

***Disadvantaged Business Enterprise  
Program***

**for the**

***Georgia Department of Human Resources***

**Submitted for:**

**Federal Fiscal Year 2008-2009**

**Policy Statement**

It is the policy of the Georgia Department of Human Resources (GDHR) to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in GDHR-assisted contracts.

The GDHR has established a DBE program for the Section 5310 program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The GDHR has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the GDHR has signed an assurance that it will comply with 49 CFR Part 26.

In order to carry out this assurance while supporting existing programs related to the DBE plan, the GDHR has included the information from programs already in place that are administered by the Georgia Department of Administrative Services (DOAS) Governor's Small Business Center and the Georgia Department of Transportation (GDOT)/Metropolitan Atlanta Rapid Transit Authority (MARTA) State of Georgia Unified Disadvantaged Business Enterprise Certification Program (UCP). These programs are used to certify minority businesses as Disadvantaged Business Enterprises (DBEs) with the state of Georgia therefore allowing increased participation in state contracting and purchasing. GDHR will refer all DBE candidates to these offices for certification and orientation. Representatives from GDHR will also participate in the DOAS Governor's Small Business Center and GDOT/MARTA UCP programs to ensure all aspects relative to the DBE plan are addressed.

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**Disadvantaged Business Enterprise Program**

**I. Policy**

**A. Policy Statement**

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**B. Objectives**

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

**II. Definitions**

The terms used in this program have the meanings defined in 49 CFR 26.5.

**III. Responsibility for DBE Program Implementation**

We have distributed this information to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts through public notice in newspapers.

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**A. Liaison Officer**

LaVerne H. Moody, Transportation Funds Coordinator, has been delegated as the DBE Liaison Officer (DBELO). Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the GDHR in its financial assistance agreements with the Department of Transportation. The DBELO will attend the class offered by the DOAS Governor's Small Business Center and GDOT/MARTA UCP in order to be knowledgeable and helpful in explaining the certification process to DBE candidates.

LaVerne H. Moody can be reached at 404-657-6205. Please send correspondence to:

Grantee ID# 5423  
Georgia Department of Human Resources  
Office of Technology and Support  
2 Peachtree Street, Room 29.455  
Atlanta, Georgia, 30303

**B. Reconsideration Official**

Contracts will be awarded only to bidder/offerors who make good faith efforts to meet the established contract goal. When reconsideration decisions are made, the decision must be made by an official who did not take place in the original determination that the bidder/offeror failed to meet the goal or to make adequate good faith efforts.

The officials are:

GDOT/MARTA Official - Harold E. Linnenkohl, Commissioner – (404)656-5323  
DOAS Official - Gilder Watters, Director – (404) 656-6315

**IV. Administrative Requirements**

**A. Financial Institutions**

It is the policy of the GDHR 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 GDHR-assisted contracts to make use of these institutions. The practices set in place by the DOAS Governor's Small Business Center and GDOT/MARTA UCP will be used to complete this requirement.

**B. DBE Directory**

The DOAS Governor's Small Business Center and the GDOT/MARTA UCP maintain a directory identifying all firms eligible to participate as DBEs. GDHR will refer to this list as the DBE directories. The directories list the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. The Directories may be found at [www.doas.georgia.gov](http://www.doas.georgia.gov) and [www.dot.state.ga.us/construction/contractsadm/document/dbe/dbe\\_dir.pdf](http://www.dot.state.ga.us/construction/contractsadm/document/dbe/dbe_dir.pdf).

**C. Overconcentration**

GDHR has not experienced problems resulting from overconcentration issues.

**D. Business Development Programs**

The Governor's Small Business Center has established a Mentor Protégé program. This program pairs emerging companies with established, successful businesses to offer smaller firms the resources and guidance they need to succeed.

**V. Determining, Meeting and Counting Overall Annual DBE Goal for Federally-assisted contracts**

**A. Overall Goal/Method**

Step One:  $\frac{845 \text{ (Ready, willing and able DBEs)}}{2371 \text{ (All firms ready, willing, and able-including DBEs and non-DBEs)}} = 3.6\%$ .

Based on the above method used, we believe we can accomplish 3.6% of our goal setting for fiscal year 2006-2007. The method is based on the total number of ready, willing and able DBE's registered with DOAS Governor's Small Business Center and the total number of all firms ready, willing and able registered with GDOT/MARTA UCP.

Step 2: The percentage is the same because there was no significant increase of registered DBEs with DOAS Governor's Small Business Center and GDOT/MARTA UCP.

