

DBE PROGRAM

POLICY STATEMENT

Objectives/Policy Statement

The Manchester Transit Authority (“MTA”) 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 MTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the MTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the MTA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Regional Service Coordinator has been delegated as the DBE Liaison Officer. In that capacity, Tracey Whitehead, 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 MTA in its financial assistance agreements with the Department of Transportation.

MTA has disseminated this policy statement to the MTA Board of Commissioners 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 by advertisement of its availability in the local legal publication.

SUBPART A - GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

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

Section 26.3 Applicability

The MTA 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 MTA will adopt the definitions contained in Section 26.5 of Part 26 for this program. We ensure that all definitions from the regulations are included and correct; we will add and include any new/amended definitions as they are provided by USDOT, and will not include any definitions for terms not included in the definitions found in Section 26.5 or Part 26.

Section 26.7 Non-discrimination Requirements

The MTA 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 MTA 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

Uniform Report of DBE Awards or Commitments and Payments: 26.11(a)

MTA will report DBE participation to the relevant operating administration, FTA, using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

Bidder/Offerers List: 26.11(c)

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

We will collect this information in the following ways:

The MTA will include a contract clause requiring prime bidder/ offerers on all DOT-funded projects to report the names and addresses, DBE/SBE status, and contact information, of all firms who quote to them as potential subcontractors.

Section 26.13 Assurances

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

Federal Financial Assistance Agreement Assurance: 26.13(a)

MTA 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 MTA 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.

Contract Assurance: 26.13b

The MTA 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 MTA 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 26.25 DBE Liaison Officer (DBELO)

The MTA has designated the following individual as our DBE Liaison Officer:

Tracey Whitehead
Manchester Transit Authority
110 Elm Street
Manchester, NH 03101-2799
603.623.8801 Ext. 5157
twhitehead@mtabus.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the MTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters. An organization chart displaying the DBELOs position in the organization is found in **Attachment A** to this program.

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

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. 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 MTA'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. Provides outreach to DBEs and community organizations to advise them of

opportunities.

10. Maintains the MTA's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the MTA 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 will also re-evaluate the availability of DBE financial institutions every 3 years.

The Assistant Director: Finance is not aware of any DBE financial institutions doing business within the State of New Hampshire.

Section 26.29 Prompt Payment Mechanisms

Prompt Payment: 26.29(a)

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

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

Retainage: 26.29(b)

The prime contractor agrees 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 MTA. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29(d)

Since the State of NH does not have a Prompt Payment Act, the MTA monitors that prompt payment and return of retainage is in fact occurring within 30 days by requesting copies of payments from the contractor.

This applies to both DBE and non-DBE subcontracts. Failure to pay is covered under section 26.37.

Section 26.31 Directory

The MTA has adopted the State of New Hampshire's Disadvantaged Business

Enterprise Program database 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. This directory is kept current by the State and is available at the following URL address:

www.nh.gov/dot/org/administration/ofc/dbe.htm

Additionally, the MTA will send a copy of the complete DBE Program to the following agencies for feedback regarding the program:

Center for Women & Enterprise	30 Temple St #610, Nashua, NH 03060
America's SBDC New Hampshire	25 Roxbury St, Keene, NH 03431
NCAAP Manchester NH	P.O. BOX 473 Manchester, NH 03105

Attachment B identifies those firms included in the unified DBE directory that have performed work for MTA during the three years.

Section 26.33 Overconcentration

The MTA has not identified that overconcentration exists in the types of work that DBEs perform. MTA evaluates this metric on an annual basis.

Section 26.35 Business Development Programs

The MTA has not established a business development program. We will re-evaluate the need for such a program every 3 years as part of the DBE plan renewal.

Section 26.37 Monitoring and Enforcement Mechanisms

The MTA 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. **Attachment C** lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
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 monitoring of contractor invoicing and payments, along with on-site observation of construction activities, and will occur for each

contract/project on which DBEs are participating.

