



Disadvantaged Business Enterprise (DBE) Program

Federal Fiscal Years 2012 – 2014

**In Compliance With
Title 49 Part 26 of the Code of Federal Regulations (49 CFR 26)**

**July 2012
(Amended June 2, 2014)**

TABLE OF CONTENTS

Policy Statement	1
General Requirements	2
Administrative Requirements	4
Goals, Good Faith Efforts, and Counting	6
DBE Certification	8

POLICY STATEMENT

Objectives:

It is the policy of the Jonesboro Economical Transportation System (JETS), a recipient of Federal financial assistance from the USDOT, that small businesses owned and controlled by socially and economically disadvantaged individuals shall have the maximum opportunity to participate in the performance of public contracts financed in whole, or in part, by the Federal Transit Administration.

Therefore, in furtherance of this policy and as a condition of receiving DOT funding, JETS has signed an assurance that it will comply with 49 CFR Part 26 and has established a Disadvantaged Business Enterprise (DBE) program the goal of which is to carry out its DBE Plan.

JETS will ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT assisted contracts. It is our policy:

1. To ensure nondiscrimination in the award and administration of USDOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT 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 USDOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

JETS Transit Director has been delegated as the DBE Liaison Officer (DEBLO). In that capacity, the Transit Director 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 JETS in its financial assistance agreements with the USDOT.

JETS has disseminated this policy statement to the appropriate officials of JETS and of the City of Jonesboro. We have distributed this statement to DBE and non-DBE business communities that perform work for us on US DOT assisted contracts. Distributions include Arkansas Highways and Transportation Department, JETS Community Advisory Board, local media outlets, and the Hispanic Community Services, Inc.

Steve Ewart
Transit Director, DEBLO

Date

GENERAL REQUIREMENTS

Objectives:

The Jonesboro Economical Transportation System (JETS) DBE objectives are as follows:

1. To ensure nondiscrimination in the award and administration of USDOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT 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 (Appendix 1) eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

Applicability:

In that it 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 Teas-21, Pub. L., JETS adheres to the DBE provisions as outlined in 49 CFR Part 26.

Definitions:

JETS has adopted the definitions contained in Section 26.5 of 49 CFR Part 26 for this program.

Non-discrimination Requirements:

JETS, in fulfilling its obligations under 49 CFR Part 26,

1. 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.
2. 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:

Uniform Report of DBE Awards or Commitments and Payments

JETS will report DBE participation to the Federal Transit Administration (FTA) using the Uniform Report of DBE Awards or Commitments and Payments found in Appendix B of 49 CFR Part 26.

Bidders List

JETS will maintain 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 use of the bidder's list approach to calculating overall goals. The bidders list includes the name and address of all non-DBEs and qualified DBEs.

JETS will ensure that all bidders, contractors and subcontractors, are qualified DBEs or non-DBEs by referencing the Unified Certification process as well as the Small Business Administration (SBA) directory.

Assurances:

JETS agrees to the following assurances, applicable to all DOT assisted contracts and their administration.

JETS 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 recipient'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 JETS of its failure to carry out its approved program, the Department may impose sanction 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.).

Contract Assurance

JETS will ensure that the following clause is placed in every DOT assisted contract and subcontract:

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 JETS deems appropriate.

ADMINISTRATIVE REQUIREMENTS

DBE Program Updates:

Since JETS has received a grant of \$250,000 or more in FTA operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

DBE Liaison Officer (DBELO):

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

*Transit Director
2630 Lacy Drive
P.O. Box 1845
Jonesboro, AR
72403
(870) 935-5387
dbel@jonesboro.org*

In this capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that JETS complies with all provisions of 49 CFR Part 26.

The DBELO is also responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. To gather and report statistical data and other information as required by DOT.
2. To review third party contracts and purchase requisitions for compliance with this program.
3. To ensure that bid notices and requests for proposals are available to DBEs in a timely manner.
4. To identify 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).
5. To analyze JETS' progress toward attainment and identifies ways to improve progress.
6. To participate in all pre-bid meetings.
7. To provide DBEs with information that can be useful in preparing bids and/or obtaining bonding and insurance.
8. To plan and participate in DBE training seminars.
9. To provide outreach to DBEs and community organizations to advise them of opportunities.

DBE Financial Institutions:

It is the policy of JETS to fully investigate the existence of any services offered by financial institutions that may be owned and controlled by socially and economically disadvantaged individuals in the community and, when they exist, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT assisted contracts to also employ their services. While JETS has made a serious effort to identify such institutions, to-date our efforts have not been successful. Each year, JETS will continue to re-evaluate the availability of DBE financial institutions.

