

SARASOTA COUNTY TRANSPORTATION AUTHORITY  
DISADVANTAGED BUSINESS ENTERPRISE  
PROGRAM



SARASOTA COUNTY TRANSPORTATION AUTHORITY  
5303 PINKNEY AVENUE  
SARASOTA, FL 34233

2013

**POLICY STATEMENT**

**Objectives/Policy Statement, §26.1, 26.23**

The Director of Sarasota County Area Transit 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 Sarasota County Transportation Authority (SCTA) has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the SCTA has signed an assurance that it will comply with 49 CFR Part 26.


It is the policy of the SCTA 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.

Rebekka Cline has been designated as the DBE Liaison Officer. In that capacity, Rebekka Cline 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 SCTA in its financial assistance agreements with the Department of Transportation.

SCTA will disseminate this policy statement to the Board of County Commissioners and all of the components of our organization. We will distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

  
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Director, Sarasota County Area Transit

  
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Date

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# 1. GENERAL REQUIREMENTS

## 1.1 Objectives, §26.1

It is the objective of the Sarasota County Transportation Authority (SCTA) to ensure that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR part 26, have an equal opportunity to receive and participate in Department of Transportation–assisted contracts. It is also our objective:

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 (absent discrimination, and must be based on evidence of the availability of ready, willing and able DBEs in the local market area)<sup>1</sup>;
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.

## 1.2 Applicability, § 26.3

SCTA provides this program as a recipient of federal–aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107.

The SCTA is also 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.

## 1.3 Definitions, § 26.5

The SCTA will adopt the definitions contained in Section 26.5 of Part 26 for this program.

## 1.4 Non-discrimination Requirements, § 26.7

Sarasota County prohibits discrimination in all services, programs or activities on the basis of race, color, national origin, age, disability, sex, marital status, familial status, religion, or genetic information.

The SCTA will not 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.

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<sup>1</sup> *The New DOT DBE Rule is Narrowly Tailored - Meeting the Adarand Test* (<http://www.osdbu.dot.gov/DBEProgram/IssuancesArchives/NTcht.cfm>)

In administering its DBE program, the SCTA 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.

### **1.5 Record Keeping Requirements, § 26.11**

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

### **1.6 Bidders List, § 26.11(c)**

The SCTA's bidders list consists of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The bidder list includes the firm's name, firm's address, DBE non-DBE status, firm's age, and the annual gross receipt bracket of the firm. In all federally funded solicitations, SCTA will request bidders to report the required information, for their firm, and all firms that quote to the primary firm for subcontracting. This information is a requirement of 49 CFR Part 26.11(c.2.v) to provide as accurate data as possible, about DBE and Non-DBE contractors and subcontractors, and may assist in calculating overall goals.

### **1.7 Assurances, § 26.13**

SCTA will sign the following assurances, applicable to all DOT-assisted contracts and their administration:

#### **1.7.1 Federal Financial Assistance Agreement Assurance: §26.13(a)**

SCTA 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 SCTA 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.).

#### **1.7.2 Contract Assurance: §26.13(b)**

SCTA ensures 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.

## **2. ADMINISTRATIVE REQUIREMENTS**

### **2.1 DBE Program Updates, § 26.21**

The SCTA 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. The policy statement is distributed to DBE and non-DBE business communities that perform work for SCTA on DOT-assisted contracts as part of the solicitation documentation. The policy documentation is also available on Sarasota County Area Transit website.

## **2.2 DBE Liaison Officer (DBELO) , § 26.25**

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

Rebekka Cline  
5303 Pinkney Avenue  
Sarasota, FL 34233  
941-363-1267  
rcline@scgov.net

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the SCTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the chief executive officer 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. Whereas SCTA administers a limited number of DOT-assisted contracts a year, the DBELO has a staff of zero to assist in the administration of the program. However assistance in administrating DBE outreach programs, is provided by SCTA's Customer Service team, and assistance in monitoring compliance to the program is provided by SCTA's Business Compliance Specialist. The duties and responsibilities of the DBELO, and the assisting team members include the following:

- Gathers and reports statistical data and other information as required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with other departments (such as grants, project management, procurement) to set overall triennial goals.
- Works with Procurement to ensure that bid notices and requests for proposals are available to DBEs in a timely manner.
- Analyzes SCTA's progress toward attainment and identifies ways to improve progress.
- Participates in pre-bid meetings as needed for federally assisted contracts.
- Advises the department director on DBE matters and achievement.
- Plans and participates in DBE training seminars.
- Acts as liaison to the Uniform Certification Program in Florida.
- Provides outreach to DBEs and community organizations to advise them of opportunities.

