

Bill No. 4753-09

No. 22-09-08

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny approving the M/W/DBE participation policy of the Port Authority of Allegheny County.

WHEREAS, pursuant to §5-203.08.A. of the Administrative Code of Allegheny County, each County Authority delineated §5-203.01 of the Code is to develop policies for ensuring participation by M/W/DBE entities in the authority's contracting process; and

WHEREAS, the policies developed by the County Authorities under the terms of §5-203.08.A. must be no less stringent than those adopted by the County; and

WHEREAS, §5-203.08.A.(2) requires that the policies developed by the County Authorities must be submitted for approval in ordinance form; and

WHEREAS, the Port Authority of Allegheny County has submitted its M/W/DBE participation policy for the required approval;

The Council of the County of Allegheny hereby resolves as follows:

SECTION 1. Incorporation of Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

SECTION 2. Ratification of Regulations

The County of Allegheny hereby approves the Port Authority of Allegheny County's M/W/DBE participation policy, as set forth in the attachment to this Ordinance entitled "Disadvantaged Business Enterprise Program," and incorporated by reference herein.

SECTION 3. **Severability.** *If any provision of this Resolution shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.*

SECTION 4. **Repealer.** *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Resolution is hereby repealed so far as the same affects this Resolution.*

PRIMARY SPONSOR: VICE PRESIDENT MARTONI

CO-SPONSORS: COUNCIL MEMBERS FINNERTY, MACEY, ROBINSON, GREEN, DROZD, ELLENBOGEN, FITZGERALD, & FUTULES

Enacted in Council, this 21st day of April, 2009.

Council Agenda No. 4753-09.



Rick Fitzgerald
President of Council

Attest: John Mascio

John Mascio
Chief Clerk of Council

Chief Executive Office

May 1, 2009

Approved: Dan Onorato

Dan Onorato
Chief Executive

Attest: Donna Beltz

Donna Beltz
Executive's Secretary

Port Authority of Allegheny County

**DISADVANTAGED
BUSINESS
ENTERPRISE
PROGRAM**

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SECTION I
POLICY

POLICY STATEMENT – DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of Port Authority of Allegheny County to ensure disadvantaged business enterprises, as defined in 49 CFR Parts 23 & 26, as amended, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal, state, and county funds. As a requirement of its DBE Program, Port Authority agrees that the Authority, its subrecipients, and contractors shall abide by the requirements set forth in 49 CFR Parts 23 & 26, as amended.

The purpose of the DBE Program is to ensure that Disadvantaged Business Enterprises have the maximum opportunity to participate in the performance of Port Authority contracts and subcontracts. Port Authority and its contractors shall not discriminate on the basis of race, color, religion, national origin, gender, age, or disability in the award and performance of contracts and subcontracts financed in whole or in part with federal, state, and county funds.

Port Authority's Board of Directors has acted to improve upon the economic growth of disadvantaged business enterprises. The Authority will persist in its commitment and efforts to seek out other alternatives to encourage increased participation.

The DBE Contract Compliance Coordinator from the Office of Equal Opportunity will administer the DBE Program. All other divisions and departments will assist the DBE Contract Compliance Coordinator with implementing this policy.

The Port Authority Board hereby directs that this policy statement be circulated throughout the organization of Port Authority and to socially and economically disadvantaged individuals, non-minority communities, and business organizations.

Revised November 1999

**Neal H. Holmes
Chair of the Board
Port Authority of Allegheny County**

***Note: Documentation evidencing circulation of the above statement is attached hereto and made part hereof as Exhibit I**

PORt AUTHORITY OF ALLEGHENY COUNTY

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

B. OBJECTIVES:

Port Authority of Allegheny County in compliance with 49 CFR Parts 23 and 26, as amended (Regulations) implements the following positive affirmative action procedures to ensure disadvantaged business enterprises, contractors, suppliers, consultants, etc. have an equal opportunity to compete for and perform on Port Authority contracts. Affirmative action procedures shall be consistent with sound planning, construction, procurement principles, laws, regulations, and policies. Under the Disadvantaged Business Enterprise (DBE) Program it is established to create a level playing field, whereby, DBEs can compete fairly and to ensure nondiscrimination in the award and administration of all DOT-assisted contracts. The DBE Program is narrowly tailored in accordance with all applicable laws. Firms that fully meet the eligibility standards of the program are entitled to participate as DREs. Port Authority is committed to the removal of barriers that confront DBEs in DOT-assisted contracts and to assist in the development of firms that can compete successfully in the marketplace outside the DBE Program. Furthermore, Port Authority will strive to provide appropriate flexibility to recipients of DOT financial assistance programs establishing and providing opportunities for DBEs.

SECTION II

DEFINITIONS

In order to further Port Authority's compliance with the Requirements established under 49 CFR Parts 23 and 26, as amended, Port Authority has incorporated terminology in all contract documents that include, but are not limited to the following definitions. The definitions provided in this Program shall be consistent with the definitions set out in 49 CFR Section 26.5.

Affirmative Action - Taking specific steps to eliminate discrimination and its effects, to ensure non-discriminatory results and practices in the future, and to involve disadvantaged business enterprises fully in contracts and programs funded by the Department.

Affiliation - The condition in which concerns are affiliates of each other when, either directly or indirectly one concern controls or has the power to control the other; or a third party or parties controls or has the power to control both; or an identity of interest between or among parties exists such that an affiliation may be found.

Alaska Native - 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 Metlakatla 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.

Native Hawaiian - Any individual whose ancestors were natives prior to 1778 of the area which now comprises the State of Hawaii.

Compliance - The condition existing when a contractor has met and implemented the requirements of this Program.

Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and professional services and the buyer to pay for them. For purposes of this part, a lease is a contract.

Contractor - One who participates through a contract or subcontract (at any tier) in a DOT-assisted highway, transit, and airport or in any program covered by this part, and includes lessees.

Department (DOT) - These terms cover 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 (DBE) - A small business concern that is in business for profit;

- (1) Which is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged individuals or, in the case of a corporation, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged 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 - Any contract or modification of a contract between Port Authority and a contractor (at any tier) funded in whole or in part with DOT financial assistance or any contract or modification of a contract, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

DBE Contract Compliance Coordinator (DBECCC) - Shall be responsible for developing, managing and implementing the DBE Program on a day-to-day basis. The DBECCC is also the Liaison Officer for purposes of Section 26.25 of the Federal DBE Regulations. The titles DBECCC and Liaison Officer have been used interchangeably throughout the Program.

Good Faith Efforts - Any efforts to achieve a DBE goal or other requirement of this Program which, by their scope, intensity and appropriateness to the objective, can reasonably be expected to fulfill the Program requirements.

Joint Venture - 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, skill 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.

Lessee - A business or person that leases or is negotiating to lease property from Port Authority or in a Port Authority facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.

Non-Compliance - The condition existing when a contractor has failed to implement the requirements of this Program.

Operating Administration (OA) - Any of the following parts of DOT

- (a) The Federal Aviation Administration (FAA)

- (b) Federal Highway Administration (FHWA)
- (c) Federal Transit Administration (FTA)
- (d) The "Administrator" of an operating administration includes his or her designees.

Personal Net Worth - 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 - The code designation that best describes the primary business of a firm having a four digit Standard Industrial Classification (SIC).

North American Industrial Classification System (NAICS) - A classification system that will replace the SIC system, references to SIC codes and the SIC manual are deemed to refer to the NAICS manual and applicable codes.

Primary Recipient - A recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Program - Any undertaking on a recipient's part to use DOT financial assistance, and includes the entire activity authorized by the laws to which this part applies.

Race-Conscious - A condition or measure of a program that is focused specifically on assisting only DBEs, including women-owned DBEs.

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

Secretary - The Secretary of Transportation or any person designee who is appointed to act on his/her behalf.

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

Small Business Administration (SBA) - The United States Small Business Administration.

Small business concern - 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 12) that also does not exceed the cap on average annual gross receipts.

