

**Southeastern Regional Transit Authority**

***FEDERAL DISADVANTAGED BUSINESS ENTERPRISE***

***PROGRAM PLAN***



*Updated August 2017*  
*Updated January 2018*

## Policy Statement

The Southeastern Regional transit Authority (SRTA) 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 SRTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the SRTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the SRTA to ensure that DBEs are 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.

John LeBert, Operations Project Manager has been delegated as the DBE Liaison Officer. In that capacity, the Grants Manager 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 SRTA in its financial assistance agreements with the Department of Transportation.

SRTA has disseminated this policy statement to the Advisory Board and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The policy statement is posted on the website and the goal is included in the federal clauses for each procurement.



Erik B. Rousseau, Administrator



Date

## **General Requirements**

### **Section 26.1 Objectives**

The objectives are found in the policy statement on the first page of this program.

### **Section 26.3 Applicability**

The SRTA 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. 105-178.

### **Section 26.5 Definitions**

The SRTA will adopt the definitions contained in Section 26.5 for this program.

### **Section 26.7 Non-discrimination Requirements**

The SRTA 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 SRTA 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.

### **Section 26.11 Record Keeping Requirements**

Reporting to DOT: 26.11(b) SRTA will report DBE participation to DOT as follows:

We will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

### **Bidders List: 26.11(c)**

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

We will collect this information in the following ways:

- Through the state website for DBE's
- through a list maintained by the Authority of past and interested vendors.

### **Section 26.13 Federal Financial Assistance Agreement**

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

**Assurance: 26.13(a)** - *This language will appear in financial assistance agreements with sub-recipients.*

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

**Contract Assurance: 26.13b**

We 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 the recipient deems appropriate.

**SUBPART B - ADMINISTRATIVE REQUIREMENTS****Section 26.21 DBE Program Updates**

Since the SRTA has received a grant of \$250,000 or more in FTA planning capital, and or 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.

**Section 26.23 Policy Statement**

The Policy Statement is elaborated on the first page of this program.

**Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

John LeBert  
700 Pleasant St, Suite 320  
New Bedford, MA 02740  
508-997-6767 x 3314  
jlebert@srtabus.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the SRTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Administrator concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has no other staff to assist in the administration of the program. 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. Works with all departments to set overall annual goals.
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 attainment and identifies ways to improve progress.
6. Analyzes SRTA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the SRTA's updated directory on certified DBEs based on their certification by the state.

### **Section 26.27 DBE Financial Institutions**

It is the policy of the SRTA 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 use the state website to identify these institutions. All current information is maintained in the state database.

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

### **Section 26.29 Prompt Payment Mechanisms**

The SRTA will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from SRTA. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the DBELO. This clause applies to both DBE and non-DBE subcontracts. SRTA will verify prompt payment by following up upon receipt of the lien release with an email to confirm prompt payment occurred.

Failure to follow prompt payment will result in reporting the contractor to SAMS.

### **Section 26.31 Directory**

The SRTA has access to the state directory identifying 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 at <https://www.sdo.osd.state.ma.us/BusinessDirectory/BusinessDirectory.aspx>.

### **Section 26.33 Overconcentration**

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

### **Section 26.39 FOSTERING SMALL BUSINESS PARTICIPATION**

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 Southeastern Regional Transit Authority (SRTA) seeks to implement a small business element into its current DBE policy in accordance with the applicable law. SRTA is including this element to facilitate competition by and expand opportunities for small businesses. SRTA is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. SRTA will meet its objectives using a combination of the following methods and strategies:

1. Set asides: Where feasible, SRTA will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FTA-assisted contracts. A "set-aside" is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that SRTA and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location. The project manager and DBE liaison will review FTA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work regardless of DBE status. No contract will contain both a SBA and DBE goal. In the event that a set-aside is not established on an FTA-

assisted contract, the project manager and DBE liaison will document why a small business set-aside is inappropriate and the factors which were considered in making that determination, including project scope and estimated availability of firms.

