

# Greenville-Pickens Area Transportation Study

## DBE Program

State of South Carolina

2015



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## I. POLICY STATEMENT

### Section 26.1, 26.23 Objective/Policy Statements

Greenville-Pickens Area Transportation Study (GPATS) itself isn't a transit provider, but merely the funnel for transit funds to the two transit agencies in the urbanized area, Clemson Area Transit (CAT) and Greenville Transit Authority (GTA). Both CAT and GTA have the authority to set their own goals in respect to their DBE Programs, as they are both autonomous agencies on to themselves. GPATS as the funnel authority will simply monitor to make sure that CAT and GTA are working to achieve their goals with their respective methodologies.

GPATS, along with CAT and GTA, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. GPATS has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, GPATS, along with CAT and GTA, has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of GPATS, along with CAT and GTA, to ensure DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also GPATS', along with CAT's and GTA's policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
2. To create an equal opportunity that allows DBEs to 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 in the development of firms that can compete successfully in the market place outside the DBE Program.

GPATS' Transit Planner/Grants Manager, Sam Julius; CAT's Grants Manager, Heather Hollis and GTA's Transit Planner, Grant Sparks; has been delegated as the DBE Liaison Officers (DBELOs). In that capacity, the DBELO 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 GPATS, CAT and GTA in its financial assistance agreements with the DOT.

GPATS, along with CAT and GTA, has disseminated this policy statement to all of the components of its organization. GPATS, along with CAT and GTA, will distribute this statement to DBE and non-DBE business communities that perform work for GPATS on DOT-assisted contracts. GPATS, along with CAT and GTA, assures that DBEs will be afforded full opportunity to submit bids in response to the invitation to contract with GPATS, CAT and GTA.

October 5, 2015

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Keith Brockington, GPATS Executive Director

## II. SUBPART A – GENERAL REQUIREMENTS

### Section 26.1, 26.23 Objectives

The objectives can be found in the Policy Statement on [page 1](#).

### Section 26.3 Applicability

GPATS, CAT and GTA are the recipient of federal transit funds authorized by Federal transit laws in Title 49, U.S. Code and 49 CFR Part 26.

### Section 26.5 Definitions

For GPATS's DBE program, GPATS will adopt the definitions provided by USDOT [DBE: Program Implementation Modifications \(PDF\)](#) in Section 26.5 of Part 26 located at [http://www.ecfr.gov/cgi-bin/text-idx?SID=093995f1e7141981db4373d8cd98d903&mc=true&node=se49.1.26\\_15&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=093995f1e7141981db4373d8cd98d903&mc=true&node=se49.1.26_15&rgn=div8):

*Alaska Native* means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

*Alaska Native Corporation* (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

*Assets* mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

*Business, business concern or business enterprise* means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

*Compliance* means that a recipient has correctly implemented the requirements of this part.

*Contingent Liability* means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

*Contract* means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

*Contractor* means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

*Days* mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

*Department* or *DOT* means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

*Disadvantaged business enterprise* or *DBE* means a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

*DOT-assisted contract* means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

*Good faith efforts* means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

*Home state* means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

*Immediate family member* means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

*Indian tribe* means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

*Joint venture* means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined

portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

*Liabilities* mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

*Native Hawaiian* means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

*Native Hawaiian Organization* means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

*Noncompliance* means that a recipient has not correctly implemented the requirements of this part.

*Operating Administration* or *OA* means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

*Personal net worth* means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

*Primary industry classification* means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site:<http://www.census.gov/eos/www/naics/>.

*Primary recipient* means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

*Principal place of business* means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

*Program* means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.



*Race-conscious* measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

*Race-neutral* measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

*Recipient* is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

*Secretary* means the Secretary of Transportation or his/her designee.

*Set-aside* means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

*Small Business Administration* or *SBA* means the United States Small Business Administration.

*SBA certified firm* refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

*Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

*Socially and economically disadvantaged individual* means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

(ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) “Native Americans,” which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

*Spouse* means a married person, including a person in a domestic partnership or a civil union recognized under State law.

*Transit vehicle manufacturer* means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.

*Tribally-owned concern* means any concern at least 51 percent owned by an Indian tribe as defined in this section.

## **Section 26.7 Non-discrimination Requirements**

GPATS, along with CAT and GTA, will 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 its DBE program, GPATS nor CAT and GTA, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishments of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

## **Section 26.11 Record Keeping Requirements**

### *Uniform Report of DBE Awards or Commitments and Payments: 26.11(a)*

GPATS, along with CAT and GTA, will report DBE participation to the Federal Transit Administration (FTA) using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

### *Bidders List: 26.11(c)*

GPATS, along with CAT and GTA, 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. This information will be collected by a form through an Invitation to Bid packet.

Furthermore, information must be received by GTA before a recommendation is made to the Board of Directors before the award of a contract. If the information is not received within the time specified, the bidder will be deemed nonresponsive.

Data collection will be conducted by requiring firms to bidding on contracts with subcontracting opportunities to submit a form entitled, Prime Contractor and Subcontractor/Subconsultant/Supplier Report. In the case of firms bidding on contracts without subcontracting opportunities, data collection will be conducted by requesting firms to complete a survey entitled, Bidder Information Survey. The Liaison Officer will maintain the confidentiality of any proprietary information in accordance with applicable South Carolina law. This information will be requested of all bidders as further described in Section IX.


