

Disadvantaged Business Enterprise Program: 2023-2025

Updated: October 2022



RTA

**REGIONAL
TRANSIT AUTHORITY**
OF SOUTHEAST MICHIGAN



PREFACE

The US DOT on February 2, 1999, published in the *Federal Register* its final rule, 49 CFR part 26, entitled "*Participation by Disadvantaged Business Enterprises in Department of Transportation Programs*". This final rule became effective on March 4, 1999. It superseded all DBE regulations, orders, circulars, and administrative requirements concerning financial assistance programs issued by US DOT before March 4, 1999. This rule requires RTA to implement programs to encourage the participation of DBEs in its federal aid contracting activities.

In addition to procedures outlined in this program, RTA will adhere to all current federal and state laws, regulations, and Executive Orders concerning the DBE program, and shall continue to do so subject to the availability of federal and state funds.



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NOTE: Section references above and throughout the document refer to the sections of 49 CFR Part 26 that the RTA is responding to with a policy or procedure.

SECTION A: GENERAL REQUIREMENTS

Objectives and Policy Statement (Section 26.1 and 26.23)

The Regional Transit Authority for Southeast Michigan, hereinafter referred to as “RTA” 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 RTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the RTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the RTA to ensure that DBEs, 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 nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs 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 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The RTA’s Regulatory Compliance Officer acts as the DBE Liaison Officer (DBELO). In that capacity, the Regulatory Compliance Officer is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all legal obligations incurred by the RTA in its financial assistance agreements with the DOT.

The RTA has disseminated this Policy Statement to its Board of Directors, all the component of its organization, and the general public. It has also distributed this statement to DBE and non-DBE business communities that perform work for the RTA on DOT-assisted contracts by posting it on the RTA website (www.rtamichigan.org) and incorporating it into our procurement processes.

Applicability to the RTA (Section 26.3)

The RTA is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the TEA-21, Pub. L. 105-178.

Definitions (Section 26.5)

The terms used in this Program have the meanings ascribed to them in Part 26.5.

Non-Discrimination Requirements (Section 26.7)

The RTA 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 the DBE program, the RTA 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.

Record Keeping Requirements (Section 26.11)

The RTA will report DBE participation on June 1 and December 1 of each Federal Fiscal Year in TRAMs, using the DOT Uniform Report of DBE Awards and Commitments and payments Form, or any successor form(s) prescribed by DOT. These reports will reflect payments actually made to DBEs on DOT-assisted contracts. These reports will be developed through the following process:

1. DBELO will maintain a list of federal funded contracts that includes contractors awarded during the most recent period, payments to ongoing contracts, and actual payments on completed projects.
2. List will be reviewed and updated by the DBELO and COO when initial reminder for semi-annual reporting is received from FTA (generally three months before report is due); this review will include making sure all invoices from the reporting have been received.
3. DBELO will fill out RTA DBE Tracker form (FTA version); COO will review form for accuracy and check it against Title 49 Subtitle A Part 26 Appendix B.

Additionally, the RTA will maintain a small business bidders list, which will include for each firm, the name, address, DBE (or non-DBE status), age of the firm, and information concerning the annual gross receipts of all DBEs and non-DBEs that submit bids or quotes to a prime bidder/offer or on DOT assisted contracts. The RTA collects this information by requiring all of its prime contractors to complete and submit a bidders' list in its response to RTA's request for bids or proposals, thereby providing the RTA with the relevant small business and DBE information either directly, in the case of a DBE-or small business certified bidder, or indirectly, through the prime contractor.

Bidders List (26.11(C))

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

The RTA will collect this information in the following ways:

1. Contract clause requiring prime bidders to report the names/addresses, and possibly other



- information, of all firms who quote to them on subcontracts
2. A notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to the recipient, etc.

RTA and Contractor Assurances (Section 26.13)

The RTA has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

The RTA 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 of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The RTA's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the RTA of any failure to carry out its approved program, the Department may impose sanctions as provided for under 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.*).

This language will appear in financial assistance agreements with sub-recipients, and be used verbatim in every DOT-assisted contract and subcontract.

Contract Assurance: 26.13(b)

Additionally, the RTA will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

Disadvantaged Business Enterprise Assurance

In accordance with 49 CFR Part 26.13(a), the contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

SECTION B: ADMINISTRATIVE REQUIREMENTS

DBE Program Updates (Section 26.21)

Since the RTA has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, the RTA will continue to carry out this Program until all funds from DOT financial assistance have been expended, and will provide updates to DOT regarding any significant changes to the Program.

DBE Liaison Officer (DBELO) (Section 26.25)

The RTA has designated the following individual as its DBE Liaison Officer (DBELO):

Mrs. Virginia Lickliter, Executive Administrator/DBE Coordinator
1001 Woodward Avenue, Suite 1400
Detroit, MI 48226
(313) 402-1020 Office
(313) 961-4869 Fax
vlickliter@rtamichigan.org

In the event that Mrs. Lickliter no longer serves in the capacity of DBE Coordinator, her successor will assume the role of DBELO.

In this capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the RTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the RTA leadership concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Appendix A.