## **2.3 DBE Financial Institutions, § 26.27**

The SCTA is a component of Sarasota County Government. In accordance with the cash management and investment policy adopted by the Board the Sarasota County Clerk of the Circuit Court is

responsible for all financial actions of County Government. Therefore, SCTA has no ability to influence the final selection of the financial institution that will provide services to Sarasota County Government. SCTA will prepare a memorandum to the Clerk of the Circuit Court identifying DBE financial institutions and requesting that DBE financial institutions receive equal consideration in selecting the financial institution for Sarasota County Government.

Within the solicitations documents for federally assisted procurements, SCTA encourages prime contractors to make use of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, on DOT-assisted contract to make use of these institutions.

## **2.4 Prompt Payment Mechanisms, § 26.29**

### **2.4.1 Prompt Payment: §26.29(a)**

Sarasota County Government is subject to the Florida Prompt Payment Act (Chapter 218 Part VII). The DBELO and the assisting team members will perform periodic audits to monitor compliance.

The SCTA 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 SCTA. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the SCTA. This clause applies to both DBE and non-DBE subcontracts.

### **2.4.2 Retainage: §26.29(b)**

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

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed and in accordance with Section 218.735, Florida Statutes. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the SCTA. This clause applies to both DBE and non-DBE subcontracts.

### **2.4.3 Monitoring and Enforcement: §26.29(d)**

SCTA's project management is provided by Sarasota County Government's Public Works department. SCTA will work in connection with the Public Works Project Manager or designee for federally-assisted projects to audit payments made to subcontractors to verify that the requirements of 2.4.1 and 2.4.2 are being followed.

Specifically, SCTA will monitor payments to subcontractors as follows:

- Sarasota County's Davis Bacon Compliance representative will work in conjunction with the project inspector to ensure that the DBEs indicated by the Contractor as participating on the project are performing their assigned commercially useful function.
- The Contractor's contract will contain a provision requiring that for each subcontractor paid, the contractor will submit a Release of Lien form signed and notarized by the subcontractor. The form will certify that payment was made and will indicate the amount of the payment, the payment instrument number(s), the payment amount(s) and the payment date(s).



- With each pay request, the Contractor will complete and submit a SCAT Prompt Payment Contractor Compliance form indicating the subcontractor obligations associated with that payment and describing any associated retainage.
- SCTA will periodically audit the information submitted to verify the Contractor's compliance with the prompt payment requirements of this program.

SCTA 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, SCTA will also consider similar action under its own legal authorities, including responsibility determinations in future contracts.

### **2.5 Directory, § 26.31**

SCTA participates in the Florida Department of Transportation Uniform Certification Program (UPC). The combined statewide directory, identifying all firms eligible to participate as a certified DBE, may be located at the Florida Department of Transportation website <http://www.dot.state.fl.us/equalopportunityoffice/>.

### **2.6 Overconcentration, § 26.33**

SCTA has not identified that overconcentration exists in the types of work that DBEs perform. SCTA will examine the UPC's listing of certified DBEs at least every eighteen (18) months for overconcentration. Upon discovery of an overconcentration for DOT-assisted contracts, SCTA will request the assistance from Sarasota County's Office of Business and Economic Development (<https://www.scgov.net/EconomicDevelopment/Pages/default.aspx>).

### **2.7 Business Development Programs, § 26.35**

SCTA has not established a business development program. We will re-evaluate the need for such a program every eighteen (18) months. Upon discovery of a business development need for DOT-assisted contracts, SCTA will request the assistance from Sarasota County's Office of Business and Economic Development (<https://www.scgov.net/EconomicDevelopment/Pages/default.aspx>).

