



# Disadvantaged Business Enterprise Program Public Notice

## Disadvantaged Business Enterprise (DBE) Program

The Luzerne County Transportation Authority (“LCTA”) is committed to ensuring equal opportunity for all vendors interested in our projects. We strongly encourage participation by Disadvantaged Business Enterprises (DBEs) for all LCTA contracting opportunities.

LCTA has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT) 49 CFR Part 26. LCTA receives federal financial assistance from the DOT, and as a condition of receiving this assistance, LCTA signed an assurance that it will comply with 49 CFR Part 26. LCTA’s DBE Program, as approved by the Federal Transit Administration (FTA) on July 10, 2013 is available for review by clicking this [link](#). A copy of the DBE regulations from 49 CFR Part 26; these regulations are available for review by clicking this [link](#).

It is LCTA’s policy to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in LCTA DOT-assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of all LCTA contracts and subcontracts.
2. Create a level playing field by which DBEs can compete for and perform in LCTA DOT-assisted contracts.
3. Ensure that the LCTA DBE Program is narrowly tailored in accordance with applicable law and current legal standards.
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs.
5. Help remove procurement and contracting barriers, which impede DBE participation in LCTA DOT-assisted contracts.
6. Monitor and enforce contractors’ compliance in meeting established goal objectives and program requirements.
7. Ensure LCTA contractors and subcontractors take all necessary and reasonable steps to comply with these policy objectives.

## **What is a DBE?**

A DBE is a for-profit small business that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. Visit this [link](#) for more information on DBE qualifications.

The Pennsylvania Unified Certification Program (PAUCP) provides certifications to small businesses looking to become a DBE in the Commonwealth of Pennsylvania. Visit this [link](#) for more information on the eligibility requirements or how to apply.

## **What is the overall goal in terms of participation of DBEs in LCTA contracts?**

For FFY 2018 to FFY 2020, LCTA's overall DBE participation goal is 0.33 percent (.33%). LCTA has currently implemented a race-neutral DBE program. Under a race-neutral DBE program, there are no specific contract goals for DBE participation. Instead, LCTA uses various outreach measures aimed at increasing DBE and other small business participation on its DOT assisted contracts.

## **How can I be notified of LCTA's bidding opportunities?**

If interested in being notified of potential bidding opportunities, please register as a vendor by completing this [form](#).

## **Where can I find a list of all Pennsylvania certified DBEs and other small businesses?**

If you are a prime contractor looking to use a DBE as a subcontractor on your future contracts, the PAUCP provides a statewide DBE Directory available for download. View the PAUCP statewide DBE Directory by clicking [here](#).

## **Are there any programs that could help my small business establish financing or obtain bonding?**

The U.S. Small Business Administration (SBA) has delivered millions of loans, loan guarantees, contracts, counseling sessions and other forms of assistance to small businesses. For instance, the U.S. Small Business Administration offers a [Bonding Assistance Program](#).

We also encourage businesses to use minority and women-owned banks when seeking financial services. A list of such financial institutions can be found [here](#).

# **DBE Contract Participation Clauses**

## **1. Contract Assurance [26.13]**

Each contract LCTA signs and enters into with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: 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, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

## **2. Prompt Payment [26.29]**

The Luzerne County Transportation Authority establishes, as part of its DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

## **3. Return of Retention [26.29]**

LCTA will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. LCTA will utilize one of the following methods to comply with this requirement:

- (1) LCTA may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
- (2) LCTA may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

(3) LCTA may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

#### **4. Legal Remedies [26.37]**

LCTA shall implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). These mechanisms are established in the LCTA DBE program.

#### **5. Termination [26.53]**

LCTA will require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section [26.53] (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

#### **6. Post Award Monitoring**

The Luzerne County Transportation Authority's DBE Program includes a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs. Monitoring includes:

- Documentation of on-site monitoring that DBEs are actually performing the work committed at contract award and are performing a commercially useful function in the NAICS codes that they are certified under [26.37].
- Documentation of review and approval of information provided by contractor (monthly utilization reports, utilization reports accompanying invoices) to demonstrate utilization of DBEs.

- Documentation that DBEs are monitored to ensure that if they are subcontracting to non-DBEs, that the correct portion is not counted towards the contract goal [26.55].
- Documentation to ensure prompt payment and return of retention verification [26.29].
- Documentation of due process and grantee consent for DBE terminations or substitutions [26.53].

## **DBE Program Liaison (DBELO) Contact Information**

Luzerne County Transportation Authority  
Attn: Frank Knorek, Compliance Analyst (DBELO)  
315 Northampton St.  
Kingston, PA 18704

Phone: 570-287-2148 X204

Fax: 570-288-7327