## **Section 26.13 Assurances**

GPATS, along with CAT and GTA, has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

### *Federal Financial Assistance Agreement Assurance: 26.13(a)*

GPATS, along with CAT and GTA, 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. 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. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by 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 GPATS, along with CAT and GTA, of its failure to carry out its approved program, the Department may impose sanction as provided for under 49 CFR 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.*).

### *Contract Assurance: 26.13b*



GPATS, along with CAT and GTA, will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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.

### III. SUBPART B – ADMINISTRATIVE REQUIREMENTS

#### Section 26.21 DBE Program Updates

Since CAT and GTA, through GPATS, has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, GPATS, along with CAT and GTA, we will continue to carry out this program until all funds from DOT financial assistance have been expended. GPATS will provide to DOT updates representing significant changes in the program.

#### Section 26.25 DBE Liaison Officer (DBELO)

GPATS, along with CAT and GTA, have designated the following individuals as DBE Liaison Officers:

Sam Julius (GPATS)  
301 University Ridge  
Suite 3800  
Greenville, SC 29601  
(864)-467-7287  
[SJulius@greenvillecounty.org](mailto:SJulius@greenvillecounty.org)

Heather Lollis (CAT)  
200 W Lane  
Clemson, SC 29631  
(864)-653-2075  
[hlollis@cityofclemson.org](mailto:hlollis@cityofclemson.org)

Grant Sparks (GTA)  
100 W McBee Avenue  
PO Box 2207  
Greenville, SC 29602  
(864)-298-2753  
[gsparks@greenvillesc.gov](mailto:gsparks@greenvillesc.gov)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the GPATS, along with CAT and GTA, complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director of GPATS concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in [Attachment 1](#) to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has only himself to assist in the 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 departments 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 GPATS' progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.

12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in South Carolina.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the **GPATS'** updated directory on certified DBEs.

**Section 26.27 DBE Financial Institutions**

It is the policy of **GPATS**, along with **CAT** and **GTA**, 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.

|  |  |
|--|--|
| <p>The distance from the bank listed below would make it difficult for <b>CAT</b> to use this particular institution due to <b>CAT's</b> need to access bank services. On an annual schedule, <b>CAT</b> will utilize the Department of Treasury website to identify any other DBE Financial Institutions in <b>CAT's</b> community (<a href="http://www.fms.treas.gov/mbdp/current_list.html">http://www.fms.treas.gov/mbdp/current_list.html</a>).</p> | <p>The Liaison Officer has researched the website for the Federal Reserve Board to identify minority-owned banks derived from the Consolidated Reports of Condition and Income filed quarterly by banks and from other information on the Board's National Information Center database. The Liaison Officer will continue to use this source to solicit minority-owned banks to participate in the DBE program. However, to date the Liaison Officer has identified no minority-owned financial institutions that offer services in the Greenville area as of December 31, 2014. <b>GTA's</b> Liaison Officer will explore the full extent of services offered by banks and other financial institutions that qualify as DBEs in the Greenville area and determine areas in which <b>GTA</b> may reasonably utilize their service. <b>GTA</b> shall encourage its prime contractors to use the services of DBE institutions.</p> |
| <p>To date <b>CAT</b> has identified the following DBE financial institution in South Carolina:</p>  |  |
| <p><b>SOUTH CAROLINA</b></p>   |  |
| <p>South Carolina Community Bank<br/> Contract: Miya Littlejohn, CFO<br/> 1545 Sumter Street<br/> P.O. Box 425<br/> Columbia, SC 29202<br/> Routing and Transit (ABA) Number: 053905877<br/> Phone: (803) 733-8100, Ext. 1103<br/> Fax: (803) 733-8125<br/> E-mail: <a href="mailto:MLittlejohn@SCCommunityBank.net">MLittlejohn@SCCommunityBank.net</a><br/> MC: 50</p>   |  |

**Section 26.29 Prompt Payment Mechanisms**

*Prompt Payment: 26.29(a)*

**GPATS**, along with **CAT** and **GTA**, 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 thirty days from the receipt of each payment the prime contract receives from GPATS, along with CAT and GTA,. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the GPATS. This clause applies to both DBE and non-DBE subcontracts.

Retainage: 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within thirty days after the subcontractors 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 GPATS. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29(d)

GPATS, along with CAT and GTA, has established mechanisms to monitor and enforce that prompt payment and return of retainage is in fact occurring:

|   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have already performed.</li> <li>2. CAT will closely monitor vendors who have received contract bids.</li> <li>3. CAT 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 CAT.</li> </ol> | <p>GTA’s Liaison Officer shall monitor and track the actual DBE participation through contractor and subcontractor reports of payments. The Liaison Officer will maintain a running tally of payments actually made to DBE firms and may require prime contractors and DBE subcontractors to provide appropriate documentation to verify such payments. The Liaison Officer shall ensure that DBE participation is counted toward contract goals and the annual overall goal in accordance with the Regulations. Credit toward overall or contract goals will only be given upon satisfactory evidence that payments were actually made to DBEs.</p> |
|---|--|

**Section 26.31 Directory**

GPATS, along with CAT and GTA, maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the 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. The directory can be found at [http://www.scdot.org/doing/doingPDFs/businessDevelop/UCP\\_DBEDirectory.pdf](http://www.scdot.org/doing/doingPDFs/businessDevelop/UCP_DBEDirectory.pdf).