### **2.8 Monitoring and Enforcement Mechanisms, § 26.37**

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

1. SCTA 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. SCTA will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. SCTA will monitor participation by DBEs by requiring the Contractor to provide a DBE Participation Report to SCTA with each invoice submitted to SCTA for payment.
4. SCTA will work with Sarasota County and contracted project managers to monitor DBE participation.

5. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

## 2.9 Small Business Participation, § 26.39

As a department of Sarasota County Government, SCTA utilizes and is supported by Sarasota County's centralized procurement department. The SCTA has incorporated the following non-discriminatory elements into its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns and to foster small business participation in procurements (both DBEs and non-DBE small businesses). These elements intended to foster small business participation are already implemented and are an active part of Sarasota County and SCTA's practices.

- Sarasota County Government maintains an Office of Business and Economic Development that partners with local cities and business leaders works to develop small businesses and local jobs in Sarasota County. More information about the Office of Business and Economic Development is available at <https://www.scgov.net/EconomicDevelopment/Pages/default.aspx>.
- Formal bids and requests for proposal are publicized in a local newspaper to broaden potential exposure to both DBE and non-DBE small businesses.
- Sarasota County maintains a procurement website and system ([scgov.net/eProcure](http://scgov.net/eProcure)) where interested DBEs and other small businesses may register to be notified of, and obtain copies of, any advertised solicitation free of charge. eProcure was developed and implemented by County Procurement to provide all vendors with a user-friendly free way of staying informed about new opportunities to bid and quote, and to submit those bids or quotes electronically when feasible.
- When feasible, projects are structured and bid to encourage and foster participation of DBEs and other small businesses. Specifically, this means SCTA reviews federally assisted procurements during the solicitation development stage to determine the feasibility of "unbundling", or, breaking the project into smaller projects which may facilitate the participation of more small businesses. When it is determined to be feasible, SCTA works with County Procurement and Project Managers to develop these larger procurements into multiple smaller procurements to enhance the ability of smaller businesses to bid.
- As a form of enhancing communication strategies the following statement or similar language will be included in solicitations and public outreach:
  - SCAT operates in compliance with FTA program requirements and ensures that transit services are made available and equitably distributed, and provides equal access and mobility to any person without regard to race, color, or national origin, disability, gender or age. *Title VI of the Civil Rights Act of 1964; FTA Circular 4702.1A, "Title VI and Title VI Dependent Guidelines for Federal Transit Administration Recipients.* Sarasota County Area Transit has a Race Neutral Disadvantaged Business Enterprise (DBE) goal of 6.9% and strongly encourages small business participation in contracting opportunities. For more information on DBE and Small Business participation programs please visit Sarasota County's procurement and vendor registration webpage at [eprocure.scgov.net](http://eprocure.scgov.net) or contact Ms. Reba Cline at [rcline@scgov.net](mailto:rcline@scgov.net).

SCTA has adopted the definition of small business concerns set out in 49 CFR §26.5.

## 3. GOALS, GOOD FAITH EFFORTS, AND COUNTING

### 3.1 Set-asides or Quotas, § 26.43

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

### 3.2 Overall Goals, § 26.45

In accordance with Section 26.45, the SCTA will submit its triennial overall DBE goal to FTA by August 1, every three years.

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

#### Method

Sarasota County Transportation Authority (SCTA) uses a two step method in calculating the annual Disadvantaged Business Enterprise Goal:

##### *Step One: Base Figure for the Relative Availability of DBEs.*

SCTA developed its overall goal for DBE participation based on demonstrable evidence of the relative availability of ready, willing, and able DBEs as compared to all firms ready, willing, and able to perform work on SCTA federal contracts.

