintained on the Virginia Department of Small Business and Supplier Diversity (DSBSD) website, an agency formed from the merger of the Virginia DMBE and Virginia DBA.

GLTC does not perform certification of DBEs. Any requests for certification are passed on to the Virginia DSBSD. The 2013 DBE Program Plan states that GLTC will only use and count for DBE credit those DBE firms certified by the State of Virginia.

6.13 Certification Procedures

A) Onsite Visits and Document Review

Basic Requirements (49 CFR Part 26.83)

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

Discussion

GLTC is not a certifying member of Virginia UCP; therefore, this requirement is not applicable.

B) Annual Affidavit

Basic Requirement (49 CFR Part 83)

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

Discussion

GLTC is not a certifying member of Virginia UCP; therefore, this requirement is not applicable.

C) Interstate Certification

Basic Requirement (49 CFR 26.85)

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

Discussion

GLTC is not a certifying member of Virginia UCP; therefore, this requirement is not applicable.

D) Certification Appeals

Basic Requirements (49 CFR 26.86)

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

Discussion:

GLTC is not a certifying member of Virginia UCP; therefore, this requirement 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 to FTA. The recipient must submit Semi-Annual Uniform Reports on June 1 and December 1 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 closeout 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 this requirement.

Bidders List

The 2013 DBE Program Plan states that GLTC will create a bidders list consisting of information about all DBE and non-DBE firms that bid or quote on DOT assisted contracts. The program lists the data that will be collected, in compliance with 49 CFR Part 26.11. The program

indicates that information will be collected through a notice in all solicitations and a request to firms quoting on subcontracts to report information directly to GLTC. GLTC developed DBE Monitoring and Enforcement Procedures as a corrective action from the 2015 Triennial Review, which states that GLTC maintains a bidders list.

The DBELO informed the reviewers that a bidder's list was created in 2015 but it had not been updated since that time. Only one (1) of the six (6) solicitation documents reviewed included a form that requested subcontractor firm names, addresses, DBE status, age of firm and annual gross receipts of the firm (see Attachment 1). This form was used in the 2016 Furniture, Fixtures and Equipment project. None of the other project procurement files included notice that this information had to be reported to GLTC, as indicated in GLTC's DBE Program Plan.

GLTC does not maintain a bidders list with prime and subcontractor information, as required by 49 CFR Part 26.11(c).

Semi-Annual Reporting

GLTC's 2013 DBE Program Plan indicates that DBE participation will be reported on a bi-annual basis using the Uniform Report of DBE Awards and Payments. The plan mentions reporting payments made to DBEs, but does not mention the need to report all awards and commitments, or the due date of reports.

The DBELO is responsible for developing the DBE reports. The Finance and Grant Manager provides payment information from invoice records. GLTC does not currently maintain a list of FTA-funded procurements and information is gathered by reviewing FTA grant projects and discussion with management staff. GLTC was unable to give the review team an accurate list of those procurements that were directly FTA-funded and those which received subrecipient funding. GLTC indicated that tracking awards will be part of the new Finance and Procurement Specialist role going forward. GLTC does not currently track payments made to subcontractors.

A review of GLTC's DBE reports indicated that subcontractor awards had not been reported. The Transfer Center contract was awarded on December 18, 2012, but no DBE awards and commitments were included in the June 2013 report. The reports only include capital procurements and do not reflect operating procurements and commitments such as fuel purchases. An accurate level of DBE goal achievement has not been reported to FTA.

GLTC did not submit all DBE reports in a timely manner. Reports from December 2012–June 2015 were not submitted in the EAMS. The December 2015 report was submitted two (2) days late. GLTC received a finding in the 2015 Triennial Review for missing DBE reports and, as a corrective action, provided FTA with excel versions of the reports covering June 2013 – June 2015. Both FFY 2016 DBE reports have been submitted on time in the EAMS.

GLTC does not maintain a list of FTA-funded procurements, and the subcontract commitments on these contracts. There are no procedures in place to ensure on-time report submission and accurate reporting, as required by 49 CFR Part 26.11.

Monitoring DBE Participation

The GLTC 2013 DBE Program Plan includes several different monitoring and enforcement mechanisms, including: notifying DOT of any false, fraudulent or dishonest conduct; action under GLTC's own authority, including responsibility determinations on future contracts; verifying that work committed to DBEs at the time of award is performed by DBEs; and keeping a running tally of actual payments to DBE firms. The program indicates that GLTC will require every prime contractor to provide GLTC by the 15th day of the month, a report showing prior months' payments, broken down by prime and subcontractors. GLTC's program also provides for interim audits of contract payments to DBEs.