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:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Sets overall annual goals in cooperation with the Procurement Administrator.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes RTA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\Board of Directors on DBE matters and achievement.
9. Refers DBEs to the Michigan Unified Certification Program staff to seek information and assistance in the DBE certification process, preparing bids, obtaining bonding and insurance.
10. Participates in DBE training seminars.

Additionally, the RTA maintains records of contract expenditures and commitments and, within that, DBE specific expenditures and commitments, which can be utilized to generate DBE-specific

contract reports. These reports are used to measure DBE goal attainment, and are used to provide required reports to the Board of Directors, General Manager and the relevant federal and state regulatory bodies.

DBE Financial Institutions (Section 26.27)

It is the policy of the RTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions.

The RTA reviewed the Federal Reserve listing for Minority Owned Banks and determined that there were three operating within the RTA region.

To date we have identified the following such institutions:

- First Independence Bank – 1001 Woodward Avenue, Detroit, MI
- Lotus Bank – 44350 Twelve Mile Rd, Novi, MI 48377 and 37000 Grand River Ave #100, Farmington Hills, MI 48335
- Liberty Bank and Trust - 9108 Woodward Ave, Detroit, MI 48202

Information on the availability of such institutions can be obtained from FTA's DBE Liaison Officer.

The RTA will also re-evaluate the availability of DBE financial institutions every three years.

Prompt Payment Mechanisms (Section 26.29)

The RTA ensures that the following clause is placed in every DOT-assisted contract and subcontract:

Prompt Payment. The prime contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its subcontract no later than fourteen (14) calendar days from the receipt of each payment the Contractor receives from the RTA. A delay in or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the RTA. This clause applies to both DBE and non-DBE subcontractors. Failure to comply with these prompt payment requirements is a breach of this Agreement which may lead to any remedies permitted under law, including, but not limited to, suspension of payment and/or termination or cancellation of contract. In addition, Contractor's failure to promptly pay its subcontractors is subject to the provisions Section 9 of the Local Government Prompt Payment Act (50 ILCS 505/9).

RTA will use the form in Appendix C to monitor ongoing compliance with prompt payment provisions.

Retainage 26.29(b,c)

The prime contractor agrees to return retainage payments to each subcontractor within fourteen

(14) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the RTA. This clause applies to both DBE and non-DBE subcontracts. 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 recipient. When a recipient 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.

Monitoring and Enforcement 26.29 (d)

The RTA has established the following mechanisms to monitor and enforce that prompt payment and return of retainage is in fact occurring.

If RTA determines that the prime contractor has failed to comply with the prompt payment provisions set forth in the contract, RTA shall give written notice to the prime contractor that if the default is not remedied within a specified period of time (at least 5 days), the contract may be terminated. The Contract may be terminated for cause in accordance with the Contract Article XIV, entitled TERMINATION.

RTA shall also impose penalties and sanctions for non-compliance with the prompt payment clause contained in Section 26.37, MONITORING AND ENFORCEMENT MECHANISMS, and as contained in the Contract Compliance Manual (Federal) and other requirements of State law.

On-Site Performance Monitoring

During the course of any contract with DBE participation, RTA will conduct on-site monitoring to ensure that work committed to DBEs are actually being performed by the DBEs. The observed work will be reconciled against the DBE subcontractor agreement(s) and Prime Contractor. The review will be in accordance with the RTA DBE Compliance, Commercially Useful Function report found in Appendix C.

Written Certification

Worksite monitoring, review of contracting records and written certification of DBE performance will be conducted on all RTA contracts, within the state, in which a DBE firm(s) is performing.

Monitoring and Enforcement Mechanisms (Part 26.37)

The RTA will engage in the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. Bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the Program, so that 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 Part 26.109.
2. Consider similar actions under state legal authorities, including negative responsibility determinations on future contracts, removal of firms from certain qualified lists, and recommending firms' DBE or small business certifications be revoked.

3. Require prime contractors to maintain records and documents of payments to DBE and small business subcontractors for three years following the performance of any contract, and further require that these records and documents will be made available for inspection upon request by any authorized representative of RTA or DOT.
4. Monitor compliance and verify that work committed to DBEs and small businesses at contract award is actually performed by those DBEs and small businesses. This will be accomplished by requiring prime contractors to submit DBE subcontract agreements/purchase orders and periodic DBE reports, reviewing and tracking all invoices received and keeping records of all payments made to DBEs and small businesses.
5. Certifying that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBE in which the work was committed.
6. Perform interim audits of contract payments to DBEs and small businesses, which will review payments to subcontractors to ensure that the amount actually paid to those subcontractors (a) equals or exceeds the dollar amounts stated in the derivation of cost proposal and (b) are made in a timely manner.
7. Provide professional development opportunities to the DBELO, as necessary, to ensure that the RTA maintains competent compliance professionals.

Appendix B contains the standards, policies, practices, and procedures RTA uses to assess whether a contractor is in compliance with regulatory and contract requirements applicable to DOT-assisted projects.

Directory (Section 26.31)

The RTA utilizes the State of Michigan's Unified Certification Program directory to identify all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory may be found using the following link <http://mdotjboss.state.mi.us/UCP/HomePageServlet>.

