DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PLAN
2018

OCTOBER 18, 2018
THE GREATER PEORIA MASS TRANSIT DISTRICT
2105 NE Jefferson Avenue Peoria, IL  

Updated December 2019
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SUBPART- GENERAL REQUIREMENTS

1. Section 26.21 Objectives

The Greater Peoria Mass Transit District ("District" or "GPMTD") Disadvantaged Business Enterprise (DBE) program is comprehensive program, developed by the U.S. Department of Transportation (DOT), which establishes guidelines for the participation of firms owned and operated by socially and economically disadvantaged persons in DOT-assisted contracting.

As a major provider of public transportation, and whose employees have extensive daily contact with the public, the Greater Peoria Mass Transit District recognizes its responsibility to the community which it serves and is committed to a policy of non-discrimination.

Listed below are the District Objectives/Policy Statement (26.1, 26.3) for the public.

a) To ensure non-discrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit and airport financial assistance programs;
b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law; (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
d) To help remove barriers to the participation of DBEs in DOT-assisted contracts;
e) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
g) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

2. Section 26.3 Applicability

The GPMTD receives Federal financial assistance from the U.S. Department of Transportation (USDOT) and, as a condition of receiving this financial assistance, the GMTD has signed an assurance that it will comply with 49 CFR Part 26. In accordance with these regulations, the GPMTD has established a Disadvantaged Business Enterprise (DBE) program.

3. Section 26.5 Definitions

The GPMTD has adopted the definition of terms set forth in 49 Code of Federal Regulation, Part 26 of its DBE program.

4. Section 26.7 Non-discrimination

The GPMTD will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex or national origin.
In administering its DBE program, the GPMTD will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex or national origin.

5. Section 26.11 (b) Recordkeeping

The GPMTD will report DBE participation to the FTA using the electronic semi-annual Uniform Report of DBE Awards or Commitments and Payments, through TrAMS-Web. These reports will capture the awards made to Primes and Subcontractors on DOT-assisted contracts; as required 49 CFR Part 26.

Bidder’s List Section 26.11 (c)

The GPMTD will create and maintain a bidder’s list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder’s list approach to calculate overall goals. The bidder’s list will include the name, address, DBE non-DBE status, age and annual gross receipts of firms.

The GPMTD collects this information by using the proposed procedure Appendix A to Part 26—which requires offerors to report the required information, for their firm, and all firms who quote to them on subcontracts, by issuing a requirement that will be placed in all federally funded solicitations.

6. Section 26.13 Recipients’ and Contractors’ Assurances

Each contract signed with a contractor/consultant (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

a) The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements 49 CFR Part 26.

b) The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure non-discrimination in the award and administration of DOT-assisted contracts. The recipient’s DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement.

c) Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement.

d) Upon notification to the recipient of its failure to carry out its approved program, the DOT may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Each contract signed with a contractor/consultant (and each subcontract the prime contractor signs with a subcontractor) will include the following assurances:


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

2. Prompt Payment (49-CFR Part 26.29)

(b) The GPMTD’s DBE program requires prime contractors to include as a part of every subcontract (including Non-DBE subcontracts) for work and material a Prompt Payment Clause. The Prompt Payment Clause requires payment to all subcontractors, for all consulting, labor and materials for work completed within seven business days of the Prime’s receipt of progress/final payment from the GPMTD for said work. The failure by the prime contractor to carry out the requirements of the Prompt Payment Clause, without just cause, is a material breach of any GPMTD contract. Accordingly, said breach may result in GPMTD withholding future payments from the prime contractor until all delinquent payments have been made, termination of the contract or other such remedy as the DBELO/GPMTD deems appropriate.

3. Return of Retainage (49-CFR Part 26.29)

(c) Prime contractors are required to ensure prompt and full payment of retainage to all subcontractors within 30 days after the subcontractor’s work is satisfactorily completed. Prime contractors are prohibited from holding retainage from subcontractors until the project is completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the GPMTD. When the GPMTD has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

GPMTD will include the following clause in each FTA assisted prime contract: “The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from GPMTD. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval by GPMTD. This clause applies to both DBE and non-DBE subcontracts.”


