



PORTAGE AREA REGIONAL TRANSPORTATION AUTHORITY (PARTA)

U.S. DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
Based on 49 CFR Part 26

**U. S. DEPARTMENT OF TRANSPORTATION DBE PROGRAM
49 CFR PART 26**

INTRODUCTION

Portage Area Regional Transportation Authority (PARTA) operates Demand Response, Fixed-Route, and ADA Complementary Paratransit service in Portage County, Ohio. Under the direction of a 15-member board appointed by Portage County officials, PARTA's 180 employees operate 70 revenue vehicles to provide public service Monday through Saturday. PARTA's Demand Response (DART) service is provided to the residents of Portage County. ADA Complementary Paratransit Service is a service provided to individuals with functional disabilities who are prevented from using Fixed-Route service and live less than 3/4 of a mile from a Fixed Route.

SUBPART A – GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives/Policy Statement

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

It is the policy of PARTA to ensure that Disadvantaged Business Enterprises, as defined in 49 CFR part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. This policy statement is circulated throughout the organization and to minority, non-minority, and women-owned community and business organizations. PARTA has disseminated this policy statement to the PARTA Board of Trustees and all 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 by publishing an ad in the local newspaper and posting it on our website.

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; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

PARTA's General Manager is ultimately responsible for the implementation, structure, and compliance of the DBE program.

The General Manager has designated the PARTA Director of Marketing / EEO as PARTA's DBE Liaison Officer. The DBE Liaison Officer reports to the General Manager, and is responsible for developing, managing, and facilitating the implementation of the DBE program on a day-to-day basis. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by PARTA in its financial assistance agreements with the Department of Transportation.

Section 26.3 Applicability

PARTA 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

PARTA will adopt the definitions contained in 49 CFR 26.5 for this program.

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Section 26.7 Non-discrimination Requirements

PARTA 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, *PARTA* 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)

PARTA will report DBE participation to DOT as follows:

PARTA will report overall DBE participation on a semi-annually basis, using the TEAM website. *PARTA* will report DBE participation on a quarterly basis for all American Recovery & Reinvestment Act (ARRA) projects, using the TEAM website. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

PARTA 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 bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

PARTA will collect this information in the following ways:

- *PARTA* will collect the information from any bidder when they contact the Procurement Office.
- During the bidding process all prime and sub-contractors are to provide this information to *PARTA*.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

PARTA 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 *PARTA* 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*).

This language will appear in financial assistance agreements with sub-recipients.

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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 *PARTA* has received grants 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)

PARTA has designated the following individual as our DBE Liaison Officer (DBELO):

Frank Hairston
PARTA
2000 Summit Rd.
KENT, OH 44240
(330) 678-7745
FAX (330) 676-6310
e-mail: frank@partaonline.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that *PARTA* complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the General Manager 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 conducts all the administration of the program. Duties and responsibilities include the following:

1. Gather and report information required by FTA.
2. Review third party contracts and purchase requisitions to ensure compliance.
3. Provide assistance to departments as they set overall annual goals.
4. Ensure timely availability of bid notices and requests for proposals to DBEs.
5. Review contracts and procurements to see those DBE goals are included in solicitations. Monitor results by utilizing race-neutral and contract specific goals.
6. Analyze *PARTA*'s progress in meeting its goal and identify methods to improve the program.
7. Participate in pre-bid meetings.

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8. Function as an advisor to the General Manager and Board of Trustees with regard to DBE matters and goal attainment.
9. Monitor contractor compliance with good faith effort.
10. Assist DBEs requiring information and help in preparing bids, and obtaining bonding/insurance.
11. Plan and participate in DBE training seminars
12. Certify DBEs according to the criteria set by DOT.
13. Provide outreach service to DBEs and community organizations to advise them of opportunities to contract with PARTA.
14. Maintain an updated directory of certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of PARTA 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 contracts to make use of these institutions when they are available.

Section 26.29 Prompt Payment Mechanisms

PARTA 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 calendar days from receipt of payment from PARTA. The prime contractor shall also return any retainage payments to the sub-contractor within 30 calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for food cause following written approval from PARTA. This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 Directory

PARTA will maintain a directory to identify DBEs with capabilities relevant to general contracting requirements and to particular solicitations. The directory lists the firm's name and address, phone number, and the type of work performed by the firm. The Directory is revised annually. PARTA will also use the certifications of other DOT recipients where possible in its directory. The directory will be made available to contractors, bidders, and proposers. Upon request, the directory is available to the general public.