Overconcentration (Section 26.33)

The RTA has not identified that overconcentration exists in the types of work that DBEs perform. The RTA will re-evaluate if overconcentration exists every three years.

Business Development Programs (Section 26.35)

The RTA has not established a business development program. RTA coordinates with the Michigan Department of Transportation who has a robust business development program. RTA will evaluate the need for such a program annually as the overall size of the RTA program expands.



Fostering Small Business Participation (Section 26.39)

The RTA awards very few contracts and has not maintained its own program while fully supporting the programs maintained by the Detroit Department of Suburban Mobility Authority for Regional Transportation (SMART), Ann Arbor Area Transportation Authority (AAATA), the Detroit Transportation Corporation (DTC- People Mover), and M-1 RAIL (QLine).

SECTION C: GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-Asides or Quotas (Section 26.43)

The RTA does not use quotas in any way in the administration of this DBE program.

Overall Goal and Public Participation (Section 26.45)

In accordance with Part 26.45, the RTA will submit its triennial overall DBE goal to the FTA by August 1 at three-year intervals, based on the schedule established by the FTA. The RTA will also request use of project-specific DBE goals as appropriate and/or will establish project specific DBE goals as directed by FTA when applicable.

The process generally used by RTA to establish overall DBE goals is defined in the DBE Goal Methodology Report, under the section in this update titled “DBE Goals.”

Once established, the RTA's overall goal submission to DOT will include the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate), a copy of the methodology used to develop the goal; a summary of information and comments received during this public participation process and RTA's responses, and proof of publication of the goal on RTA's website and media outlets listed above. The RTA will begin using the established overall goal immediately (on October 1 of the specified years), unless the RTA has received other instructions from DOT. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

Goal Setting and Accountability (Section 26.47)

If the awards and commitments shown on the RTA's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Maintain information and records regarding the analysis and efforts made for three years, and make it available to the FTA on request for review.
4. Document the short fall reasons in a short-fall analysis that will be kept on file.

Transit Vehicle Manufacturers (Section 26.49)

All Transit Vehicle Manufacturers (TVM), as a condition of being authorized to bid or propose on RTA-FTA assisted transit vehicle procurements, shall certify that it has complied with the requirements of 49 CFR Section 26.49, including the establishment of an annual overall DBE

participation goal that has been submitted to the FTA for concurrence. Each TVM shall complete and submit in its bid or proposal a DBE Certification form acknowledging it has complied with this section and a concurred overall DBE goal on file with the FTA. RTA shall not include the amount of FTA assistance used in transit vehicle procurements in the base amount from which RTA's overall goal is established.

Meeting Overall Goals/Contract Goals (Section 26.51)

The RTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation.

The RTA will use contract goals to meet any portion of the overall DBE goal that it does not anticipate being able to meet through the use of race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means. These contract goals will only be utilized on contracts that have subcontracting possibilities, and the size of any particular contract goals, if any, will be adapted to the circumstances of each contract (i.e., type and location of work, availability of DBEs to perform the particular type of work). When utilized, the RTA will express contract goals as a percentage of the total amount of the contract.

Race-neutral measures are described in the DBE Goals section.

Good Faith Efforts Procedures (Section 26.53)

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

The RTA treats the Bidder's compliance with good faith efforts requirements as a matter of responsibility. The Bidder can demonstrate its compliance either by documenting that it has secured sufficient DBE participation or documenting that it made sufficient good faith efforts to meet the DBE contract goal or a combination of the two. Determination of the sufficiency of good faith efforts shall be determined by the guidance found in Appendix A of 49 CFR 26.

The Procurement Administrator is responsible for determining whether a Bidder who has not met a contract goal has documented sufficient good faith efforts to be regarded as responsible. In each case in which the RTA determines the Bidder has documented good faith efforts, the RTA will have ensured that all information submitted by the Bidder was complete, accurate, and clearly sufficient to document the Bidder's good faith efforts as outlined in the guidance found in Appendix A to Part 26. Guidance concerning the evaluation of good faith efforts made by bidder/offerors to adequately meet contracts goals can be found in Appendix D.

Each procurement for which a contract goal has been established will require the bidders/offerors to submit the following documentation at the time of submission:

1. The names and addresses of DBEs that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE;
4. Written and signed documentation of a commitment to use any DBE contractor it submits to meet a contract goal; and
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the Bidder's commitment.

Or, if the contract goal will not be entirely met through participation, sufficient evidence of good faith efforts made by the Bidder made to meet the contract DBE goal.

Prior to the execution of a contract, if any of the information called for in the paragraph above has changed, the RTA will require the bidder to submit updated documentation establishing compliance with the contract goal.

Administrative Reconsideration (Section 26.53(D))

Within 14 days of being informed by the RTA that it is not responsible because it has not documented sufficient good faith efforts, a Bidder may request administrative reconsideration. To do so, Bidders must make this request in writing to the following reconsideration official: Chief Executive Officer, Regional Transportation Authority, 1001 Woodward Avenue, Detroit, MI 48226, (313) 402-1020. The CEO is the Reconsideration Officer for the Agency. If the CEO played any role in the original determination that the Bidder did not document sufficient good faith efforts, the reconsideration officer for that procurement shall be the Chairman of the Executive and Policy Committee, Mr. Paul C. Hillegonds.

