

Summary Sheet

Disadvantage Business Enterprise (DBE) Program

This Summary Sheet is provided for use by Massachusetts Department of Transportation (MassDOT) Rail & Transit Division (RTD) potential and current grant recipients. It is meant to be used as a guide to assist grantees with the understanding of federal and state requirements in order to receive funding and is meant only as a summary and not an all-inclusive guidance document. For more information on federal requirements related to the DBE program, refer to [49 CFR Part 26](#)¹, the Additional Terms & Conditions in your contract, or other documentation provided by MassDOT or the Federal Transit Administration (FTA).

Requirements

Applicability	Federally funded procurements
Bidder's List	Grantees will be required to create and maintain a bidder's list consisting of information about all DBE and non-DBE firms that bid or quote or seek work on federally funded contracts. Information to include: firm's name, firm's contact information, firm's status (whether DBE or non-DBE), age of firm, and the annual gross receipts (by category) of the firm. 49 CFR Part 26.11 ²
Non-discrimination Clauses in Contracting	Each agreement between MassDOT and any grantee or between a grantee and a contractor must include the following assurance verbatim, <i>"The contractor, subrecipient 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 of the 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."</i> 49 CFR Part 26.13 ³
Transit Vehicle Purchases	Grantees must require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid on transit vehicle procurements funded by FTA, to certify that it has complied with the requirements of 49 CFR Part 26.49 ⁴ . A list of TVMs that have submitted required DBE information to FTA is available at the FTA website: www.fta.dot.gov/dbe . Evidence that this website has been checked to validate the TVM certification, prior to award, should be included in applicable procurement files. FTA has instructed TVMs to submit to grantees a copy of their FTA approval letters along with the TVM certifications. 49 CFR Part 26.49
Prompt Payment Procedures to Subcontractors	Grantee contracts must include a provision requiring that all subcontractors be paid within thirty (30) days of payment to the prime for work satisfactorily completed by the subcontractor in accordance with 49 CFR Part 26.29 ⁵ . Grantees must 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. The grantee must provide appropriate means to enforce the requirements of this section. 49 CFR Part 26.29
Report DBE Participation	All grantees must submit a completed Awards/Commitments spreadsheet and an Actual Payments spreadsheet twice yearly to MassDOT. The timeliness of the report is set out accordingly: Data for October 1 st to March 31 st must be submitted to MassDot by April 30 th . Data for April 1 st to September 30 th must be submitted to MassDot by October 30 th . These reporting requirements will be submitted through a form to be provided to each s grantee from ODCR. 49 CFR Part 26 Appendix B ⁶

¹ http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

² <http://www.ecfr.gov/cgi-bin/text-idx?SID=279ea6166fa045f762e1a696fe0fc5d6&node=49:1.0.1.1.20.1.18.6&rgn=div8>

³ <http://www.ecfr.gov/cgi-bin/text-idx?SID=279ea6166fa045f762e1a696fe0fc5d6&node=49:1.0.1.1.20.1.18.7&rgn=div8>

⁴ <http://www.ecfr.gov/cgi-bin/text-idx?SID=757e97dc37c53f7f869ffc7666ba8b32&node=49:1.0.1.1.20.3.18.5&rgn=div8>

⁵ <http://www.ecfr.gov/cgi-bin/text-idx?SID=d7c2aa1d909eaeaa197b8f40559411a0&node=49:1.0.1.1.20.2.18.5&rgn=div8>

⁶ <http://www.ecfr.gov/cgi-bin/text-idx?SID=279ea6166fa045f762e1a696fe0fc5d6&node=49:1.0.1.1.20.6.18.6.14&rgn=div9>

Requirements

Monitoring & Written Certification	Grantees must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (<i>e.g.</i> , as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that the grantee has reviewed contracting records and monitored work sites for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (<i>e.g.</i> , close-out reviews for a contract). 49 CFR Part 26.37 ⁷
Active Contract Database	Grantees will work with MassDOT to develop, maintain and update a database with all active contracts in relation to federally funded grant awards. The database will include grant number, total value of grant, contracts awarded under grant, date awarded, value of contracts, name of contractor awarded, DBE goal if any, DBE commitment by prime, DBE contractor or subcontractor, amount of dollars paid to prime and to DBE subcontractors

⁷ <http://www.ecfr.gov/cgi-bin/text-idx?SID=279ea6166fa045f762e1a696fe0fc5d6&node=49:1.0.1.1.20.2.18.9&rgn=div8>