**B. TVM Certification –**

In the event that GDHR plans to purchase transit vehicles, the GDHR will require transit vehicle manufacturers (TVM) to provide a certification, as a condition to bidding on transit vehicle purchases funded by FTA, that it has complied with requirements. The TVM will certify to the GDHR that:

- They have submitted the required annual overall DBE goals to FTA; and that
- FTA has either approved their annual goals, or that FTA has not disapproved their annual overall goals.

**C. Race Neutral Measures**

GDHR will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. We estimate that, in meeting our overall goal of 3.6%, we will obtain 1.8% from race-neutral participation and 1.8% through race-conscious measures.

**D. Contract Goals**

GDHR will use contract goals to meet any portion of the overall goal GDHR does not project being able to meet using race-neutral means. These goals will be ones established by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP. 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.

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

We will express our contract goals as a percentage of the total amount of FTA funding to be received by GDHR for both operating and capital improvements and the dollar value of these funds available for contracting purposes.

**E. Good Faith Efforts**

GDHR treats bidder/offerors' compliance with good faith effort requirements as a matter of responsibility.

**F. Counting DBE Participation**

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

**G. Set-Asides**

When funds are identified for DBE needs, notices will be published by the GDHR in newspapers of general circulation.

**VI. Required Contract Provisions**

**A. Assurances**

We will ensure that the following clause is placed in all future GDHR-assisted contract and subcontract:

*The contractor 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.*

**B. Prompt Payment**

We will include the following clause in all future GDHR-assisted prime contracts:

*The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract in a timely manner. The prime contractor agrees further to return retainage payments to each subcontractor in a timely manner 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 the GDHR. This clause applies to both DBE and non-DBE subcontractors.*

**C. Legal and Contract Remedies**

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

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prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.37. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

**D. Contractor Reporting Requirements**

In order to monitor and evaluate the progress of GDHR and its third party contractors towards meeting the goals of the DBE Plan, GDHR shall develop and maintain a record keeping system in line with that of the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.

**VII. Certification Standards**

GDHR will use the certification standards of Subpart D of part 26 as well as those used by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP to determine the eligibility of firms to participate as DBEs in GDHR-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decision based on the facts as a whole.

**A. Burdens of Proof**

The firm seeking certification must prove to the GDHR that it meets the requirements for inclusion as defined in 26.61.

**B. Group Membership Determinations**

Individuals in questionable status must demonstrate that he or she is a member of the disadvantaged group or disadvantaged on an individual basis.

**C. Social and Economic Disadvantage Statement**

Applicants must meet rules determined for the disadvantaged status as stated in 26.67 as well as those set forth by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.

**D. Business Size Determinations**

The firm must meet requirements defined by Small Business Administration standards to be eligible.

**E. Ownership Determinations**

To be an eligible DBE, the firm must meet requirements as defined in 26.69 as well as those set forth by the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.

**F. Control Determinations**

Only an independent business may be certified as a DBE.

**G. Other Considerations**

GDHR will participate in and abide by the rules of the program in place at the DOAS Governor's Small Business Center and the GDOT/MARTA UCP.

**VIII. Certification Procedures**

- A. Unified Certification Program**  
GDHR will comply with requirements as outlined in 26.81.
- B. Initial Certification Procedures**  
GDHR will use the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in GDHR-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions decision based on the facts as a whole.
- C. Recertification Procedures**  
We will review the eligibility of DBEs that we certified under former part 23, to make sure that they meet the standards of Subpart D of part 26. We will complete this review no later than three years from the most recent certification date of each firm.
- D. Denials and Reapplication Procedures**  
As defined in 26.85.
- E. Decertifications**  
As defined in 26.87.
- F. Certification of Appeals**  
As defined in 26.89 and 26.91.

**IX. Recordkeeping, Monitoring and Enforcement**

- A. Bidders List**  
When necessary, the GDHR will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on GDHR-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals.
- B. 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. The records will be made available for inspection upon request by any authorized representative of GDHR or GDOT. 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 stated in the schedule of DBE participation.
- C. Reporting to DOT:**  
We will report DBE participation following the necessary requirements as they apply to the GDHR.

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**X. Public Participation and Outreach Efforts**

It will be the responsibility of the DBELO to recommend to GDHR whether firms are qualified and eligible. GDHR will use information collected from the DOAS Governor's Small Business Center and the GDOT/MARTA UCP to determine this eligibility.

**SOURCES:**

**DEPARTMENT OF ADMINISTRATIVE SERVICES  
GOVERNOR'S SMALL BUSINESS CENTER  
CERTIFICATION AND ORIENTATION  
INFORMATION**

**GDOT/MARTA UNIFIED DISADVANTAGED  
BUSINESS ENTERPRISE DIRECTORY**