As part of this reconsideration, the Bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the contract goal through participation, good faith efforts, or both. Any written documentation or argument must explain the good faith efforts made by the Bidder at the time of submission and evidence of efforts made subsequent to submission will not be considered. Upon request, the Bidder will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it made good faith efforts to meet the contract goal. Upon reaching a determination, the reconsideration official will send the Bidder a written determination on reconsideration, explaining the basis for finding that the Bidder did or did not exercise good faith efforts meet the contract goal. This determination shall be final and the reconsideration process is not administratively appealable to the Department of Transportation (DOT).

Sample RFP Specifications

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the RTA to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of _ percent has been

established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

DBE Replacement During A Contract

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

Before transmitting to the RTA its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the RTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise the RTA of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, the RTA will require that the prime contractor 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. If a DBE is unable or unwilling to perform, the prime contractor must notify the DBELO immediately and provide reasonable documentation of the same.

In any situation described above, the RTA will require the prime contractor (a) to obtain RTA's prior approval of any substitute DBE, and (b) to provide copies of new or amended subcontracts or documentation of good faith efforts. Failure to abide by these procedures shall be viewed as a breach of contract and the prime contractor will be subject to such sanctions and penalties as are allowed by the contract and law as outlined in Appendix B.

Counting DBE Participation (Section 26.55)

The RTA will count DBE participation toward overall and contract goals as provided in Part 26.55.



SECTION D: CERTIFICATION STANDARDS AND PROCEDURES

Certification (Sections 26.61-26.91)

The RTA relies upon the DBE certifications issued pursuant to the Michigan Unified Certification Program, as discussed above under the heading DIRECTORY (PART 26.31).

The RTA is a member of the Michigan Unified Certification Program. The UCP will meet all of the requirements of this section. The RTA will use and count for DBE credit only those DBE firms certified by the Michigan UCP.

For information about the certification process or to apply for DBE certification, firms or individuals should contact the Michigan UCP at: <https://mdotjboss.state.mi.us/MUCPWeb/>

Any firm or complainant may appeal a Michigan UCP's decision in a certification matter to DOT. Such appeals may be sent to:

**U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Avenue, SE
West Building, 7th Floor
Washington, D.C. 20590**

SECTION E: COMPLIANCE AND ENFORCEMENT

Information. Confidentiality. Cooperation. (Section 26.109)

The RTA follows procedures to safeguard from disclosure to third parties information that is confidential, consistent with federal, state, and local law, including the Michigan Freedom of Information Act (FOIA). All information will be subject to disclosure under FOIA.

Notwithstanding any contrary provisions of federal, state, or local law, the RTA will not release personal or business financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

The RTA will perform audits of contract payments to Disadvantaged Business Enterprises (DBE) and Small Business Enterprises (SBE). The audit will review payments to DBE/SBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals, or exceeds, the dollar amounts stated in the contracts that include DBE or SBE participation. DBE Department staff will also monitor the prompt payment by prime contractors to DBE or SBE subcontractors on any RTA project.

RTA will require prime contractors to maintain records and documents of payments to DBE/SBE subcontractors for three years following the performance of the contract. These records will be made available for inspection upon request by an authorized representative of RTA or DOT. This reporting requirement also extends to any certified DBE subcontractor

SECTION F: DBE GOALS

Overall Goal Calculation (26.45)

FISCAL YEARS 2023 – 2025

As required in 49 CFR Part 26 of the Code of Federal Regulations, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, the Regional Transit Authority (RTA) of Southeast Michigan has completed its triennial review and set an overall goal for Disadvantaged Business Enterprise (DBE) participation for Fiscal Years (FYs) 2023 – 2025 contracts funded in whole or in part with Federal Transit Administration (FTA) funds. The recommended goal of 8.20% attained through 5.31% from race neutral participation and 2.89% from race-conscious measures reflects the relative availability of DBEs to participate in contracts and procurements projected by the RTA of Southeast Michigan.

The term “Marketplace” is defined as businesses located in the State of Michigan, that are both Disadvantaged Business Enterprises (DBE) and Non-Disadvantaged Business Enterprises, who are ready, willing and able to participate in RTA of Southeast Michigan contracts.

In accordance with 49 CFR Section 26.45, RTA’s proposed goal will be published in media outlets.

Methodology

RTA considered a two-step process defined below to determine its DBE participation goal for FY2023-2025.

STEP 1) Determine the Base Figure for the overall goal:

- Calculate the relative availability of DBEs to perform the types of work forecasted by RTA of Southeast Michigan.
- Weight the respective contract dollars to be expended in each type of federally-assisted project or procurement.
- Determine the weighted DBE relative availability in the projected types of work.
- Aggregate the weighted availability figures to determine the base figure.

STEP 2) Adjustments to the Base Figure:

- Due to the difference in types of projects and projected costs of projects, the RTA will be making no adjustments to the Base Figure based on historical data or disparity studies.

