



**Disadvantaged Business Enterprise Program Plan
(DBE)
For Projects Funded Through
the Federal Transit Administration (FTA) Program
FY 2016-2017 & 2018-2019**

Prepared by: Yuma County Intergovernmental Public Transportation
Authority

Approved by YCIPTA Board of Directors on July 25, 2016

YUMA COUNTY INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY
UNITED STATES DEPARTMENT OF TRANSPORTATION
DBE PROGRAM – 49 C.F.R. PART 26

POLICY STATEMENT

Objectives/Policy Statement

The Yuma County Intergovernmental Public Transportation Authority (YCIPTA) have established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. YCIPTA receives federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, YCIPTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of YCIPTA to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

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

For YCIPTA, the Financial Services Operations Manager has been delegated as the DBE Liaison Officer. In that capacity, the Financial Services Operations Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by YCIPTA in its financial assistance agreements with the Department of Transportation as it relates to the Federal Transit Administration (FTA) Section 5307 program. .

YCIPTA has disseminated this policy statement to all of the relative components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform, or are anticipated to perform work for our organizations on DOT assisted contracts. This distribution is accomplished through:

1. Adoption of the program by YCIPTA.
2. Publication available to all interested parties via YCIPTA's website
3. Inclusion in all relative competitive bid documents.



YCIPTA Transit Director

Date

GENERAL REQUIREMENTS

Objectives

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

Applicability

YCIPTA are the recipients 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 TEA-21, Pub. L. 105-178 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of SAFETEA-LU, Pub. L. 105-178.

Definitions

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

Non-Discrimination Requirements

YCIPTA 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 their DBE programs, YCIPTA 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.

Record Keeping Requirements

Reporting to DOT:

YCIPTA will report DBE participation to DOT as follows:

YCIPTA will report DBE participation as required under 49 C.F.R. Part 26 for each entity. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List:

YCIPTA 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 bidder's list approach to calculating overall goals. The bidder list will

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

YCIPTA will collect this information in the following ways: requiring prime bidders to report the names/addresses and other pertinent data, of all firms who provide quotes to them for sub-contracts, providing notices in solicitations and posting them on YCIPTA website.

Federal Financial Assistance Agreement

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

Assurance:

YCIPTA 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. YCIPTA 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 YCIPTA DBE Programs, as required by 49 CFR part 26 and as approved by DOT, are 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 YCIPTA of its failure to carry out their approved programs, 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 and sub-contracts.

Contract Assurance:

YCIPTA will ensure that the following clause is placed in every DOT-assisted contract and sub-contract:

The contractor, sub-recipient or sub-contractor 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 YCIPTA deems appropriate.

ADMINISTRATIVE REQUIREMENTS

DBE Program Updates

Since YCIPTA may receive \$250,000 or more in federal funds per fiscal year, YCIPTA will carry out this program until all funds from DOT financial assistance have been expended. YCIPTA will update their respective DBE Programs as required under 49 C.F.R. Part 26.

Policy Statement

The Policy Statement is shown at the beginning of this document.

DBE Liaison Officer (DBELO)

YCIPTA has designated the following individual as the DBE Liaison Officer:

Financial Services Operations Manager
Yuma County Intergovernmental Public Transportation Authority
2715 East 14th Street
Yuma, AZ 85365
928-539-7076 ext 237
www.ycat.az.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that YCIPTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Transit Director of YCIPTA concerning DBE program matters.

An organization chart displaying the DBELO's 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 DBELO has sole responsibility for administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all components within YCIPTA 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 YCIPTA 's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Transit Director of YCIPTA on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Provides DBEs with information and assistance in preparing bids.
11. Plans and participates in DBE training seminars.
12. Acts as liaison to the Uniform Certification Process in Arizona.
13. Provides outreach to DBEs and community organizations to advise them of contracting opportunities.
14. Maintains YCIPTA 's updated directory on certified DBEs that bid on federally funded projects.

