

**INTERURBAN TRANSIT PARTNERSHIP**

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**OCTOBER – 2011 – updated December 2018**

**SMALL BUSINESS ELEMENT [Fostering Small Business  
(SB) Participation for Federally Assisted Contracts  
(Race Neutral)]**

## **POLICY**

Following is the signed and dated policy statement of the Interurban Transit Partnership Board. This statement will be circulated throughout the organization and published on the ITP webpage; [www.ridetherapid.org](http://www.ridetherapid.org) for public review and comment.

**INTERURBAN TRANSIT PARTNERSHIP  
DISADVANTAGED BUSINESS ENTERPRISE  
POLICY STATEMENT**

The Interurban Transit Partnership (ITP) is committed to a policy of non-discrimination in the conduct of its business, including the procurement of goods and services. ITP will strive to ensure nondiscrimination in the award and administration of contracts with funds derived from the Department of Transportation, the Michigan Department of Transportation, and the local units of government within the jurisdiction of ITP. The ITP recognizes the responsibilities to the communities within which it operates and the society it serves. In recognition of these responsibilities, the ITP Board establishes this Disadvantaged Business Enterprise Program.

In conjunction with the performance of this plan, ITP shall provide for the maximum utilization of disadvantaged business enterprises and shall use its best efforts to insure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for contract and subcontract work let by ITP.

The term “disadvantaged business enterprise” means a small business concern; a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; b) whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who owns it; c) is defined as a small business by the Small Business Administration (SBA); and d) whose gross receipts average less than \$23 million for the past three years whose personal net worth is \$1.3 million or less.

The responsibility for implementing ITP's commitment to this DBE Program shall be delegated to the Chief Executive Officer (CEO) by the ITP Board. The CEO will designate the DBE Liaison Officer (Deputy CEO – Finance & Administration) and staff to carry out the day to day operations of this program. In addition, the Deputy CEO of Operations and all Managers share in the responsibility for making ITP's DBE Program function successfully.

## **I. OBJECTIVES**

The objectives of ITP's DBE Program are:

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 ITP's DBE Program is tailored in accordance with applicable law.
4. To help remove barriers to the participation of DBEs in DOT-assisted contracts.
5. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

## **II. DEFINITIONS**

A glossary of terms is provided as Appendix A.

## **III. RESPONSIBILITY FOR DBE PROGRAM IMPLEMENTATION**

### **A. DBE LIAISON OFFICER (DBELO)**

The CEO of ITP has designated the Deputy CEO – Finance & Administration (Deputy CEO) as DBE Liaison Officer and has provided adequate staff to administer the DBE Program. The DBELO reports directly to the CEO. The responsibility of the DBELO is to oversee all aspects of the Disadvantaged Business Enterprise Program. This person shall administer and supervise support staff engaged in the carryout of the various activities of the program.

The DBELO will be responsible for developing, managing, and implementing the DBE Program on a day to day basis; for carrying out technical assistance activities for DBEs; and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to bid on the applicant's contracts. The Liaison Officer can be reached at:

Interurban Transit Partnership  
Deputy CEO – Finance & Administration  
300 Ellsworth Avenue S.W.  
Grand Rapids, Michigan 49503-4005  
Phone 616-456-7514 Fax 616-456-1941

More specifically, the duties of the DBELO and/or designated staff are:

1. To develop, monitor implementation of, and provide continuing evaluation of the ITP DBE Program. The DBELO will work closely with

those individuals responsible for making management decisions regarding procurement and contracting.