Section 26.33 Overconcentration

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

Section 26.37 Monitoring and Enforcement Mechanisms

PARTA 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 49 CFR part 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

In the event a participant in our procurement activities does not comply with the DBE regulations, PARTA will proceed with its standard contract termination proceedings which are found in the Good Faith Efforts Section of this plan.

PARTA ensures that all DBE/MBE subcontractors are being paid in a timely fashion by phone interviews. Site visits are performed by the DBELO and/or the project manager for each individual project to verify the work being done is by the DBE/MBE and not the prime.

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PARTA 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 of any representative of PARTA or DOT. This reporting requirement 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 stated in the schedule of DBE participation.

Section 26.39 Fostering Small Business Participation

PARTA has always focused on using small businesses in its procurements. Outreach is done by all administrative employees while out in the local community and at other events. PARTA's Marketing Department participates in many local events, which enables a starting point with vendors in the community. These contacts are then passed on to the Procurement Department for addition to the appropriate bidder list.

PARTA currently tracks all DBE participation for all procurements using Federal Funds. This information is then passed on to our Board of Trustees, usually once a year in July. PARTA will add the small business participation to our tracking.

PARTA will develop a vendor registration form that includes the annual gross receipts for each company. This form shall be mailed to all current vendors to distinguish who PARTA is currently doing business with that fits the small business element. The DBE Program will include an element to structure race neutral contracting requirements in an effort to facilitate competition by all small businesses to achieve the objectives of the program. For the purposes of implementing this program a Small Business is defined as a firm that:

- Is organized for profit;
- Has a place of business in the United States;
- Makes a significant contribution to the United States economy by paying taxes or using American products, services, materials and/or labor; and
- Does not exceed the numerical Size Standard (Table 1) for its industry as established by the U.S. Small Business Administration (SBA).

A small business may be a sole proprietorship, partnership, corporation, Limited Liability Corporation or any other legally formed entity. Eligible firms are those small business concerns that have been certified by the SBA and can provide to PARTA a copy of their current SBA letter of certification attesting to their eligibility. The letter will act as an official document for participation in the Program. Additionally, this information will be verified by utilizing SBA's on-line directory and the Contractor's Central Registration System. Small businesses are classified through standards promulgated by the SBA. SBA uses the North American Industry Classification System (NAICS) to identify different industries, services, commodities and products. Size Standards indicate the largest size that a business may be to classify as a small business for federally funded contracting opportunities.

(Table 1- SBA General Size Standards)

Example: A business in one of the following industry groups is small if its size is not greater than:

Industry Group	Size Standard
Manufacturing	500 employees
Wholesale Trade	100 employees
Retail Trade	\$7 million
General & Heavy Construction	\$33.5 million
Dredging	\$20 million
Special Trade Construction Contractors	\$14 million

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Business and Personal Services (Except Architectural, Engineering, Surveying, and Mapping Services)	\$7 million
Computer programming, data processing and systems design)	\$25 million
Small Business Size Standards matched to NAICS	
Specific size standards for Small Business in procurement solicitations should be cross referenced to the SBA website: (http://sba.gov/category/navigation-structure/contracting-officials/eligibility-size-standards).	

PARTA is committed to the utilization of small businesses and affording said businesses the maximum opportunity to participate and compete in *PARTA*'s procurement practices. In order to facilitate competition and maximize participation by small businesses, the following steps will be implemented to reducing obstacles to small business participation in *PARTA* contracting opportunities:

1. Avoid unnecessary and unjustified bundling of contract requirements and;
2. Utilize *PARTA*'s fiscal year budgetary planning to develop small business utilization for potential upcoming contracting opportunities;
3. Establish a team to diligently facilitate contracting opportunities, awareness and recognition of the critical role that small businesses play in advancing *PARTA*'s procurement activities;
4. Foster through the team, an environment that encourages commitment, the use of integrated systems, professional management tools, and pursues innovative solutions in support of small business concerns;
5. Assign small business participation within the established threshold on a contract-by-contract basis on USDOT assisted construction contracts and on non-construction procurements (i.e. contracts for services, supplies, and equipment) having a total value not to exceed \$500,000). The threshold may be satisfied by utilizing one or more small business concerns as primes or subcontractors or suppliers of goods and services, provided that the small business performs a minimum of 51% of the tasks pursuant to the awarded contract. Threshold utilization will be used only when three or more self-certified small businesses are classified by the NAICS code for the required contract solicitation. However, *PARTA* will not use small business participation when a DBE goal is considered to be in the best interest of *PARTA* to satisfy the contract solicitation requirement. DBE goals and small business threshold will not be used for contract solicitations simultaneously.
6. Monitor payments to prime small business contractors by (a) reviewing letters of intent and subcontractor schedules of participation to assess the tasks awarded and dollar value involved; (b) maintain a reconciled running tally of payments for the duration of the work to be performed by subcontractors; (c) require prime small business contractors to submit notification of payments of their subcontractors on a monthly basis or as is appropriate considering the type of work being performed or the relevant length of the contract in question. In any event, the notification shall be made to *PARTA*'s DBE Liaison at the time of the actual payment by the prime small business concern to the subcontractors; (d) require all subcontractors to provide notification, to *PARTA*'s DBE Liaison, of receipt of payment from the prime small business concern contractors at the time that payment is actually received; (e) review the prime small business contractors' payment documents and subcontractor receipt of payment documents; (f) verify payment and receipt of payment as

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required and (g) credit small business concern participation toward the contract threshold only when payments are actually made to small businesses.

7. Report to USDOT-Federal Transit Administration (FTA) small business concern participation including payments actually made to small businesses on USDOT assisted contracts, when required.
8. *PARTA* will ensure that implementation; monitoring and enforcement mechanisms are in place to verify that the work committed to small business concerns at contract award is actually performed by small businesses. Enforcement measures may include rescission of contract awards (in whole or in part), administrative fines, debarment from bidders' lists, suspensions from awards, sanctions, referral to appropriate federal authorities in instances of suspected fraud, misrepresentation, misappropriation of funds, theft of services and other activities that warrant criminal referrals or other action; and other appropriate administrative actions.
9. On contracts that do not include DBE contract goals, small business concerns will be utilized in contracting opportunities as prime contractors who will also provide subcontracting opportunities to small business concerns that meet the designated size standard requirements and can reasonably perform, rather than self perform all the work involved.
10. Identify alternative acquisition strategies and structure procurements to facilitate the ability of consortia or joint ventures by consisting small businesses, including DBEs, to compete for and perform as prime contracts.

SUBPART C – GOALS, GOOD FAITH EFFORTS AND COUNTING

Section 26.43 Set-asides or Quotas

PARTA does not use quotas in any way in the administration of the DBE program. Under the new provision in Section 26.39, *PARTA* may use race-neutral contract set-asides for qualified small business

Section 26.45 Overall Goals

After identifying projects that are federally assisted, the DBE Liaison Officer will determine if the prime contracts awarded will be greater than \$250,000 (excluding bus purchases), then set an annual overall DBE goal in accordance with Section 26.45(f) to be submitted to FTA by August 1 of each year, except for FY2000, when the actual submission date was November 1, 1999.

PARTA will publish in general circulation media a notice of the proposed overall goal. The goal and the rationale for the goal will be made available for inspection during normal business hours for 30 days following the notice, and comments will be accepted on the goal for 45 days from the date of the notice.

When the overall goal expires, a new overall goal shall be set and submitted to the Department for review.

The overall goal shall be submitted to FTA for review (August 1, annually) 60 days before the beginning of the federal fiscal year to which the goal applies. *PARTA* 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 this goal by the time of the first solicitation for a DOT-assisted contract for the project.

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GOAL SETTING METHODOLOGY

PARTA considers the following factors in setting an overall goal:

The overall goal is based on a PARTA's projection of the number, types and dollar value of contracts to be awarded by PARTA, and a projection of the number of types of DBE's likely to be ready and available to compete for contracts from PARTA over the period during which the goals will be in effect.

PARTA's DBE goals are established as follows:

- Step 1 Examine the budget and procurement plan to determine the types and dollar amounts of goods and services to be contracted during the next fiscal year. Develop a base figure by determining the number of firms that are ready, willing, and able to provide the goods and services PARTA will be contracting for during the year.
- Step 2 Examine all the available evidence as well as historical data to determine if an adjustment to the base figure should be made. After any adjustments have been made, this figure will reflect PARTA's overall annual DBE goal.
- Step 3 Determine the breakout of estimated race-neutral and race-conscious participation for the overall goal.
- Step 4 Invite public participation by placing a legal ad in the local newspaper for a public hearing.

Section 26.49 Transit Vehicle Manufacturers Goals

PARTA 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, PARTA 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

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

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

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 a 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.