DBE Financial Institutions

It is the policy of YCIPTA 's 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 have made the following efforts to identify and use such institutions: research the credit unions and commercial banks in the community through on site visits and website reviews.

To date we have identified the following such institutions: None

Prompt Payment Mechanisms

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from YCIPTA . The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 good cause following written approval of YCIPTA . This clause applies to both DBE and non-DBE subcontracts.

Any failure to comply with this section by the prime contractor shall be considered as a breach of the contract, subject to the provisions of the agreement. In addition, the prime contractor will not be reimbursed for work performed by subcontractors unless

and until the prime contractors ensures that the subcontractors are promptly paid for the work that they have performed.

Directory

The Arizona Department of Transportation (ADOT) maintains a directory identifying all firms eligible to participate as DBEs in the State of Arizona. The directory lists each 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. ADOT regularly maintains the Directory and makes it available online at http://www.azdot.gov/azdbe/DBE_search.aspx .

Further information about Arizona's Uniform Certification Program may be found at <http://www.azdot.gov/azdbe/index.asp> .

Overconcentration

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

Business Development Programs

YCIPTA has not established business development programs.

Monitoring and Enforcement Mechanisms

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

YCIPTA 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.

YCIPTA will consider similar action under their respective legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available in the event of non-compliance with the DBE regulation by a participant in procurement activities.

YCIPTA will 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 via a reporting mechanism.

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

Small Business Participation

YCIPTA has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public projects by small businesses (both DBEs and non-DBE small businesses):

- Vendor searches completed at local level using grass root groups to ensure adequate
- advertisement of opportunity;
- Use of Small Business Center for identification of small business and advertisement
- opportunity;
- Continuous evaluation of contract requirement to minimize and remove unnecessary and unjustified requirements;
- Encouraging bidders on large contracts to identify and create provisions within subcontracts appropriate for small business participation;
- Development of acquisition strategies and structuring procurements to facilitate bids by and awards to small business consortia or joint ventures; and
- Letting prime contract of a size that small businesses can reasonably compete for and
- perform.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas

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

Overall Goals

In accordance with Section 26.45, YCIPTA's overall goal for the following time period of 2017-2019 is .53%. Of the Federal financial assistance we will expend in DOT-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles, .53% of funds will be targeted to DBE/SBE. \$7,723,548 is the dollar amount of DOT-assisted contracts that YCIPTA expects to award during FFY2017. This means that YCIPTA has set a goal of expending \$40,934.80 with DBEs during this fiscal year/project.

In accordance with Section 26.45(f), YCIPTA will submit their overall goals to DOT on August 1 of each year. Before establishing the overall goal each year, YCIPTA will consult with the local Chambers of Commerce, Arizona Department of Transportation, Yuma Metropolitan Planning Organization and the Greater Yuma Economic Development Council to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and YCIPTA's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, YCIPTA will publish a notice of the proposed overall goals, informing the public that the proposed goals and their rationale are available for inspection during normal business hours at their offices for 30 days following the date of the notice, and informing the public that comments will be accepted on the goals for 45 days from the date of the notice. The notice will be available on YCIPTA's website and a local newspaper of general circulation. YCIPTA will issue their respective notices by June 1 of each year. These notices must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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

YCIPTA will begin using our overall goal on October 1 of each year, unless YCIPTA have received other instructions from DOT. If YCIPTA establish goals on a project basis, YCIPTA will begin using the goal by the time of the first solicitation for a DOT-assisted contract for the project.

Methodology used to Calculate Overall Goal

Pursuant to Section 49 CFR Part 26, YCIPTA present the following information as it relates to the development of YCIPTA methodology for adopting a DBE contracting goal for FFY 2017 for contracts funded through the Federal Transit Administration (FTA).

STEP 1: Determination of Base Figure for the Relative Availability of DBE Firms

Determination of Relevant Geographical Market Area

To establish the Base Figure of the relative availability of DBEs in relation to all comparable firms available for the FFY 2017 DOT-assisted contracting program, both Census Bureau data and the ADOT DBE Directory were used (filtered to represent only DBE firms within the relevant geographical market area), as follows:

For the numerator: Arizona Department of Transportation (ADOT) DBE Directory
For the denominator: Census Bureau's Business Pattern Database (CBBP).