2. Participate as an active and non-certifying member of the Michigan Unified Certification Program (MUCP).
3. To assist in securing management and technical assistance sources for disadvantaged businesses as requested, or needed.
4. To publicize business opportunities with ITP to disadvantaged businesses and to refer such businesses to assistance resources to aid in bidding on ITP contracts and subcontracts.
5. To attend pre-bid and pre-construction meetings to explain ITP requirements.
6. To monitor contractors' and subcontractors' compliance with DBE commitments throughout the life of contracts.
7. To serve as a liaison with agencies facilitating economic development in the community.
8. To maintain accurate and up to date records demonstrating DBE efforts and progress within ITP.
9. To develop and maintain a bidders list intended to be a count of all firms that are participating, or attempting to participate, on Department of Transportation assisted contracts and provide a link on its website to the MUCP certified DBE Directory.
10. To report bi-annually to the CEO on progress being made in the implementation of the DBE Program and to recommend program modifications where deemed appropriate. The DBELO will also be responsible for the timely submission of reports required by the Federal Transit Administration and the Michigan Department of Transportation on the DBE Program.

#### B. MICHIGAN UNIFIED CERTIFICATION PROGRAM (MUCP)

The Interurban Transit Partnership is a participating, non-certifying member of the MUCP and as such, defers to the MUCP to perform all certifying activities and maintain such data base.

#### C. RECONSIDERATION OFFICIAL

If ITP determines that an apparent successful bidder/offeror has failed to meet an established DBE contract goal and has not made good faith efforts to meet the contract goal, then before awarding the contract, the bidder/offeror will be provided an opportunity for administrative reconsideration.

1. As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether or not it met the goal or made good faith efforts to do so.
2. The decision on reconsideration must be made by an official who did not take part in the original determination that the

bidder/offeror failed to meet the goal or make adequate good faith efforts to do so. The Chief Executive Officer has appointed the DBELO as the reconsideration official.

3. The bidder/offeror must have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.
4. ITP 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.
5. The result of the reconsideration official is final and is not appealable to the Department of Transportation.

#### **IV. ADMINISTRATIVE REQUIREMENTS**

##### **A. FINANCIAL INSTITUTIONS**

On a triennial basis ITP will thoroughly investigate the full extent of services offered by banks owned and controlled by DBEs in its community and makes the greatest feasible use of these banks. To date there are no minority owned banks in the area.

##### **B. DBE DIRECTORY**

As a participating member of the MUCP, ITP will provide a link on its website to a directory of DBEs in accordance with guidelines of 49 CFR Part 26. This directory shall identify all firms eligible to participate as a DBE. The directory shall include each firm's name, address, phone number, and type of work in which the firm has been certified to perform as a DBE.

ITP will have available this directory to facilitate identifying DBEs with capabilities relevant to general contracting requirements and particular solicitations. ITP will make this directory available to bidders, proposers, and the public in their efforts to meet the DBE requirements. The directory shall be updated as information changes.

##### **C. OVERCONCENTRATION**

An overconcentration analysis will occur during the development of the triennial DBE goal. If ITP determines that there is an overconcentration in a certain type of work that unduly burdens the opportunity of non-DBE firms to participate in this type of work, appropriate measures will be developed and approved by the Federal Transit Administration to address this overconcentration.

## D. BUSINESS DEVELOPMENT PROGRAMS

ITP currently has no business development program for DBEs.

ITP facilitates referrals for business development to the Small Business Development Council <https://sbdcmichigan.org/>.

The ITP is an active member with the West Michigan Alliance for Public Purchasing and Resource Partners. The West Michigan Public Purchasing Alliance is an organization which meets monthly promoting economic development and business opportunities in southwest Michigan. <http://www.westmippa.org>. The mission of the West Michigan Public Purchasing Alliance is to ensure inclusiveness and equal opportunity for all businesses to sell their products and services.

Their goals and objectives are to:

- Streamline the process for bidding opportunities
- Provide educational opportunities
- Develop a strong and diverse vendor database
- Build alliances with local business support resources
- Provide a communication platform for members

## V. **DETERMINING, MEETING AND COUNTING OVERALL ANNUAL DBE GOAL FOR FEDERALLY ASSISTED CONTRACTS**

### A. GOAL DEVELOPMENT AND PUBLICATION

Effective March, 2010 the United States Department of Transportation (DOT) amended the current provision requiring annual submission of DBE goals and goal setting methodology and now requires submission of a three-year DBE goal and goal setting methodology to be conducted every three (3) years. ITP will develop, publish, and report to the FTA its first three (3) year DBE goal prior to August 1<sup>st</sup>, 2012 for the following three (3) fiscal years. A comment period of 30 days from public notice will be allowed in which public comments will be considered. Goal development will be developed in the following procedure.