(d) The GPMTD will monitor each DOT-funded contract with DBE participation to ensure that all work committed to DBEs at contract award or subsequently (as a result of contract modification) is actually performed by the DBEs to which the work was committed. Site visits will be conducted periodically by staff. Contractor’s Request for Payment forms will be monitored to ensure that DBEs are being paid in accordance to their signed agreements. (e) All prime contractors/consultants will be required to self-report all payments received from the GPMTD. This will allow GPMTD to tracks payments made to the prime contractor and all payments made by the prime to any subcontractors, to include DBEs, and the timeliness of those payments in accordance to the GPMTD’s Prompt Payment Clause.

5. Termination for Convenience (49-CFR Part 26.53)

(f) No prime contractor/consultant will terminate for convenience a DBE subcontractor that was listed and agreed to perform a project task (or an approved substitute DBE firm) and then perform the work of
the terminated subcontract with its own forces or those of an affiliate, without prior written consent from the GPMTD’s DBE Officer.

(g) The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the prime contractor obtains written consent from the GPMTD’s DBELO Office; and unless the consent is provided the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

(h) Appropriate administrative remedies will be invoked to any prime contractor that terminates and/or removes a DBE firm/s for convenience. Those remedies may include requirement to pay terminated DBE firm/s; withholding of future payments and/or retainage; and/or disbarment from future consideration of project awards with the GPMTD.

SUBPART B- ADMINISTRATIVE REQUIREMENTS

1. Section 26.21 DBE Program Updates

Transportation agencies such as the GPMTD, that are awarded $250,000 or more in federally-funded contracts in a federal fiscal year, are required to participate in the DBE program. The GPMTD will continue to carry out his program until all funds from DOT financial assistance have been expended. We will provide the FTA updates representing significant changes in the program.

2. Section 26.23 Policy Statement

The policy statement is stated on the first page of the GPMTD DBE Program Plan. The GPMTD has issued a signed and dated policy statement that expresses its commitment to the DBE program which states the objectives, and outlines responsibilities for its implementation. The statement will be circulated throughout the organization and to the DBE and non-DBE business communities that perform work on the GPMTD DOT-assisted contracts. The policy statement is found in Attachment 1 of the DBE Program Plan.

3. Section 26.25 Liaison Officer (DBELO)

The General Manager has designated the Assistant General Manager, as the Disadvantage Business Enterprise Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the GPMTD complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the General Manager concerning DBE program matters. The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

a) Gathers and reports statistical data and other information as required by DOT.
b) Reviews third party contracts and purchase requisitions for compliance with this program.
c) Works with all departments to set overall annual goals.
d) Ensures that solicitation notices are available to DBEs in a timely manner.
e) Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment) and identifies ways to improve progress.
f) Analyzes the GPMTD’s progress toward attainment and identifies ways to improve progress.
g) Participates in pre-solicitation conferences.
h) Advises the GM/governing body on DBE matters and achievement.
i) Provides DBEs with information and assistance in preparing offers, obtaining bonding and insurance.
j) Plans and participates in DBE training seminars.
k) Provides outreach to DBEs and community organizations to advise them of opportunities.
l) Monitors payments to DBEs for work committed to them at the time of contract award.

4. Section 26.27 DBE Financial Institutions

It is the policy of the GPMTD to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors/consultant on DOT-assisted contracts to make use of these institutions. Notification of solicitations for financial services will be sent to the institutions identified in the United States Department of Treasury, Financial Management Services Division, Minority Bank Deposit Program (MBDP) listings of financial institutions in the State of Illinois. The availability of such institutions can be obtained at the U.S. Department of Treasury website:

https://fiscal.treasury.gov/mbdp/

Farmers State Bank 104 E, Main Street Elmwood, IL 61529

5. Section 26.29 Prompt Payment

Language will be included in each DOT-assisted contract stating the prime contractor/consultant agrees to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than seven business days from the receipt of each payment the prime contractor receives from the GPMTD. The prime contractor must agree further to return retainage payments to each subcontractor within 30 business days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following prior written approval from the GPMTD’s Diversity and Equity Program Office. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than seven business days from the receipt of payment from the GPMTD may constitute a breach of contract for work, and the GPMTD may withhold payments to the contractor or exercise its other remedies under such contract including, but not limited to, termination of the contractor, or commencing suspension or debarment proceedings.

