ALLEN COUNTY REGIONAL TRANSIT AUTHORITY
DISADVANTAGED BUSINESS ENTERPRISE
COMPLIANCE PLAN
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This Compliance Plan, describes Allen County Regional Transit Authority’s (ACRTA) plan to achieve compliance with the DBE program requirements in the highway/transit authorizing legislation, known as the Transportation Equity Act for the 21st Century (TEA-21) and the DOT implementing regulation of 49 CFR Parts 26.

Described below are the actions necessary to achieve compliance and the timeframe for doing so. ACRTA represents that one these steps have been accomplished, ACRTA will be in full compliance with the DBE requirements of the TEA 21 and DOT implementing provisions of 49 CFR Part 26. All requirements will be met by December 31, 2008.

This exhibit describes the information that will be submitted to bring ACRTA into compliance with the requirements of the DBE program.

Shelia Schmitt, Director, is responsible for monitoring ACRTA’s implementation of the terms of the Compliance Plan. He can be reached at (419) 222-5745.

___________________________________________________________

Shelia Schmitt  
Date
The Allen County Regional Transit Authority (ACRTA) started a fixed route service in 1976 after the establishment of the appointment of the Members of the Board of Directors. The service area is within the County of Allen County and is comprised of ten thirty-foot buses for fixed route service and four lift-equipped vans for demand response service.

The terms used in this program have the meanings defined in 49 CFR 26.5. Objectives /Policy Statement (26.1, 26.23) The ACRTA has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The ACRTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the ACRTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the ACRTA ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy -

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

Shelia Schmitt, Executive Director, has been delegated as the DBE Liaison Officer. In that capacity, Shelia Schmitt 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 the ACRTA in its financial assistance agreements with the Department of Transportation.

The ACRTA disseminated this policy statement to the Allen County Regional Transit Authority’s Board of Directors and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The program has been published in the local newspaper.

Shelia Schmitt, Executive Director

Nondiscrimination. (26.7)
DBE Process

The Allen County Regional Transit Authority 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, the Allen County Regional Transit Authority will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin. DBE Program Updates (26.21)

We will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Quotas (26.43)

We do not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO) (26.45)

We have designated the following individual as our DBE Liaison Officer: Shelia Schmitt, 200 East High Street, Lima, Ohio (419)222-5745, s.schmitt@acrta. In that capacity, Shelia Schmitt is responsible for implementing all aspects of the DBE program and ensuring that the Allen County Regional Transit Authority complies with all provisions of 49 CFR Part 26. The Allen County RTA is a small transit system consisting of a fleet of (8) 30’ buses and (6) lift-equipped vans. The staff available to implement the program is the DBELO, a fulltime secretary and the Maintenance Supervisor, who is familiar with the program. An organization chart displaying the DBELO’s position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination other appropriate officials. Duties and responsibilities include the following:

- Gathers and reports statistical data and other information as required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with all departments to set overall annual goals. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- Analyzes Allen County RTA’s progress toward goal attainment and identifies ways to improve progress.
- Either Maintenance Supervisor or DBELO participate in pre-bid meetings.
- Advises the CEO/governing body on DBE matters and achievement.

Chairs the DBE Advisory Committee

Participates with the legal counsel and project director to determine contractor compliance with good faith efforts. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.

Plans and participates in DBE training seminars. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Ohio. Provides outreach to DBEs and community organizations to advise them of opportunities.

Maintains the Allen County RTA’s updated directory on certified DBEs

Responsibilities of other personnel responsible for DBE Program implementation:

- Assist DBELO with day-to-day management of the DBE program, including receiving and reviewing DBE applications, preparing initial findings and recommending a determination of DBE status regarding each applicant. Such staff will be responsible for obtaining complete certification forms and all other information deemed necessary
from each applicant, investigations pertaining to each applicant’s status, and forwarding the forms, all related information, and investigative findings to the DBELO for action.

Federal Financial Assistance Agreement Assurance (26.13) ACRTA has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

ACRTA 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 the [Name Recipient] of its failure to carry out its approved program, the Department may impose sanctions as provided for under 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.).

DBE Financial Institutions

It is the policy of the ACRTA 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 contracts to make use of these institutions. We have made the following efforts to identify and use such institutions. To date we have been unable to locate any such institutions. We will continue to search for financial institutions in our area. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Directory (26.25)

The ACRTA maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm’s name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. We revise the Directory on an annual basis. We make the Directory available as follows: personally obtaining a copy at the office ACRTA, 200 E. High St., Lima, Ohio 45801; or by calling (419) 222-2782 and requesting a copy. The Directory may be found in Attachment B to this program document.