1. ITP will determine the number of certified DBEs in each NAICS code within the area.

2. The total number of businesses in the NAICS code will be determined based on the latest available Census Bureau's County Business Pattern (CBP). The CBP can be obtained at the Census Bureau web site [www.census.gov/epcb/cbp/view/cbpview.html](http://www.census.gov/epcb/cbp/view/cbpview.html).

3. The number of DBE verses none DBE firms will be calculated in the applicable NAICS code and the number of DBEs will be expressed as a percentage of total businesses in that code.
4. Total DOT assisted funds for each NAICS code with DBE firms will be identified for the upcoming fiscal year. The applicable percentage will be applied to budget line item.
5. The total dollars identified will be shown as a percentage of all DOT funds to be expended in the upcoming three (3) fiscal years.
6. Once this base is calculated, evidence will be evaluated to determine if an adjustment in the base figure is needed. Once finalized, the goal will be published and a 30 day public comment period allowed.

#### B. TRANSIT VEHICLE MANUFACTURER (TVM) CERTIFICATION

Transit Vehicle Manufacturers will be required to submit to ITP a FTA certification that it has complied with 49 CFR Section 26.49 as a condition of being authorized to bid or propose of FTA-assisted transit vehicle procurements.

The ITP reviews the list of eligible transit vehicle manufacturers on the FTA website for inclusion and additionally requests with each rolling stock procurement, a copy of the TVM certification.

#### C. RACE NEUTRAL MEASURES

ITP will strive to meet the maximum feasible portion of its annual DBE Goal by using race neutral means of facilitating DBE participation. Race neutral means a DBE winning a prime or sub contract through customary competitive procurement or procedures or winning a contract or subcontract without consideration of a firm's DBE status.

Race neutral means which will be used by ITP include, but are not limited to, the following:

1. Refer firms to the local SBDC who need assistance in overcoming limitations such as inability to obtain bonding or financing or who require assistance with business development. <https://sbdcmichigan.org/>.
2. As a member of the West Michigan Alliance for Public Purchasing provide monthly opportunities to present and receive one on one exposure to public procurement professionals offering guidance as to how to successfully bid for public contracts. Carrying out information and communications program through the ITP website.

During the coming fiscal year ITP will develop a power point presentation on how to successfully compete in public purchasing opportunities. Current procurement opportunities are also posted on the ITP website.

3. Dissemination to bidders on prime contracts on where to find potential DBE subcontractors. ITP will ensure distribution of its DBE directory through a link to the MUCP provided on ITP's web page; [www.ridetherapid.org](http://www.ridetherapid.org).
4. ITP will access the MUCP DBE Directory to solicit DBEs for developing individual bid lists. <https://mdotjboss.state.mi.us/UCP/> .
5. ITP will access the following directories:

#### DBE Supplier Directories

- [City of Grand Rapids Micro-Local Business Directory](#)
- [GRABB](#) (Grand Rapids Area Black Business Directory)
- [Great Lakes Women's Business Council](#) (find Woman Owned Businesses here - Contact Purchasing for login)
- [SBA 8\(a\) Minority-Owned and Woman-Owned Business Directory](#)
- [VetBizCentral](#)
- [VeteranOwnedBusiness.com](#) (Veteran Business Directory)
- [West Michigan Hispanic Chamber of Commerce Business Directory](#)
- [West Michigan Minority and Woman Owned 2013 Business Directory](#) (use internet explorer)
- [West Michigan Chamber Coalition](#)