Prompt Payment Mechanisms:

Prompt Payment

JETS will include the following clause in each DOT assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from JETS. Any delay or postponement of payment from the above referenced time frame may occur only for good cause and following written approval of JETS.

Retainage

The prime contractor agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of JETS.

Monitoring and Enforcement

JETS has established an internal review process and progressive project meetings to monitor and ensure that prompt payment and return of retainage is in fact occurring.

AHTD DBE Directory:

JETS has entered into an agreement with the Arkansas Highway and Transportation Department (AHTD) to utilize the certification list published in its DBE directory. AHTD agrees to administer certifications and re-certifications, to change affidavits, notices of changes, personal net worth statements and any other necessary documentation from 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 is updated at least annually and is available through the AHTD website or hard copy by request. The latest directory may be found at <http://www.arkansashighways.com/ProgCon/letting/dbedirectory.pdf>.

Overconcentration:

JETS has not identified that overconcentration exists in the types of work that DBEs perform.

Business Development Programs:

JETS has not established a business development program. We will re-evaluate the need for such a program every year.

Monitoring and Enforcement Mechanisms:

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

1. We will 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 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. This will be accomplished through the provisions of the Davis-Bacon employee interviews.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Small Business Participation:

JETS has incorporated the following non-discriminatory element to its DBE program in order to facilitate competition on DOT assisted public works projects by small business concerns. JETS will maintain a good faith effort in the separation of project functions to facilitate equal and flexible participation in the bidding process.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas:

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

Overall Goals:

JETS will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA.

JETS will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by FTA.

JETS will develop its goals through the identification of anticipated contractual items and calculate a weighted average for each item. The base goal will then be calculated using the relative availability (percentage) of DBEs in Arkansas to perform contracts for the goal period.

Before establishing the overall goal each year, JETS will review the AHTD directory and consult with the City of Jonesboro Community Development Block Grant (CDBG) to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and JETS' efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for thirty (30) days following the date of the notice, and informing the public that FTA and DOT will accept comments on the goals for forty-five (45) days from the date of the notice. JETS will publish this notice in the local newspaper of record, distribute it to community-based agencies who serve minority populations, and post it on JETS website. Comments may be sent and addressed to DEBLO, P.O. Box 1845, Jonesboro, AR 72403 or e-mailed to dbe@jonesboro.org.

JETS 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, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed.

JETS will begin using the overall goal on October 1 of the specified year, unless we have received other instruction from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT assisted contract for the project. Our goal will remain effective for the duration of the three year period established and approved by FTA.

Goal Setting and Accountability:

JETS, on an annual basis, will analyze in detail the reason for the difference between the overall goal and the actual awards/commitments.

Transit Vehicle Manufacturers Goals:

JETS will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, JETS may, at its discretion and FTA approval, establish

project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Meeting Overall Goals:

JETS will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, JETS will provide a good faith effort to meet all DBE and minority goals. This will be accomplished according to the procedure outlined in the succeeding sentences. For each RFP that JETS (City of Jonesboro) issues for a project in which FTA funding is to be employed, there will be a section directing prospective bidders to consult the AHTD DBE Directory (for which an up-to-date website will be listed) to familiarize themselves with DBE firms and other small business in this area which should be considered for subcontracting opportunities. Furthermore, each of these RFPs will contain specific language informing prospective bidders that the contract in question is subject to FTA DBE regulations.

Good Faith Efforts Procedures:

In those instances where JETS DBE goal does not meet the verified countable DBE anticipated participation, it will document its adequate good faith efforts to meet the DBE goal, even though it was unable to do so.

Counting DBE Participation

JETS will count DBE participation toward overall goals as provided in 49 CFR 26.55

DBE CERTIFICATION

Unified Certification Program:

JETS is a member of a Unified Certification Program (UCP) administered by the Arkansas Highways and Transportation Department (AHTD). The UCP will meet all the requirements of this section. JETS will use and count for DBE credit only those DBE firms certified by the AHTD.

For more information on the UCP, contact the AHTD at P.O. Box 2261, Little Rock, AR 72203-2261 or call (501) 569-2000. The most up-to-date AHTD DBE Directory and descriptions of AHTD's UCP may be found at <http://www.arkansashighways.com/ProgCon/letting/dbedirectory.pdf>