Socially and economically disadvantaged individual - Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is -

- (1) Any individual who Port Authority finds to be socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (a) **Black Americans** - Include persons having origins in any of the black racial groups of Africa.
 - (b) **Hispanic Americans** - Include persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, Portuguese American or other Spanish culture or origin, regardless of race.
 - (c) **Native Americans** - Include persons who are American Indians, Aleuts, Native Hawaiians, and Eskimos.
 - (d) **Asian Pacific Americans** - 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), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong.
 - (e) **Subcontinent Asian Americans** - Includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.
 - (f) **Women**
 - (g) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA.
 - (h) **Tribally-owned concern** - Any concern at least 51 percent owned by an Indian tribe as defined in this section

SECTION III

RESPONSIBILITY FOR DBE PROGRAM IMPLEMENTATION

The DBE Program for Port Authority is implemented in accordance with the guidelines that have been created to provide equal business opportunities to the small disadvantaged business community. The following conditions and practices are used to implement a successful DBE Program.

A. LIAISON OFFICER

The DBE Contract Compliance Coordinator (DBECCC) is the designated Liaison Officer who reports directly to the Director of the Office of Equal Opportunity at Port Authority and has the authority to report Liaison Officer activities directly and independently to the CEO and General Manager. Mr. Edward J. Greene has been designated as the DBE Liaison Officer at Port Authority. The duties of DBECCC with the assistance by all other Port Authority divisions and departments include the following:

- 1. Serves as liaison between the Federal Transit Administration and Port Authority to ensure total compliance with all Federal mandates related to the DBE Program.**
- 2. Provides technical assistance for DBEs and identifies available business opportunities so that DBEs are provided an equitable opportunity to bid on Port Authority contracts.**
- 3. Plans and participates in outreach activities for all small businesses through race neutral and gender measures.**
- 4. Maintains a DBE Directory.**
- 5. Reviews and analyzes certifications to ensure that the DBE Program benefits disadvantaged business enterprises.**
- 6. Reviews and monitors the performance of all contractors for DBE involvement efforts during performance of contracts.**
- 7. Reviews the scope of work for contracts to establish DBE goal recommendations, and analyzes statistical data on records and reports for each contract that has DBE involvement.**
- 8. Participates with project managers, waiver committee, and others as appropriate to determine contractor compliance with good faith efforts.**
- 9. Chairs DBE Advisory Committee**

10. Advises department heads on DBE matters and achievement.
11. Arranges internal meetings with Port Authority staff for DBEs to discuss their capabilities.

Additional duties and responsibilities are listed on the job description in Exhibit II. To ensure that all obligations under contracts awarded to DBEs are met, Port Authority's DBECCC monitors and reviews contractors' DBE involvement efforts during the performance of contracts. Each division shall assign a staff member to assist the DBECCC with monitoring contracts for DBE involvement. The staff member is responsible for making progress reports both to their respective Assistant General Manager and to the DBECCC. Port Authority will provide assistance to subrecipients through its Office of Equal Opportunity staff to assure compliance.

B. RECONSIDERATION OFFICIAL

The process of reconsideration is a recent addition to the Department of Transportation Regulations 49 CFR Part 26. Bidders must be responsive to the requirements contained in the DBE Regulations. The Regulations and the guidelines state that in order to be a responsive bidder, a contractor must meet DBE contract goals or demonstrate sufficient reasonable efforts to do so. Both the DBE Regulations and guidelines provide that meeting contract goals or demonstrating sufficient reasonable efforts to do so, is a necessary condition of responsiveness.

Specifically, Section 26.53 (a) (2) of the Regulations states that a contract must only be awarded to a bidder or offeror who makes a good faith effort to meet or exceed the contract goal established by a grantee, or demonstrate that it could not meet the goal despite its best efforts to do so. Furthermore, the grantee must determine that a bidder/offeror has made a good faith effort if the offeror does either of the following things stipulated under Section 26.53 (1) and (2) of the DBE Regulations:

- (1) Bidder documents that it has obtained enough DBE participation to meet the goal;
- (2) Bidder documents that it made an adequate good faith effort to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder does document an adequate good faith effort, he/she must not be denied award of the contract on the basis that the bidder/offeror failed to meet the goal.

In accordance with the above discussion, contracts are to be awarded based on good faith efforts to maintain compliance. Consequently, Port Authority under its statute of the

Second Class Port Authority Act, must award contracts to the lowest responsive, responsible bidder meeting the DBE goals established for contracts. Therefore, a bidder considered to be the lowest responsible bidder not meeting contract DBE goal requirements is considered non-responsive.

Port Authority's Waiver Committee (Exhibit VIII) shall serve as the Reconsideration Official. Port Authority's Waiver Committee is comprised of the following: Assistant General Manager, Corporate Services, Jason Fincke, Assistant General Manager, Engineering and Construction, Henry Nutbrown, Chief Financial Officer, Finance, Claudia Hussein, Assistant General Manager, Human Resources, Thomas Pascoe, and Director, Office of Equal Opportunity, Gwendolyn Allen. Bidders are required to meet with Port Authority's Waiver Committee to determine responsiveness. The waiver procedure contained in Exhibit III (GP7.17.D.6) of this Program was developed by Port Authority as a device to determine whether bidders not meeting the contract goal and offering a reasonable price have made sufficient reasonable efforts to do so. Port Authority through use of the waiver process can determine whether such a bidder failing to meet the contract goal has made reasonable efforts to do so and is therefore responsive.

If it is determined through the waiver process that such a bidder failing to meet the DBE goal and offering the lowest price did make sufficient reasonable efforts to do so, then that bidder is entitled to award of the contract, notwithstanding the fact there are other bidders failing to meet the DBE goal offering a higher price who may also have made sufficient reasonable efforts to do so and other bidders who have met or will meet the DBE goal offering a higher price. The waiver procedure contained in Exhibit III (GP7.17.D.6) of the DBE Program is a method of determining responsiveness and as such, is clearly in compliance with the DBE Regulations, the Department of Transportation Guidelines, and Port Authority's bidding statute that requires contracts be awarded to the lowest responsible and responsive bidder.

This procedure contained in this section of the DBE Program is necessary for compliance with the new amendment of the Regulations. The DOT Guidelines and the Second Class Port Authority Act stipulate that contracts be awarded to the lowest responsive bidder meeting specifications. The waiver procedure contained in Exhibit III (GP7.17.D.6) of this DBE Program provides a means for determining whether a bidder failing to meet the DBE goals has made sufficient reasonable efforts to do so and thus provides a procedure for determining responsiveness.

C. OTHER STAFF RESPONSIBLE FOR IMPLEMENTATION

In addition to the activities performed by the DBECCC, the Office of Equal Opportunity will hire a DBE Assistant. The job description and responsibilities of this individual are included in Exhibit XII - Staff from the Procurement and

Engineering and Construction Divisions also assist the Office of Equal Opportunity. These employees have the responsibility to monitor DBE activity, coordinate outreach support, and provide statistical information to the DBECCC.

Furthermore, Port Authority's Procurement Contract Administrator, Rich Bogovich, Engineering Construction Specialist, Darla Hembree, and Professional Service Contract Specialist, Debbie Jermalowski provide assistance presenting the DBE component at information meetings, collecting data to present at waiver meetings and referring contractors to the Office of Equal Opportunity for DBE assistance when appropriate. Any Letters of Intent (Exhibit IX) required by the contract to employ a DBE subcontractor are forwarded by the Procurement staff to the DBECCC for approval.

Also, Procurement personnel mentioned above will submit a copy of the DBE Form B (Exhibit X) that is required to accompany all invoices furnished by a contractor for payment. This document shows what DBE subcontractors have been paid. It also shows the progress on how the prime contractor is fulfilling their commitment on a project.

Moreover, resident engineers and department heads where contracts have been awarded have the responsibility of monitoring contracts. They are to ensure that DBEs are performing and that the performance is a commercially useful function on the project. They must provide meeting minutes and progress reports associated with the project to the DBECCC on a weekly basis.