To derive the Base Figure for the relative availability of DBEs, the number of DBEs available in the ADOT DBE Directory (by NAICS Code), is divided by the number of all comparable CBBP firms (by NAICS Code) available. This ratio is multiplied by the projected FFY 2017 expenditures (by NAICS Code proportions). The resulting ratios are then summed. Application of this formula yields the following baseline information:

49 C.F.R. Part 26 requires that YCIPTA set goals consistent with its own contracting circumstances. To calculate availability, the relevant geographical market area must first be determined to set overall goals based on demonstrable evidence of the relative availability of ready, willing, and able DBEs. The relevant geographical market area is

the area in which the substantial majority of the contractors and subcontractors with which YCIPTA does business with are located and the area in which YCIPTA spends the majority of contracting dollars.

Unique factors affecting the development of the DBE Goal for FY 2017-19 include:

1. Recognition and local knowledge that as a small urban turnkey transit system, the majority of the FTA 5307 funds have been used over the years for direct operating costs in turn key contracts for which limited opportunities exist for DBE participation.
2. Recognition and local knowledge that there is limited DBE participation in the immediate geographic area, According to the ADOT DBE Database, there are only 8 registered DBE firms in all NAICS categories within Yuma County, which presents a significant limitation on YCIPTA opportunities to contract with DBE firms. Consequently, the relevant market area, for the purposes of this analysis, includes all of the State of Arizona to cast the broadest net possible for inclusion of DBE firms in YCIPTA contracting opportunities. The vast majority of DBE firms in the State of Arizona are in Maricopa County, which includes the Phoenix urbanized area, and Pima County, which includes the Tucson urbanized area.
3. The DBE firms certified by the Arizona Unified Certification Program with the most appropriate NAICS classification code (485113 - Bus and motor vehicle transit systems) are generally charter services who are not ready, willing, or able to bid on public fixed route contracts of this size and complexity.
4. There may exist opportunities for the prime contractor (currently National Express Transit) to utilize outside firms to provide necessary materials, supplies, and services under the prime transit operations and maintenance contract. As a prime contractor, the agreement with National Express Transit requires that good faith efforts be made to sub-contract for materials and supplies for vehicle maintenance.

STEP 2: Adjustment to the Base DBE Relative Availability Figure

Adjustments to the base figure goal may be necessary and justified for a variety of reasons including: lower or higher than expected past participation by DBE firms or additional evidence from disparity studies. Unfortunately, very little data of this sort is currently available to YCIPTA . In past years, FTA funds were spent solely on turnkey operations contracts where there was very limited DBE availability. In addition, no comprehensive disparity study has been or is likely to be conducted in Yuma County.

Consequently, given all of the historic and current data available to YCIPTA and consideration of alternative methodologies for assessing the relative availability of DBE firms, YCIPTA have concluded that there is no reasonable basis upon which to adjust the Step 1 Base Goal of .53 percent.

Transit Vehicle Manufacturers (TVM) Goals

YCIPTA will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle for YCIPTA procurements, to certify that it has complied with the requirements of this section. Alternatively, YCIPTA 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.

Public Participation

YCIPTA will publish a notice of the proposed overall goals, informing the public that the proposed goal and YCIPTA's rationale are available for inspection during normal business hours at our main office in Yuma for 30 days following the date of the notice, and informing the public that YCIPTA and DOT will accept comments on the goals for 45 days from the date of the notice. The public notice will be published in the local newspaper as well as distributed to available minority-focus media and posted on our website at http://www.ycipta.org/documents/PUBLIC_NOTICE_DBE_112816.pdf. Normally, we will issue this notice by July 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. The goal will be adopted after a public hearing in August.