GLTC has not outsourced any monitoring activities. GLTC does not maintain a running tally of actual payments to DBE firms, does not request monthly reports from prime contractors on the payments to and work performed by DBEs and has not performed interim audits of contract payments as outlined in its DBE Program Plan. GLTC does not track ongoing payments, prompt payment or timeframes for release of retention. When requested, GLTC was able to obtain from the prime contractor's payment information for a sample of subcontractors on the Transfer Center (2012) and Operations and Maintenance Facility (2015) projects. However, GLTC was not able to provide a link between payments made under the prime contract, and the payments made to the subcontractors. GLTC has documentation of certified payroll audits on the Operations and Maintenance Facility project. Information on the timeliness of payments to subcontractors on the Architectural Design and Engineering Services (2010) project was not provided. GLTC does not review contracting records and monitor worksites to ensure that work committed to DBEs at the time of award is performed by DBEs, as required by 49 CFR 26.37(b).

In 2014 a DBE subcontractor, was terminated due to non-performance on the Transfer Center project. GLTC could not provide evidence that it requested good faith efforts regarding the substitution. No enforcement activity occurred.

During the 2015 Triennial Review, GLTC received a finding for not monitoring DBE compliance on the Transfer Center project. As a corrective action GLTC developed a Procedure for Documenting DBE Participation, Monitoring and Enforcing DBE Compliance (August 2016). This provided more detailed guidance on the procedures and available enforcement mechanisms than the current DBE Program Plan. It also included example forms such as a Proposed DBE Bid Participation Form, Contractors Statement of DBE Utilization and Certification of Payment to DBE Firms (see Attachment 4). GLTC has not had a project with DBE subcontractors since this procedure was developed.

GLTC does not monitor the DBE participation performance of its prime contractors, including maintaining a running tally of payments made to DBEs and ensuring work committed is actually performed by DBEs, as required by 49 CFR 26.37. GLTC has not used the enforcement measures outlined in its DBE Program Plan.

Corrective Actions and Schedules

Within 90 days of the issuance of the final report, GLTC must implement a process to create and update a bidders list and include the description of the process in its DBE Program Plan. The process must be submitted to the FTA's Office of Civil Rights.

Within 90 days of the issuance of the final report, GLTC must complete training on DBE reporting and develop a procedure for ensuring timely and accurate completion of future Semi-Annual Uniform reports. The procedure must be submitted to the FTA's Office of Civil Rights.

Within 90 days of the issuance of the final report, GLTC must implement a process for tracking FTA-funded procurements to inform DBE reporting and contract compliance monitoring. The process must be submitted to the FTA's Office of Civil Rights.

Within 90 days of the issuance of the final report, GLTC must develop a process and identify roles and responsibilities for monitoring prime contractor compliance with all contract terms, using enforcement measures and documenting monitoring activities. GLTC must develop a procedure and identify resources for tracking actual payments to DBEs during a project, and comparing this to the work committed to them at the time of contract award. GLTC must develop a process for monitoring DBE participation at work sites, including identified roles and responsibilities. The procedures must be submitted to the FTA's Office of Civil Rights.

7. Summary Findings

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Response Days/Date
1.	Program Plan	26.21	D	Areas of GLTC's 2013 DBE Program Plan were not included, or required updating: DBELO contact details, DBELO and other staff responsibilities, DBE directory, public participation and consultation during the goal setting process, determination of race conscious / race neutral breakdown, shortfall analysis, reconsideration official, monitoring, and reporting	90 days
2.	Policy Statement	26.23	D	GLTC's signed and dated policy statement does not reflect the current DBE program. There is no documentation that the policy statement was circulated throughout GLTC and to the DBE and non-DBE community	90 days
3.	DBE Liaison Officer	26.25	D	The 2013 DBE Program Plan does not accurately reflect the roles and activities of the DBELO and support staff. The responsibilities of those involved in the DBE program are not clearly defined and are not correctly outlined in staff job descriptions	90 days
4.	Financial Institutions	26.27	D	GLTC did not review the availability of DBE financial institutions as outlined in its submitted DBE Program Plan. GLTC did not encourage prime contractors to use DBE or socially and economically disadvantaged financial institutions	90 days
5.	DBE Directory	26.31	AC	It is an effective practice to make the DBE directory available to interested parties through a link on the GLTC website and include reference to the directory in solicitation documents	
6.	Overconcentration	26.33	D	GLTC has not determined if overconcentration of DBE firms exists	90 days