2. **Unbundling:** SRTA, where feasible, will "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. SRTA will conduct contract reviews on each FTA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, SRTA will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses. SRTA will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. SRTA will document the factors used to determine whether or not an FTA-assisted contract will be unbundled or bid separately. This work will be documented in the contract file.
3. **Outreach and technical assistance:** SRTA will participate in outreach and training opportunities for small businesses through various partnerships. SRTA is on the distribution list for the Commonwealth of Massachusetts Operational Services Division, which is the entity in Massachusetts responsible for verifying and tracking DBE. SRTA will also work with the Fall River and New Bedford area chamber of commerce and the local Economic Development agencies to introduce small and minority-owned businesses to the SRTA's procurement processes and practices. Additionally, the SRTA advertises contracting opportunities through various outlets, including local newspapers, minority-based publications and trade publications as well as on its website.

As described above, SRTA will utilize a variety of methods to facilitate small business participation. In each FTA-assisted contract, the DBE liaison will document the method in which the small business element will be implemented (i.e. set-aside, unbundling and/or outreach) and the process by which those methods were considered.

#### **D. Implementation Schedule**

SRTA will approve the small business element of the Small Business Participation element of the DBE Program by October 18, 2012 and will implement it within two months of the FTA's approval of this element. SRTA will be bringing on an additional staff member to assist in the implementation of all civil rights programs.

#### **Section 26.37 Monitoring and Enforcement Mechanisms**

The SRTA 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 Department of Transportation 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. This mechanism will include a written certification that SRTA has reviewed contracting records and monitored work sites for this purpose. The monitoring to which this refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by [describe the mechanism].
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

## **SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

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

### **Section 26.45 Overall Goals**

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 1 to this program. This section of the program will be updated every three years

In accordance with Section 26.45(f) the SRTA will submit its overall goal to DOT on August 1 of the year it is due. Before establishing the overall goal each year, SRTA will consult with both Chambers of Commerce and various community groups in both cities to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the SRTA efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will post a notice of the proposed overall goals on the SRTA website, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the SRTA Administrative office for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will be posted by June 1st. The notice must include addresses to which comments may be sent and address where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions 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.

### **Section 26.49 Transit Vehicle Manufacturers Goals**

SRTA 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, SRTA may, at its discretion and with 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.

### **Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program. This section of the program will be updated triennially when the goal calculation is updated.

### **Section 26.51(d-g) Contract Goals**

The SRTA will use contract goals to meet any portion of the overall goal SRTA does not project being able to meet using 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 our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

## **Section 26.53 Good Faith Efforts Procedures**

### **Demonstration of good faith efforts (26.53(a) & (c))**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/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 Part 26.

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible. We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

### **Information to be submitted (26.53(b))**

SRTA treats bidder/offers' compliance with good faith efforts' requirements as a matter of [responsiveness] or [responsibility].

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

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

### **Administrative reconsideration (26.53(d))**

Within 5 days of being informed by SRTA that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: [provide name, address, phone number, e-mail address.] The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/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 efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### **Good Faith Efforts when a DBE is replaced on a contract (26.53(f))**

SRTA will require a contractor 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our 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, our contracting office 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 contracting officer may issue a termination for default proceeding.



**Sample Bid Specification:**

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 SRTA 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 XX% has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), 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.

**Section 26.55 Counting DBE Participation**

SRTA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

**SUBPART E - CERTIFICATION PROCEDURES****Section 26.81 Unified Certification Programs**

SRTA is the member of a Unified Certification Program (UCP) administered by the Commonwealth of Massachusetts. The UPC will meet all of the requirements of this section. The following is a description of the UCP: To qualify as a DBE, the business must be owned and controlled by one or more socially and economically disadvantaged persons as defined by DBE Regulation 49 CFR Parts 23 and 26. The presumption of disadvantage is refutable. The business' size as measured by average annual gross receipts over the most recent three years must be under the specified dollar amounts. These size standards are set according to the business' North American Industry Classification System (NAICS) code. Depending on the industry, these limits can range from \$2.5 million averaged per year to \$19.5 million averaged per year. Manufacturers, wholesalers and retailers must meet an employee size standard ranging between 500 to 1500 employees, depending on the NAICS classification, and their average three year gross sales must be less than \$19.5 million.

