



East Tennessee Human Resource Agency **Disadvantaged Business Enterprise (DBE) Program**

Source: FTA Tier II Recipients on Implementing the Participation by Disadvantaged Business Enterprise (DBE) Applicable Sections 26.11, 26.13, 26.23 and 26.49 per Final Rule Published April 9, 2024.

The East Tennessee Human Resource Agency, hereafter referred to as ETHRA, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. ETHRA is designated as a Federal Transit Administration (FTA) Tier II Recipient and receives Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, ETHRA has signed an assurance that it will comply with 49 CFR Part 26 to the extent applicable.

FTA Tier II Recipients are defined as “FTA recipients to whom [part 26] applies who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which does not exceed \$670,000 in FTA funds in a Federal fiscal year.” (49 CFR § 26.5)

As an FTA Tier II Recipient, ETHRA agrees to comply with the relevant provisions of part 26:

- (A) Reporting Requirements – § 26.11:** ETHRA will keep and report information on FTA-funded contract activities as required by § 26.11 by submitting an annual Uniform Report by December 1 of each year and, if applicable, submitting bidders lists pursuant to § 26.11(c).
- (B) Contract Assurances – § 26.13:** In every FTA-assisted contract, the contract assurances found in § 26.13 will appear verbatim. ETHRA will audit periodically to ensure that the clauses are included in all FTA-assisted contracts and that breaches, to the extent there are any, are dealt with accordingly.
- (C) Policy Statement – § 26.23:** ETHRA’s DBE policy statement is posted on its Intranet for employees, and a summary announcement and link are posted on the Public Notices page on its website, <http://www.ethra.org>, to DBE and non-DBE business communities that perform work for DOT-assisted contracts. The DBE policy statement was emailed directly to all registered DBEs in the State of TN.
- (D) Small Business Element – § 26.39:** The Small Business Element (SBE) in the FTA Disadvantaged Business Enterprise (DBE) Program is designed to increase participation of small businesses,

including DBEs, in federally-assisted transit projects. The U.S. Department of Transportation (USDOT) requires that recipients of Federal Transit Administration (FTA) funds take specific actions to implement this element as part of their DBE program.

ETHRA will use the following elements to ensure small businesses have a fair opportunity to participate in transit-related projects:

- a. Define Small Business- A small business will be defined using the Small Business Administration (SBA) size standards,820, but will not exceed the DBE program's cap.
- b. ETHRA will assess the availability of small businesses in our contracting market during the procurement process.
- c. ETHRA will provide targeted outreach to businesses that might qualify but are not certified as DBEs.
- d. ETHRA will unbundle large contracts into smaller packages that a small business could perform when practical.
- e. ETHRA will simplify requirements for small businesses when possible, such as reduced bonding, insurance, and/or experience.
- f. ETHRA will monitor the number of contracts and the amount of dollars awarded to small businesses.
- g. ETHRA will include data related to small business awards on the annual Uniform Report such as progress, challenges, outreach efforts and outcomes.

ETHRA periodically reviews its current FTA-assisted procurement practices to determine whether there are barriers to small businesses. If there are barriers, ETHRA will examine how to address them, recognizing that not all barriers can be removed or that the cost of removal may far outweigh the benefit. To the extent possible, barrier(s) identified as unnecessary and can be removed or reduced at little cost and great benefit will be considered.

- (E) Transit Vehicle Procurements – § 26.49:** ETHRA periodically reviews its policies to ensure that ETHRA Public Transit is awarding FTA-assisted contracts to eligible transit vehicle manufacturers (TVMs) and reporting those awards to FTA timely and accurate.
- (F) DBE Liaison Officer (DBELO) - Section 26.25:** We have designated the following individual as our DBE Liaison Officer: Sharon Fox, ETHRA Public Transit Call Center and Billing Manager, 9111 Cross Park Drive, Suite D-100, Knoxville, TN 37923 (865) 691-2551, extension 4320, email address SFox@ethra.org. In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that ETHRA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to Gary W. Holiway, Executive Director, concerning DBE program matters.
- (G) Monitoring and Enforcement Mechanism – Section 26.37(b):** ETHRA will ensure that work committed by all DBEs at contract award is performed by the DBEs to which the work was committed or subcontracted to, and such work is counted according to the requirements of § 26.55, and each DBE's participation is consistent with its function on the contract. ETHRA will document the verification in writing and include it as part of the procurement file.

- a. ETHRA will monitor contractors to ensure that DBE obligations are fulfilled and apply appropriate remedies when necessary.
- b. ETHRA will verify that DBEs are performing the work committed to at the time of contract award and that they are performing a commercially useful function. An interview will be conducted, and a written certification will be placed in the procurement file.
- c. For all FTA-funded, non-TVM contracts, ETHRA will monitor contractors to ensure the prompt payment and return of retainage is adhered to. ETHRA will require contractors to follow the written approval process when requesting termination or substitution of a DBE after the contract award. Contractors are required to report any issues, delays, or scope changes involving subcontractors. DBEs will be allowed 5 business days to respond. If the termination or substitution is granted, the contractor will be required to make a good-faith effort to find another DBE to substitute for the original DBE. Documentation of the good-faith effort must be submitted by the contractor within 7 business days. ETHRA will respond in writing with a determination of whether the good-faith effort is satisfactory.