The GPMTD agrees to pay its contractors/consultant (both DBE and non-DBE primes), under direct contract with the GPMTD, within 30 calendar days providing receipt of all proper invoices and support documentation has been submitted to the GPMTD project manager. The project manager will be responsible for reviewing, approving, and submitting payment invoices via the finance department.

6. Section 26.31 DBE Directory

The GPMTD is required to participate in the Uniform Certification Program (UCP). The combined statewide directory, identifying all firms eligible to participate as a certified DBE, may be located at the Illinois Department of Transportation (IDOT) website:
https://idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index

7. Section 26.33 Overconcentration

The GPMTD has not identified that overconcentration exists in the types of work that DBEs perform. If the GPMTD determines that DBE firms are over concentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, the GPMTD must devise appropriate measures to address this overconcentration.

8. Section 26.35 Business Development Programs/Mentor-Protégé Program

GPMTD has a rich and proud history in ensuring that DBE firms are given a fair and equal opportunity to compete for contract opportunities. GPMTD seeks to further enrich opportunity within the community in the areas of job development and training. Currently, the GPMTD does not have any formal Mentor Protégé Program in place. Business Development Program (Section 26.35 and Appendix B) The District may establish or participate in a DBE business development program to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE Program. As a part of the business development program or separately, the District may establish or participate in a mentor-protégé program in which another DBE or non-DBE firm is the principal source of business development assistance. If the District determines such a program is beneficial, a proposed program will be written and submitted to the U.S. DOT operating administrations for approval, after which it will become part of this DBE Program.

9. Section 26.37 Monitoring and Enforcement

The GPMTD will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

a) The GPMTD will bring to the attention of the Department of Transportation any false, fraudulent or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment, or Program Fraud and Civil Penalties rules) provided in 26.109. 11
b) The GPMTD will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

c) The GPMTD will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. The GPMTD will periodically attend monthly scheduled project meetings and conduct unannounced site visits. The GPMTD also requires each contractor/consultant to submit a contractor invoice request for payment.

d) The GPMTD will require prime contractors/consultant to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the GPMTD or the DOT. This reporting requirement also extends to any certified DBE subcontractor.
e) The GPMTD will perform interim audits of contract payments to DBEs to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the Schedule of DBE Participation Form.

f) The GPMTD will monitor each DOT-funded contract with DBE participation to ensure that all work committed to DBEs at contract award or subsequently (as a result of contract modification) is actually performed by the DBEs to which the work was committed. Site visit will be conducted periodically by staff. Contractor’s invoice request for Payment forms will be monitored to ensure that DBEs are being paid in accordance to their signed agreements.

g) All prime contractors/consultants will be required to self-report all payments received from the GPMTD. This allows GPMTD to tracks payments made to the prime contractor and all payments made by the prime to any subcontractors, to include DBEs, and the timeliness of those payments in accordance to GPMTD’s Prompt Payment Clause.

10. Section 26.39 Fostering Small Business Participation

Introduction

The Greater Peoria Mass Transit District has developed a small business enterprise component in compliance with 49 CFR Section 26.39, with the objective to expand procurement opportunities to Small Business Enterprises in the GPMTD’s relative market area (cities/counties).

Section 26.39 was added to the Disadvantaged Business Enterprise (DBE) regulations to increase the participation of small businesses on USDOT-funded contracts. USDOT has instructed its recipients to take active and effective steps to increase race-neutral DBE participation by implementing strategies to foster small business participation. The amended regulations, published in the January 28, 2011 Federal Register, Volume 76, No. 19, specifically describes the minimum elements of the small business enterprise component. Additional suggestions are set forth in the preamble to the rule at 76 Federal Register 5094.

The Federal Highway Administration (FHWA) released a memorandum as guidance for USDOT recipients to formulate the requirements set forth in 49 CFR Section 26.391. The guidance from FHWA was considered when determining the size thresholds and the appropriate components and strategies to foster small business participation on the GPMTD’s contracts as intended by the amended regulations.

In order to maximize the participation of small business enterprises (SBEs), the GPMTD has developed additional strategies to create effective contracting opportunities for small businesses. These innovative strategies have been incorporated in the SBE component as well as the elements suggested in the amended regulations.