**Section 26.33 Overconcentration**

GPATS, along with CAT and GTA, has not identified that overconcentration exists in the types of work that DBEs perform.

## Section 26.37 Monitoring and Enforcement Mechanisms

GPATS, along with CAT and GTA, will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. GPATS, along with CAT and GTA, will bring to the attention of the DOT 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.
2. GPATS, along with CAT and GTA, will consider similar action under out own legal authorities, including responsibility determinations in future contracts.
3. GPATS, along with CAT and GTA, will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs.
4. GPATS, along with CAT and GTA, will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.



## Section 26.39 Small Business Participation

GPATS, along with CAT and GTA, has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

|   |  |
|---|--|
| <p>CAT will evaluate unbundling contract requirements into smaller contracts when possible.</p> <p>CAT will utilize the Small Business Administration (SBA) guidelines and definitions as set out in 49 CFR Section 26.5 to verify business size. This will ensure that small businesses are allowed to participate in their DBE Program and be able to compete with similarly-sized businesses. CAT will use the SCDOT DBE Directory to verify that a certified DBE is eligible to participate in the Small Business Program. As such, self-certification/verification is not allowed under the program. CAT will implement these provisions of the Small Business Program within nine months of the approval date of the DBE Program.</p> <p>CAT has incorporated the following strategies in order to increase opportunities for small businesses participation, and has added these elements to its DBE program in order to facilitate competition on DOT-assisted projects by small business concerns (both DBEs and non-DBE small businesses):</p> <ol style="list-style-type: none"> <li>1. Requiring bidders on large contracts to identify and/or provide specific subcontracting opportunities for small business participation; and</li> <li>2. Where feasible, remove unnecessary and unjustified bundling of contract requirements to promote participation of small businesses</li> <li>3. CAT will actively implement these program strategies to encourage small business participation in its good-faith efforts for the DBE Program.</li> </ol> | <ol style="list-style-type: none"> <li>1. GTA will partner with local agencies, including Greenville County, SCOOT, and the Greenville Area Chamber of Commerce, to foster participation of small businesses;</li> <li>2. Procurement procedures will be reviewed and evaluated to ensure that unnecessary or unjustified contract requirements are eliminated that could preclude participation in procurements;</li> <li>3. GTA staff will participate in community outreach events to educate and encourage participation in procurements;</li> <li>4. Prime contracts will be advertised that are of a size that small businesses can reasonably compete for and perform, including requiring bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation;</li> <li>5. In multi-year design-build contracts or other large contracts, bidders on the prime contract will be required to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform;</li> <li>6. Explore alternative acquisition strategies and techniques to structure procurements that facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.</li> </ol> |
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## IV. SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

### Section 26.43 Set-asides or Quotas

GPATS, along with CAT and GTA, does not use quotas in any way in the administration of this DBE program.

### Section 26.45 Overall Goals

In accordance with Section 26.45, GPATS, along with CAT and GTA, will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA.

GPATS, along with CAT and GTA, will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by FTA.

The process generally used by GPATS, along with CAT and GTA, to establish overall DBE goals is as follows:

CAT goal setting process is:

#### A. Step One - Establishing a Base Figure.

- a. The Base Figure represents the relative availability of ready, willing, and able DBE firms as compared to all firms ready, willing, and able to perform for CAT. Some of CAT's vendors are chosen based on contracts provided by the City of Clemson, contracts provided by the state, and vendor pricing and availability to meet CAT's specific needs. The City of Clemson provides many services CAT requires. The ratio for CAT is:

$$\frac{DBE\ Firms}{Total\ Firms}$$

CAT chose to utilize the number of DBEs in the SCUCP Directory based on services CAT will need in the following three years to determine the base figure. CAT counted the number of available firms eligible to perform the services they needed. CAT identified 1 GPS provider, 1 first aid supplier, 3 sign manufacturers, 6 bus shelter installers, and 4 concrete construction firms.

CAT utilized the most recent census bureau data to determine the total number of GPS providers, first aid suppliers, sign manufacturers, bus shelter installers, and concrete construction firms in the South Carolina market area. CAT identified 1,171 firms under North American Industry Classification System (NAICS) Codes 238110, 541370, 423450, 339950, and 236220. Using the data collected, CAT determined the relative availability of DBEs for public transit contracts in the market is 1.2%, as indicated below:

$$\frac{15\ DBE\ Firms}{1171\ Total\ Firms} = 1.28\%$$

**Table 1: Relative Availability DBEs by Categories of Work**

| <u>NAICS Codes</u> | <u>Category of Work</u>                              | <u>Certified DBEs<br/>Firms</u> | <u>Total Firms</u> |
|--------------------|--|---------------------------------|--------------------|
| 541370             | Surveying and Mapping Services                       | 1                               | 193                |
| 423450             | Suppliers Merchant Wholesalers                       | 1                               | 118                |
| 339950             | Sign Manufacturers                                   | 3                               | 89                 |
| 236220             | Bus Shelters Construction                            | 6                               | 504                |
| 238110             | Poured Concrete Foundation and Structure Contractors | 4                               | 1171               |
| Total              |  | 15                              | 1171               |

**Adjusting the Base Figure 49 CRF 26.45.**

- b. **CAT** is creating a DBE program this year (2015); therefore an adjustment based on past participation is not required at this time.

