

Workforce Data

Za. Hires in last 12 months

Name of firm: _____

Address: _____

EMPLOYEE CATEGORIES	TOTAL EMPLOYEE		AFRICAN AMERICAN		HISPANIC		ASIAN/PAC. ISL.		AMER. IND./ALAK. NTV.		TOTAL MINORITY		PERCENTAGE WHITE		PERCENTAGE MINORITY	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Managers																
Professionals																
Technicals																
Sales																
Crafts (Skilled)																
Semi-Skilled																
Clerical																
TOTAL																

3/18/95

COMPLETED BY _____

Name: _____

Title: _____

Date: _____

* If the list of occupations on the left side of the workforce data form does not match your occupation titles, please modify the data form to include occupations peculiar to your organization.

PTD-DBE-FTA/TVM

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR
TRANSIT VEHICLE MANUFACTURERS

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM: This project is subject to Part 23, Title 49, Code of Federal Regulations entitled "Participation by Minority Business Enterprise in Department of Transportation Programs." Portions of the Regulations are set forth in this program which are incorporated in their entirety by this reference.

The DBE Program provides information on the requirements created under the Department of Transportation (DOT) regulations and delineates the steps contractors and Transit Vehicle Manufacturers (TVMs) should take to carry out these requirements in FTA-assisted procurements.

1. Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.
2. DBE Obligation. The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, creed, color, national origin, age, or sex in the award and performance of DOT-assisted contracts.
3. Definitions
 - A. "Disadvantaged Business Enterprise (DBE)" means a small business concern which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- B. "Small business concern" means a small business as defined in Section 3 of the United States Small Business Act (15 USC Section 632) and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$16.6 million over the previous three fiscal years.
 - C. "Socially and economically disadvantaged individuals" are presumed to include United States citizens (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans (Indians, Eskimos, Aleuts, or Native Hawaiians), Asian-Pacific Americans, Asian-Indian Americans, or Portuguese or any individuals found to be disadvantaged by Section 8(a) of the United States Small Business Act, or certified as socially and economically disadvantaged by the Public Transportation Commission pursuant to 49 CFR, part 23.
4. DBE Goal. Transit Vehicle Manufacturers should establish and submit, for the FTA Administrator's approval, an annual percentage goal for utilization of DBEs. (See page 31.)

For installation and hauling, the DBE participation goal is 50 percent of the dollar value of all installation and hauling (shipping and/or transportation to include trucking) services under this contract.

- A. Installation shall mean the installation required after the vehicles reach the United States. If the vehicles are built in the United States, it shall mean the installation which takes place after delivered to the City.
 - B. Shipping and/or transportation shall mean all modes of shipping or transportation utilized within the United States to deliver the Articulated & Standard Trolley Coaches to the City.
5. DBE Participation
- A. DBE participation includes contracts (other than employee contracts) with DBEs for any goods or services specifically required for the completion of the work under this contract. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies incorporated or expended in the work, or a supplier of other services such as shipping, transportation, testing, equipment rental, insurance services, security services, and other services necessary to fulfill the requirements of this contract.

- B. A DBE joint venture partner must be responsible for a clearly defined portion of the work or service to be performed in addition to satisfying requirements for ownership and control. A DBE joint venture must submit information for determining joint venture eligibility.
- C. A DBE must perform a commercially useful function; i.e., must be responsible for the execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work. If the amount of work subcontracted out to a non-disadvantaged firm by a DBE subcontractor or supplier exceeds 50 percent of its subcontract, the contract will not be credited toward meeting the DBE requirements.
- D. DBE participation will be counted toward meeting the goal set in paragraph 4 as follows:
1. The total dollar value of the contract if the proposer is a DBE. If the proposer is a joint venture, only the proportionate interest of the DBE in the joint venture will be counted toward the goal.
 2. The dollar value of all DBE subcontracts for work or services under the contract.
 3. The dollar value of material or supplies purchased from a DBE manufacturer of such material or supplies.
 4. Sixty percent of the dollar value of material or supplies purchased from a DBE regular dealer. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the material or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, stone, gravel, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers.
 5. Fees or commissions charged for providing a bona fide service and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract, delivery of materials and supplies required on a job site, or for providing any bonds or insurance specifically required for the performance of the contract, provided that such fees or

commissions are reasonable and not excessive as compared with fees or commissions customarily allowed for similar services.