Recognizing that the DBE program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses; the GPMTD seeks to implement a small business element into its current DBE program in accordance with applicable law. The GPMTD is including this element to facilitate competition by and expand opportunities for small businesses. The GPMTD is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors/consultant or subcontractors. The GPMTD will meet its objectives using a combination of the following methods and strategies:
• **Unbundling:** The GPMTD, where feasible may "unbundle" projects or separate large contracts into smaller contracts, which may be more suitable for small business participation. The GPMTD will determine the feasibility of unbundling by reviewing the grant application for the federal project, and determining the work elements that are likely to be grouped for construction and/or purchase. The GPMTD will consider the economic feasibility, constructability and schedule impacts, in addition to providing greater opportunities for small business participation, in the assessment of unbundling the projects. Similarly, the GPMTD will encourage its prime contractors and prime consultants to unbundle contracts to facilitate participation by small businesses.

• **Outreach and Technical Assistance:** The GPMTD advertises contracting opportunities through various outlets, including local newspapers. In addition, GPMTD will address the small business component element opportunities at various DBE outreach meetings held throughout the year. The outreach meetings will incorporate GPMTD's commitment to the new SBE component and encouraging participation of SBE firms in addition to DBE firms.
  
  o Program Objectives:
    ▪ To provide opportunities for small businesses to participate in all phases of GPMTD's contracting activities;
    ▪ To ensure nondiscriminatory practices in the utilization of small businesses in GPMTD contracts;
    ▪ To encourage all small businesses to seek work as either a prime or a subcontractor when qualified and when work is available; and
    ▪ To create formal processes and procedures that adequately and effectively assists in small business participation.

As described above, GPMTD will use a variety of methods to facilitate small business participation.

**Minimum SBE Program Elements**

The specific strategies recommended in Section 26.39 are included in the SBE component and are applicable only to federally assisted contracts. The strategies are as follows:

Standards for bidders on prime contracts in multi-year, design-build contracts or other large contracts (e.g., for "megaprojects") to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

Requirement for prime contractors on contracts with no DBE goals to provide subcontract opportunities of a size that small businesses, including DBEs, could reasonably perform, rather than self-performing all the work involved.

Identification of alternative acquisition procurements strategies structured to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

Procedures to meet the portion of the overall goal projected through race-neutral measures which ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform. Steps to eliminate unnecessary and unjustified bundling of contract
requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

**Definition of Small Business Enterprise Size Standards**

According to 49 CFR Section 26.39, a small business enterprise is defined pursuant to the United States Small Business Administration's (SBA) size standards. These standards are delineated in 49 CFR Section 26.5, and states the following with respect to firms seeking to participate as DBEs in USDOT assisted contracts:

1. A small business concern is defined pursuant to Section 3 of the Small Business Act and the implementing Small Business Administration regulations 13, CFR Part 121, with one exception. The exception is the annual gross receipts, as specified in § 26.65(b), cannot exceed $23.98 million.

Since the USDOT regulations, as specified in 49 CFR 26.65, set a cap on small business gross receipts over the past three fiscal years of greater than $23.98 million do not qualify as small businesses under the USDOT rules. The USDOT small business size threshold will be used to facilitate the utilization of small businesses on GPMTD's contracts.

**Core Small Business Enterprise Program Elements**

GPMTD has selected the following strategies suggested in 49 CFR Section 26.39 are the core elements of GPMTD's SBE Program element and are presented below.

The following are the program's strategic objectives and corresponding success/performance indicators:

- **Strategic Objective 1:** Ensure GPMTD’s DBE Program is available to small businesses by collaborating across the community and within the GPMTD organization to expand opportunities for small businesses.
- **Strategic Objective 2:** Create opportunities to grow small businesses in order to assist in job creation.
- **Strategic Objective 3:** Strengthen GPMTD's counseling and training resources to help create new businesses and support the needs of existing businesses by successfully focusing on core program resources and ensuring these resources are aligned with the needs expressed by all small businesses.
- **Strategic Objective 4:** Strengthen GPMTD’s relevance to small businesses to more effectively drive innovation and job creation through both the agency's existing programs as well as new initiatives.