To the DBE regulations require all owner applicants to complete a Statement of Disadvantage and a Personal Financial Statement. All eligible owners must affirm that they are members of a disadvantaged group (for example, an eligible ethnic minority or female). In addition, the personal net worth of each eligible owner applicant must be less than \$1.32 million, excluding the values of the applicant's ownership interest in the business seeking certification and the owner's primary residence.

**Section 26.83 Procedures for Certification Decisions****Re-certifications 26.83(a) & (c)**

SRTA is the member of a Unified Certification Program (UCP) administered by the Commonwealth of Massachusetts.

**"No Change" Affidavits and Notices of Change (26.83(j))**

SRTA is the member of a Unified Certification Program (UCP) administered by the Commonwealth of Massachusetts.

### **Section 26.85 Denials of Initial Requests for Certification**

SRTA is the member of a Unified Certification Program (UCP) administered by the Commonwealth of Massachusetts.

### **Section 26.87 Removal of a DBE's Eligibility**

SRTA is the member of a Unified Certification Program (UCP) administered by the Commonwealth of Massachusetts.

### **Section 26.89 Certification Appeals**

SRTA is the member of a Unified Certification Program (UCP) administered by the Commonwealth of Massachusetts.

## **SUBPART F - COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

We will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal 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**

SRTA will require copies of the lien releases from the DBE's and will follow up with email confirmation that the payment was received in a timely manner.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be make available for inspection upon request by any authorized representative of the SRTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

## **ATTACHMENTS**

Attachment 1 Organizational Chart

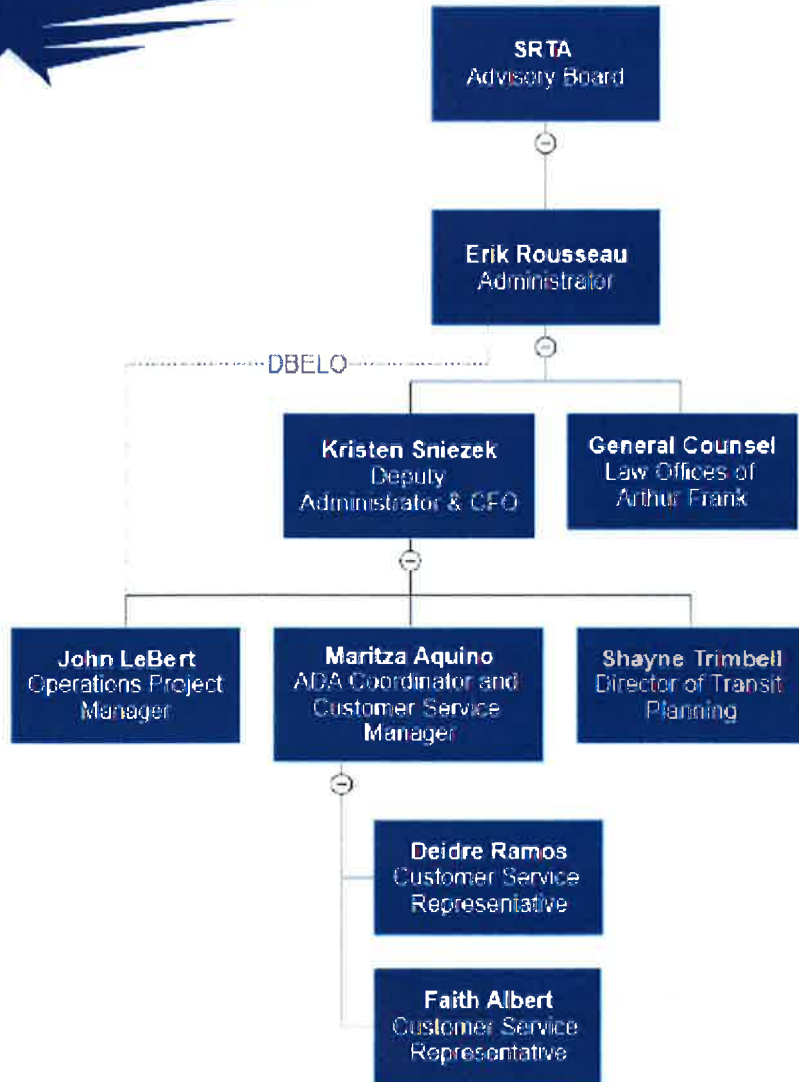
Attachment 2 DBE Directory

Attachment 3 Overall Goal Calculation

Attachment 5 Breakout of Estimated Race-Neutral & Race-Conscious Participation

Attachment 6 Form 1 & 2 for Demonstration of Good Faith Efforts

**Attachment 1**



**Attachment 2**

DBE Directory: <https://www.sdo.osd.state.ma.us/BusinessDirectory/BusinessDirectory.aspx>