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Response Days/Date
7.	Business Development Programs	26.35	D	GLTC has not conducted an evaluation of the need for a Business Development Program, as required by GLTC's DBE Program Plan	90 days
8. Determining / Meeting Goals					
8.a	Calculation	26.45	D	When developing the FFY 2015–2017 goal, GLTC did not include all procurement opportunities with FTA participation in the determination of the base figure. Historical procurement activity was not reviewed to determine GLTC's local market area. The past participation data used in the Step 2 adjustment did not correspond to GLTC's submitted DBE reports. No findings or conclusions were presented from the disparity studies reviewed	90 days
8.b	Public Participation	26.45	D	During the FFY 2015-2017 DBE goal setting process, GLTC did not conduct consultation with stakeholder groups, including a scheduled, direct, or interactive exchange with minority, women's and contractor groups	90 days
8.c	Race-Neutral	26.51	D	GLTC has not fully implemented the race neutral measures listed in their DBE Program Plan, including its small business element	90 days
8.d	Race-Conscious	26.51	D	GLTC did not explain the basis for a totally race-neutral goal within the FFY 2015-2017 DBE goal methodology. GLTC does not have a clear methodology for determining specific contract goals	90 days
8.e	Good Faith Efforts	26.53	D	Where prime contractors committed to a contract goal, no evidence was found that GLTC reviewed the required documentation listing the DBE subcontractors, the work to be performed, the value of this work and commitments from the prime and DBE subcontractor. GLTC did not review good faith efforts. The 2013 DBE Program Plan does not specify a current member of GLTC staff as the reconsideration official	90 days

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Response Days/Date
8.f	Protecting Against Termination for Convenience	26.13 and 26.53	D	GLTC did not ensure the appropriate termination provisions in all prime contracts and subcontracts on projects with contract goals. GLTC did not document the termination of a DBE subcontractor, including written consent from GLTC and good faith efforts made by the prime contractor.	90 days
8.g	Counting DBE Participation	26.55	D	GLTC did not review bidder's submissions to ensure the type and amount of participation was consistent with the work specified in the solicitation and the DBEs had a commercially useful function. GLTC did not ensure bidders only counted work performed by DBEs in accordance with 49 CFR 26.55	90 days
8.h	Quotas	26.43	ND		
9.	Shortfall Analysis and Corrective Action Plan	26.47	D	GLTC did not complete timely shortfall analyses in any year for the period FFY 2013–2016. The FFY 2013 and 2014 shortfall analyses did not include specific steps and milestones to correct the problems identified in the analysis	90 days
10.	TVM	26.49	D	GLTC did not notify the FTA Office of Civil Rights of vehicle purchases made since November 13, 2014, within 30 days of award	90 days
11.Required Contract Provisions and Enforcement					
11.a	Contract Assurance	26.13	D	GLTC does not have a process for ensuring the correct clauses are included in prime contracts. GLTC does not have a procedure for reviewing the subcontracts to ensure that all the required DBE clauses are included and does not have policies for enforcement with prime contractors. Prime contracts and subcontracts did not include non-discrimination clauses	90 days

Item	Requirement of 49 CFR Part 26.	Ref.	Site Visit Finding(s)	Finding(s) of Deficiency	Response Days/Date
11.b	Prompt Payment	26.29	D	GLTC does not have an ongoing prompt payment and return of retainage verification process	90 days
11.c	Legal Remedies	26.37	D	GLTC does not have a procedure in place to ensure all contracts include the required provisions. GLTC has not taken action where breaches of contract have occurred	90 days
12. Certification Standards		26.67-26.71	ND		
13. Certification Procedures					
13.a	Onsite Visit	26.83	NA		
13.b	Annual Affidavit	26.83	NA		
13.c	Interstate Certification	26.85	NA		
13.d	Certification Appeals	26.86	NA		
14. Record Keeping and Enforcements					
14.a	Bidders List and Reporting DBE Participation	26.11	D	GLTC does not maintain a bidders list with prime and subcontractor information. GLTC does not maintain a list of FTA-funded procurements, and the subcontract commitments on these contracts. There are no procedures in place to ensure on-time report submission and accurate reporting	90 days
14.b	Monitoring	26.37	D	GLTC does not monitor the DBE participation performance of its prime contractors, including maintaining a running tally of payments made to DBEs and ensuring work committed is actually performed by DBEs. GLTC has not used the enforcement measures outlined in its DBE Program Plan	90 days

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

8. Attachments

Attachment I: Firm Data Sheet, Letter of Intent and Affidavit Forms (2016)

The below forms were used in the 2016 Furniture, Fixtures and Equipment procurement solicitation.