**How will GPMTD implement its selected strategy?**

GPMTD has established the following processes and procedures to meet its Small Business element strategy:

1. DBE staff will review scope of work /task breakdown and estimated costs provided to determine if Small Business contracting opportunities exist; reduce the complexity and potential scope of large multiple award contracts so that possible contracting opportunities can be of a level that
encourage small business participation as a prime contractor. With regard to contract unbundling, if there are sections of work identified that do not significantly affect schedule, delivery, price and operations, GPMTD will ensure that services that are being requested are not bundled as a large umbrella contract.

2. DBE staff will encourage Small Business participation.

3. DBE staff will confirm/verify current Small Business certification status through one of the following agencies: • Disadvantaged Business Enterprises - Illinois Unified Certification Program; • SBE Certification; • Minority and Women Business Enterprises (M/WBE) - Illinois Department of Transportation and Office of Supplier Diversity; • Small Business Administration 8(a)/Small Disadvantaged Business Designation.

4. DBE staff will monitor contract performance to ensure all Small Business participation is being met.

*Note: GPMTD will not establish a DBE goal and a Small Business Element “target goal” on the same project.

Procedures to Encourage SBEs to Bid on Contract Opportunities in Consortia or Joint Ventures

Pursuant to 49 CFR Section 26.39, recipients are directed to identify alternative acquisition strategies by structuring procurements to facilitate the participation of consortia and joint ventures consisting of SBEs.

The size of the SBE included in the joint venture will not be considered jointly, to ensure that the joint venture retains the small business character needed to meet the SBE size standard. To participate as a SBE on GPMTD’s contracts as a consortium or joint venture, the following requirements should be met:

• Distinct and distinguishable tasks for each participating firm
• Estimation of the time and resources to be utilized for each major task
• Option of requiring one firm to take the lead, serving as prime contractor, and the other firm(s) to be treated like subcontractor(s) so there will be a single point of contact regarding contract performance.

Procedures to Ensure That a Reasonable Number of Prime Contracts Are of a Size That SBE Firms Can Reasonably Perform

Procedures to ensure that a reasonable number of prime contracts are of a size that SBE concerns can likely perform will be incorporated into the procurement process. The larger construction and professional services projects will be reviewed by the DBELO to identify items of work that can be unbundled into direct contracts with GPMTD of the size small businesses can perform.

Procedures to Review All GPMTD Contracts for Unbundling Opportunities and Unbundle Selected Contracts as Appropriate

The DBELO will review proposed contracts in order to identify opportunities for participation of SBE firms in areas of construction, architecture and engineering, and professional management services.

A determination will be made about the feasibility of unbundling all contracts prior to releasing the solicitation. The analyst will review requisitions for goods and supplies, the proposed scope of work for professional services, and plans for construction projects before solicitations are approved for
advertisement. The analyst proposed SBE recommendations shall be submitted to the DBELO for review and approval.

For multi-year design-build projects the DBELO shall make a good faith effort to ensure to the maximum extent feasible that the participation of SBEs is considered during the preliminary design phase of the project.

In determining whether multi-year design-build or other construction projects can be unbundled, the following criteria shall be reviewed:

- Whether the project takes place in more than one location
- The size and complexity of the project
- The similarity of the work involved
- Difficulty in dividing the project
- Public safety and convenience
- Project segmentation cost

**Enhanced Small Business Enterprise Program Elements**

1. **Program Tracking and Monitoring Standards**

   According to 49 CFR Section 26.39 recipients are not required to provide reporting on the level of SBE participation. GPMTD will continue to track and report any race-neutral participation by DBEs pursuant to 26.39.

   Routine monitoring shall be conducted at the time of award and with each invoice to ensure that the subcontractor participation listed in bids, proposals, and statements of qualification is achieved for the duration of the contract.

   Regular compliance monitoring will verify that the prime contractors are honoring their SBE subcontracting commitments prior to and after the award of the contract. Consistent contract compliance monitoring of subcontractor participation and payments will minimize the hardships experienced by small and disadvantaged business enterprises due to unauthorized substitutions and late payments.

   a) **Subcontractor Substitution Standards**

   Standards for formal subcontractor substitution shall be included in each solicitation and prime contracts. These standards shall be applied to all contracts. Substitutions will be granted if the prime contractor provides a written statement and the subcontractor agrees to the substitution or fails to execute the contract despite having enough time to do so, unreasonable escalation in pricing, becomes insolvent, or fails to meet contract insurance or bonding requirements. The subcontractor will be notified of its prime contractor's request for substitution before the approval of any substitution. Due process shall be provided to the subcontractor before a substitution is authorized.