SCTA has elected to use DBE Directories and Census Bureau data to calculate a baseline figure for DBE availability. This is the method set forth in Section 26.45(c)(1) of the DBE rule. SCTA will utilize the Census Bureau's County Business Pattern data to determine the number of ready, willing and able businesses available in its market area, by NAICS code. SCTA will then determine the number of ready, willing and able DBE businesses in its market area using the UCP and other pertinent sources of DBE information, if any. SCTA will then divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in its market.

SCTA's projected fiscal year contracts are spread over a number of purchasing categories. SCTA determined the percentage of its federal contracting dollars that would be spent in each of these categories. Using the Census and UCP data, as well as other data sources as may be needed, SCTA will examine the number of all firms and DBE firms in each category, and the relative availability of DBEs in each category. Then using the formula set forth by FTA in the DBE rule, SCAT will establish an annual baseline figure of availability taking into account the work it expects to be performed during the fiscal year and the relative availability of DBEs who could perform that work.

##### *Step Two: Determination of Overall DBE Goal*

After establishing the Base Figure for DBE availability, SCTA will examine other evidence pertinent to establishing an Overall Goal. SCTA will review its recent history in awarding contracts to DBEs. Based on this review, SCTA may adjust the Base Figure to arrive at the annual DBE goal.

#### Notification of Proposed Overall Goal

Before establishing the overall goal, SCTA will consult with various DBE and Non-DBE enterprises to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the SCTA efforts to establish a level playing field for the participation of DBE's.

Following this consultation, SCTA 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 5303 Pinkney Ave, Sarasota, FL 34233 for 30 days following the date of the notices, and informing the public that SCTA and DOT will accept comments on the goals for 45 days from the date of the notice. SCTA will publish its triennial DBE goal in a local general circulation newspaper, a local minority newspaper, and a transit publication.

### **3.3 Goal Setting and Accountability § 26.47**

If the awards and commitments shown on SCTA's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, SCTA 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 the analysis and corrective action records for three years and make them available to the FTA upon request

### **3.4 Transit Vehicle Manufacturers Goals, §26.49**

SCTA will require each transit vehicle manufacturer (TVM), 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, SCTA 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.

### **3.5 Meeting Overall Goals/Contract Goals, §26.51**

The SCTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. SCTA will use the guideline of §26.51(b) to increase DBE participation through race-neutral means.

The SCTA will use contract goals to meet any portion of the overall goal SCTA 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.

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

### **3.6 Good Faith Efforts Procedures. §26.53**

#### **Award of Contracts with a DBE Contract Goal: 26.53(a)**

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, SCTA 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 it has made sufficient good faith efforts prior to submission of its bid.

#### **Evaluation of Good Faith Efforts: 26.53(a) & (c)**

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 responsive. Once that determination is made, it is conveyed to County Procurement. The DBELO's information is below:

Rebekka Cline  
5303 Pinkney Avenue  
Sarasota, FL 34233  
941-363-1267  
rcline@scgov.net

Appendix A to 49 CFR Part 26 is used during this process to determine whether good faith efforts have been made by a bidder/offeror.

We will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

SCTA treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

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 are expected to participate in the contract;
2. A description of the work that each DBE is expected to perform;
3. The dollar amount of the participation of each DBE firm expected to participate;
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 contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

### **3.6.1 Administrative Reconsideration, §26.53(d)**

Within 3 business days of being informed by SCTA that the offeror is not responsive because they have not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration by following the protest procedures established by Sarasota County Government.

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 formally appeal the issue of whether it met the goal or made adequate good faith efforts to do through the protest process, beginning with a written appeal to the Procurement Official and concluding with having the protest considered and disposed by the Board of County Commissioners. The minutes of the Board of County Commissioners meeting shall serve as written evidence of the final decision regarding the bidder/offeror's appeal. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

The Procurement Official, who receives and is the first level of consideration for protests, is:  
Ted Coyman  
(941) 861-5152  
[tcoyman@scgov.net](mailto:tcoyman@scgov.net)

The procedure for submitting a protest to the Procurement Official is provided for in the Sarasota County Procurement Code, Section 2-221. The Procurement Code is available at [Municode.com](http://Municode.com) as well as on Sarasota County's website: <https://www.scgov.net/Procurement/Documents/Procurement%20Code.pdf>

### **3.6.2 Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals, § 26.53(f)**

SCTA requires that, except in cases with imminent potential for harm to persons or property, prime contractors may not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without SCTA'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 SCTA 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 SCTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise SCTA and the prime contractor of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, SCTA will require the prime 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, the Project Manager may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the Project Manager may initiate 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 Sarasota County Transportation Authority 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 (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."