Section 26.51(d-g) Contract Goals

PARTA will use contract goals to meet any portion of the overall goal in which PARTA does not expect 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 race-neutral means.

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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

Once *PARTA* has set an overall goal, each solicitation for which a contract goal has been established will require bidders to submit the following information either under sealed bid procedures or with initial proposals under contract negotiations procedures; or at a time before a commitment to the performance of the contract:

- Names and addresses of DBE firms that will participate in the contract
- Description of the work that each DBE will perform
- The dollar amount of the participation for each DBE firm
- Written documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment
- If the contract goal is not met, evidence of good faith efforts

AWARD IF FAILURE TO MEET GOAL

To award a contract to a bidder/proposer that has failed to meet the DBE contract goals, *PARTA* will decide whether the bidder/proposer has made a good faith effort to actively and aggressively seek DBE's to meet those goals.

EVIDENCE OF GOOD FAITH EFFORTS

The kinds of efforts that will be considered demonstrative of 'good faith efforts' include, but are not limited to, the following:

- When other bidders on the procurement met the DBE goal
- When the contractor selected portions of the work to be performed by DBEs and where appropriate, broke out contract work items into feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own workforce.
- When the contractor has effectively used the services of available minority/women community organizations, contractors' groups and other organizations to provide assistance in the recruitment and placement of DBEs.
- When the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, related assistance, services, bonding, lines of credit, or insurance.
- When the contractor negotiated in good faith with DBEs. (Evidence of such negotiation may include names, addresses, and phone numbers of DBEs who were considered; description of the plans and specifications of the work to be subcontracted; and reasons why additional agreements could not be reached.

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- When the contractor has solicited through all reasonable and available means to determine the interest of all certified DBEs who have the capability to perform the work to be contracted.

ADMINISTRATIVE RECONSIDERATION

If it is determined that the apparent successful bidder/proposer has failed to meet *PARTA*'s requirements, the bidder/proposer has an opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the commitment 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.

We 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 and 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 the 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.

PARTICIPATION COUNTING TOWARDS GOALS

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials which are obtained by the DBE, or any equipment leased (except from the prime contractor or its affiliate) may also be counted. Work that is subcontracted by a DBE to a non-DBE firm does not count towards DBE goals.

NONDISCRIMINATION ASSURANCE

It is the policy of *PARTA* not to use quotas or set-asides in its efforts to meet DBE program goals.

Some of the techniques, which *PARTA* employs to facilitate DBE participation in contracting activities, include:

- Arranging times for the presentation of bids, solicitations, quantities, delivery schedules, and specifications to facilitate the participation of DBEs.
- Advertising formal procurement in the local media stating that DBEs are welcome to respond.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

PARTA will ensure that only certified DBEs participate in its DBE program. All firms seeking certification must demonstrate that they meet the eligibility requirements of Subpart D of 49 CFR part 26 concerning group membership or individual disadvantage, ownership and control, business size, and at least 51 percent owned by socially and economically disadvantaged individuals. A firm applying to be a DBE must be certified by a qualified certifying agency. Contributions of capital or expertise must be real and substantial. A disadvantaged owner's expertise must be specific to the type of work the firm performs, in a specialized field, indispensable to the firm's operations, of outstanding quality, and documented in the records of the firm.

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PARTA will accept the certification of other DOT recipients if the applicant can provide certification documents.

Every year on the anniversary date of the certification, each DBE must provide PARTA an affidavit sworn to by the firm's owners before a person who is authorized by state to administer oaths or an unsworn declaration executed penalty of perjury of the laws of the United States of America. Said affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements, or any material changes in the information provided in the application. Any DBE who fails to provide this information provided in the application. Any DBE who fails to provide this information will be deemed to have failed to cooperate, and will suffer the remedies available to PARTA under 40 C.F.R. part 26.

We require DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

Section 26.81 - 26.87 Unified Certification Program and Certification

PARTA works together with the Ohio Unified Certification Program (UCP). The UCP will meet all of the requirements of this section and they can be found at www.ohioucp.org.

Section 26.89 Certification Appeals

Any firm or complainant may appeal the decision in a certification matter to DOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 2104
Washington, D.C. 20590

PARTA will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

MONITORING PAYMENTS OF DBEs

PARTA 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 of any representative of PARTA or DOT. This reporting requirement 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 stated in the schedule of DBE participation.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

PARTA will safeguard from disclosure to third parties any information that may reasonably be regarded as confidential business information consistent with federal, state, and local law unless there is written consent of the submitter.