SECTION IV

ADMINISTRATIVE REQUIREMENTS (Subpart B)

The following administrative requirements are given consideration to operating a successful DBE Program within Port Authority and the community at large as part of the required sections of 49 CFR Parts 23 and 26 of the Regulations:

A. FINANCIAL INSTITUTIONS

Financial institutions owned and controlled by DBEs will be utilized to the maximum extent possible in the implementation of this program. Port Authority in its dealings with contractors shall encourage contractors to use the services of banks owned and controlled by DBEs within the local community.

B. DBE DIRECTORY

Port Authority maintains a Disadvantaged Business Enterprise Directory with an emphasis on contractors and suppliers. This is done in cooperation with other interested agencies such as local DBE trade associations, local disadvantaged business development agencies, regional small business administration offices, DOT agencies, minority business opportunity committees, and local DBE/MBE/WBE Governmental Committees. The Directory is maintained in Port Authority's Office of Equal Opportunity, and is available to other interested agencies and contractors, along with being mailed upon request and given out with bid documents.

The Port Authority DBE Directory contains the following information:

- a. Names, addresses, and telephone numbers.
- b. Date the business was established.
- c. Legal structure of business.
- d. Date certification expires.
- e. Type of work/service provided and contact persons.
- f. Listed by SIC Codes when applicable.

In order to be eligible for listing in the Directory and for performance on Port Authority contracts as a certified DBE, a firm must qualify as a DBE in accordance with 49 CFR Section 26.61 through 26.73. Port Authority's DBECCC is responsible for gathering DBE certification information through an application process (Exhibit VII). This certification information may be regarded as confidential business information and will not be disclosed to unauthorized persons.

Port Authority implements the following procedures to certify the eligibility of DBEs consistent with 49 CFR Sections 26.61 through 26.73

1. Require the DBE to complete the Schedule A Affidavit, and submit other certification in accordance with 49 CFR Section 26.61.
2. In accordance with 49 CFR Section 26.67 (ii) all DBEs are required to submit a signed notarized statement of personal net worth with appropriate supporting documentation.
3. Port Authority, through its DBECCC, reviews the application for clarity and completeness.
4. DBECCC meets with the DBEs to investigate information contained in the application by telephone or personal contact as required.
5. DBECCC is to determine eligibility approval. If it is determined in accordance with 49 CFR Section 26.85 of the certification standards that the DBE is ineligible for certification, then the DBECCC notifies the DBE in writing, referencing those areas that support the reason for the denial. DBEs have 10 days upon receipt of this notification to appeal the determination.
6. Appeals are referred to the Director of OEO, where a meeting is arranged to hear the DBEs response to the reasons stated in the denial letter. The DBECCC is present to explain the reasons for the denial. The Director will make a decision based on the findings from this meeting. DBEs are entitled to reapply within one (1) year, if the decision is upheld.
7. The name of any certified DBE is entered into the DBE Directory. Each certified DBE receives a letter of certification and a certification certificate that includes the firm's capabilities and expiration date. DBE firms are required to contact the OEO department at Port Authority within 30 days of their certification expiration for recertification. Any time there is a change in ownership or control of any said DBE firm, the DBE shall submit a new Schedule A Affidavit including a notarized statement of personal net worth with supporting documents.
8. DBE Directory is updated annually.

C. OVERCONCENTRATION

The Liaison Officer will monitor DBE participation to review possible instances of overconcentration of DBEs in Port Authority contracting. The Liaison Officer will recommend the appropriate actions to address issues of overconcentration.

D. BUSINESS DEVELOPMENT PROGRAMS

In accordance with 49 CFR Section 26.35, the DBE elements, Port Authority conducts several workshops directed at improving opportunities for developing small businesses to participate in Port Authority contracting activities. The Liaison Officer will continue to examine other possibilities for improving business development.

SECTION V

Determining, Meeting and Counting Overall Annual DBE Goal

The new standards under 49 CFR Section 26.45 that deal with the methods of determining goals are still being developed. To establish such a criteria the Regulations have offered three alternatives. Port Authority will implement one of the alternatives for the future success of the organization's DBE Program. For the initial year of the new DBE Program, Port Authority will establish goals based upon Alternative 1, (use of Census Bureau Data and the DBE Directory).

A. METHOD

(1) STEP ONE, BASE FIGURE:

In accordance with 49 CFR Section 26.45 (1) for establishing overall goals, Port Authority's goal is based on demonstrated evidence of the DBEs relative to all businesses, ready, willing and able to participate on Port Authority's DOT-assisted contracts. The methodology for setting Port Authority's goal has been established upon an extensive review of Port Authority's DBE Directory and Census Bureau data (Exhibit IV) compiled for the region of Allegheny County. The number of businesses certified by Port Authority's Office of Equal Opportunity, in accordance with the provisions of 49 CFR Parts 23 and 26, and classified relative to the U.S. Small Business Administration, "Table of Size Standards," identified by the Standard Industrial Classifications (SIC) Codes (Exhibit V). These firms are ready, willing, and able and are represented in, and are those types of DBE firms identified as belonging to, the construction, building trades, construction related classifications, including business related and professional service classifications usually performing on Port Authority projects. A base figure has been established from the information referenced above for implementation of an overall goal for Fiscal Year 2000. The base figure has been calculated in the following manner:

$$\frac{10(\text{DBEs in SIC 15}) + 45(\text{DBEs in SIC 16}) + 20(\text{DBEs in SIC 17}) + 25(\text{DBEs in SIC 32,37,42,46,50,73,82 Misc Trades})}{(\text{CBPs in SIC 15}) + (\text{CBPs in SIC 16}) + (\text{CBPs in SIC 17}) + (\text{CBPs in SIC 32,37,42,46,50,73,82 Misc Trades})} \times 100$$

$$\frac{10(24) + 45(24) + 20(55) + 25(385)}{(988) + (134) + (2059) + (9456)} \times 100$$

$$\text{Base Figure} = .002 + .0080 + .005 + .010 \times 100$$

$$\text{Base Figure} = .097 \times 100$$

$$\text{Base Figure} = 9.7$$

(2)

STEP TWO, ADJUSTMENTS

From reviewing the calculation presented above the base figure is an amount that may exhaust the capacity of DBE firms to perform on Port Authority projects. Therefore, an adjustment is needed for the current capacity of DBE firms identified within Port Authority's DBE Program. To support an adjustment that is achievable for the DBE Program, past performance of similar types of work available to DBE firms through Port Authority contracting opportunities is the criterion that has been considered. In reviewing Federal Transit Administration (FTA) reports (Exhibit VI), submitted in previous years, Port Authority's DBE goal has been 18%, and Port Authority has consistently met or exceeded the objective based on:

- (1) The performance and success of the existing DBE Program;
- (2) Given the level of construction activity currently being performed or planned for the immediate future in and around Pittsburgh, (e.g. construction of two sports stadiums, expansion of the Convention Center, reconstruction of the Fort Pitt Bridge, new construction of the Mon Valley Expressway, and construction of a new football complex at the University of Pittsburgh), it is clear that public projects in Western Pennsylvania are drawing all types of construction firms, including DBE firms from a broad geographic area. However, because Port Authority's DBE Directory focuses almost exclusively upon businesses located in Allegheny County, Port Authority has reason to believe that its reliance upon the DBE Directory dramatically understates the numerator in the base figure, and as a result, understates the number of ready, willing, and able DBE firms available to perform Port Authority work. There are some 450 to 485 DBE firms listed in Port Authority's DBE Directory which covers various SIC Codes. An additional increase of 20 to 25 percent can be expected from the 350 firms currently certified under SEPTA's DBE Program and the 350 certified DBE firms from the Greater Cleveland Regional Transit Authority.
- (3) Port Authority currently has a backlog of 25 certifications. Past experience suggests that 80% of the DBE firms will become certified. Should this percentage hold true for the pending applications, the DBE Directory will be expanded by 20 firms, thereby increasing the identified ready, willing, and able DBE firms.

(3) METHODOLOGY FOR SETTING GOAL

The methodology used by Port Authority for determining appropriate goals consist of the following:

- (a) Review contract activities to determine the overall contracting opportunities for the upcoming period.
- (b) Review full range of contract activities to determine potential contract area for DBE involvement.
- (c) Determine the number of DBE firms potentially ready, willing and able to perform the kind of work available for DBE involvement. The determination was accomplished through the use of information contained within Port Authority's DBE Directory and information obtained from Census Bureau Data from the Pennsylvania Department of Labor and Industry.