**CAT** will establish project-specific DBE goals as appropriate for each DOT-assisted contract.

**CAT**'s overall goal submission to DOT will include: the goal and a copy of worksheets used to develop the goal.

If **CAT** establishes a goal on a project basis, **CAT** will begin using their goal by the time of the first solicitation for a DOT-assisted contract for the project. **CAT**'s goal will remain effective for the duration of the three year period established and approved by FTA.

B. Contract Dollars Available

**Table 2: Available Transit Contract Dollars**

| <u>NAICS Codes</u> | <u>Category of Work</u>                              | <u>Certified DBEs Firms</u> | <u>Total Firms</u> | <u>Contracting Opportunities</u> |
|--------------------|--|-----------------------------|--------------------|----------------------------------|
| 541370             | Surveying and Mapping Services                       | 1                           | 193                | \$350,000.00                     |
| 423450             | Suppliers Merchant Wholesalers                       | 1                           | 118                | \$1,000.00                       |
| 339950             | Sign Manufacturers                                   | 3                           | 89                 | \$39,000.00                      |
| 236220             | Bus Shelters Construction                            | 6                           | 504                | \$99,600.00                      |
| 238110             | Poured Concrete Foundation and Structure Contractors | 4                           | 1171               | \$45,600.00                      |
| Total              |  | 15                          | 1171               | \$535,200.00                     |

[Table 2](#) indicates CAT’s possible contract opportunities for the next 3 years.

Based on the above analysis, CAT proposes to establish its FY 2015-2017 overall DBE transit goal of 1.2% to be met through race neutral measures.

The amount of contracts expected for FY 15-17 is \$535,200. Given this amount, CAT has set a goal of expending \$6,422.40 on DBE contracts during FY 2015-2017.

See [Attachment 4](#): Overall Goal Calculations.

C. Race-Neutral Measures

CAT estimates that in meeting their overall goal of 1.2%, CAT will obtain 100% from race-neutral participation. CAT will use the following race-neutral means to increase DBE participation:

1. Training all CAT staff who are involved in procurement about the DBE program and about utilizing DBEs.
2. Soliciting new DBEs to participate in CAT procurements.
3. Assist existing providers who are eligible for DBE status to register with SCDOT.

See [Attachment 4](#): Race-Neutral Measures.

GTA goal setting process is:

Step 1: Establish Baseline Figure

The baseline figure in Step 1 estimates the ready, willing, and able DBE firms relevant to all businesses ready, willing, and able to participate in GTA's federally funded projects.

Using the SCOOT DBE Certification Directory and the Census Bureau County Business Pattern Directory, GTA was able to determine the total percentage of ready, willing and able DBE firms in the area. The third column in Table 3 shows that percentage, which represents our baseline goal of 1.08%.

**Table 3: DBE Goal Setting Formula**

| <u>Total Firms</u> | <u># of DBE Firms</u> | <u>DBE %</u> | <u>Weight</u>  | <u>Adjusted %</u> | <u>NAICS Code</u> | <u>Description</u>                              |
|--------------------|-----------------------|--------------|----------------|-------------------|-------------------|---|
| 3                  | 0                     | 0.00%        | 3.78%          | 0.00%             | 315280            | Other Cut and Sew Apparel Manufacturing         |
| 226                | 2                     | 0.88%        | 1.34%          | 0.01%             | 323111            | Commercial Printing                             |
| 96                 | 1                     | 1.04%        | 7.50%          | 0.08%             | 453210            | Office Supplies and Stationary Stores           |
| 135                | 2                     | 1.48%        | 24.33%         | 0.36%             | 524126            | Direct Property and Casualty Insurance Carriers |
| 702                | 4                     | 0.57%        | 2.18%          | 0.01%             | 541211            | Office of Certified Public Accountants          |
| 2,563              | 1                     | 0.04%        | 1.25%          | 0.00%             | 541110            | Legal Services                                  |
| 252                | 0                     | 0.00%        | 5.61%          | 0.00%             | 221122            | Electric Power Distribution                     |
| 13                 | 0                     | 0.00%        | 1.43%          | 0.00%             | 221210            | Natural Gas Distribution                        |
| 395                | 0                     | 0.00%        | 2.65%          | 0.00%             | 517110            | Wireless Telecommunication Carriers             |
| 835                | 33                    | 3.95%        | 15.49%         | 0.61%             | 561720            | Janitorial and Cleaning Services                |
| 36                 | 0                     | 0.00%        | 30.84%         | 0.00%             | 811198            | All Other Automotive Repair and Maintenance     |
| 145                | 0                     | 0.00%        | 3.59%          | 0.00%             | 811191            | Automotive Oil Change and Lubrication Shops     |
| <b>5,401</b>       | <b>43</b>             | <b>0.80%</b> | <b>100.00%</b> | <b>1.08%</b>      |                   |   |

Sources: SCDOT DBE Certification Program; Census Bureau County Business Patterns; GTA Operating Budget

## Step 2: Adjust Baseline and Determine Overall DBE Usage Goal

Step 2 involves examining all evidence available to determine what adjustment, if any, is needed to the baseline figure identified in Step 1.

Due to the expected number of "controllable contracts" for the upcoming FFY, **GTA** believes a total goal of 2.00% for DBE contracts is attainable.

Before finalizing the overall goal each year, **GTA** will consult with the providers of professional services including engineering, financial, consulting, facilities, construction and renovation, and the purchase of rolling stock to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for OBE's and **GTA's** efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 45 days from the date of the notice.