Additionally, the methodology includes an explanation of how the forecasted overall goal will be achieved.



Goal Calculation for FY2023-2025

STEP 1) Determine the Base Figure for the Overall Goal

The RTA of Southeast Michigan determined that the Michigan Unified Certification Program (MUCP) database of Michigan DBEs and the 2020 United States (U.S.) Census Bureau data for Michigan provided relevant and reliable data to assess RTA's marketplace availability to DBEs operating within the state, and for identifying DBEs capable of completing or contributing to future RTA opportunities. This approach was taken for the following reasons:

- All DBEs certified to work in Michigan are tracked by type of work and by their approved North American Industry Classification System (NAICS) codes on the web-based MUCP database located at <https://mdotjboss.state.mi.us/MUCPWeb/>
- The U.S. 2020 Economic Census data provides economy-wide statistics for Michigan, including the number of vendors by NAICS code on both a state-wide and county-wide basis. The statewide data serves as the RTA coverage area for the DBE calculation.

The RTA's core services that are funded with partial/full federal funding is currently and anticipated during the triennial period to be limited to communications, public relations, engineering, planning/landscape architecture, consulting, accounting/payroll, and environmental consulting services. As such the following NAICS codes were used to determine the base figure for RTA services:

- 541840 Media Representatives
- 541820 Public Relations
- 541330 Engineering
- 541320 Landscape Architectural Services
- 541611 General Management Consulting Services
- 541199 All Other Legal Services
- 541211 Offices of Certified Public Accountants
- 541214 Payroll Services
- 541219 Other Accounting Services
- 541620 Environmental Consulting Services

Table 1.0 lists the number of DBE firms willing and able to work in the market area for the defined RTA practice areas listed in the MUCP. Table 1.0 also lists the overall firms willing and able to work in the RTA coverage area defined by 2020 Census Data.

Table 1.0 - DBE & Total Firms Working in the RTA Market Area

Base Goal Calculation (FY2023-FY2025)		A	B
NAICS Code	Project description	# of DBE ONLY firms willing and able to work in market area (Statewide)	# of overall firms willing and able to work in market area (Statewide)
541840	Media representatives	7	18
541820	Public Relations	17	128
541330	Engineering	42	1738
541320	Landscape Architecture Services	7	113
541611	General Management Consulting Services	70	1473
541199	All Other Legal Services	1	145
541211	Offices of Certified Public Accountants	5	1404
541214	Payroll Services	3	194
541219	Other Accounting Services	10	1101
541620	Environmental Consulting Services	18	198
	Total	180	6512

The following section provides a breakdown of available work for each of these areas:

- a) **Media Representatives** - For the defined triennial period, the RTA anticipates using \$182,500 of federal dollars for communications services. This amount represents 2.13% of RTA’s total projected FTA budget. The DBE relative availability for Media Representatives is 38.89%. The weighted DBE relative availability for this project is 0.83%. **(see Table 2.0)**
- b) **Public Relations** - An estimated \$386,363 is projected for FTA-assisted public relations opportunities during the defined period. This amount represents 4.51% of RTA’s total projected FTA budget. The DBE relative availability for Public Relations projects is 13.28%. The weighted DBE relative availability for Public Relations Projects is 0.60%. **(See Table 2.0)**
- c) **Engineering** - An estimated \$3,500,000 is projected for FTA-assisted Engineering Activities, representing 40.86% of RTA’s total projected FTA budget. The DBE relative availability for Engineering Activities is 2.42%. The weighted DBE relative availability for Engineering Activities is 0.99%. **(See Table 2.0)**
- d) **Planning/Landscape Architecture** - An estimated \$2,000,000 is projected for FTA-assisted Landscape Architecture activities, representing 23.35% of RTA’s total projected FTA budget. The DBE relative availability for Engineering Activities is 6.19%. The weighted DBE relative availability for Landscape Architecture is 1.45%. **(See Table 2.0)**
- e) **General Management Consulting Services** - An estimated \$788,600 is projected for FTA-assisted Gneral Management Consulting Services, representing 9.81% of RTA’s total projected FTA budget. The DBE relative availability for Engineering



Activities is 4.75%. The weighted DBE relative availability for Engineering Activities is 0.44%. **(See Table 2.0)**

- f) **All Other Legal Services** - An estimated \$159,181 is projected for FTA-assisted Legal Services, representing 1.86% of RTA’s total projected FTA budget. The DBE relative availability for Legal Services is 0.69%. The weighted DBE relative availability for Legal Services is 0.01%. **(See Table 2.0)**
- g) **Offices of CPAs** - An estimated \$463,635 is projected for FTA-assisted CPA activities, representing 5.41% of RTA’s total projected FTA budget. The DBE relative availability for CPA activities is 0.36%. The weighted DBE relative availability for CPA activities is 0.02%. **(See Table 2.0)**
- h) **Payroll Services** - An estimated \$36,000 is projected for FTA-assisted Payroll Services activities, representing 0.42% of RTA’s total projected FTA budget. The DBE relative availability for Payroll Services activities is 1.55%. The weighted DBE relative availability for Payroll Services activities is 0.01%. **(See Table 2.0)**
- i) **Other Accounting Services** - An estimated \$49,028 is projected for FTA-assisted activities identified as other accounting services representing 0.57% of RTA’s total projected FTA budget. The DBE relative availability for other accounting activities is 0.91%. The weighted DBE relative availability for other accounting activities is 0.01%. **(See Table 2.0)**
- j) **Environmental Consulting Services** - An estimated \$1,000,000 is projected for FTA-assisted Environmental Consulting activities, representing 11.68% of RTA’s total projected FTA budget. The DBE relative availability for Environmental Consulting activities is 9.09%. The weighted DBE relative availability for Environmental Consulting activities is 1.06%. **(See Table 2.0)**