YCIPTA consults with the local Chambers of Commerce, Arizona Department of Transportation, Yuma Metropolitan Planning Organization and the Greater Yuma Economic Development Council along with other local agencies to receive input regarding DBE participation. Along with the coordination with these agencies, YCIPTA will be holding semi-annual public outreach meetings to DBE's. These meetings will begin December 2016. Past public participation has been conducted as follows:

- Monthly YCIPTA board meetings, held the 4th Monday of the month.
- Quarterly Community Mobility meetings with local human service organizations
- Participation at ADOT DBE workshops
- RFP and RFQ are posted on website and also mailed to all listed firms/companies in field of requested work, to ensure that all available possible DBE's are reached.

Our overall goal submission to DOT will include: the proposed goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the DBE Program Plan; 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.

Breakout of Estimated Race-Neutral & Race-Conscious Participation

YCIPTA is an entity located within the Yuma small urbanized area with the majority of their FTA funding used for transit operating and maintenance purposes. YCIPTA will meet the maximum feasible portion of their overall DBE goals by using race-neutral means as required in Section 26.51(a). Planned outreach efforts by YCIPTA are all race/gender neutral, and it is anticipated that YCIPTA will accomplish their DBE goals solely through race/gender neutral means.

YCIPTA will use the following race neutral means to increase DBE participation:

Arranging solicitations, times for the presentations of bids, quantities, specifications and delivery schedules in a manner that facilitate DBE and other small businesses participation, such as unbundling large contracts to make them more accessible and encouraging prime contractors to sub-contract portions of the work effort.

Minimizing bonding requirements while exercising due diligence with public resources.

Providing technical assistance as requested.

Providing information and printed materials in a bilingual format upon request.

Coordinating with resource agencies such as workforce development, small business alliance, chambers of commerce and economic development centers.

In addition, YCIPTA will provide links on their respective web sites to the online training and information resources available from the ADOT Supportive Services Program. The ADOT Supportive Services office provides numerous opportunities for DBE-certified and DBE-eligible firms to learn about contracting opportunities at the state and local levels, and organizes conferences, networking events, presentations, special programs, training, and workshops. Information on these programs is located at

<http://www.adotdbe.com/programs> or
http://azdot.gov/Inside_ADOT/CRO/DBEP_SS.asp .

Contract Goals

YCIPTA may use contract goals to meet any portion of the overall goal that YCIPTA do not forecast 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 the overall goal that is not forecast to be met through the use of race-neutral means.

YCIPTA may establish contract goals on DOT-assisted contracts that have sub-contracting possibilities. YCIPTA need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each contract, such as the type and location of work and availability of DBEs to perform the particular type of work.

When contract goals are established, YCIPTA will express contract goals as a percentage of total amount of federal funding in a DOT-assisted contract.

Good Faith Efforts Procedures

Demonstration of Good Faith Efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts to recruit DBE sub-contractors or sub-consultants for federally funded proposals. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are shown in Appendix A to 49 CFR Part 26.

YCIPTA will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before authorizing the bidder/offeror to proceed with the scope of work.

YCIPTA treat bidder/offers' compliance with the good faith effort requirements as a matter of responsiveness.

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

1. The names and addresses of DBE firms that 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 YCIPTA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration.

Bidder/offerors should make this request in writing to the following reconsideration official:

Transit Director
Yuma County Intergovernmental Public Transportation Authority
2715 East 14th Street

Yuma, AZ 85365
928-539-7076 ext 2101
www.ycat.az.gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

Good Faith Efforts When a DBE is replaced on a Contract (26.53(f))

YCIPTA will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, YCIPTA 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 [Name of YCIPTA] to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as

defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Counting DBE Participation

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

CERTIFICATION STANDARDS

Certification Process

YCIPTA will use the certification standards of Subpart D 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. We will make our certification decisions based on the facts as a whole.