#### D. CONTRACT GOALS (Race Conscious Measures)

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

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

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

## E. GOOD FAITH EFFORTS

Where contract goals are used, ITP will award a contract only to a bidder/offeror that meets the DBE contract goal or makes a good faith effort to meet the contract goal. The bidder must either document it has obtained enough DBE participation to meet the goal or document that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

In solicitations for which a contract goal has been established, ITP will obtain the following written confirmation from the successful bidder/offeror within 5 days of the bid opening or proposal submittal:

1. The names and addresses of DBE firms that will participate in the contract.
2. The dollar amount of the participation of each DBE firm participating.
3. A description of the work that each DBE will perform.
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
5. Written confirmation from each DBE that it is participating in the contract as provided in the bidder/offeror's commitment.

### Termination/Substitution

When a DBE is replaced on a contract ITP 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. ITP will require the prime contractor to notify the DBE Liaison officer designee immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, ITP will require the prime contractor to obtain 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, ITP Contract Administrator 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.

## F. COUNTING DBE PARTICIPATION

ITP will count only the value of the work actually performed by the DBE firm toward its overall DBE goal. When a DBE performs as a participant in a joint venture, ITP will count the portion of the work of the contract that the DBE performs with its own forces toward its overall DBE goal.

ITP will count expenditures to a DBE contractor toward its DBE goal only if the DBE is performing a commercially useful function of the contract. The factors listed in 49 CFR Part 26.55 will be used to determine whether a DBE trucking firm is performing a commercially useful function. Expenditures with DBEs for materials or supplies toward DBE goals will be counted at 60% of the materials/supplies and DBE manufacturers will be counted at 100% of the manufactured value according to the factors listed in 49 CFR Part 26.55(e).

#### G. QUOTAS, SET-ASIDES, AND PENALTIES

ITP will not use quotas or set asides to meet its DBE goals.

### **VI. REQUIRED CONTRACT PROVISIONS**

#### A. ASSURANCES

Each financial assistance agreement that ITP signs with the Federal Transit Administration will include the following assurance:

ITP shall not discriminate on the basis of race, color, national origin, or sex in the award or 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. ITP's DBE Program, as required by 49 CFR Part 26 and as approved by the 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 ITP of its failure to carry out its approved program, the Department may impose sanctions 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.).

ITP will require that each contract ITP signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) to provide written confirmation that they understand the assurance requirements as follows.

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 ITP deems appropriate.

#### B. PROMPT PAYMENT

Each contract ITP signs with a contractor includes the following:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from ITP. The prime contractor agrees

further to return retainage payments to each subcontractor within 10 days after subcontractor's 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 ITP. This clause applies to both DBE and non-DBE subcontractors.

### C. LEGAL AND CONTRACT REMEDIES

ITP will require all prime contractors to include a summary report with each pay application on all payments made to DBE subcontractors. This report will require copies of canceled checks made to DBE and all subcontractors be made available for inspection by the DBELO designee as proof of actual payment.

Failure of a prime contractor to provide report summaries may result in the termination of this contract or such other remedy as ITP deems appropriate.

ITP 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 or Civil Penalties rules) provided in 26.109. ITP will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

### D. CONTRACTOR REPORTING REQUIREMENTS

A prime contractor must count only the value of the work actually performed by the DBE firm toward its overall DBE goal. When a DBE performs as a participant in a joint venture, the prime contractor will count the portion of the work of the contract that the DBE performs with its own forces toward its overall DBE goal. The prime contractor will count expenditures to a DBE contractor toward its DBE goal only if the DBE is performing a commercially useful function of the contract. The factors listed in 49 CFR Part 26 will be used to determine whether a DBE trucking firm is performing a commercially useful function. Expenditures with DBEs for materials or supplies toward DBE goals will be counted according to the factors listed in 49 CFR Part 26. The ITP DBELO designee will meet with the prime contractor to verify Contractor Reporting Requirements prior to the signing of a contract.