ATTACHMENT I: FIRM DATA SHEET

The prime contractor is responsible for submitting the information requested below on all firms on the project team, both prime and all subcontractors. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit complete data will result in the Expression of Interest not being considered.

Firm's Name and Address	DBE Status*	Firm's Age	Firm's Annual Gross Receipts

* Y = DBE Firm Certified by VDMBE
N = DBE Firm Not Certified by VDMBE

NA = Firm Not Claiming DBE Status
IP = Certification w/VDMBE In-Process

ATTACHMENT J: DBE LETTER OF INTENT

To: _____
(Name of Prime Contractor)

The undersigned intends to perform work in connection with the above project as a DBE (check one)
_____ individual _____ corporation
_____ partnership _____ joint venture.

The Disadvantaged Business status of the undersigned is confirmed:
(a) on the reference list of Disadvantaged Business Enterprises dated _____, or
(b) on the attached Disadvantaged Business Enterprise Identification Statement.

The undersigned is prepared to perform the following work in connection with the above project (Specify in detail particular work items or parts thereof to be performed):

At the following price:

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Commencement Date	Projected Completion Date
_____	_____	_____
_____	_____	_____

The above work will not be sublet to a non-Disadvantaged Business Enterprise at any tier. The undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of a contract with GLTC.

Date _____
Name of Disadvantaged Business Enterprise _____
By _____

ATTACHMENT K: DBE AFFIDAVIT

STATE OF _____ (Date _____)

COUNTY OF _____

The undersigned being duly sworn, deposes and says that he/she is the

(sole owner, partner, president, treasurer or other duly authorized official of a corporation) of

(Name of DBE)

and certifies that since the date of its certification by VDMBE (Virginia Department of Minority Business Enterprise), the certification has not been revoked nor has it expired nor has there been any change in the minority status of

(Name of DBE)

(Signature and Title of Person Making Affidavit)

Sworn to before me this _____ day of _____, 20____

(Notary Public)

NOTE: The offeror must attach the DBE's most recent certification letter or document to this affidavit.

ATTACHMENT L: SWAM LETTER OF INTENT

(Name of Proposer)

is committed to using the SBE, WBE and/or MBE-certified businesses listed below in the performance of the contract resulting from this solicitation.

Instructions to Prime Proposer: List the names of the SWAM businesses your firm intends to use during the performance of this contract. State whether each business is a SBE, WBE or MBE. Briefly identify the role of each business in the performance of the contract, and the amount (i.e., dollar value) of the work to be performed by each business. Use additional pages if necessary.

<u>Name of Businesses:</u>	<u>SBE, WBE or MBE</u>	<u>Role in contract</u>	<u>Amount (\$)</u>
----------------------------	------------------------	-------------------------	--------------------

Total Commitment for Utilization of SWAM Businesses:

\$_____, representing _____ % of the total proposal price.

Offeror understands and acknowledges that the percentages stated above represent a commitment by the Offeror to utilize SWAM businesses.

Date _____ Signature _____

Name/ Title (Print)

ATTACHMENT M: SWAM AFFIDAVIT

STATE OF _____

COUNTY OF _____

The undersigned being duly sworn, deposes and says that he/she is the

(sole owner, partner, president, treasurer or other duly authorized official of a corporation)

of _____
(Name of SWAM firm) which intends to perform the following work on this contract:

(Brief description of role in contract / work to be performed)

at a cost of \$ _____ (Amount).

The undersigned certifies that:

(Name of SWAM firm) is currently certified by the VDMBE as a SBE, WBE or MBE. The undersigned also certifies that since the date of its certification by VDMBE, the certification has not been revoked, nor has it expired, nor has there been any change in the status of the firm that would change the firm's certification.