2. **Verification of Small Business Enterprise Status**
To minimize fraud and abuse of the DBE Program, the eligibility of the businesses seeking to participate in the program will be verified. GPMTD currently relies on the certification of the following local agencies. These agencies are:

- Disadvantaged Business Enterprises - Illinois Unified Certification Program
- Small Business Administration 8(a)/Small Disadvantaged Business Designation

The standards of these GPMTD-approved certification agencies are within the SBE size limits set forth by USDOT in Section 26.65.

1. Internet Publication of Contracting Opportunities

Contracting opportunities shall be regularly posted on GPMTD's website. Postings will be scheduled to update regularly. By posting contract opportunities in a routine fashion, small businesses are afforded a time to review new upcoming projects.

2. Prompt Payment Provision

The prompt payment provision requires GPMTD to pay participating prime contractors within thirty-day (30) net and the prime contractor to pay its subcontractors within seven (7) business days of receiving payment from GPMTD. GPMTD shall notify the prime contractor of any disputed invoice in a timely manner.

3. Compliance and Monitoring Responsibilities

GPMTD shall ensure that the SBE program is in compliance with the rules governing information, confidentiality, cooperation, and intimidation or retaliation as set forth in 49 CFR Section 26.109.

SUBPART C – GOALS, GOOD FAITH EFFORTS AND COUNTING

1. Section 26.43 Quotas

The GPMTD does not use set-asides or quotas in anyway in the administration of its DBE/SBE program.

2. Section 26.45 Overall Goals

Effective March 3, 2010, the DOT issued a new rule which amends the current provision requiring annual submission of DBE goals and goal setting methodology. This rule change means FTA recipients will only need to submit their DBE goal to FTA once every three years. The change to a three-year goal submittal affords both the grantee and FTA the opportunity to focus more on efforts to meet their goals. Should contracting opportunities at the GPMTD unexpectedly increase, decrease or significantly change during the three-year period such that the submitted goal is rendered obsolete, the GPMTD will appropriately amend both the goal and DBE contracting practices in order to ensure the goal and the DBE program accurately reflects the actual contracting opportunities available during this specified time period.

In accordance with Section 26.45[f] the GPMTD submitted its overall three-year goal to DOT before the deadline. The GPMTD will consult with minority and general contractor's groups,
community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the GPMTD's efforts to establish a level playing field for the participation of DBEs prior to submitting the goal.

a) Consultation with Various Groups, Organizations, and Officials. The District will hold public participation sessions to obtain input in the goal-setting process, specifically on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and efforts to establish a level playing field for the participation of DBEs. Members from the public that will be invited to attend the public participation sessions will include, but not be limited to, minority, women and general contractors groups, community organizations and other officials.

b) Overall Goals Covering a Three-Year Period and/or Project Goal(s) Analysis Report(s). Upon completion of the analysis and after consultation with various groups, organizations and other officials, unless otherwise directed, the Analyst will prepare an Overall Goal(s) and/or Project Goal(s) Analysis Report for DBE participation in FTA-assisted contracts. Each report shall document the analysis and methodology in arriving at the proposed goal(s) and shall include a projection of the portion of the goal(s) to be achieved through race-neutral and race-conscious measures. The Board of Directors will consider authorization of the establishment of the proposed goal(s). It will also consider authorization of the submission of the Overall Goal(s) and/or Project Goal(s) Analysis Reports to FTA for review.

c) Publication of the Proposed Overall Goal(s) and/or Project Goal(s). The District will publish the proposed overall goal(s) and/or project goal(s) on its official Internet Web site and may post the notice in any other sources (e.g., minority-focused media, trade association publications).

d) Adoption of Final Overall Goal(s) and/or Project Goal(s). The District will submit the proposed overall goal(s), and/or project goal(s). The Board of Directors will consider adoption of the proposed Overall Goal(s) and/or Project Goal(s). If the Board of Directors adopts the proposed Overall Goal(s) and/or Project Goal(s), the District will submit the proposed Overall Goal(s) and/or Project Goal(s) to the U.S. DOT operating administration. If the U.S. DOT operating administration approves the proposed Overall Goal(s) and/or Project Goal(s), the goals will be final. If the proposed goal changes following review by the U.S. DOT operating administration, the revised goal must be posted on the District’s official Internet Web site, the General Manager will notify the Board of Directors of the change(s), and, if applicable, the Board of Directors will take all necessary actions to implement the changes.