Port Authority will utilize the same methodology and race-neutral measures for establishing both its overall goals and specific contract goals. When the overall goals provided herein expire, Port Authority will set new goals if it is necessary to increase or decrease the organization's effort. The new goals will be submitted to FTA for approval.

A copy of the published notice announcing the goal established by Port Authority will be made a part of the Program (Exhibit XI).

B. TVM CERTIFICATION

1. Port Authority requires each transit vehicle manufacturer, as a condition of being authorized to bid on transit vehicle procurement in which FTA funds participate, to certify that it has complied with the Requirements of (49 CFR Section 26.49).
2. Each manufacturer must establish and submit for the FTA administrator's approval an annual overall goal percentage. The base from which the goal is calculated shall be the amount of FTA financial assistance participating in transit vehicle contracts to be performed by the manufacturer during the fiscal year in question. Funds attributable to work performed outside the United States and its territories, possessions, and commonwealths shall be excluded from this base. The requirements and procedures of Section 26.49 (a) (b) (d) and the principles outlined in Section 26.45 shall apply to transit vehicle manufacturers as they apply to Port Authority

3. The manufacturer may make the certification required by this section, if it has submitted the goal this section requires and FTA has approved or disapproved it.

C. RACE-NEUTRAL MEASURES

The Regulations discuss the issues and conditions under 49 CFR Section 26.51 and Port Authority uses the following race-neutral means to increase DBE participation (for the purpose of this Program, the term "race-neutral" shall include both race and gender neutrality): (1) Workshops are conducted on topics of interest for small businesses. (2) Liaison Officer will examine feasibility of breaking down contracts into small elements, thereby, increasing opportunities for small business enterprises. (3) Continue to work in cooperation with the Small Business Administration to attract additional businesses. Solicitations are placed in the classified section of local newspapers. Port Authority has always pursued race-neutral measures by encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces or begin to separate larger contracts to make them more accessible to small businesses. Furthermore, 49 CFR Section 26.51 (2) addresses the condition of providing assistance in overcoming limitations such as the inability to obtain bonding or financing by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids and providing services to help DBEs with these matters.

D. CONTRACT GOALS

One of the provisions Port Authority must comply with relative to contract goals is noted under 49 CFR Section 26.51 (c) which reads each time a recipient submits an overall goal for review by the concerned operating administration, a projection for a portion of the goal must be met through race-neutral means and a basis for the projection is required. The Liaison Officer will assume the responsibility of implementing this requirement.

Under 49 CFR Section 26.51 (e)(1) recipients may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities. Port Authority indicated earlier under the method section for calculating its base figure that 18% would be recommended as the overall goal on all DOT - assisted contracting opportunities. To comply with 49 CFR Section 26.51 (c), Port Authority projects 4% of the overall 18% goal will be achieved through race-neutral measures. Past reports submitted to FTA on the dollar amount spent directly with DBEs were reviewed to arrive at the projection.

E. GOOD FAITH EFFORTS

The required procedures to demonstrate good faith efforts occur when a contractor fails to reach the DBE goal assigned on a contract. A contractor must in accordance with 49 CFR Part 26 demonstrate good faith efforts to meet the DBE contract goal before a waiver will be granted. In order to demonstrate a good faith effort to meet the DBE contract goal, a contractor shall document the steps it has taken to obtain DBE participation, including but not limited to, the following:

- (a) It is the prime contractor's responsibility to designate a representative to administer the prime contractors' DBE plan, to work with DBE subcontractors, and to attend all pre-bid meetings pertaining to DBE utilization.
- (b) To maximize the utilization of DBEs, Contractor will provide the Port Authority with a proposed list of subcontracting work by the date specified in the bid advertisement. If through no fault of the Contractor it is unable to meet the submission date specified in the bid advertisement, the list should be submitted prior to the bid opening date. Contractor is required to select work to be subcontracted which will increase the likelihood of meeting DBE goals. This includes where appropriate, breaking out contract work items into feasible units to facilitate DBE participation even when the Contractor might otherwise prefer to perform these work items with its own forces.
- (c) To the extent necessary to reach the utilization goals, the Contractor shall contact by registered mail DBE subcontractors identified in the DBE Directory to perform work to be subcontracted. Prime contractor shall follow-up initial contacts at a minimum by contacting the DBECCC to determine with certainty whether DBEs are interested in performing work.
- (d) Prime contractor shall review bid proposals from DBEs and determine work to be subcontracted to DBEs to reach or surpass the DBE utilization goals for contract agreements. After review of such bid proposals is complete to the extent necessary to reach or exceed the DBE utilization goals, Contractor must negotiate in good faith with interested DBEs submitting bid proposals. NOTE: Agreements between a bidder and a DBE in which the DBE promises not to provide subcontracting quotation to other bidders are prohibited.

- (e) Prime contractor shall make good faith efforts to assist the DBEs contacted that need assistance in obtaining required bonding, line of credit and insurance.
- (f) Prime contractor shall be required to make good faith efforts to replace an unsuccessful DBE subcontractor that is unable to perform. Substitution of DBEs for other DBEs after bid opening may occur for cause. Contractor shall notify the DBECCC immediately if substitution is to be made and Contractor must show cause and the DBECCC may approve any such substitutions.
- (g) Contractor shall solicit the interest of DBEs who have the capability to perform the work of the contract through reasonable and available means (e.g. attendance at pre-bid meetings, advertisements and written notices).
- (h) The Bidder shall within three working days from the receipt of such request sign and submit to Port Authority the following:
 - (1) Letter(s) of Intent to award subcontract(s) to selected DBEs.
 - (2) DBE certification (Contract Forms, Section G) or Request for Waiver (GP7,17.D.6), whichever is applicable.
- (i) Bidder shall furnish a written confirmation by DBE that it is participating in contract per contractor commitment.

F. COUNTING DBE PARTICIPATION

DBE participation shall be counted toward meeting DBE goals set by Port Authority in accordance with 49 CFR Part 26 including, but not limited to the following:

1. Once a firm is determined to be an eligible DBE in accordance with 49 CFR Section 26.55, the total dollar value of the contract awarded to the DBE is counted toward the applicable DBE goals.
2. The entire amount of that portion of a contract that is performed by the DBE's own forces is counted towards the goal. This includes the cost of supplies and materials obtained by the DBE for the work of the contract, supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate)

3. It is acceptable to count participation when a DBE subcontracts part of the work of its contract to another DBE firm. Work that a DBE subcontracts to a non-DBE firm does not count toward the DBE goal.
4. Port Authority or contractor may count toward its DBE goal a portion of the total dollar value of a contract with a joint venture that is eligible under the standards of 49 CFR Section 26.55 (3) (b) equal to the distinct ownership and control of the DBE partner in the joint venture, a clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
5.
 - (a) Port Authority or contractor may count toward its DBE goals only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsive for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, Port Authority or contractor shall evaluate the amount of work subcontracted, industry practices, and other relevant factors.
 - (b) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. When determining whether a DBE is such an extra participant, similar transactions must be examined; particularly those in which DBEs do not participate.
 - (c) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it is presumed that the DBE is not performing a commercially useful function. The DBE may present evidence to rebut this presumption to Port Authority. Port Authority's decision on the rebuttal of this presumption is subject to review by the operating administration.

6. Port Authority or contractor may count toward its DBE goal expenditures for materials and supplies obtained from DBE suppliers and manufacturers, provided that the DBEs assume the actual and contractual responsibility for the provision of the materials and supplies.
 - (a) Port Authority or contractor may count its entire expenditure to a DBE manufacturer (i.e., a supplier that maintains a factory or establishment to produce goods from raw materials on the premises or substantially alters them before resale).
 - (b) Port Authority or contractor may count 60 percent of its expenditures to DBE suppliers that are not manufacturers provided that the DBE supplier performs a commercially useful function in the supply process.
 - (c) If a firm is not currently certified as a DBE in accordance with the standards of subpart D, Section VIII of this Program, (Certification Procedures) of this part at the time of the execution of the contract, that firm's participation cannot count toward any DBE goals except as provided for in 49 CFR Section 26.87 (l).