COMPLAINT RESOLUTION

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Any person who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination on the basis of race, color, or national origin in violation of Title VI may file a written complaint with PARTA. A complaint must be filed within 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by PARTA.

A. Submission of Complaints

(1) Filing Complaints of Discrimination

- a. Complainants may submit written complaints to the General Manager of PARTA at the following addresses:

2000 Summit Rd.
Kent, Ohio 44240

- b. In cases where the complainant is unable or incapable of providing a written statement, but wishes PARTA to investigate alleged discrimination, a verbal complaint of discrimination may be made. If necessary, PARTA will assist the person in converting verbal complaints to writing. All complaints must, however, be signed by the complainant or his/her representative.

(2) Complaint Form

- a. All complaints must be in writing and signed by the complainant or his/her representative before action can be taken. Complaints shall state, as fully as possible, the facts and circumstances surrounding the alleged discrimination.
- b. PARTA will provide the complainant or his/her representative with a written acknowledgment that PARTA has received the complaint within 10 calendar days.

(3) Determination of Investigative Merit

A complaint shall be regarded as meriting investigation unless:

- a. It clearly appears on its face to be frivolous or trivial;
- b. Within the time allotted for making the determination of jurisdiction and investigative merit, the party complained against voluntarily concedes noncompliance and agrees to take appropriate remedial action;
- c. Within the time allotted for making the determination of jurisdiction and investigative merit, the party complained against voluntarily concedes noncompliance and agrees to take appropriate remedial action;
- d. Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint; or
- e. Other good cause for not investigating the complaint exists, e.g. the same or a related complaint is already under investigation by PARTA.

B. Request for additional information from Complainant and/or Respondent

In the event that the complainant has not submitted sufficient information to make a determination of investigative merit, PARTA may request additional information from the complainant. This request shall be made within 15 calendar days of the receipt of the complaint by PARTA and will require that the party submit the information within 60 calendar days from the date of the original request. Failure of the

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complainant to submit additional information within the designated timeframe may be considered good cause for a determination of no investigative merit.

C. Notification of Disposition

PARTA shall notify within 5 calendar days by certified letter the complainant of the disposition:

- (1) In the event of a decision not to investigate the complaint, the notification shall specifically state the reason for the decision.
- (2) In the event the complaint is to be investigated, the notification shall inform the party that an investigation will take place, and request any additional information needed to assist the investigator in preparing for the investigation.

D. Complaint Investigation

(1) Priority Complaints

All incoming complaints shall be examined to determine if the discrimination alleged would be irremediable if not dealt with promptly. If such a determination is made, the complaint shall be given priority status. The processing, investigation, and determination of such complaints shall be accelerated to advance significantly the normal completion date of the process.

(2) Investigative Report

A written report will be prepared by the responsible PARTA investigator at the conclusion of the investigation. The investigative report will include the following:

- a. Summary of the complaint, including a statement of the issues raised by the complainant and PARTA's reply to each of the allegations;
- b. Citations of relevant Federal, State, and local laws, rules, regulations, and guidelines, etc;
- c. Description of the investigation, including a list of the persons contacted by the investigator and a summary of the interviews conducted; and
- d. A statement of the investigator's findings and recommendations.

E. Disposition of Complaints

(1) Informal Resolution

If the Notice of Disposition is issued and finds PARTA is in noncompliance, the respondent is required to initiate voluntary remedial actions.

(2) Request for Reconsideration

The complainant may request reconsideration of PARTA's findings within 30 calendar days of the Notice of Disposition. This request should include any additional information or analysis the complainant considers relevant. PARTA will inform the respondent of its decision to accept or reject the request within 30 calendar days after its receipt.

In cases in which a request for reconsideration is approved, the responsible investigator will reopen the investigation and proceed to process the complaint in the same manner described above.

(3) Appeal to FTA/USDOT

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If complainant is not satisfied with *PARTA*'s response and/or remedial action, he/she may appeal *PARTA*'s decision to USDOT, FTA Headquarters or FTA Regional office at the following addresses:

USDOT
Departmental Director of Civil Rights
Office of the Secretary
Department of Transportation
400 Seventh Street, SW., Room 10215
Washington, DC 20590

FTA Headquarters
Director, Office of Civil Rights
Federal Transit Administration
Room 7412
400 Seventh Street, Southwest
Washington, DC 20590

FTA Regional Office
Office of Civil Rights
Federal Transit Administration
200 West Adams Street/Suite 2410
Chicago, Illinois 60606