Our overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; 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, 2015, 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.

**GPATS** does not spend any federal transportation dollars on transit. **GPATS** merely is the funnel for federal transit dollars to local transit agencies. Since both agencies have their own respective DBE Programs, **GPATS** will adopt the goals that align with both transit agencies goals as not to hinder either transit agency's respective goals.

**GPATS** has a DBE goal of  $Base\ Figure = \frac{60\ DBEs}{6572\ Firms} = 0.009 = 0.91\%$ . The calculation for these goals represent the combine number of DBEs and firms within the transit area.

### **Section 26.47 Goal Setting and Accountability**

If the awards and commitments shown on **GPATS'**, **CAT's** and **GTA's** Uniform Report of Awards or Commitments and payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Submit the plan to FTA within 90 days of the end of the affected fiscal year.

**Section 26.49 Transit Vehicle Manufacturers Goals**

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

**Section 26.51 Meeting Overall Goals/Contract Goals**

GPATS, along with CAT and GTA, will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, GPATS, along with CAT and GTA, will:

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| <p>...express their contract goals as a percentage of the total amount of a DOT-assisted contract. Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information as part of the bid document when the bid is due:</p> <ol style="list-style-type: none"> <li>1. The names and addresses of DBE firms that will participate in the contract;</li> <li>2. A description of the work that each DBE will perform;</li> <li>3. The dollar amount of the participation of each DBE firm participation;</li> <li>4. Written and signed documentation of the commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;</li> <li>5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's</li> </ol> | <p>...unbundle large contracts to make them accessible to small businesses. GTA will encourage prime contractors to subcontract portions of work normally done by their own forces, when a subcontractor submits a lower quote than the prime contractor cost estimate.</p> <p>If the usage goal is established with a race conscious goal adjustment, the following is a summary of how our estimated breakout of race-neutral and race-conscious DBE participation would occur. The basis for these observances was the performance data studied for past attainment levels. An average race neutral percentage was developed using this data.</p> <p>GTA will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not limited to, the following: participation through a prime</p> |
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| <p>commitment; and</p> <p>6. If the contract goal is not met, evidence of good faith efforts.</p> <p>The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. A bidder can show good faith efforts by demonstrating that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.</p> <p>The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Heather Hollis. <b>CAT</b> will ensure that all information is complete and accurate and adequately document the bidder's/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.</p> | <p>contract a DBE obtains through customary competitive procurement procedures; participation through a subcontract on a prime contract that does not carry a DBE goal; participation on a prime contract, exceeding a contract goal; and participation through a subcontract from a prime contractor that did not consider a firm's DBE status is making the award.</p> <p>Where a contract-specific DBE goal has been established, the bidder or proposer must meet the contract-specific goal or demonstrate that it made sufficient good faith efforts to do so. A bidder shall be ineligible for contract award if it does not meet the goal or demonstrate sufficient good faith efforts.</p> |
| <p><b>GPATS</b> will use contract goals to meet any portion of the overall goal <b>GPATS</b> 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.</p> <p><b>GPATS</b> will establish contract goals only on those DOT-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.)</p> <p><b>GPATS</b> will express our contract goals as a percentage of total amount of a DOT-assisted contract.</p>   |   |

**GPATS**, along with **CAT** and **GTA**, will use contract goals to meet any portion of the overall goal **GPATS**, nor **CAT** or **GTA**, 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.

GPATS, along with CAT and GTA, will establish contract goals only on those DOT-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.

**Section 26.53 Good Faith Efforts Procedures**

Award of Contracts with a DBE Contract Goal: 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, GPATS, along with CAT and GTA, will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts: 26.53(a) & (c)

The following personnel are responsible for determining whether a bidders/offerors who has not met the contract goal has documented sufficient good faith efforts to be regarded responsive:

Sam Julius (GPATS)  
301 University Ridge  
Suite 3800  
Greenville, SC 29601  
(864)-467-7287  
[SJulius@greenvillecounty.org](mailto:SJulius@greenvillecounty.org)

Heather Lollis (CAT)  
200 W Lane  
Clemson, SC 29631  
(864)-653-2075  
[hlollis@cityofclemson.org](mailto:hlollis@cityofclemson.org)

Grant Sparks (GTA)  
100 W McBee Avenue  
PO Box 2207  
Greenville, SC 29602  
(864)-298-2753  
[gsparks@greenvillesc.gov](mailto:gsparks@greenvillesc.gov)

The process used to determine whether good faith efforts have been made by a bidder are as follows:

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| <p>The process used to determine whether good faith efforts have been made by a bidder are as follows:</p> <ol style="list-style-type: none"> <li>CAT will make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts.</li> <li>CAT will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made.</li> <li>The determination concerning the sufficiency of the firm’s good faith efforts is a judgment call: there is no quantitative</li> </ol> | <p>To determine whether good faith efforts have been made by a bidder, GTA’s DBELO will require a comprehensive evaluation of bids or proposals for subcontracts to check for DBE deficiencies.</p> |
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| <p>formula.</p> <p>4. <b>CAT</b> will ensure that all information is complete and accurate and adequately document the bidder’s good faith efforts before they commit to the performance of the contract by the bidder.</p> |  |
|---|--|

**GPATS**, along with **CAT** and **GTA**, will ensure that all information is complete and accurate and adequately documents the bidder/offer’s good faith efforts before we commit to the performance of the contract by the bidder/offer or.