G. QUOTAS, SET-ASIDES, AND PENALTIES

In accordance with 49 CFR Section 26.43 and 26.47 respectively, quotas, set-asides, and penalties are not to be part of a recipients DBE Program as set forth in the following:

- (a) Port Authority as a recipient of DOT funds is not permitted to use quotas for DBEs on contracts subject to this Program.
- (b) Contracts may not be set-aside by Port Authority for DBEs on DOT-assisted contracts subject to this Program, except that, in limited and extreme circumstances, Port Authority may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.
- (c) Port Authority recognizes that FTA cannot penalize Port Authority as being in non compliance with 49 CFR Part 26 because the DBE participation falls short of its overall goal, unless Port Authority has failed to administer the DBE Program in good faith.

SECTION VI

REQUIRED CONTRACT PROVISIONS

A.

ASSURANCES

For the purpose of 49 CFR Section 26.13, Port Authority as a recipient of DOT-assisted funds and contractors shall provide assurances as required by the following guidelines:

(a) **Each financial assistance agreement Port Authority signs with DOT operating administration or a primary recipient includes the following assurances:**

Port Authority shall not discriminate on the basis of race, color, national origin, or gender 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. Port Authority shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. Port Authority'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 Port Authority of their failure to carry out the 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.).

(b) **Each contract Port Authority signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) includes the following assurance:**

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or gender 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 Port Authority deems appropriate.

B. PROMPT PAYMENT

Port Authority requires prime contractors to make prompt payment to all of their subcontractors both DBE and non-DBE within **five working days** from receipt of Port Authority payment. Also, subcontractors shall receive upon successful completion of their work any retention payments held by the prime, regardless of the fact that the prime did or did not receive its retention.

C. LEGAL AND CONTRACT REMEDIES

This section requires Port Authority to implement appropriate mechanisms to ensure compliance by all program participants with the requirements (e.g. applying legal and contract remedies available under Federal, State and local laws). Port Authority shall research what mechanisms are available during September and together with the users and the compliance office will decide what if any penalties would apply to our contract documents.

D. CONTRACTOR REPORTING REQUIREMENTS

To comply with the Contractor Reporting Requirements established by 49 CFR Part 26, Port Authority implemented language in their General Provisions Section, (GP7.17.D.9) entitled "Contractor Records and Reports"(Exhibit III). These requirements are carried out in the following manner:

To ensure all obligations under contracts awarded to DBEs are met, Port Authority shall review Contractor's DBE involvement efforts during the performance of the contract. Contractor, in its monthly progress reports, shall report on the status of DBE involvement and bring to the attention of Port Authority any situation where progress payments or other concerns were not made regarding DBE subcontractors.

The development of a comprehensive monitoring system enables Port Authority to assess progress in achieving DBE goals, determine the priorities for allocating DBE staff time, and identify problem areas in a timely fashion. In order to carry out this monitoring, a record-keeping system shall be developed which will identify and assess Contractor progress in achieving a DBE subcontract goal, and other DBE affirmative action efforts. This data will facilitate monitoring for internal management purposes, as well as provide data necessary for FTA compliance reviews and uniform reporting requirements. Specifically, Contractor should maintain records showing:

(a) Procedures which have been adopted to comply with the requirements of the DBE Program, including but not limited to:

- 1. Affirmative Action Techniques.**
- 2. Technical Assistance Efforts and Referrals.**
- 3. Communication Programs.**

Copies of all relevant correspondence, minutes of meetings and lists of attendees at conferences and workshops shall be maintained.

(b) Awards to DBE, including at a minimum:

- 1. Names of DBEs, subcontractors, and the nature of work.**
- 2. Total value of the subcontract.**

(c) Specific efforts to identify and award contracts to DBEs, including but not limited to:

- 1. Number and identity of DBEs contacted and invited to quote/bid on contract, and**
- 2. Number and identity of DBEs responding to contract.**

(d) When the DBE Utilization Goal is not reached, a statement detailing the reasons for non-utilization of DBEs submitting proposals but not selected for this contract shall be required.

SECTION VII

CERTIFICATION STANDARDS (Subpart D)

A. BURDEN OF PROOF

When determining whether or not to certify a firm as an eligible DBE firm to participate as a DBE, Port Authority must apply the following standards as a qualification:

The firm seeking certification has the burden of demonstrating to Port Authority, by preponderance of the evidence, that it meets the requirements of this Section concerning group membership or individual disadvantage, business size, ownership, and control.

Port Authority implements certification through a thirteen-page application and Schedule A Affidavit process (Exhibit VII). The application is reviewed for socially and economically disadvantaged status, business size is considered, and whether or not the firm is owned and controlled by a minority or female. Depending on the type of business applying for certification, several items of supporting documentation are required, tax returns, corporate meeting minutes, articles of incorporation, stock certificates, stock ledgers, resume for the principle owner, rent receipts, board meeting minutes, corporate bylaws, and lease rental agreements. Subsequently, a site visit is conducted with the owner to discuss their role and responsibility in the business. The owner is requested to provide a tour of the business and to explain specific areas of the business. From the information that is gathered from the application, supporting documents, and the site report a determination is made for certification. When firms are not accessible for a site report, other agencies are utilized to obtain this information or the firm is requested to seek certification within his or her own state.

B. GROUP MEMBERSHIP DETERMINATIONS

Individuals are required to demonstrate whether or not they belong to a specific group. In this case, the DBECCC for Port Authority will request information as it relates to a person's nationality. If the status of the individual appears to be questionable, a request for information that is acceptable in verifying an individuals' nationality would be required. Acceptable identification would include, but is not limited to, green cards, birth certificates, passports or visas.

C. SOCIAL AND ECONOMIC DISADVANTAGE STATEMENT OF PERSONAL NET WORTH

Section 26.67 (2) (i) of 49 CFR, requires that the principle owner provide a statement that will determine the principle owner's personal net worth potential. The statement must be notarized to be an official document. Port Authority has made this document part of its application process. Each owner applying for DBE certification status must complete this form as part of the application. When the Schedule A Affidavit is notarized the personal net worth form becomes a binding document to the application. Firms that will reapply for recertification will be required to complete this document as part of their recertification status. In reviewing an owner's personal net worth statement, the applicant's residence and interest in the business are excluded in determining its social and economic disadvantaged status. Principle owners having a personal net worth value equal to or greater than \$750,000 will not be considered for certification.

D. BUSINESS SIZE DETERMINATIONS

One of the first areas to be reviewed on an application submitted for certification is the size of the firm. When reviewing the size of a firm, it must be determined if its gross receipts over a three-year period exceed 16 million dollars. Should this be the case, the firm is ineligible for certification as a Disadvantaged Business Enterprise.

E. OWNERSHIP DETERMINATION

The ownership of a firm should be held by the principle of the business that is socially and economically disadvantaged. In the case where a firm is a corporation, 51 percent of the shares of stock are to be owned by the social and economically disadvantaged shareholder of the corporation. To make this determination, the principle owner's resume is reviewed to determine its expertise in managing a business, stock certificates and stockholders' ledger are evaluated to observe how shares have been obtained. It is important to identify what contributions have been made on the part of the owner and how they were made. When the owner's contribution has been made in cash, information is requested to determine how the cash was provided and placed in the business.

F. CONTROL DETERMINATIONS

When determining whether the socially and economically disadvantaged owner/owners control the firm, one must make sure that the firm is independently operated. When the owner is being interviewed he or she is required to explain the operations of the business, what his/her responsibilities and involvement are in the business. Furthermore, the owner should be clear on what his/her associations are with other businesses that perform similar work. The owner should be able to demonstrate that he or she has the power to make policies and manage the day to day operations of the business. A determination is needed to establish whether or not the owner controls the financial status of the business. Canceled checks are reviewed to identify who is dispersing the funds of the firm.