Table 2.0 Anticipated RTA Availabilities

RTA of Southeast Michigan
Base Goal Calculation (FY2023-FY2025)

	A	B	C	D	E	F
NAICS Code	# of DBE ONLY firms willing and able to work in market area (Statewide)	# of overall firms willing and able to work in market area (Statewide)	# DBE firms/ # all Firms (A/B)	Step 1 FTA Contracting opportunities	Step 1 Weighted % Contract (D/ Total Contract Value)	Step 1 Weighted % DBE Goal (C x E)
541840	7	18	38.89%	\$ 182,500	2.13%	0.83%
541820	17	128	13.28%	\$ 386,363	4.51%	0.60%
541330	42	1738	2.42%	\$ 3,500,000	40.86%	0.99%
541320	7	113	6.19%	\$ 2,000,000	23.35%	1.45%
541611	70	1473	4.75%	\$ 788,600	9.21%	0.44%
541199	1	145	0.69%	\$ 159,181	1.86%	0.01%
541211	5	1404	0.36%	\$ 463,635	5.41%	0.02%
541214	3	194	1.55%	\$ 36,000	0.42%	0.01%
541219	10	1101	0.91%	\$ 49,028	0.57%	0.01%
541620	18	198	9.09%	\$ 1,000,000	11.68%	1.06%
Total	180	6512		\$ 8,565,307	100.00%	5.40%



Based on the above data, the Step One base figure for FTA-assisted funds was calculated to be **8.26%**. (See Table 3.0)

Table 3.0 – Step One Base Figure	
Projected weighted dollar value x DBE relative availability = Weighted DBE relative availability	
Types of Work Forecast for FY2023 – 2025	Weighted DBE Relative Availability
Media Representatives	0.83%
Public Relations	0.60%
Engineering	0.99%
Landscape Architecture	1.45%
General Management Consulting Services	0.44%
All other legal services	0.01%
Offices of CPAs	0.02%
Payroll Services	0.01%
Other Accounting Services	0.01%
Environmental Consulting Services	1.06%
FTA Step One Base Figure (Sum of Types of Work)	5.40%

STEP 2: Adjustments to the Base Figure

RTA made adjustments to the base figure based on historical data, using information about past participation. The past DBE participation median for FY 2020-2022 was 11%, and averaged with the weighted base figure (5.40%) the adjusted goal comes out to 8.20%. This number was not adjusted for a disparity study because none have been conducted in the region.

RTA has set a DBE goal of 8.20% for FY2023-2025

Recommendation For Race-Neutral (RN) Means

The RTA expects to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. We estimate that in meeting the overall goal of **8.20%**, the RTA of Southeast Michigan will obtain **5.31%** from race neutral participation and **2.89%** from race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

- In the previous triennial period, the RTA’s DBE goal was 8.26% of which 4.51% was projected to be obtained from race-neutral participation and 3.75 through race-conscious measures.
- During this period, the RTA had an actual DBE participation of 11.00% of which 7.12% was race neutral.

The RTA will consistently examine the effectiveness of using race-neutral means to ensure proper DBE participation and will continue to evaluate the rationale for establishing a race neutral goal.

Outreach to Minority and Women's Groups

The RTA conducted consultation with the following minority, women's, and business organizations were coordinated with when establishing the RTA's DBE goals. RTA sent correspondence out to the following groups to seek input on the FY2023 – 2025 goal. Consultation is intended to review the proposed overall DBE goal, receive comments, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and help the RTA build long-term contracting relationships with DBEs in the market area. In addition, staff commits to participate in local events in the upcoming year to increase awareness of future RTA opportunities including those identified below.

- Detroit Regional Chamber
- Conference of Minority Transportation Officials
- Michigan Department of Transportation
 - Including participation in MDOT's Annual DBE Conference
- Michigan Hispanic Chamber of Commerce
- Women Impacting Public Policy
- Southwest Detroit Business Association
- Great Lakes Women's Business Council
- Michigan Association for Female Entrepreneurs
- Michigan Minority Business Development Association
- Metro Detroit Black Business Alliance
- National Business League
- Chaldean Chamber of Commerce
- National Association of Women Business Owners Greater Detroit Chapter
- Asian Pacific American Chamber of Commerce
- Arab American Chamber of Commerce

The RTA will also hold pre-bid conferences on all proposed contracts over \$100,000. The RTA will invite DBEs certified by the Michigan Unified Certification Program (MUCP) to attend the pre-bid/proposal meetings where they can network with prime contractors, and request clarification on any questions that they may have concerning future RTA opportunities.