## VII. CERTIFICATION STANDARDS

A. A list of MUCP certifying agencies follows:

### **Michigan Department of Transportation**

425 W. Ottawa, P. O. Box 30050  
Lansing, MI 48909  
Patricia A. Collins, Administrator  
Office of Business Development  
(517) 373-2377  
(517) 335-0945 (fax)  
[collinsp@michigan.gov](mailto:collinsp@michigan.gov)

### **Wayne County Human Relations Division**

600 Randolph, 5th Floor  
Detroit, MI 48226  
Marion Casey  
(313) 224-5021  
(313) 224-6932 (fax)  
[mcasey@co.wayne.mi.us](mailto:mcasey@co.wayne.mi.us)

### **Detroit Department of Transportation**

1301 E. Warren  
Detroit, MI 48207  
Stamina Brooks, Contract Compliance  
Manager  
(313) 833-7695  
(313) 833-5523 (fax)  
[stabro@ddot.ci.detroit.mi.us](mailto:stabro@ddot.ci.detroit.mi.us)

The ITP defers to the MUCP certifying agencies to follow the DBE certification determinations and to maintain the DBE Directory.

## B. MONITORING PAYMENTS TO DBES

ITP will require prime contractors to provide the running tally with the pay application. The pay applications records and document of payments to DBEs are maintained for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of ITP or DOT. This reporting requirement also extends to any certified DBE subcontractor.

ITP 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.

## C. REPORTING TO DOT

ITP will report DBE participation on a semiannual reporting method as specified in 49 CFR Part 26, Appendix B, using the “Uniform Report of DBE Awards/Commitments and Payments” form, which will be submitted twice a year. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

## X. **PUBLIC PARTICIPATION AND OUTREACH EFFORTS**

### A. DBE GOALS

Every three (3) years ITP will publish a notice informing the public on its proposed goal for the upcoming three (3) fiscal years. The rationale for setting this goal will be made available to the public for inspection between the hours of 8:00 a.m. - 4:30 p.m. Monday through Friday at 300 Ellsworth Avenue SW, Grand Rapids, MI for 30 days from the date of the published notice. Comments on the goals will be accepted from the public for 30 days from the date of the published notice. Comments will be sent to the DBELO, ITP 300 Ellsworth Avenue SW, Grand Rapids, MI 49503. The notice will be published on the ITP website – [www.ridetherapid.org](http://www.ridetherapid.org).

## XI. **MONITOR WORK PERFORMED (49CFR 26.37)**

### A. MONITOR WORKSITES

The ITP will monitor worksites to ensure that work committed to DBE's is actually being performed by the DBE's to whom the work was committed. The responsibility for this monitoring falls on the Purchasing Manager or designee who will visit the job site at appropriate intervals by speaking with workers and on the project site and reviewing contracting records with the Site Supervisor to verify this information

### B. WRITTEN DOCUMENTATION

The Purchasing Manager or designee who performed site inspection shall document each site visit along with findings in narrative format and forward to the appropriate Procurement staff person assigned to the project for inclusion in the Procurement file.

## **XII. DBE GOAL ACCOUNTABILITY AND SHORTFALL ANALYSIS (49CFR 26.47)**

### **A. GOAL ASSESSMENT**

The ITP will self assess DBE goal progress at the end of each fiscal year. If it is found that awards and commitments are not meeting the established DBE goal for the same time period the Purchasing Manager along with the project team will conduct a shortfall analysis of why the goal was missed.

### **B. CORRECTIVE ACTION PLAN**

The ITP will use the shortfall analysis to determine a corrective action plan to address the shortfall. Development of the plan to be completed by the Purchasing Manager or designee and may include input from corresponding Project Managers, DBELO or designee, and as required, Legal Counsel and Engineering Consultant under contract. The corrective action plan will be documented by the Purchasing Manager or designee and retained in the DBE Program file for a minimum of three (3) years. The shortfall analysis will be available to FTA or its designee upon its request.

APPENDIX A  
GLOSSARY OF TERMS

ITP uses the definitions as described in 49 CFR Part 26.5.