Information to be Submitted: 26.53(b)

**GPATS**, along with **CAT** and **GTA**, treats bidder/offers’ compliance with good faith efforts’ requirements as a matter of responsiveness or responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offers 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 **GPATS** that it is not responsive or responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offers should make this request in writing to the following reconsideration official:

Helen Hahn (**GPATS**)  
 301 University Ridge  
 Suite 3800  
 Greenville, SC 29601  
 (864)-467-7276  
[HHahn@greenvillecounty.org](mailto:HHahn@greenvillecounty.org)

Holly Brown (**CAT**)  
 200 W Lane  
 Clemson, SC 29631  
 (864)-654-2287  
[HBrown@cityofclemson.org](mailto:HBrown@cityofclemson.org)

Krystal Ryan-Lawson (**GTA**)  
 100 W McBee Avenue  
 PO Box 2207  
 Greenville, SC 29602  
 (864)-298-2751  
[KLRyan@greenvillesc.gov](mailto:KLRyan@greenvillesc.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 DOT.

*Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals: 26.53(f)*

GPATS, along with CAT and GTA, requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without GPATS' prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to GPATS its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to GPATS prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise GPATS of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, GPATS will require the prime 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, our contracting office 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.

*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 GPATS 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 2.00% for GTA and 1.20% for CAT, has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, 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's/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.

Furthermore, **CAT** hereby, notifies all bidders that it will affirmatively ensure that all disadvantaged and women's business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, race, color, or national origin in consideration for an award.

Pursuant to Title 49, Code of Federal Regulations, Part 26.49, a bidder, as a condition of being authorized to respond to this solicitation, must certify by completing the form DBE Approval Certification that it has on file with the FTA an approved or not disapproved annual disadvantaged business enterprise (DBE) subcontracting participation goal.

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's/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.

### **Section 26.55 Counting DBE Participation**

**GPATS**, along with **CAT** and **GTA**, will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

## V. SUBPARTS D & E – CERTIFICATION

### Section 26.61 – 26.73 Certification Process

GPATS, along with CAT and GTA, 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.

### Section 26.81 Unified Certification Programs

GPATS, along with CAT and GTA, is the member of a South Carolina Unified Certification Program (SCUCP). The SCUCP will meet all of the requirements of this section. GPATS, along with CAT and GTA, will use and count for DBE credit only those DBE firms certified by the SCUCP.

The following is a description of the SCUCP:

The purpose of SCDOT's DBE Program is to assist potential contractors in their efforts to identify and utilize DBEs that are participating in the Department's DBE Program. Certification is granted through the Department as verification that a business is bona-fide in its claim to be a disadvantaged business enterprise. Certified firms are used to meet goals on federally assisted contracts. The SCDOT is required to provide a list of certified contractors to firms bidding on prime contracts who in turn, agree to utilize certified minority businesses on construction projects throughout the state.


In order for DOT agencies to meet these goals, disadvantaged businesses are encouraged to apply to the State for certification to participate in the DBE Program. Applications are gathered, on-site reviews performed, certification meetings held, and certification status granted if qualified. If the application is denied, the State has an appeal hearing on the issues of denial.

### Section 26.83 – 26.91 Procedures for Certification Decisions

GPATS, along with CAT and GTA, will follow the certification processes of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. A copy of South Carolina's UCP certification procedures and/or UCP program is available at [http://www.scdot.org/doing/doingPDFs/businessDevelop/SCDOT DBE Interstate Certification Process.pdf](http://www.scdot.org/doing/doingPDFs/businessDevelop/SCDOT%20DBE%20Interstate%20Certification%20Process.pdf).

Any firm or complainant may appeal South Carolina's UCP decision in a certification matter to DOT. Such appeals may be sent to:

USDOT  
Office of Civil Rights Certification Appeals Branch  
1200 New Jersey Ave. SE West Building, 7th Floor  
Washington, D.C. 20590



GPATS, along with CAT and GTA, will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

## VI. SUBPART F – COMPLIANCE AND ENFORCEMENT

### Section 26.109 Information, Confidentiality, Cooperation

GPATS, along with CAT and GTA, will safeguard from disclose 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, we 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

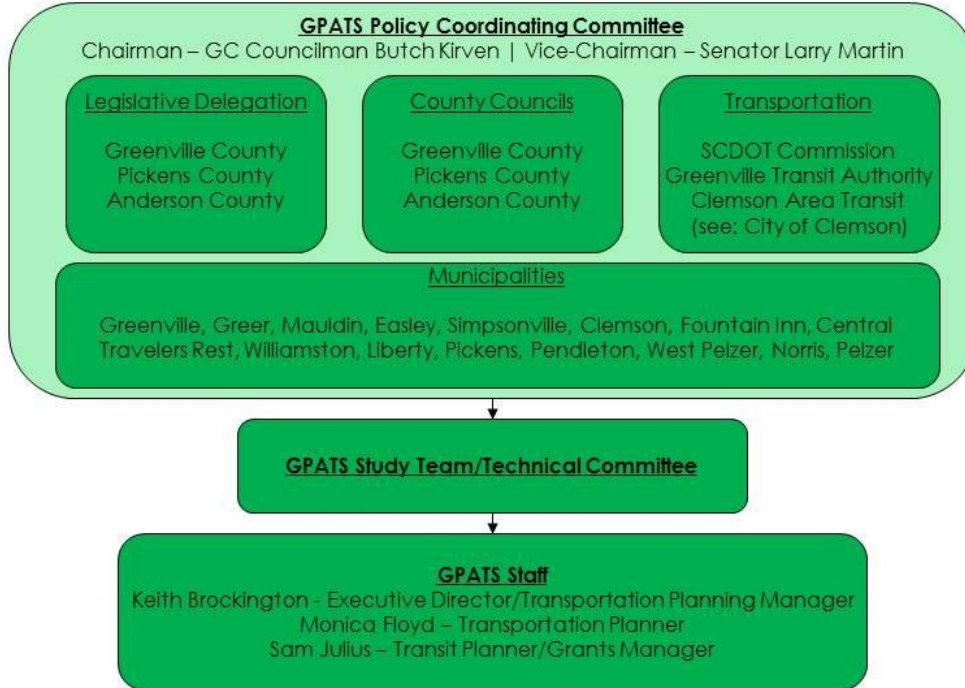
GPATS, along with CAT and GTA, will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of GPATS, CAT, GTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