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

Arizona Department of Transportation
Civil Rights Office
1135 N. 22nd Ave. 2nd Floor
Phoenix, AZ 85009
(602) 712-7761
<http://www.adotdbe.com/>

City of Phoenix
Equal Opportunity Department
Business Relations Division
251 W. Washington St. 7th Floor
Phoenix, AZ 85003
(602) 262-6790 or
(602) 534-1557/TTY

City of Tucson
Equal Opportunity Office
201 North Stone Avenue, 3rd Floor North
P.O. Box 27210
Tucson, AZ 85726-7210
(520) 791-4593

CERTIFICATION PROCEDURES

Unified Certification Programs

YCIPTA has adopted the Arizona Unified Certification Program (AUCP) administered by the Certifying agencies of the AUCP. The AUCP meets all of the requirements of this section. The following is a description of the AUCP, which can be found at http://www.azdot.gov/azdbe/DBE_search.aspx:

The DBE program is intended to remedy past and current discrimination against disadvantaged businesses. It ensures a “level playing field” and fosters equal opportunity in all Department of Transportation assisted contracts that include highway, transit and airport programs.

The Arizona UCP has been established to facilitate statewide DBE certification. The UCP eliminates the need for DBE applicant businesses to obtain certification from multiple agencies, and provides reciprocity within Arizona. The Arizona Department of Transportation, City of Phoenix, and the City of Tucson are members of the Arizona UCP. The official UCP DBE database includes DBE firms certified by these three agencies. Bidders who are meeting goals on FAA and FTA contracts being let by other in-state entities can only use the DBEs certified by the Arizona UCP.

Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

YCIPTA will review the eligibility of DBEs, to make sure that they will meet the standards of Subpart E of Part 26. YCIPTA will complete this review no later than five years from the most recent certification date of each firm.

For firms that YCIPTA have reviewed and found eligible under 49 C.F.R. Part 26, we will again review their eligibility every five years. These reviews will include the following components: filing out a new application, performing on site visits in YCIPTA local area, and reviewing work history, qualifications and equipment of the firm.

“No Change” Affidavits and Notices of Change (26.83(j))

To the extent as required by the AUCP, YCIPTA require all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the AUCP's application for certification.

YCIPTA also requires all owners of all DBEs to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The test of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to YCIPTA under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.

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

YCIPTA will notify all currently certified DBE firms of these obligations. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Denials of Initial Requests for Certification

If the AUCP denies a firm's application or decertify it, it may not reapply until 12 months have passed from the action.

Removal of a DBE's Eligibility

In the event the AUCP proposes to remove a DBE's certification, YCIPTA will follow procedures consistent with 49 C.F.R., Section 26.87.

Interstate Certification

When ADOT receives a DBE application from a company certified in another state, ADOT may, at its discretion certify that company without further procedures. If an out of state company wants to obtain certification in this manner, the firm must provide to ADOT a copy of its certification notice from the home state. ADOT would be responsible for verifying the validity of the out of state certification.

If ADOT chooses not to accept certification based on the home state evaluation, the applicant firm must provide a complete copy of the application form, all supporting documents and any other information that needs to be submitted. Once ADOT receives all of the necessary information ADOT must request a copy of the home state onsite report within 7 days of receipt of the application.

If ADOT agrees with the home state determination, ADOT must send the applicant firm a notice that it is certified and place the firm on the AZUCP directory of DBE certified firms within 60 days from the date on which ADOT received all the requested information.

If ADOT has good reason and does not agree with the determination of the home state ADOT must send a notification to the applicant company within 60 days stating the reasons why ADOT is denying certification. This notice must state with particularity the specific reasons why ADOT believes that the firm does not meet the DBE requirements and must offer the applicant firm an opportunity to respond to ADOT with respect to the reasons.

If the applicant firm elects to request an in-person meeting with ADOT's decision maker to discuss ADOT's objections to the firm's eligibility, ADOT must schedule the meeting to take place within 30 days of receiving the firm's request. ADOT must issue a written decision within 30 days of the receipt of the written response from the applicant firm or the meeting with the decision maker, whichever is later. The firm's application for certification is stayed pending the outcome of this process. A decision may be appealed to the Departmental Office of Civil Rights.