G. OTHER CONSIDERATIONS

Port Authority will only provide certification to firms that are socially and economically disadvantaged, who can substantiate their position of ownership and control, can establish their involvement in the day to day operations of the business, and that satisfy the requirement standards that are established for certification. Firms denied certification in the past must be able to provide information that has corrected the reasons for them being denied certification initially.

SECTION VIII

CERTIFICATION PROCEDURES

A. UNIFIED CERTIFICATION PROGRAM

Port Authority certifies firms that are not located in the state of Pennsylvania on an annual basis. Eligible firms within the state have been certified for a two-year period. According to the new certification process, a unified certification process is to be implemented statewide. Port Authority would be interested in participating with the development of such a process.

B. INITIAL CERTIFICATION PROCEDURES

Port Authority applications are reviewed for eligibility under the certification guidelines that require firms to be socially and economically disadvantaged having a 51 percent ownership in the business. The initial review involves determining that a firm does not exceed the size standards to participate under the DBE Program. A determination is made as to whether the owners of a firm are socially and economically disadvantaged by ensuring that the owners fit into one of the designated groups. Port Authority will also make determinations on whether owners who do not fit into one of the designated groups are socially and economically disadvantaged. The firm's ownership is evaluated to observe who owns stock in the firm, at what percentage and what contribution was made on the part of the owner to obtain their ownership. Port Authority's DBECCC performs site visits on all firms within a radius of 90 to 100 miles. For firms outside of this radius, they are required to have a site report prepared by an agency that is close to their place of business. If another agency has performed a site visit, that agency is requested to provide a copy of their report that has been performed on the firm. When all information has been reviewed, including the site report, a determination is made with regards to certification. Firms not meeting the requirements are provided a response from the Office of Equal Opportunity indicating the reasons for the firm's denial, and information on the appeal process that they can pursue if they are unsatisfied with the findings.

Under the appeal process, the owner may contact the Director at the Office of Equal Opportunity in writing, indicating his her reasons for appeal of the decision. The firm has ten days from the date it receives the letter to do so. The Director at the Office of Equal Opportunity will arrange to meet with the owner and DBECCC to hear arguments from both sides. A determination is made based on this meeting. If the denial is upheld, the owner is encouraged to reapply within a year after appropriate corrections have been implemented within the firm.

C. RECERTIFICATION PROCEDURES

Firms having an interest of maintaining a valid certification with Port Authority are encouraged to contact the Office of Equal Opportunity 30 days or more prior to their certification expiration date. Recertification applications are reviewed in the same manner as a certification application, except all the supporting documents are not required unless the ownership and control of the firm has changed. If a firm's status appears questionable due to a change in ownership a site visit is performed.

D. DENIALS AND REAPPLICATION PROCEDURES

This section is covered under Section VIII Item B "Initial Certification Procedures".

E. DECERTIFICATIONS

If the eligibility of an existing firm requires an investigation, the firm would be notified in writing of the concerns, and a response would be requested on those issues. If the owner's response can satisfy the concerns that have been brought to the owner's attention, the firm would remain certified. If not, it would become decertified and information would be provided to the owner to support our findings.

F. CERTIFICATION APPEALS

Certification appeals are addressed under Section VIII "Initial Certification Procedures".

SECTION IX

**RECORD KEEPING, MONITORING,
AND ENFORCEMENT**

A. BIDDERS LIST

Recent changes to the DBE Program Requirements, 49 CFR Section 26.11, outline that recipients must develop and maintain a bidders list. Port Authority shall develop a list **within 90 days** intended to be a count of all firms that are participating or attempting to participate on contracts publicly bid by Port Authority where federal funding is being used. Items to be included would be successful and unsuccessful prime contractors and subcontractors. The list would include the firm's name, address, age of firm, status as a DBE or non-DBE and annual gross receipts.

Bidders shall be required to submit this information with their bid. Port Authority shall disqualify bidders that do not report this information. Port Authority will implement a way to track this information. The revised contract language will be incorporated into our bid documents in September 1999 and all subsequent bids will contain this requirement.

B. MONITORING PAYMENTS TO DBES

In order to monitor the progress of its DBE Program, Port Authority has developed a record keeping system that identifies and assesses DBE contract awards, prime contractor's progress in achieving DBE subcontract goals, and other DBE affirmative action efforts. Specifically, Port Authority maintains records showing;

- (1) Awards to DBEs. These awards are measured against projected DBE awards and/or DBE goals. To assist in this effort, progress reports are furnished to the DBECCC.
- (2) Confirmation notices are issued to DBE firms to confirm payments have been made.
- (3) Records are maintained on dollars spent with DBEs for each monthly period.
- (4) Report of DBE awards and commitments are submitted quarterly.

Records and reports provide information relating to firms which are owned and controlled by socially and economically disadvantaged firms (owned and controlled by males) in comparison with information relating to socially and economically owned and controlled by women.

Contractors are required to submit a DBE Form B (Exhibit X) with each invoice requesting payment. The form is furnished to the DBECCC and the DBE subcontractor payments are confirmed with the DBE by written correspondence to confirm payments have been received by the DBE firm.

C. REPORTING TO DOT

Any significant changes in the implementation of Port Authority's DBE Program will be submitted in writing, requesting the operating administrator's approval.

SECTION X

**PUBLIC PARTICIPATION AND
OUTREACH EFFORTS**

The Office of Equal Opportunity (OEO) is actively involved in public participation and outreach efforts in the community to create exposure for the DBE Program. The elements of the program are advertised on a regular basis to attract new firms. Throughout the year, the OEO staff participates in various community related activities that include trade fairs, workshops, and other events.

Port Authority recognizes the need for outreach efforts to maintain a positive relationship with DBE firms. DBE firms are kept abreast of Port Authority's contracting opportunities through mailings, faxes, and telephone contact from OEO. Also, information is distributed to the DBEs listed on Port Authority's bidders list to alert them of work that is available.

Port Authority conducts the following as part of its continuing outreach efforts: Consultation with Pittsburgh NAACP, African American Chamber of Commerce, Pittsburgh Regional Minority Purchasing Council, Minority Business Opportunity Committee, Hispanic Chamber of Commerce, and National Association of Women Business Owners. Each of these associations offer a platform to meet new DBE firms and share information on how to become involved with Port Authority's DBE Program.

Port Authority will publish the goal for public comment. Following the publication date Pennsylvania will allow a 45 day comment period. During the 45 day comment period Port Authority will again consult with representatives of these groups for the purpose of addressing the DBE goal adopted by the Board.



Report of DBE Awards and Commitments

1. Administration: Federal Transit Administration 2. Fiscal Year 94 3. Report Period: 1
 4. Name of Recipient: Port Authority of Allegheny County
 5. Address: 255 Braddock Avenue
 6. City / State / Zip: Pittsburgh, PA 15233
 7. Annual DBE Goal: 10.7%
 8. Total prime contracts / procurements awarded this report period to all contractors: (a) Number 67 (b) \$ Value 23,039,507

	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
9. DBE prime contracts / procurements awarded this report period	23	36	112,612	574,977
10. DBE subcontracts / procurements awarded this report period	47	96	1,823,775	4,473,127
11. Subcontracting / procurement commitments to DBEs this report period				
12. Total prime contracts / procurements awarded to date to all contractors: (a) Number <u>67</u> (b) \$ Value <u>23,039,507</u>				
13. Total awards to date to DBEs: (a) Number <u>132</u> (b) \$ Value <u>4,908,100</u> (c) <u>21.0%</u>				
14. DBE prime and subcontracts / procurements awards by ethnic group:	Number		\$ Value	
Black American	(a) Women	(b) Total	(c) Women	(d) Total
Hispanic American	7	39	33,492	730,339
Native American	1	5	9,430	1,231,377
Asian-Indian American	-	-	-	-
Asian-Pacific American	2	29	45,745	950,924
Other	1	2	592	184,217
TOTAL	66	132	1,842,199	1,842,199
15. Number and \$ Value of DBE prime and subcontract awards by type of work:	Number		\$ Value	
(a) Professional / Consultant Services	(a) Women	(b) Total	(c) Women	(d) Total
(1) Engr. Design - C/I Services	10	25	135,573	719,485
(2) Program Mgmt. - G4EC Service	15	25	239,114	905,739
(3) Real Estate - Insurance - Accts. Service	3	9	35,275	125,104
(b) Construction	Number		\$ Value	
(1) Airport Busway Renovation	6	12	176,785	1,143,278
(2) Busway - Garage Rehab.	9	15	222,606	601,361
(3)				
(c) Supplies	Number		\$ Value	
(1) Various Supplies	16	18	47,672	47,837
(2)				
(3)				
(d) Equipment	Number		\$ Value	
(1) Various Equipment	5	7	47,467	431,532
(2)				
(3)				
(e) Other	Number		\$ Value	
(1) Printing - Advertising	2	5	11,919	15,423
(2) Alcohol - Drug/Alcohol Service	2	7	945,355	945,855
(3) Enviro. - Temporary Service	3	5	25,291	37,096
TOTAL	20	132	986,393	4,908,100
16. Name of Preparation: <u>Executive J. Ingman</u>	17. Telephone No. (412) <u>287-1326</u>			