**Attachment 3**

**Section 26.45: Overall Goal Calculation**

SRTA will not use quotas for DBEs on FTA-assisted contracts.

(a) SRTA will set an overall goal for DBE participation in FTA-assisted contracts where SRTA reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or more in FTA funds in prime contracts in a Federal fiscal year.

(b) SRTA's overall goal will be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on SRTA FTA-assisted contracts. The goal will reflect SRTA's determination of the level of DBE participation expected absent the effects of discrimination. It will not simply rely on either the 10 percent national goal, SRTA previous overall goal, or past DBE participation rates in SRTA programs without reference to the relative availability of DBEs in the SRTA market.

(c) *Step 1.* SRTA begins the goal setting process by determining a base figure for the relative availability of DBEs. Using the Massachusetts State Office of Minority and Women Business Assistance (SOMWBA) DBE Directories to determine the number of ready, willing and able DBEs in the SRTA market. Using the Census Bureau's 2010 Census data base to determine the number of all ready, willing and able businesses available in the SRTA market that perform work in the same NAICS codes. ([www.census.gov/epcd/cbp/view/cbpview.html](http://www.census.gov/epcd/cbp/view/cbpview.html)) and (<http://www.census.gov/econ/susb/>) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in the SRTA market.

(d) *Step 2.* Once a base figure is calculated, examine all of the evidence available in SRTA past and future performance to determine what adjustments (i.e., Massachusetts RTA Disparity Study, Percent of Total FY Project Budget, etc.) if any, are needed to make adjustments to the base figure in order to arrive at a SRTA overall goal.

(e) Once a percentage figure is determined in accordance with paragraphs (c) and (d) above, express the SRTA overall goal as a percentage of all FTA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that will be expended in FTA-assisted contracts in the three forthcoming fiscal years.

(f) SRTA's overall goal on a fiscal year basis is submitted to the FTA by August 1 at three-year intervals, based on a schedule established by the FTA and posted on their Web site. (49 CFR sec. 26.45) SRTA may adjust its three-year overall goal during the three-year period to which it applies in order to reflect changed circumstances. SRTA will provide updates to FTA representing significant changes in the program. (49 CFR sec. 26.21(b)(2))

(g) SRTA will make, for informational purposes, projections of SRTA expected DBE achievements during each of the three years covered by the SRTA overall goal. However, it is the overall goal itself, and not these informational projections, to which the provisions of section 26.47(c) apply.

(h) SRTA will include with the overall goal submission a description of the methodology used to establish the goal, including SRTA base figure and the evidence with which it was calculated, and the adjustments made to the base figure and the evidence relied on for the adjustments. SRTA will also include a projection of the portions of the overall goal expected to be met through race-neutral and race-conscious measures, respectively (26.51(c)).

(i) If FTA's review suggests that SRTA overall goal has not been correctly calculated, or that SRTA method for calculating goals is inadequate, FTA may suggest SRTA adjust its overall goal. The adjusted overall goal is binding.

## **Attachment 5**

### **Section 26.51: Breakout of Estimated**

#### **Race-Neutral & Race Conscious Participation**

SRTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The SRTA uses the following race-neutral means to increase DBE participation: [List the things that you actually do. See Section 26.51(b) for examples]

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: [summarize how the estimate was derived: from private sector MBE/WBE participation, DBE participation of DBEs in local procurement programs in which there are no DBE contract goals, extend of your race-neutral business assistance efforts.]

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award. We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

**Attachment 6**

**Demonstration of Good Faith Efforts** [provided as part of the solicitation documents.]

**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: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

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.)