(Signature) _____
(Name, Printed)

Sworn to before me this _____ day of _____, 20____

(Notary Public)

NOTE: The Offeror must attach a copy of the SWAM's most recent certification letter or document to this affidavit.

Attachment 2: Good Faith Effort, DBE Letter of Intent and Affidavit forms (2010)

The below forms were used in the 2010 Architectural Design and Engineering Services solicitation.

ATTACHMENT K

GOOD FAITH EFFORT

1. GLTC has established a 10% contract goal on this contract. Therefore a bidder must, in order to be responsible and/or responsive, make a good faith effort to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
2. GLTC will use the good faith efforts mechanism as required by 49 CRF part 26. It is up to GLTC to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. GLTC will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. As emphasized by the Department of Transportation, GLTC's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
3. GLTC will not require that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith effort showing. The rule specifically prohibits GLTC from ignoring bona fide good faith efforts.
4. The following is a list of types of actions that GLTC will consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - a. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

ATTACHMENT K

GOOD FAITH EFFORT (continued)

- b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- c. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- d. Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

- e. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- f. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

ATTACHMENT K

GOOD FAITH EFFORT

(continued)

- g. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- h. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

ATTACHMENT L

DBE LETTER OF INTENT

To: _____
(Name of Prime Bidder)

The undersigned intends to perform work in connection with the above project as (check one):

_____ an individual _____ a DBE
_____ a partnership _____ a joint venture
_____ a corporation

The Disadvantaged Business status of the undersigned is confirmed:

(a) on the reference list of Disadvantaged Business Enterprises dated _____, or
(b) on the attached Disadvantaged Business Enterprise Identification Statement.

The undersigned is prepared to perform the following work in connection with the above project (Specify in detail particular work items or parts thereof to be performed):

At the following price: _____

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows: _____

Items	Projected Commencement Date	Projected Completion Date
_____	_____	_____
_____	_____	_____

The above work will not be sublet to a non-Disadvantaged Business Enterprise at any tier. The undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of a contract with GRTC.

Date _____

Name of Disadvantaged Business Enterprise

By _____

ATTACHMENT M

DBE AFFIDAVIT

STATE OF _____ (Date _____)
COUNTY OF _____

The undersigned being duly sworn, deposes and says that he/she is the

(sole owner, partner, president, treasurer or other duly authorized official of a corporation) of

(Name of DBE)

and certifies that since the date of its certification by VDOT (Virginia Department of Transportation), the certification has not been revoked nor has it expired nor has there been any change in the minority status of

(Name of DBE)

(Signature and Title of Person Making Affidavit)

DBE UNAVAILABLE CERTIFICATION

I contacted the following Disadvantaged Business Enterprise to obtain a bid for the following work items.

To the best of my knowledge and belief, said Disadvantaged Business Enterprise was unavailable for work on this project, or unable to prepare a bid for the following reason(s):

Signature: _____

_____ was offered an opportunity to bid on
(Name of Disadvantaged Business Enterprise)

The above statement is a true and accurate account of why I did not submit a bid on this project.

(Title)

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Attachment 3: Equal Opportunity Report Statement (2012 and 2015)

The below Equal Opportunity Report Statement form was used in both the Transfer Center (2012) and Operations and Maintenance Facility (2015) procurements.

EQUAL OPPORTUNITY REPORT STATEMENT

The Bidder shall complete the following statement by checking the appropriate blank as follows.

The Bidder has _____ has not _____ participated in a previous contract subject to the nondiscrimination clause prescribed by Executive Order 10925, dated March 6, 1961, or Executive Order 11114 dated June 22, 1963.

In conjunction with the City of Lynchburg's policy to utilize Minority and Disadvantaged Business Enterprises ("DBE") wherever possible, the Bidder has solicited quotations for labor, material and/or services from the following Minority and Disadvantaged Business Enterprises:

NAME OF FIRM	PERSON(S) CONTACTED	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____

Of those listed above, we intend, at this time, to utilize the following in the completion of the Work required by this Construction Agreement:

"This firm assures that it will give its best efforts to utilize Minority and Disadvantaged Business Enterprises whenever possible."

CERTIFIED BY: _____(Signature)
_____(Typed/Printed name & Title)

BIDDER'S NAME: _____

TAXPAYER IDENTIFICATION NUMBER: _____

_____This firm will perform all construction with its own employees and, therefore, is not required to solicit quotations from DBEs.