Example: Concerns transportation or delivery services. If a DBE trucking company picks up a product from a manufacturer or regular dealer and delivers the product to the recipient or contractor, the commercially useful function it is performing is not that of a supplier, but simply that of a transporter of goods. Unless the trucking company is itself the manufacturer of or a regular dealer in the product, credit cannot be given for the cost of the product. Rather, credit would be allowed for the cost of the transportation service.

6. Hauling Requirements

The Contractor shall ensure that 50 percent (dollar volume) of the hauling of freight, calculated on a cumulative monthly basis, be subcontracted with and performed by DBE truck haulers. The fact that a subcontract has been or is awarded to a DBE trucking brokerage firm will not in itself satisfy this goal. A DBE trucker (owner operator) shall not be required to park its trailer as a condition of being utilized on this contract. If the DBE trucker owns the tractor only, the rent for the trailer charged by the prime subhauler shall be deducted prior to crediting towards this DBE trucking goal.

7. DBE Submissions

- A. Upon the request of the Proposal Evaluation Committee the following information shall be submitted within 10 days of receipt of notification:
1. A completed DBE Participation Form (page D-18), with a description of the installation and hauling and/or trucking services that will be performed by DBE firms.
 2. The listed firms shall be required to submit a completed PTD Form (pages D-19 and D-20) during the aforementioned ten (10) day period.
 3. For proposers whose DBE Participation Form indicates that the DBE goal has not yet been met, a written report with supporting documentation covering all actions listed in paragraph 8 taken by the proposer to meet the goal.
- B. The PTC may request additional information following its review, which information shall be submitted by the proposer within five days of the request.

C. PROPOSERS ARE WARNED that a failure to comply with the requirements of paragraphs A and B above, within the times prescribed will, unless a later time is authorized by the PTD Contract Compliance, result in rejection of the proposal.

8. Good Faith Efforts to Meet the DBE Goal

Good Faith efforts are those that, given all relevant circumstances, a proposer actively and aggressively seeking to meet the goal would make. Proposers are encouraged to attend the prebid meeting listed in the Notice to Contractors, if any, scheduled by the PTC to inform DBEs of subcontracting opportunities and all other proposers of the DBE program requirements for the contract. Proposers who do not attend the prebid meeting assume responsibility to be fully informed as to the DBE program requirements pertaining to the contract. In determining whether sufficient good faith efforts have been made, the PTC will consider, on the basis of documentation submitted by the proposer, whether the following actions have been taken:

- A. Advertisements soliciting sub-bids on this contract from DBEs disadvantaged/minority and women trade association publications, minority focus media or other applicable daily or weekly newspapers or trade journals or other media
- B. Solicitation of interest in this contract from DBEs evidenced by copies of registered or certified letters to relevant DBEs or to a reasonable number of certifiable DBEs in sufficient time to allow the DBEs to participate effectively
- C. Follow-up of initial solicitations of DBE interest
- D. Identification of portions of work to be performed by DBEs in order to increase the likelihood of meeting the goals
- E. Records of responses, proposals and/or bids received from DBEs for specific sub-bids including:
 - 1. The names, addresses and telephone numbers of all DBEs contacted
 - 2. A description of the information provided to DBEs regarding the drawings, specifications, or other details for portions of the work to be performed
 - 3. The reasons for rejection of any DBE sub-bids submitted to the proposer
 - 4. A description of the investigation conducted of any DBEs rejected as unqualified;
- F. Description of assistance provided to DBEs relative to obtaining drawings, specifications, specific information, and required bonding or insurance

- G. Description of the use made by the proposer of the services of available minority community organizations, and information services. For assistance; contact Contract Compliance Office, telephone (415) 923-6139, concerning available certified/certifiable DBEs for work under the contract.

The proposer's efforts may be deemed insufficient by the PTC if the proposer has failed to make any of the foregoing efforts, or has rejected DBE sub-bids without adequate reasons. Price alone will not be considered an adequate reason.

Proposers shall include in the report submitted under Article 7.A.3, any other efforts made not listed above which are relevant to meeting the DBE goal.