The Public reporting burden for this collection of information is estimated to average one hour per response. If you wish to comment on the accuracy of the estimate or make suggestions for reducing this burden, please direct your comments to OMB and the DOT at the following addresses:

Office of Management and Budget
 Paperwork Reduction Project (2105-0510)
 Washington, DC 20503

and

U.S. DOT/CST/CSDBU, S-42
 400 Seventh Street, S.W.
 Washington, DC 20503



U.S. Department
of Transportation

Report of DBE Awards and Commitments

(Jan '95 - Mar '98)

1. Administration: Federal Transit Administration 2. Fiscal Year 1998 3 Report Period: 2
 4. Name of Recipient: Port Authority of Allegheny County
 5. Address: 2235 Beaver Avenue
 6. City / State / Zip: Pittsburgh, PA 15233
 7. Annual DBE Goal: 18.0 %
 8. Total prime contracts / procurements awarded this report period to all contractors: (a) Number 69 (b) \$ Value \$ 18,713,068

	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
9. DBE prime contracts / procurements awarded this report period	26	34	133,034	137,719
10. DBE subcontracts / procurements awarded this report period	55	104	2,596,449	4,704,992
11. Subcontracting / procurement commitments to DBEs this report period	-	-	-	-
12. Total prime contracts / procurements awarded to date to all contractors: (a) Number <u>130</u> (b) \$ Value <u>\$ 18,728,974</u>				
13. Total awards to date to DBEs: (a) Number <u>270</u> (b) \$ Value <u>\$ 9,750,811</u> (c) <u>23.0 %</u>				

	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
Black American	9	43	153,210	783,141
Hispanic American	1	6	3,049	642,339
Native American	1	1	194,959	194,959
Asian-Indian American	1	17	32,376	805,389
Asian-Pacific American	-	2	-	70,994
Other	69	69	2,345,889	2,345,889
TOTAL	81	138	2,729,483	4,842,711

15. Number and \$ Value of DBE prime and subcontract awards by type of work:				
(a) Professional / Consultant Services				
(1) C/I - Project Management Service				
(2) Gen. Design - Engineering Service	7	17	158,700	396,219
(3) Acctg. - Real Estate - Insurance Service	12	27	258,767	1,082,686
(b) Construction	3	6	11,251	104,195
(1) Airport Busway - Railroad Construction	14	23	305,932	1,042,181
(2) Garage Rehab - Storage Tanks	5	14	250,595	412,954
(3)				
(c) Supplies				
(1) Various Supplies	15	19	228,657	279,362
(2)				
(3)				
(c) Equipment				
(1) Various Equipment	6	8	93,626	117,253
(2)				
(3)				
(e) Other				
(1) Printing - Advertising	9	13	30,301	33,963
(2) Access - Drug Alcohol Service	4	5	135,902	1,309,058
(3) Computer Time - Workers Comp.	5	5	6,311	6,811
TOTAL	51	135	1,137,674	2,137,741

16. Name of Preparer: Robert J. Greene

17. Telephone No. (111) 111-1111

The Public reporting burden for this collection of information is estimated to average one hour per response. If you wish to comment on the accuracy of the estimate or make suggestions for reducing this burden, please direct your comments to OMB and the DOT at the following addresses:

Office of Management and Budget
Paperwork Reduction Project Division

U.S. DOT/OST/OSD/DOB

U.S. Department
of Transportation

Report of DBE Awards and Commitments

(Apr. - June '98)

1. Administration: <u>Federal Transit Administration</u>	2. Fiscal Year: <u>1998</u>	3. Report Period: <u>3</u>
4. Name of Recipient: <u>Port Authority of Allegheny County</u>		
5. Address: <u>2235 Beaver Avenue</u>		
6. City / State / Zip: <u>Pittsburgh, PA 15233</u>		
7. Annual DBE Goal: <u>18.0 %</u>		
8. Total prime contracts / procurements awarded this report period to all contractors: (a) Number <u>65</u>	(b) \$ Value <u>19,464,126</u>	

	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
9. DBE prime contracts / procurements awarded this report period	27	34	166,477	613,314
10. DBE subcontracts / procurements awarded this report period	39	74	2,229,156	4,139,773
11. Subcontracting / procurement commitments to DBEs this report period				
12. Total prime contracts / procurements awarded to date to all contractors: (a) Number <u>195</u>			(b) \$ Value <u>61,216,701</u>	
13. Total awards to date to DBEs: (a) Number <u>378</u>			(b) \$ Value <u>14,503,898</u>	(c) <u>24.0 %</u>
14. DBE prime and subcontracts / procurements awards by ethnic group:	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
Black American	7	33	45,351	481,040
Hispanic American	-	5	-	1,243,345
Native American	-	-	-	-
Asian-Indian American	1	12	47,274	725,694
Asian-Pacific American	-	-	-	-
Other	58	58	2,303,008	2,303,008
TOTAL	66	108	2,395,633	4,753,087
15. Number and \$ Value of DBE prime and subcontract awards by type of work:				
(a) Professional / Consultant Services				
(1) CM - Project Management Service	5	11	94,936	159,781
(2) Gen. Design - Engineering Service	11	23	464,844	1,329,373
(3) Acctg. - Real Estate - Insurance	3	6	9,887	89,113
(b) Construction				
(1) Airport Busway - Railroad Construction	2	4	4,215	666,070
(2) Garage Rehab. - Storage Tank Upgrade	6	16	128,815	367,773
(3)				
(c) Supplies				
(1) Various Supplies	12	16	59,206	68,210
(2)				
(3)				
(d) Equipment				
(1) Various Equipment	7	10	85,915	523,340
(2)				
(3)				
(e) Other				
(1) Printing - Advertising	8	10	75,124	78,737
(2) Access-Drug/Alcohol Service	4	4	1,450,444	1,450,444
(3) Computer Trng. - Workers Comp. - Temp. Srv.	8	8	20,246	20,246
TOTAL	rn	125	2,395,633	4,753,087
16. Name of Preparer: <u>Edward J. Greene</u>			17. Telephone No. (412) <u>237-7316</u>	

The Public reporting burden for this collection of information is estimated to average one hour per response. If you wish to comment on the accuracy of the estimate or make suggestions for reducing this burden, please direct your comments to OMB and the DOT at the following addresses:

Office of Management and Budget
Paperwork Reduction Project (OMB-100)

Report of DBE Awards and Commitments

(July - Sept. '98)

1. Administration: Federal Transit Administration 2. Fiscal Year: 1992 3. Report Period: 4
 4. Name of Recipient: Port Authority of Allegheny County
 5. Address: 2235 Beaver Avenue
 6. City / State / Zip: Pittsburgh, PA 15233
 7. Annual DBE Goal: 18.0 %
 8. Total prime contracts / procurements awarded this report period to all contractors: (a) Number 69 (b) \$ Value 18,521,620