GPATS, along with CAT and GTA, 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 states in the schedule of DBE participation.

VII. ATTACHMENTS

Attachment 1: Organizational Chart

# Organizational Chart





**Attachment 2: DBE Directory**

**DBE Directory**

[http://www.scdot.org/doing/businessdevelop\\_scunified.aspx](http://www.scdot.org/doing/businessdevelop_scunified.aspx)

[http://www.scdot.org/doing/doingPDFs/businessDevelop/UCP\\_DBE\\_Directory.pdf](http://www.scdot.org/doing/doingPDFs/businessDevelop/UCP_DBE_Directory.pdf)

### Attachment 3: Monitoring and Enforcement Mechanisms/Legal Remedies

GPATS will rely on CAT and GTA to monitor and enforce DBE regulation, while monitoring both agencies.

|  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. CAT 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 steps provided in 26.109.</li> <li>2. CAT will consider similar action under their own legal authorities, including responsibility determinations in future contracts.</li> <li>3. CAT will provide a monitoring and enforcement mechanism to verify that work committed by DBEs at contract award is actually performed by the DBEs.</li> <li>4. CAT will keep a record of actual payments to DBE firms for work committed to them at the time of contract award.</li> </ol> | <p>All contractors will be required to complete the standard reporting form that GTA uses for compiling data for submission to FTA. GTA will make this process part of the contract administration duties of all contract administrators, with unsatisfactory performance fees if reports are not submitted in a timely fashion.</p> <p>GTA will consider the use of interim audits of contract payment to DBE's. 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.</p> <p>GTA will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take action as described in 26.109. GTA will also consider similar action under our own legal authorities, including responsibility determinations in future contracts.</p> |
|--|--|

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.

## Attachment 4: Goal Setting Methodology

### Section 26.45: Overall Goal Calculation

#### Amount of Goal

|   |  |
|---|--|
| <p><b>CAT</b> has an expected FY 2015-2017 of \$535,200 of which \$6,422.40 is expected to go to DBE contracts.</p> | <p><b>GTA</b> has an expected goal of 2.00% for FY 2016-2018 that will be rewarded to DBE firms.</p> |
| <p><b>GPATS</b> has an expected goal of 0.91% for FY 2016-2018 that will be rewarded to DBE firms.</p>              |  |

#### Methodology used to Calculate Overall Goal

##### Step 1: 26.45(c)

|  |   |
|--|---|
| <p><b>CAT</b> has identified 15 DBE is within their respective transit network area:</p> $\text{Base figure} = \frac{15 \text{ DBEs}}{1,171 \text{ Firms}} = 1.28\%$ <p><b>CAT</b> has a goal of awarding 1.28% of its transit contracts to DBEs.</p>  | <p><b>GTA</b> has identified 43 DBE is within their respective transit network area:</p> $\text{Base figure} = \frac{43 \text{ DBEs}}{5,401 \text{ Firms}} = 0.80\%$ <p><b>GTA</b> has a goal of awarding 0.80% of its transit contracts to DBEs.</p> |
| <p><b>GPATS</b> has identified 60 DBE is within their respective transit network area:</p> $\text{Base figure} = \frac{60 \text{ DBEs}}{6572 \text{ Firms}} = 0.91\%$ <p><b>GPATS</b> has a goal of awarding 0.80% of its transit contracts to DBEs, as to not go beyond transit agencies.</p> |   |

##### Step 2: 26.45(d)

|   |   |
|---|---|
| <p><b>CAT</b> made no adjustments to their DBE goal percentage.</p> | <p>Using <b>GTA's</b> FY16 operating budget to determine where funding will be allocated among NAICS codes, a percentage weight was given to each area. Multiplying the percentage of DBEs with the percentage weight produced and adjusted DBE percentage that is more accurate and specific to <b>GTA's</b> needs. The total weighted DBE baseline goal for FY2016-2018</p> |
|---|---|



|  |                             |
|--|-----------------------------|
|  | was calculated to be 1.08%. |
|--|-----------------------------|