### **3.7 Counting DBE Participation, §26.55**

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

## **4. CERTIFICATION STANDARDS § 26.61 – 26.73**

SCTA is a non-certifying member of the Unified Certification Program (UCP) administered by the Florida Department of Transportation Equal Opportunity Office.

## **5. CERTIFICATION PROCEDURES, § 26.81**

SCTA is a non-certifying member of the Unified Certification Program (UCP) administered by the Florida Department of Transportation Equal Opportunity Office. The UCP will meet all of the requirements of this section. SCTA will use and count for DBE credit only those DBE firms certified by the Florida UCP.

The following is a description of the UCP:

The DBE Program is a Federal Program designed for business owners deemed socially and economically disadvantaged. To achieve DBE status a business must be minority or female owned. The owner must have day-to-day control of operations; possess an expertise in their work specialty; own a minimum of 51% of the company; and have an investment in their company. To certify as a DBE, the business owner cannot have a net worth that exceeds \$1.32 million (excluding the owner's business and primary residence).

For more information about the certification process or to apply for certification, firms should contact:

Florida Department of Transportation  
Equal Opportunity Office  
605 Suwannee St. MS 65  
Tallahassee, FL 32399  
(850) 414-4747 fax (850) 414-4879  
<http://www.dot.state.fl.us/equalopportunityoffice/dbecertification1.shtm>

## **6. DENIAL OF DBE STATUS AND APPEALS, §26.83-26.91**

Any firm or complainant may appeal a Florida 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 Ave. SE  
West Building, 7th Floor  
Washington, D.C. 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

## **7. COMPLIANCE AND ENFORCEMENT**

### **7.1 Information, Confidentiality, Cooperation, §26.109**

We will safeguard from disclosure 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, SCTA will not release information that may reasonably be construed as confidential business information to third parties (other than DOT) without the written consent of the submitter.

## **7.2 Monitoring Payments to DBEs**

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 made available for inspection upon request by any authorized representative of the SCTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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.



## **ATTACHMENTS**

**Attachment 1: DBE Reporting Organizational Chart**

**Attachment 2: Monitoring and Enforcement Mechanisms/Legal Remedies**

**Attachment 3: Goal Setting Methodology**

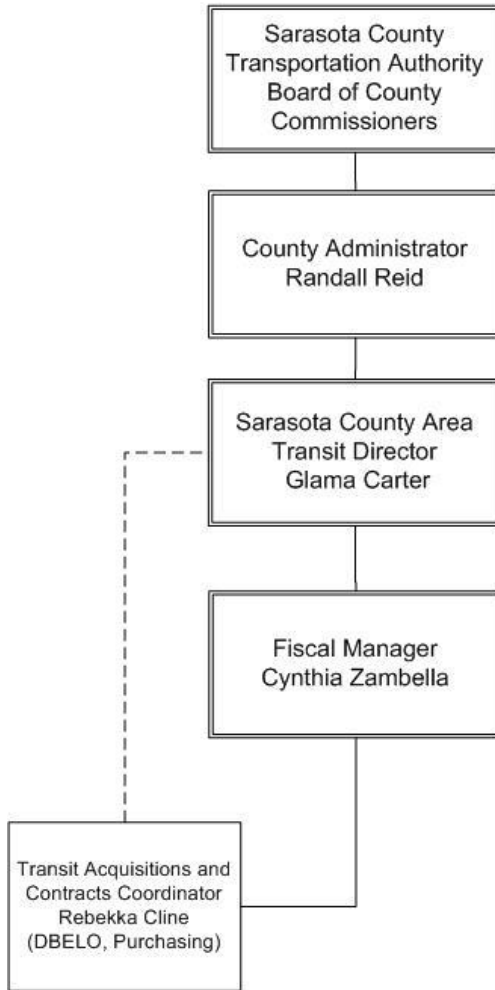
**Attachment 4: Good Faith Efforts Forms**