When ADOT denies a firm's application, rejects the application of a firm certified in another state, or decertifies a firm, ADOT must make an entry in the Department of Transportation Office of Civil Rights (DOCR's) Ineligibility Determination Online Database. The following information must be submitted:

1. The name of the firm
2. The name of the firm's owner (s)
3. The type and date of this action
4. The reason for the action

ADOT must check the website at least once every month to determine whether any firm that is applying for certification by ADOT, or that ADOT has already certified, is in the database. For any such firm that is in the database, ADOT must promptly request a copy of the listed decision from the UCP that made it. If ADOT receives such a request, ADOT will provide a copy of the decision within 7 days of receiving the request. Notwithstanding any provision of Federal or state law, ADOT must not release any information that may reasonably be construed as confidential business information. This includes application for DBE certification and supporting information. However, ADOT must transmit this information to DOT in any certification appeal proceeding or to any other state to which the individual's firm has applied for certification.

Certification Appeals

Any firm or complainant may appeal the AUCP 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

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

COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation

YCIPTA will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, YCIPTA 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

YCIPTA 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 YCIPTA or DOT. This reporting requirement also extends to any certified DBE sub-contractor.

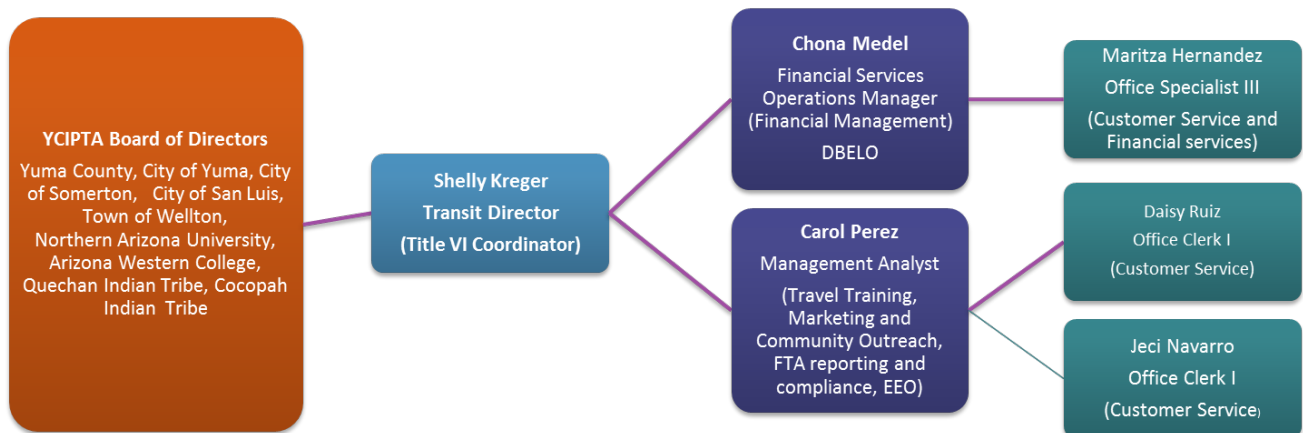
YCIPTA will perform interim audits of contract payments to DBEs. The audit will review payments to DBE sub-contractors to ensure that the actual amount paid to DBE sub-contractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

ATTACHMENTS

Attachment A - Organizational Chart

Attachment B - Monitoring and Enforcement Mechanisms

ATTACHMENT A ORGANIZATIONAL CHART



The Financial Services Operations Manager has direct access to the Transit Director as the DBELO Officer for YCIPTA.

ATTACHMENT B

MONITORING AND ENFORCEMENT MECHANISMS

YCIPTA have available several remedies to enforce the DBE requirements contained in its contracts, including, but are not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract
2. Breach of contract action pursuant to Arizona Revised Statutes 44-101
3. Any other enforcement mechanism in law or equity allowable in Arizona.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.