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

Section 26.39 Small Business Element

Effective February 28, 2012 the MTA has established a Small Business Element as a supplement to their existing DBE Program, to facilitate competition by small business concerns. MTA will take all reasonable steps to eliminate obstacles to small business participation, including unnecessary bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors in direct response to regulatory requirements, 49 CFR Part 26.39 "Fostering Small Business Participation" (Federal Register/ Vol. 76, No. 19/ Friday, January 28, 2011/ Rules and Regulations).

While MTA has historically utilized race and gender neutral strategies to promote and advance Small Business participation efforts as part of the organization's DBE Program implementation efforts, this element of the program serves to unify in a singular location these important efforts.

For purposes of capturing Small Business utilization, MTA adheres to the U.S. Department of Transportation's Small Business definition for what constitutes a Small Business Enterprise.

This Small Business Element will include, but is not limited to the following assertive strategies:

1. MTA's senior staff will continue to conduct regular reviews of procurements, to assess opportunities for unbundling (breaking out scope of work/services to facilitate small business prime contracting opportunities). MTA believes that including the participation of procurement staff in scheduled reviews will increase accountability of the organization's procurement options and decisions and in doing so will ultimately improve contracting opportunities for Small Business Enterprises at the prime level.
2. MTA will host or participate in an annual workshop through the Greater Manchester Chamber of Commerce to educate Small Businesses as to contracting opportunities with MTA and the process for participation. The venue is an instrumental training medium designed to provide a direct link between private vendors and various public agencies. The Chamber provides small businesses the valuable tools and resources needed to promote and

strengthen competitiveness, marketability, and participation of small businesses, minority and women-owned firms within MTA's and other public transit industry and governmental agencies' contracting programs.

3. MTA will actively monitor and track participation of small businesses.

Small Business Verification and Certification Procedures: A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on average annual receipts over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121). MTA will work with the New Hampshire Department of Transportation to gather annual contractor receipts and this information will be used to verify small business eligibility to participate in a federally assisted contract as a recognized small business. MTA recognizes firms certified by the U.S. Small Business Administration (SBA) as eligible to participate in this program and such certification made be submitted in lieu of annual contractor receipts. In addition, any minority and/or women-owned business awarded contracts as a result of the methods and strategies implemented by this small business element will be strongly encouraged to seek DBE certification in order to be counted towards race-neutral DBE participation goals.

MTA will actively implement the Small Business Elements to foster small business participation as a requirement of good faith implementation of MTA's DBE program. MTA has submitted their Small Business Element to the appropriate DOT operating administration for approval as a part of their DBE program.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The MTA 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 D** of this program.

In accordance with Section 26.45(f), and as directed by the FTA, the MTA will update and submit its overall goal to DOT on August 1 of every third year.

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

The process generally used by MTA to establish overall DBE goals is as follows:

Step 1: Base Figure

The MTA has signed a Unified Certificate Program agreement with the State of New Hampshire. The MTA uses the New Hampshire Certified DBE Directory to determine a base figure of available DBE's. The MTA evaluates the directory to determine the number of DBEs within NAICS codes available for our current and future procurements expected. The number of DBEs is then divided by the number of New Hampshire NAICS businesses. Due to low numbers of available DBE's overall and the low number of DBE's within NAICS codes usable by MTA, no weighting techniques are used to adjust the base figure.

Step 2: Adjustment

The base figure is adjusted by considering our current and past use of DBEs that have performed work, as well as future potential with them. Future expenditures and contracting opportunities are considered, to evaluate potential for additional DBEs within the NAICS codes used by MTA.

Following preparation of an updated DBE Program and overall goal, we will publish a notice of the proposed overall goals on the Manchester Transit Authority website, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the MTA office for 30 days following the date of the notice, and informing the public that the MTA will accept comments on the goals for 45 days from the date of the notice. Normally, we will post this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including website) where the proposal may be reviewed.

Attachment I includes a screenshot of the Manchester Website.

Our overall goal submission to DOT will include: the goal; a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

We will begin using our overall goal on October 1 of the specified 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. Our goal will remain effective for the duration of the three-

year period established and approved by FTA.

Section 26.47 Goal Setting and Accountability

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

1. Analyze the reason for the difference between the overall goal and the actual awards/commitments; considering timing issues with Award and/or payment.
2. Establish specific steps and milestones to correct the problems identified in the analysis if not based on timing.