FAILURE TO DOCUMENT AND REPORT DBE CONTACTS ON THIS FORM MAY BE A BASIS FOR REJECTION OF THE BID AS NONCONFORMING.

Attachment 4: Templates from GLTC's Procedure for Documenting DBE Participation, Monitoring and Enforcing DBE Compliance (2016)

The below templates are taken from GLTC's Procedure for Documenting DBE Participation, Monitoring and Enforcing DBE Compliance developed in August 2016. The forms include a Proposed DBE Bid Participation Form, Contractors Statement of DBE Utilization and Certification of Payments to DBE Firms.

DEMONSTRATION OF GOOD FAITH EFFORTS:

Disadvantaged Business Enterprise (DBE) Utilization

The undersigned bidder/ offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/ offeror is committed to a minimum of _____% DBE utilization on this contract.

_____ The bidder/ offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/ offeror's firm: _____

State Registration No. _____

By _____ Title _____

(Signature)

GLTC PROPOSED DBE BID PARTICIPATION FORM:

PROPOSED DBE BID PARTICIPATION

PROJECT NO: _____ PRIME CONTRACTOR: _____

DBE FIRM	PRINCIPAL OFFICIAL	ADDRESS/PHONE NO	TYPE OF WORK	AGREED CONTRACT PRICE

TOTAL DBE PROPOSED SUBCONTRACTING \$ _____

THE DBE PROPOSED SUBCONTRACTING IS _____ % OF THE TOTAL CONTRACT AMOUNT

The undersigned will enter into a formal agreement with the DBE contractors/suppliers listed herein conditioned upon the execution of a contract with the Town of Blacksburg.

Signed By: _____ Title: _____ Date: _____

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR/SUPPLIER:

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR/SUPPLIER

PROJECT _____ PROJECT NO. _____

TO: _____
(NAME OF PRIME OR GENERAL BIDDER)

A. The undersigned intends to perform work in connection with the above project in the following capacity (check one):

_____ An individual _____ A corporation
_____ A partnership _____ A joint venture

B. The DBE status of the undersigned is confirmed by certification in the Virginia Unified Certification Program. Yes No

C. The undersigned is prepared to perform the following work in connection with the above project: _____

D. The undersigned states that the total bid price for the work described above is : \$ _____

E. The undersigned will sublet and/or award _____ % of this subcontract to non-DBE contractors and/or non- DBE suppliers.

The undersigned will enter into a formal agreement for the above described work with the Prime or General Bidder cited above conditioned upon the execution of a contract for the project cited herein between the Prime or General Bidder and the Town of Blacksburg.

(DBE Contractor Firm Name) Date: _____

By: _____
(Signature of Authorized Representative)

GLTC CONTRACTORS STATEMENT OF DBE UTILIZATION:

CONTRACTOR'S STATEMENT OF DBE UTILIZATION

(1) PAY REQUEST NO. _____ (2) REPORT PERIOD FROM _____ TO _____ SHEET _____ OF _____

(3) PROJECT NAME: _____ (4) PROJECT NO. _____ (5) BASE BID \$ _____

(6) CONTRACT NO. _____ (7) REQUIRED DBE UTILIZATION _____% (8) PROPOSED DBE UTILIZATION _____%

[illegible]

(22) CONTRACTOR _____ (23) AUTHORIZED SIGNATURE _____ (24) DATE _____
(25) PERCENTAGE OF TOTAL CONTRACT COMPLETED TO DATE _____%

GLTC CONTRACTORS CERTIFICATION OF PAYMENT TO DBE FIRMS:

CERTIFICATION OF PAYMENT TO DBE FIRMS

The undersigned, having contracted as the prime contractor on Project No. _____ hereby certifies that full payment has been made to the firm indicated. Payments made or pending to a DBE firm for materials and/or work performed under this project's contract are as follows:

The DBE firm of _____ was paid the amount of \$ _____.

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years from the project acceptance date. In the event the DBE was not paid in accordance with affidavits submitted by the prime contractor, all documentation supporting the contractor's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Prime Contractor Representative

By: _____
(Print name and title)

Date: _____

The undersigned DBE subcontractor/supplier/manufacturer hereby certifies that a contract was entered into with the above named prime contractor to perform work or provide materials on the project cited in this document. I further certify that payments were received and/or justification submitted by the prime contractor for failure to make such payments in accordance with previous affidavits is correct.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Subcontractor Representative

By: _____ Date: _____
(Print name and title)