**Attachment 5: Link to 49 CFR Part 26**

**Attachment 6: Information on Obtaining DBE Directory**

**Attachment 1**

**Sarasota County Area Transit  
DBE Reporting Organizational Chart**



## **Attachment 2**

### **Monitoring and Enforcement Mechanisms/Legal Remedies**

The SCTA has available several remedies to enforce the DBE requirements contain in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, 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
3. Prosecution pursuant to 18 USC 1001.

### Attachment 3

#### Goal Setting Methodology

This goal setting methodology was established by SCTA's previous DBELO. SCTA intends to develop a new triennial goal and submit it by August 1, 2013 in accordance with the requirements of this Program.

SCTA estimated that a total of \$5,927,000, 5307, 5309, and 5311 funds will be awarded to and expended by the grantee in FY10.

After identifying the type of work to be included as 5307, 5309, and 5311 funds anticipated to be awarded and expended on four projects in FY2010 (\$1,450,000 see Attachment 2) SCTA – Sarasota County Transportation Authority is setting a DBE goal for the award of qualified funds of 6.90%. It should be noted that we reduced the ITS total to \$200,000 and the Transit Station Design, Engineering and Construction to \$700,000 to incorporate only those funds for which we felt there were qualified N.A.I.C.S. codes participants. Our public comment process was complete on June 19, 2009. We received no inquiries or comments.

#### Calculations:

**Step 1:** Utilizing the N.A.I.C.S. codes shown in Attachment 2 for the individual projects adjusted totals, the step 1 ratio calculation yields 19.15% (18/94) relative availability of DBEs to perform the types of contracts both prime and sub that we intend to let.

**Step 2:** Because Sarasota County utilizes one of three non-DBE firms who are under contract to perform this work along with their road work, step 2 would yield an adjustment of 0 (zero). We intended to encourage our County personnel to try to attract at least 3 of the DBE firms as sub-contractors for this work, thus allowing us to set the goal as stated below. Substituting the 3 for the numerator in the ratio calculation yields a 6.90% goal when calculated using the weighted average ratio.

#### Outreach:

We published our goal information in these publications:

- Sarasota Herald-Tribune (two pages – published May 5, 2009)
- The Tempo News (two pages – published in the April 30 – May 6, 2009 issue)
- 7Dias Newspaper (two pages – published May 9, 2009)

#### Obtaining the DBE Goal:

SCTA is electing to try to obtain the FY2010 6.90% DBE Goal through race neutral means only. We feel that this is a reasonable approach for the moneys identified as possibly being awarded to DBE enterprises.

#### Historic DBE Participation:

SCTA has enjoyed its most success in obtaining DBE participation through major construction related contracts. The last major construction project paid for with federal funds was during FY97 with the construction of SCTA's Administration and Maintenance Facility. Historically, our DBE participation has been as follows:

FY97 - 99	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09 YTD
27.8%	21.0%	4.8%	0%	0%	0%	0%	12.7%	0%	0%	0%

**Attachment 4**

**Forms for Demonstration of Good Faith Efforts**

**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 and 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:

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The bidder/offeror will endeavor to utilize 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 endeavor to 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.

## **Attachment 5**

### **Link to 49 CFR Part 26**

Regulations: 49 CFR Part 26 can be found at the following link:

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=4619a07c4b895d61477c40eb80561a94&rgn=div5&view=text&node=49:1.0.1.1.20&idno=49>

## **Attachment 6**

### **Information on Obtaining DBE Directory**

SCTA is a non-certifying member of the Unified Certification Program (UCP) administered by the Florida Department of Transportation Equal Opportunity Office. The UCP will meet all of the requirements of this section. SCTA will use and count for DBE credit only those DBE firms certified by the Florida UCP.

The UCP DBE directory is available on their website at:

<https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>