Overconcentration (26.33)

The ACRTA has not identified overconcentration element in any types of work that would affect this program.

Development Programs (26.35)

This does not apply.

Required Contract Clauses (26.13, 26.29)

Contract Assurance

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material
breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**Prompt Payment**

We 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 fifteen days from the receipt of each payment the prime contractor receives from ACRTA. The prime contractor agrees further to return retainage payments to each subcontractor within fifteen days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the ACRTA. This clause applies to both DBE and non-DBE subcontractors.

ACRTA will require each prime contractor to submit a progress report to ensure compliance. The report shall contain the names and addresses of the DBE subcontractors, description of required work to be performed, the dollar amount of the contract and written confirmation from the DBE that is participating. This report shall be followed by copies of payments when issued to the sub-contractor.

We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment C lists the regulations, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

Overall Goals (26.45)

**Amount of goal**

ACRTA’s overall goal for the following time period 2014 is the following: 1.75 % of the Federal financial assistance we will expend in DOT-assisted contracts, (exclusive of FTA funds to be used for the purchase of transit vehicles).

Given the amount of DOT-assisted contracts ACRTA expects to let during this fiscal year/project, which is $268,051.00, this means that we have set a goal of expending $4,690.00 with DBEs during this fiscal year/project. The figures represented are detailed in attachment C.

**Method**

The following is a summary of the method we used to calculate this goal:

The method used to calculate the relative availability of DBEs (“base figure”) for “Step 1” of the process (see 26.45©). The base figure is a percentage figure calculated by dividing a number representing available DBEs by a number representing all available firms. For example, the program would state which of Examples 1-4 from 26.45 (or which variation or alternative approach) the recipient is using. The data source(s) used to derive the numerator and denominator in the calculation (e.g., , for a recipient that used Example 1, there were X DBEs in our Directory and Y total firms in the following SIC codes and following Counties found in the Census Bureau’s CBP database). The relative availability percentage.

The data sources used in implementing “Step 2” (see 26.45(d)). This step is intended to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. For example, our history of DBE achievements was 2%, our disparity study showed that availability of DBEs was 0 %, and we have the following summarized information about barriers to entry or competitiveness of DBEs in our programs. From this data, we have adjusted our base percentage as
follows: The Allen County area is generally rural and does not attract minority business, which lowers the percentage of available DBE’s.

Transit Vehicle Manufacturers (26.49)

ACRTA 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, ACRTA 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.

Process

ACRTA submits its overall goal to DOT on August 1 of each year and in cases where an FTA or FAA recipient submits a project goal.

Before establishing the overall goal each year, ACRTA will consult with the ACRTA Board of Directors, ACRTA’s Director and Maintenance Supervisor to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the ACRTA’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 goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at ACRTA, 200 E. High St., Lima, Oh for 30 days following the date of the notice, and informing the public that ACRTA and DOT will accept comments on the goals for 45 days from the date of the notice. This goal will be published in The Lima News local newspaper. Normally, we will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed. Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses. We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT [or, if the goal is established on a project basis, by the time of the first solicitation for a DOT-assisted contract for the project].

Breakout of Estimated Race-Neutral and Race-Conscious Participation ACRTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The ACRTQ uses the following race-neutral means to increase DBE participation: we estimate that, in meeting our overall goal of 1.75%, we will obtain .875% from race-neutral participation and .875 % through race-conscious measures. The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: the estimate was derived from the use of DBE vendors who we have been doing business with for years with no DBE goal in mind. These vendors (0) supply us with the products we need. DBE participation of DBEs in local procurement programs are requested when large projects or solicited bids are involved. 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 a 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. Contract Goals (26.51)

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

We 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. The size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work) We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.
Information to be submitted

ACRTA treats bidder/offers’ compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/offers to submit the following information at the time the bid is submitted:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The dollar amount of the participation of each DBE firm participation Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor’s commitment; and If the contract goal is not met, evidence of good faith efforts.

Demonstration of good faith efforts

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. Examples of good faith efforts are found in Appendix A to part 26.

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: Shelia Schmitt.

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror’s good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Administrative reconsideration

Within 15 days of being informed by ACRTA that it is not responsive, because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offereors should make this request in writing to the following reconsideration official: Shelia Schmitt 200 E. High St. Lima, Ohio 45801 (419) 222-2782 or s.schmitt@acrta.com. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make 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 so. 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 Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract

We will require a 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.