3. Section 26.47 Goal Setting and Accountability

The GPMTD annually reviews its DBE attainments in contrast to its overall DBE goal to determine if any measures would need to be instituted to effectively meet its established overall DBE goal.

The GPMTD follows accountability mechanisms in instances where the GPMTD has failed to meet its overall goal for a given fiscal year. The GPMTD thoroughly analyzes why it fell short of meeting its overall goal for a given goal period and establish specific steps and milestones for correcting identified problems so that the GPMTD will meet its overall goal in subsequent years. The GPMTD submits its proposed plan to DOT within 90 days of the end of the fiscal year, as applicable to ensure compliance.
The GPMTD additionally maintains strong outreach efforts to encourage minority- and women-owned firms to become certified as DBEs, to afford the GPMTD the ability to set and meet realistic goals.

4. Section 26.49 Transit Vehicle Manufacturers Goals

The District shall require any transit vehicle manufacturers to certify that they have established an overall DBE goal that has been approved or not disapproved by FTA as a condition to bid on any District contracts. Expenditures for FTA-assisted transit vehicle procurements are not included in the funding base to which the overall goal and/or project goal for other FTA-assisted contract expenditures applies.

5. Section 26.51 Race-Neutral and Race-Conscious Participation

Race and Gender Neutral Goal. This section of the program will be updated every three years when the goal calculation is updated.

6. Section 26.53 Good Faith Efforts Procedures

The obligation of the offeror is to make good faith efforts. The offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 49 CRF Part 26.

The DBELO is responsible for determining whether an offeror, who has not met the contract goal, has documented sufficient good faith efforts to be regarded as responsible.

The GPMTD will ensure that all information is complete, accurate and adequate documents have been submitted showing good faith efforts before the GPMTD commits to the performance of the contract by the offeror.

Each solicitation, for which a contract goal has been established, will require the DBELO to make a determination as to if the offeror has submitted the following information:

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

Within three days of being informed by the GPMTD Procurement Department that the offer is not responsive because they have not documented sufficient good faith efforts, an offeror may request administrative reconsideration. The offeror should make this request in writing to the following reconsideration official: Ms. Angel Marinich, Assistant General Manager, 2105 NE Jefferson Avenue, Peoria, IL 61605 (309) 676-8189,amarinich@ridecitylink.org. The reconsideration official will not have played any role in the original determination that the offeror did not document sufficient good faith efforts.
As part of this reconsideration, the offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith. The offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts. The GPMTD will send the offeror a written decision on reconsideration, explaining the basis for finding that the offeror did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

The GPMTD will require a contractor/consultant to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The GPMTD will require the prime contractor/consultant to notify the DBELO immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation.

In this situation, the GPMTD will require the prime contractor/consultant to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the GPMTD’s DBELO will issue an order stopping all or part of payment work until satisfactory action has been taken. If the contractor still fails to comply, the DBELO may issue a termination for default proceeding.

7. Section 26.55 Counting DBE Participation

The GPMTD will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Only the value of the work actually performed by the DBE will count toward DBE goals. Such value will be counted as follows:

1. The entire amount that is performed by the DBE.
2. The entire amount of reasonable fees or commissions charged by a DBE firm for providing a bona fide service or for providing bonds or insurance required for the performance of the DOT assisted contract.
3. The value of work subcontracted by a DBE to another DBE is counted toward DBE goals.
4. When a DBE performs as part of a joint venture, the portion of the total dollar value of the contract equal to the distinct defined portion of the work of the contract that the DBE performs will be counted.
5. Expenditures to a DBE contractor will be counted toward DBE goals only if the DBE is performing a commercially useful function on that contract as set forth in 49 CFR Part 26.55(c)1-5. For determining whether a trucking company is performing a commercially useful function, the GPMTD will refer to 49 CFR Part 26.55(d)1-6.
6. For establishing whether expenditures for materials or supplies count toward DBE goals, the GPMTD will refer to 49 CFR Part 26.55€.
7. A DBE’s participation will not be counted toward DBE goals of the prime contractor or the GPMTD’s overall goal until the DBE is paid.
SUBPART D – CERTIFICATION STANDARDS