**Public Participation**

|  |   |   |
|--|---|---|
| <p>When it came time for public notice, CAT posted their notices on their agency website <a href="http://www.catbus.com/">http://www.catbus.com/</a> and on Facebook.</p> <p>CAT just recently concluded a public meeting on June 11<sup>th</sup>, 2015.</p> | <p>GTA published their goals information in these publications: The Greenville News and GTA’s website: <a href="http://www.ridegreenlink.com">www.ridegreenlink.com</a></p> <p>GTA is working to conduct its next public meeting to update its DBE program.</p> | <p>Since GTA and GPATS are working to update its DBE Programs, GPATS will be teaming up with GTA to coordinate their public outreach. GPATS will post its goals on <a href="http://www.gpats.org/2015/09/disadvantaged-business-enterprise-dbe-public-input-meeting/">http://www.gpats.org/2015/09/disadvantaged-business-enterprise-dbe-public-input-meeting/</a>.</p> |
|--|---|---|

**Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation**

GPATS, along with CAT and GTA, will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation, while respecting the autonomy of the two transit agencies that provide transit services. GPATS will use CAT’s and GTA’s race-neutral means to increase DBE participation:

|   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Training all CAT staff who are involved in procurement about the DBE program and about utilizing DBEs.</li> <li>2. Soliciting new DBEs to participate in CAT procurements.</li> <li>3. Assist existing providers who are eligible for DBE status to register with SCDOT.</li> <li>4. Analyzing CAT’s progress towards goal attainment and identifying ways to improve progress.</li> <li>5. Conducting debriefings to respond to DBE inquiries concerning unsuccessful bids.</li> </ol> | <p>GTA will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating DBE participation. GTA estimates that, in meeting our overall goal of 2.0%, we will obtain 50% from race-neutral participation and 50% through race-conscious measures.</p> |
|---|---|

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

GPATS will establish contract goals only on those DOT-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.)

**GPATS** will express our contract goals as a percentage of total amounts of a DOT-assisted contract.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

**GPATS** will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

**Attachment 5: Good Faith Efforts Forms**

***Forms 1 & 2 for Demonstration of Good Faith Efforts***

*[Forms 1 and 2 should be provided as part of the solicitation documents.]*

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

- The bidder/offeror is committed to a minimum of % DBE utilization on this contract.
- The bidder/offeror (if unable to meet the DBE goal of \_\_\_%) is committed to a minimum of \_\_\_% DBE utilization on this contract submits documentation demonstrating good faith efforts.

Name of bidder's/offeror's firm: \_\_\_\_\_

State Registration No: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**FORM 2: LETTER OF INTENT**

Name of bidder's/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$\_\_\_\_\_.

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor.)



**Attachment 6: DBE Regulation, 49 CFR Part 26**

**Regulations:** 49 CFR Part 26 can be found at [http://www.ecfr.gov/cgi-bin/text-idx?SID=0a598e8801d52e1b8831fd99093d4e28&mc=true&node=pt49.1.26&rgn=div5#\\_top](http://www.ecfr.gov/cgi-bin/text-idx?SID=0a598e8801d52e1b8831fd99093d4e28&mc=true&node=pt49.1.26&rgn=div5#_top).





**Attachment 7: Proof of Public Notice**

Public notice was given on the GPATS website (<http://www.gpats.org/2015/09/disadvantaged-business-enterprise-dbe-public-input-meeting/>) and in *The Greenville News*.

**The Greenville News**  
greenvilleonline.com

**AFFIDAVIT OF PUBLICATION**

Susan Muller, being the sales advertising agent for Gannett, Inc.,

do hereby testify that the attached legal advertisement was published on the following dates:

On August 7, 2015

Susan Muller  
Sales Agent for Gannett, Inc.

Carlotta G. Bell  
Carlotta G. Bell  
Notary Public for the State of South Carolina  
My Commission Expires July 22, 2020.



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**The Greenville News**  
greenvilleonline.com  
A GANNETT COMPANY

**Legal Advertising**

Date: 8/7/2015

Name: GVILLE TRANSIT AUTHORITY  
Address: 66 RICHARDSON ST GREENVILLE SC 296126  
Ad No: 4903831 Class: 0008 Legal Notices (News) Rate: County Legal Rates

**Publish Dates:**

Friday, August 7, 2015

Lines: 28

**Affidavit of Publication**

I, Susan F. Mullinax, being the Legal Advertising Agent for *The Greenville News*, do hereby testify that the attached legal ad was published on 28 lines as set forth above, in *The Greenville News* beginning on 8/7/2015 and ending on 8/7/2015.

*Susan Mullinax*

Susan F. Mullinax  
Legal Advertising Agent

*Carlotta G. Bell*

Carlotta G. Bell  
Notary Public for the State of South Carolina  
My Commission Expires July 22, 2020



Post Office Box 1638 \* Greenville, SC 29602  
Phone: 864.298.4100



305 South Main Street \* Greenville, SC 29601  
Toll Free: 1.800.800.5115

**Ad Text:**

4903831DBEGreenville-Pickens AreaTransportation Study(GPATS) in tandem withGreenville Transit Au-  
thority (GTA) dbaGreenlink has estab-lished a goal of 2.00%for the participation ofDisadvantaged Busi-  
ness Enterprises (DBEs)in the provision ofgoods and services forFFY 2016-2018. All DBEfirms are encouragedto  
participate in GTAcontracts. GPATS andGTA will accept com-ments on new goals for45 days. Please contactGrant  
Sparks atGSParks@greenville.gov or (864)-298-2753or Sam Julius at S.Julius-@greenvillecounty.orgor  
(864)-467-7287 formore information.

**THANK YOU FOR YOUR ADVERTISEMENT!**  
If I can be of further assistance, please call : 864-298-4100