Counting DBE Participation (26.55)
We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification (26.61 – 26.91)
ACRTA will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E 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 decision based on the facts as a whole.

Process
Our certification application form and documentation requirements are found in Attachment ___ to this program.

For information about the certification process or to apply for certification, firms should contact: Shelia Schmitt, 200 E. High St., Lima, OH. 45801, (419) 222-2782 or Tom Metzger at (419) 222-5728 or at tom@acrta.com.

In the event we propose to remove a DBE’s certification, we will follow procedures consistent with 26.87. Attachment to this program sets forth these procedures in detail. [Note – Recipients should create and append such a procedural attachment.] To ensure separation of functions in a decertification, we have determined that Shelia Schmitt will serve as the decision maker in decertification proceedings. We have established an administrative “firewall” to ensure that Shelia Schmitt will not have participated in any way in the decertification proceeding against the firm (including in the decision to initiate such a proceeding).

If we deny a firm’s application or decertify it, it may not reapply until 12 months have passed from our action.

*The ACRTA will not be involved in this process. We will inform applicants of the properties able to certify through the unified certification program.*

Unified Certification Program
The State of Ohio has a Unified Certification Program is which they follow the same procedure that any FTA property would follow. ODOT, annually releases their list of certified DBE’s to all the Ohio properties. ACRTA also participates in a five state purchasing consortium. This group meets on a quarterly basis. We have made certain that they have placed on their next agenda the subject of certification reciprocity or coordination mechanisms that could exist with other recipients (e.g., a regional certification consortium)

Certification Appeals
Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:
Department of Transportation Office of Civil Rights Certification Appeals
Branch 400 7th St., SW, Room 2104 Washington, DC 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous). Appealing to DOT is not a remedy. The firm in question needs to exhaust all other options before making a certification appeal to DOT under 26.89.

*The ACRTA will not be involved in this process. We will inform applicants of the properties able to file appeal with through the unified certification program.*
“Recertification’s”
We will review the eligibility of DBEs that we certified under former part 23, to make sure that they meet the standards of Subpart D of part 26. We will complete this review no later than three years from the most recent certification date of each firm. ACRTA will review the list of certified DBE’s beginning with the oldest firm first and continuing on through the list in chronological order until all have been recertified or eliminated due to ineligibility. This schedule will be established in the first quarter following the third year of the oldest certification and will include milestones; e.g., our {number} most active firms by {date}; our {number} next most active firms by {date}, etc. For firms that we have certified or reviewed and found eligible under part 26, we will again review their eligibility every three years following this quarter. These reviews will include the following components: each firm will be required to fill out a new application, this will need to be returned within 30 days. If no response is received, the firm will be considered no longer eligible and a letter to that effect will be issued.

The ACRTA will not be involved in this process. We will inform applicants of the properties able to recertify through the unified certification program.

“No Change” Affidavits and Notices of Change
We require all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR part 26 or of any material changes in the information provided with [name of DBE]’s application for certification. We also require all owners of all DBEs we have certified to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I affirm that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]’s application for certification, except for any changes about which you have provided written notice to the ACRTA under 26.83(i). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm’s previous three fiscal years do not exceed $16.6 million. We require DBEs to submit with this affidavit documentation of the firm’s size and gross receipts.

We will notify all currently certified DBE firms of these obligations by personal letter before December 31, 2008. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g., personal net worth), the obligation to submit a notice of change applies.

Personal Net Worth
We will require all disadvantaged owners of applicants and of currently-certified DBEs whose eligibility under part 26 we review, to submit a statement of personal net worth. The requirement of obtaining a PNW statement will be necessary before processing new applications or recertification’s. Attachment ___ sets forth our personal net worth form and the documentation respondents must submit with it

Information Collection and Reporting
Bidders List
The ACRTA 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 bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:
ACRTA will include a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts; or an ACRTA survey of a statistically sound sample of
firms on a name/address list to get age/size information; or a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to the ACRTA.

**Monitoring Payments to DBEs**

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

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

**Reporting to DOT**

We will report DBE participation to DOT as follows:

ACRTA – We will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

**Confidentiality**

We will safeguard from disclosure 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.

**Attachments**
Organizational Chart
Allen County Regional Transit Authority

Board of Trustees
  I
Executive Director,
  I
DBE Liaison Officer
  I
Director of Operations

Finance Director
  I
Maintenance Director
  I
This vendor operates an “over the road” moving company. This company is the only certified DBE business in our area.