1. Section 26.61-26.73 Standards and Procedures

The GPMTD is not a certifying member of the Unified Certification Program (UCP) in the State of Illinois. All firms must apply through the UCP to be certified in the State of Illinois.

SUBPART E – CERTIFICATION PROCESS

1. Section 26.81 Requirements for Unified Certification Programs

The GPMTD uses the Illinois Unified Certification Program (UCP) to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. UCP makes the certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact: IDOT-Office of Civil Rights, 2300 S. Dirksen Parkway, Springfield, Illinois John W. Webber, Director (217) 785-5139

IDOT’s certification application forms and documentation requirements are found through the Illinois Unified Certification web site. http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index

Appendix A

Appendix A to Part 26—Guidance Concerning Good Faith Efforts

I. When a recipient establishes a contract goal on a DOT-assisted contract for procuring construction, equipment, services or any other purpose, a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts 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.

II. In any situation in which there is an established contract goal, Part 26 requires use of the good faith efforts mechanism. A recipient has the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important to consider the quality, quantity and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix

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. Determination concerning the sufficiency of the firm’s good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.
III. The Department strongly cautions against requiring 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. This rule specifically prohibits ignoring bona fide good faith efforts.

IV. The following is a list of types of actions which should be considered 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. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State’s directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

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 (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor/consultant might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

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 with their offer for the subcontract.

D. (1) 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.

(2) 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. (1) The District DBE Program does not reject 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 status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

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.

I. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, question may be raised of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in §26.53(b)(2)(vi), the contractor is required to provide copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime.

Proforma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.

[79 FR 59600, Oct. 2, 2014]
Appendix B

Appendix B to Part 26—DBE Business Development Program Guidelines

The District may establish or participate in a DBE business development program to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE Program. As a part of the business development program or separately, the District may establish or participate in a mentor-protégé program in which another DBE or non-DBE firm is the principal source of business development assistance. If the District determines such a program is beneficial, a proposed program will be written and submitted to the U.S. DOT operating administrations for approval, after which it will become part of this DBE Program. Guidelines outlined in Appendices C and D of 49 CFR Part 26 will be utilized in setting up the formal agreements and programs.

Appendix C

Appendix C to Part 26—Mentor-Protégé Program Guidelines

(A) The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms. To operate a mentor-protégé program, a recipient must obtain the approval of the concerned operating administration.

(B)(1) Any mentor-protégé relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. The formal mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(2) To be eligible for reimbursement, the mentor’s services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. The recipient may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the protégé is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/protégé agreement.

(C) DBEs involved in a mentor-protégé agreement must be independent business entities which meet the requirements for certification as defined in subpart D of this part. A protégé firm must be certified before it begins participation in a mentor-protégé arrangement. If the recipient chooses to recognize mentor/protégé agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/sub contractor mentor-protégé agreement.
Attachment 1

GREATER PEORIA MASS TRANSIT DISTRICT
POLICY STATEMENT

Objectives/Policy Statement

The Greater Peoria Mass Transit District (GPMTD) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The GPMTD has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the GPMTD has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the GPMTD to ensure that DBE's as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure non-discrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBE's in DOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

Angel Marinich, Assistant General Manager, has been designated as the DBE Liaison Officer. In that capacity, Ms. Marinich is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the GPMTD in its financial assistance agreements with the Department of Transportation.

This policy will be circulated to all District personnel and to members of the community that perform or are interest in performing work on District contracts.

If you have any questions or would like further information regarding this Program, please contact DBELO Angel Marinich, by telephone at (309) 676-4040, by fax at (309) 676-8373, or by e-mail at amarinich@ridecitylink.org.

[Signature]

Doug Roelfs, GPMTD General Manager

12-10-19

Date