	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
9. DBE prime contracts / procurements awarded this report period	20	30	115,648	133,030
10. DBE subcontracts / procurements awarded this report period	48	94	2,414,613	4,400,228
11. Subcontracting / procurement commitments to DBEs this report period	-	-	-	-
12. Total prime contracts / procurements awarded to date to all contractors:	(a) Number <u>268</u>			
13. Total awards to date to DBEs: (a) Number <u>378</u> (b) \$ Value <u>19,037,156</u> (c) <u>24.0 %</u>	(b) \$ Value <u>19,037,156</u>	(c) <u>24.0 %</u>	(d) \$ Value <u>19,738,321</u>	

	Number		\$ Value	
	(a) Women	(b) Total	(c) Women	(d) Total
14. DBE prime and subcontracts / procurements awards by ethnic group:				
Black American	4	30	36,669	557,517
Hispanic American	-	5	-	583,794
Native American	-	-	-	-
Asian-Indian American	1	16	21,354	919,098
Asian-Pacific American	1	2	216	827
Other	62	62	2,472,022	2,472,022
TOTAL	68	124	2,530,261	4,533,258
15. Number and \$ Value of DBE prime and subcontract awards by type of work:				
(a) Professional / Consultant Services				
(1) CM - Project Mgmt. Service	6	11	125,767	291,088
(2) Gen. Design - Engineering Service	15	33	256,283	1,211,945
(3) Accrg. - Real Estate - Insurance	3	9	10,514	110,464
(b) Construction				
(1) Garage Rehab. - Railroad Construction	7	12	264,144	301,383
(2) Airport Busway Construction	6	12	104,570	777,902
(3)				
(c) Supplies				
(1) Various Supplies	9	18	57,477	105,738
(2)				
(3)				
(d) Equipment				
(1) Various Equipment	5	5	53,366	53,366
(2)				
(3)				
(e) Other				
(1) Printing - Advertising	5	10	7,582	13,164
(2) Access - Drug/Alcohol Service	5	5	1,393,260	1,393,260
(3) Computer Training - Workers Comp.	7	9	257,298	274,948
TOTAL			2,530,261	4,533,258

16. Name of Preparer: Edward J. Greene

17. Telephone No: (412) 237-7326

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EXHIBIT VII

FOR OFFICIAL USE ONLY

Agency

*DBE (MBE WBE)

Certifying Officer _____

Certification Date _____

*Indicate if application is a
minority-owned (MBE) or woman-
owned (WBE) DBE firm

PORT AUTHORITY OF ALLEGHENY COUNTY
BEAVER AND ISLAND AVENUES
PITTSBURGH, PENNSYLVANIA 15233
(412) 237-7326/7378

APPLICATION FOR CERTIFICATION
(Disadvantaged/Business Enterprise Affidavit)

NOTE: Answer all questions. Indicate "N/A" if question does not pertain to your firm.

1. Name of firm _____
2. Contact Person and Title _____
3. Business Address _____
4. Mailing Address _____
(P.O. Box unacceptable)
5. Telephone Number Area Code () _____
6. Fax Number Area Code () _____
7. Is business address and/or business phone number also a residence address or phone number? Yes No If yes, how long have you conducted this company business from your home?
8. Indicate the nature of the firm's business with a check:

Construction Professional Service Supplier
 Manufacturer Manufacturer's Rep. Service
 Other _____

NOTE: ATTACH ADDITIONAL SHEETS AS REQUIRED

EXHIBIT VIII

PORT AUTHORITY OF ALLEGHENY COUNTY
WAIVER COMMITTEE

Port Authority established a Waiver committee to handle Request for Waivers initiated by Prime contractors for not reaching the DBE utilization goals. The formulation of this committee is comprised of the following:

Assistant General Manager, Corporate Services - Jason Fincke

Assistant General Manager, Engineering and Construction - Henry Nutbrown

Assistant General Manager, Finance - Claudia Hussein

Assistant General Manager, Human Resources - Thomas Pascoe

Director, Office of Equal Opportunity - Gwendolyn Allen

EXHIBIT IX

FORM GH
PORT AUTHORITY OF ALLEGHENY COUNTY
DISADVANTAGED BUSINESS ENTERPRISE
LETTER OF INTENT

SERVICE AND MAINTENANCE EQUIPMENT
COLLIER AND HARMAR DIVISION GARAGES
GENERAL CONSTRUCTION
CONTRACT NO. SYS-98-10 G

10 _____ Minority _____ Female _____
Name or DBE Firm _____

The undersigned intends to award work in connection with the above contract to the above named DBE operating as (check one):

individual partnership corporation joint venture

The undersigned is prepared to award the following described work in connection with the above contract: (Specify in detail particular work items or parts thereof to be performed).

at the following prices:

The undersigned has projected the following commencement and completion dates of such work as follows:

Items	Projected Commencement Date	Projected Completion Date
-------	--------------------------------	------------------------------

The above work will not be sublet to a non-DBE Firm at any time. The undersigned will enter into a formal agreement for the above work with the above named DBE Firm conditioned upon execution of a contract with Port Authority of Allegheny County.

Date _____ Page _____

S. T. H. H. AND J. J. BURGESS

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION REPORT

EXHIBIT X

PRIME CONTRACTOR:

CONTRACT #:

CONTRACT NAME:

REPORT PERIOD:

A	B	C	D	E
ORIGINAL DUE DISADVANTAGED CONTRACT VALUE	THE DOLLARS PAID TOWARDS GOAL THIS PERIOD	TOTAL DOLLARS DBE DUES INVOICED TOWARDS GOAL TO DATE	TOTAL DOLLARS PAID TOWARDS GOAL TO DATE	PROGRESS REPORT TOWARDS GOAL
_____	_____	_____	_____	_____

TOTALS

DISADVANTAGED CONTRACT VALUE
DISADVANTAGED CONTRACT VALUE

TOTAL DUE TOWARDS GOAL TO DATE D = _____
TOTAL DUE PAID TO DATE E = _____

ALL \$S THE DUE INVOICED TOWARDS GOAL TO DATE C = _____
ALL DUE PAID BY PRIME TO DATE E = _____

DISADVANTAGED CONTRACT
DISADVANTAGED CONTRACT VALUE

DBE GOAL FOR THIS CONTRACT

(PAT FORM #)
Revised 10/1/96

PREFERRED ATTRIBUTES:

- **Three (3) years of experience in a field having direct association with DBE Programs, preferably in Procurement, Contract Administration, Public Administration, or related areas**
- **BA/BS degree in Public Administration, Business Administration, and/or Finance**
- **Certification in DBE Contract Compliance Training**
- **Financial and investigative background to assist in identifying potential problems**

The above statement reflects the general details considered necessary to describe the essential functions of the job identified and shall not be construed as a detailed description of all the work requirements that may be inherent in the job.

PORT AUTHORITY - NON-REPRESENTED**JOB DESCRIPTION****Job Title** DBE Assistant**Job Class** 7**Division/Department:** Human Resources Office of Equal Opportunity 41**Location** Manchester**Reports to:** DBE Contract Compliance Coordinator**Date:** 10/98

PURPOSE: Identify opportunities, coordinate, and monitor activities for the Disadvantaged Business Enterprises (DBE) Program.

ESSENTIAL FUNCTIONS:

- **Provide support in the development and implementation of the DBE Program.**
- **Perform investigative and fact-finding research to resolve complaints and problems pertaining to the DBE Program.**
- **Monitor DBE activity to maintain DBE Utilization and Affirmative Action compliance.**
- **Analyze and serve on Request for Proposal committees to ensure DBE inclusion.**
- **Coordinate internal meetings and workshops to secure opportunities for DBE vendors.**
- **Generate opportunities and identify DBE vendors for goods and services contracts.**
- **Manage and maintain the Disadvantaged Business Directory.**
- **Establish tracking mechanism for statistical reports.**
- **Attends required or designated meetings.**
- **Performs other job-related duties, as assigned.**

JOB QUALIFICATIONS: (Education/Training/Experience)

- **Associate degree in Business Administration or directly related field is required**
- **Excellent oral and written communication skills**
- **Extensive computer skills**
- **Demonstrated ability to analyze guidelines, contracts, and federal regulations**
- **Excellent interpersonal skills**
- **Valid PA driver's license**