Section 26.49 Transit Vehicle Manufacturers Goals

The MTA 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, MTA 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 Meeting Overall Goals/Contract Goals

MTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The MTA uses the following race-neutral means to increase DBE participation:

MTA estimates that, in meeting our overall goal, we will obtain 100% from race-neutral participation and 0% through race-conscious measures.

MTA's rationale for this allocation is based on the limited number of available DBEs and the MTAs historical experience. The MTA has set a priority of awarding all contracts to the lowest responsible bidder/offerer without regard to discrimination.

In an effort to improve MTA's ability to achieve 100% of the DBE goal through race neutral means, MTA will engage in multiple activities which may include, but are not limited to the following:

1. Advertising solicitations, scheduling bidding periods and opening times, and packaging quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation.
2. Providing assistance to DBE and small businesses in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as

simplifying the bonding process, reducing bonding requirements, and providing services to help DBEs and other small businesses obtain bonding and financing).

3. Providing technical assistance and other services to DBE and small businesses.
4. Providing information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors including DBEs and small businesses; providing the information in languages other than English, where appropriate).
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses.
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has been historically low.

Due to staff and financial constraints, MTA is unlikely to be able to perform all of the above listed activities and so an evaluation will be made in the event a short fall analysis is required as to which of the above, or other techniques, will best be able to address the reason for the shortfall.

MTA will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and 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 26.53 Good Faith Efforts Procedures

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, MTA will not award the contract to a bidder/offerer 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/offerer 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 obligation of the bidder/offerer is to make good faith efforts. The bidder/offerer 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 40 CFR Part 26. Also refer to **Attachment E**.

The following personnel are responsible for determining whether a bidder/offerer who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible:

Michael Whitten, Executive Director

Ryan Renault-Smith, Asst. Executive Director

We will follow the guidelines of 40 CFR Part 26 when determining whether good faith efforts have been made by a bidder/offerer.

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

Information to be Submitted: 26.53(b)

MTA treats bidder/offerer compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidder/offerers 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 contractors commitment, and

6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration: 26.53(d)

Within 10 days of being informed by MTA that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offerer may request administrative reconsideration. Bidder/offerer should make this request in writing to the following reconsideration official: Tracey Whitehead, MTA, 110 Elm Street, Manchester, NH 03101-2799, 603.623.8801 Ext. 5157, twhitehead@mtabus.org. The reconsideration official will not have played any role in the original determination that the bidder/offerer did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offerer 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/offerer 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/offerer or a written decision on reconsideration, explaining the basis for finding that the bidder/offerer 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 Terminated/Replaced on a Contract with Contract Goals: 26.53(f)

MTA requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without MTA'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 MTA 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 MTA prior to consideration of the request to terminate. The DBE will then have 5 days to respond and advise MTA of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, MTA 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, 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 MTA 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 bidder/offers, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offerer shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offerer 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/offerer commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; and, (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

SUBPARTS D & E- CERTIFICATION

Section 26.81 Unified Certification Programs

The MTA is a participant in the Unified Certification Program and and partners with the New Hampshire Department of Transportation who uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The UCP contact information is as follows:

NH Department of Transportation
John O. Morton Building
P. O. Box 483

Concord, NH 03302-0483
603.271.3734

Section 26.83-26.91 Procedures for Certification Decisions

MTA will follow the certification processes of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. A copy of New Hampshire's certification procedures and/or UCP program is included in **Attachment F**.

NH Department of Transportation
John O. Morton Building
P. O. Box 483
Concord, NH 03302-0483
603.271.3734
www.nh.gov/dot

Any firm or complainant may appeal a New Hampshire 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

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; New Hampshire's Right to Know Law RSA 91-A.

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

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 MTA 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.

Attachment A: Organizational Chart

Attachment B: DBE Directory

Attachment C: Monitoring and Enforcement Mechanisms/Legal Remedies

Attachment D Goal Setting Methodology

Attachment E: Good Faith Efforts Forms

Attachment F: Certification Forms

Attachment G: DBE Regulation, 49 CFR Part 26

Attachment H: Bidders List

Attachment I: Legal Notice & Commission Memo