The RTA attends the Michigan Department of Transportation's DBE conference and presents upcoming projects to DBE vendors, as well as networks with DBEs interested in bidding on RTA projects. RTA staff also attend Michigan Unified Certification Program (MUCP) quarterly meetings. The meetings are attended by DBE certifying agencies and other FTA covered entities in the State of Michigan. During these meetings any changes to the FTA's DBE program are discussed, along with any ongoing DBE program related issues entities are experiencing.



Media

RTA's announcement of its proposed DBE participation goal for FY2023 – 2025 will be published in the following media sources:

- **The Michigan Chronicle**
- **Detroit News/Detroit Free Press**

Web sites:

- www.rtamichigan.org

Outreach Communications

Public Notice:

RTA of Southeast Michigan Proposed DBE Goals for FY 2023 – FY2025

The Regional Transit Authority of Southeast Michigan (RTA) has established a goal of **8.20%** for its Disadvantaged Business Enterprises (DBE) Program for fiscal years 2023 through FY 2025. This goal will be attained through **5.31%** from race neutral participation and **2.89%** from race-conscious measures which reflects the relative availability of DBEs to participate in contracts and procurements projected by the RTA.

The proposed goal and its methodology have been developed in accordance with the Federal Transit Administration's regulations 49 CFR Part 26.

The goal and the methodology used to develop it are available for inspection from 8:30 a.m. to 4:30 p.m. Monday through Friday at RTA's offices located at 1001 Woodward Avenue, Suite 1400, Detroit, Michigan. These materials will be available for 30 days following the date of this notice.

The RTA will accept comments on the goal for 45 days from the date of this notice. Inquiries may be directed to the following:

RTA of Southeast Michigan

1001 Woodward Avenue, Suite 1400

Detroit, Michigan 48226

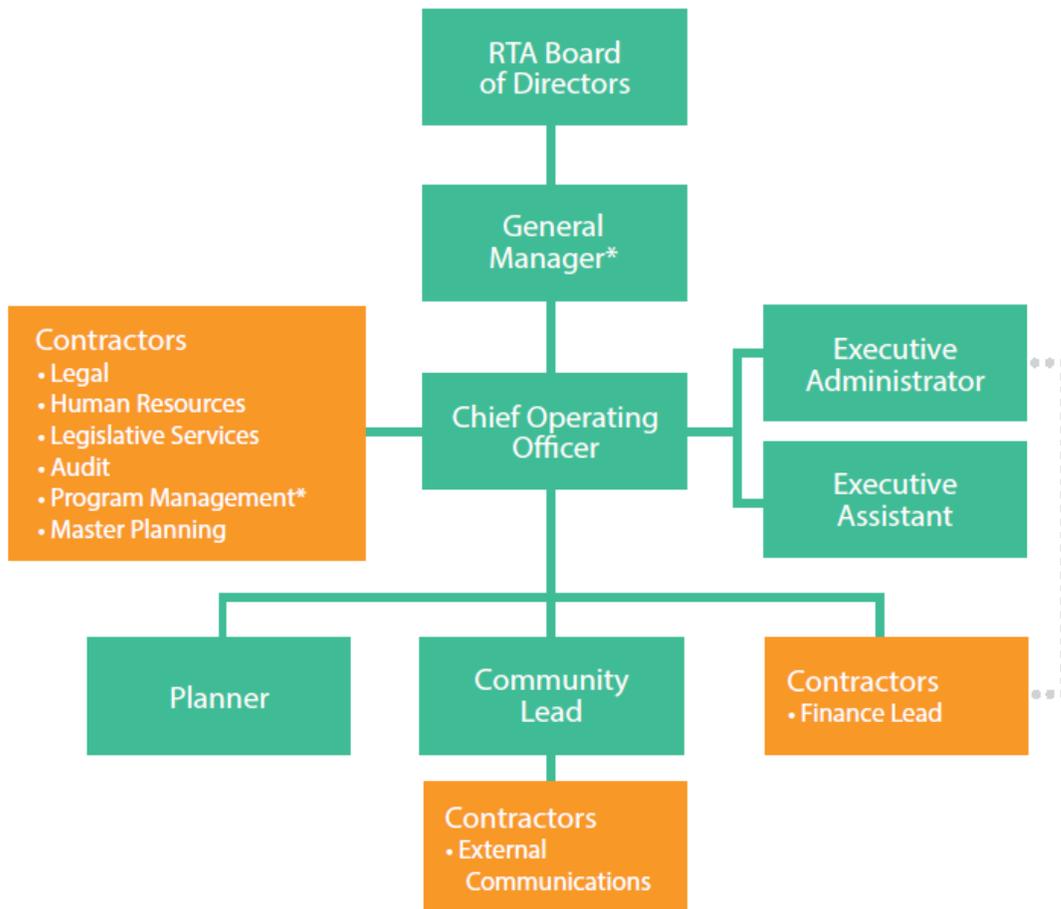
Or e-mail to: info@rtamichigan.org



APPENDICES

Appendix A	RTA Organizational Chart
Appendix B	Monitoring and Enforcement Mechanisms
Appendix C	DBE Commitment Forms
Appendix D	DBE Directory
Appendix E	Regulations 49 CFR Part 26

Appendix A: RTA Organization Chart



Executive Administrator is the DBELO. That position will report directly to the General Manager on DBE issues.