9. Informal Meeting On Good Faith Efforts Determination

- A. If it appears to the PTD that the proposer has neither achieved the indicated percentage of DBE participation nor made sufficient good faith efforts to meet the goal, such proposer will be notified that its proposal will be recommended for rejection and the reasons therefor. Within three days of such notification, the proposer may request an informal meeting. This meeting will be held at the convenience of the PTD but no later than ten days after receipt of the request. At such meeting, the proposer shall bear the burden of demonstrating:

1. Achievement of the percentage goal for DBE participation as of the date of bid opening, or
2. Good faith efforts made prior to bid submission that, given all relevant circumstances, could have been expected to produce a level of DBE participation that met the contract goal.

- B. The determination of whether a proposer has met the above stated requirements shall be made by the PTD Director of Contract Compliance and conveyed to the proposer prior to the award of the contract.

- C. The proposer may appeal an adverse decision by appearing before the San Francisco Public Transportation Commission at the time award is being considered. The Public Transportation Commission shall make a determination on the matter which shall be final.

10. Award

The Purchaser will award the contract to the proposer whose proposal or, if negotiations are held, whose "best and final offer" receives the highest ranking in the evaluation process, whose proposal complies with all the requirements prescribed, and who has met the goal for DBE

participation or has demonstrated, to the satisfaction of the PTC, good faith efforts to do so. Meeting the goal for DBE participation, or demonstrating to the satisfaction of the PTC, good faith efforts to do so is a condition for being eligible for award.

11. Substitution Of DBE Subcontractors Or Haulers

Should substitution of any DBE listed on the DBE Participation Form become necessary, Contractor shall make good faith efforts, in cooperation with the PTD's staff, to replace the affected DBE with another DBE. No substitution of a DBE subcontractor shall be made at any time without the written consent of the Department.

12. Change Orders. Contractor shall make good faith efforts to meet the DBE percentage goal set out in paragraph 4 in the performance of work under any change orders that may be issued under this contract.

13. DBE Records. Contractor shall maintain records to verify DBE participation. Such records shall show the name and business address of each DBE participating in the contract and the total dollar amount actually paid each DBE and the date of payment. On request by the PTC, the proposer shall provide or permit access to all records that may be pertinent to DBE participation for the project. Such information will be safeguarded.

14. Complaints/Challenge. In the event of a challenge or complaint filed alleging the DBE involvement as non-bona fide or as, otherwise, not meeting the DBE requirements of this Program, the Director of Contract Compliance shall make a determination on the matter and may issue a decision based on the standards set forth in Appendix C Subpart B of 49 CFR Part 23, as amended.

Copies of the PTD's Challenge Procedure are available by calling the Contract Compliance Office at (415) 923-6139.

15. Noncompliance. Failure to comply with the requirements of this Program shall be grounds for termination of the contract in whole or in part, or, in the discretion of the PTC, for withholding payments due Contractor during the period of noncompliance.

16. Compliance Activities Report. When requested, the prime contractor shall submit to the PTC a compliance activities report on Disadvantaged contractors, subcontractors, truck owners and operators, haulers and service providers on the Contract Compliance Summary Sheet provided by the PTC.

17. Assistance To Contractors. Mr. Arnold Baker is the PTD Contract Compliance Director. For information or assistance, please contact him at (415) 923-6139.

PTD-DBE-FTA/TVM

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION FORM

(Paragraph 3)

Is proposer a Disadvantaged Business Enterprise? YES NO

DBE FIRM: NAME & ADDRESS	WORK DESCRIPTION	ESTIMATED DOLLAR AMOUNT

(Procurement 3/18/95)

authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. 49 CFR 18.36(i)(11).

4. DEBARMENT AND SUSPENSION

The Contractor agrees as follows:

- A. The Contractor shall supply certifications on debarment and suspension and otherwise comply with the requirements of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101; and U.S. DOT regulations on Debarment and Suspension at 49 CFR Part 29.
- B. (Applicable to contracts in excess of \$100,000) Contractor agrees to refrain from awarding any third party subcontract of any amount (at any tier) to a debarred or suspended subcontractor.
- C. Before entering into any third party subcontract in excess of \$100,000, Contractor agrees to obtain a debarment and suspension certification from each prospective third party subcontractor (at any tier). The certificate shall contain information about the debarment and suspension status and other specific information about the subcontractor and its "principals," as defined at 49 CFR § 29.105(p). An example of the appropriate certification is contained in 49 CFR Part 29, Appendix B.
- D. Contractor shall provide City with a copy of each conditioned debarment or suspension certification provided by a prospective third party subcontractor (at any tier).