Appendix B: Monitoring and Enforcement Mechanisms

The following sections contain the standards, policies, practices and procedures RTA uses to assess whether a contractor is in compliance with regulatory and contract requirements applicable to DOT-assisted projects:

A. Contract Requirements and Remedies

Contract requirements and remedies are provided in this DBE program and by administrative policies, practices and procedures requirements in each contract. All contractors, as a condition of participation in any DOT-assisted contract, shall agree to the terms of this DBE program, and shall incorporate the DBE program and the DBE administrative policies, practices and procedures requirements into their contracts and subcontracts at all tiers.

1. Contracts Provisions - The RTA requires each project supported by DOT-assisted funds to include in its contract terms and conditions set forth in the RTA's contract with the Contractor.
2. Auditing and Inspection - RTA reserves the right to audit the records and of its Contractors and any Subcontractors of any tier for the purpose of verifying the DBE participation and/or adherence to the DBE Program requirements. Contractors and Subcontractors shall permit access to their records at the request of RTA.

B. Regulatory Provisions

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

1. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises Department of Transportation Financial Assistance Programs; particularly, Subpart F, Compliance and Enforcement
2. 49 CFR Part 31 – Program Fraud Civil Remedies
3. 49 CFR Part 29 – Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug-Free Workplace
4. Prosecution pursuant to 18 USC 1001.

C. Findings of Non-Compliance and Administrative Sanctions

Contractors found not to be compliant with any part of the DBE program requirements shall be notified of RTA's finding of Non-Compliance, in writing. The notice shall cite the DBE program requirement under which the contractor is noncompliant, state the date of the findings and the grounds on which the finding was made and state the category of sanctions being imposed.

Upon a finding of noncompliance, RTA may choose to impose sanctions including, but not limited to:

1. Suspension of Payment - RTA may suspend payment to the contractor of any monies held by it.
2. Termination of the Contract for Default.
3. Suspension and Debarment (49 CFR Part 29) - Information concerning the existence of a cause for suspension or debarment shall be reported, investigated and referred, when appropriate, to the proper official for consideration. After consideration, the official will issue the appropriate notice of proposed action.

D. Enforcement Mechanisms

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

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 31, and
3. Prosecution pursuant to 18 USC 1001.

E. Resolution of Disputes

In the event of a dispute between RTA and Contractor, the aggrieved party shall notify the other party of the dispute within fourteen (14) days after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall identify a senior member of its management to meet to resolve the dispute by direct negotiation or, if agreed to by the Parties, through mediation with a neutral third parties selected by the Parties. See Contract Article V, entitled DISPUTES.

If a vendor is found to comply with the provisions above. The DBELO will fill out and file the form below.



Disadvantaged Business Enterprise Monitoring Certification

Date: _____

_____ hereby certifies that the DBE firm,
_____, working on Project No. _____
entitled _____,

has been monitored for compliance and meets the regulatory requirements and conditions set forth in
49 CFR Part 26 and the RTA Disadvantaged Business Enterprise Program Plan, as amended October
2022 Update.

Attest: Witness:

DBE Contract Compliance Officer



Appendix C: DBE Commitment Forms for RTA Vendors

FORM 1: 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 a submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____

(Signature)

(Title)



FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Name of DBE: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: -

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above.

The estimated dollar value of this work is \$ _____.

AFFIRMATION

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____ (Signature) _____ (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)



Prompt Payment DBE/SBE Review				
Contract Number:		Project Number:		
Contract#:		Is the Prime Contractor a DBE? Yes <input type="checkbox"/> No <input type="checkbox"/>		
Contractor's Address:				
City:		State:		Zip:
Contractor's P.O.C:			Phone Number:	
Project Manager:			Phone Number:	
Contract Begin Date:			Est. Completion Date:	
Records Provided by the Prime Contractor Bank Statements <input type="checkbox"/> Copies of Invoices <input type="checkbox"/> Proof of payment <input type="checkbox"/>				
Payments by RTA to Prime Contractor				
Date of Payment	Invoice	Check Number	Amount	% of Contract
TOTAL AMOUNT:				
Payments by Prime Contractor to Subcontractor				
TOTAL AMOUNT:				
Contract Amount:		Contract DBE Participation % Goal:		
EST. DBE Participation:				
Was the DBE promptly paid after the completion of work performed? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, what was the reason cited for the delay of payment?				
What was the date of the final payment:				
Date reviewed:		Reviewed by:		Phone:



Appendix D: MUCP DBE Directory

The following link will provide the reader with access to the Michigan Unified Certification Program, DBE searchable database - <http://mdotjboss.state.mi.us/UCP/>



Appendix E: Regulations 49 CFR Part 26

The following link will provide the reader with all of the requirements of the Code of Federal Regulations with regard to Disadvantaged Business Enterprise:
<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>