

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

Nova Bus (US) Inc. has established a Disadvantaged Business Enterprise (herein after referred to as DBE) program in accordance with regulations of the US Department of Transportation (herein after referred to as DOT), 49CFR Part 26. *Nova Bus (US) Inc.* has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, *Nova Bus (US) Inc.* has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of *Nova Bus (US) Inc.* to 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:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE program; and
7. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Catherine Fortier, Diversity Officer, has been delegated as the DBE Liaison Officer. In that capacity, the Diversity Officer along with the executive steering committee 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 *Nova Bus (US) Inc.* in its financial assistance agreements with the Department of Transportation.

Nova Bus (US) Inc. has disseminated this policy statement to the Executive Committee of *Nova Bus (US) Inc.* and all of 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 upon written request.



Martin Larose – President

November 10, 2021

Date



SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the [first page](#) of this program.

Section 26.3 Applicability

Nova Bus (US) Inc. is a Transit Vehicle Manufacturer (TVM) and has bid on projects and been awarded contracts from various Transit Authorities which are recipient of Federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

Nova Bus (US) Inc. has adopted the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

Nova Bus (US) Inc. 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 Part26 on the basis of race, color, sex, or national origin.

In administering its DBE program, *Nova Bus (US) Inc.* 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.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT as follows:

Nova Bus (US) Inc. – will report DBE participation on a semi-annual basis (i.e. June 1st and December 1st of each fiscal year), using the DOT DOORs reporting system (<https://www.faa.gov/secure/doors>). These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

Nova Bus (US) Inc. 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 bidders list approach in calculating overall goals. The bidder 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:

- By providing a contract clause requiring prime bidders to report the name/addresses, and possibly other information, of all firms who quote to them on subcontracts, or;
- *Nova Bus (US) Inc.* –directed 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 *Nova Bus (US) Inc.*

Section 26.13 **Federal Financial Assistance Agreement**

Nova Bus (US) Inc. has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

Nova Bus (US) Inc. 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 *Nova Bus (US) Inc.* of its failure to carry out its approved program, the Department may impose sanction as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13(b)

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

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE program Updates

Nova Bus (US) Inc. 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.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our *DBE Liaison Officer*:

*Catherine Fortier, Diversity Officer, 1000, boul. Industriel J7R 5A5 Saint-Eustache Canada
Phone: (581) 628-0093 Email: diversityofficer@volvo.com*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that *Nova Bus (US) Inc.* complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the President, Martin Larose concerning DBE program matters. An organization chart displaying the DBELO's position in the organization can be found in [Attachment 1](#) to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program in coordination with other appropriate officials. The DBELO has a staff of 1 to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes *Nova Bus (US) Inc.*'s progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Chairs the DBE Steering Committee.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains *Nova Bus (US) Inc.*'s updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It will be the policy of *Nova Bus (US) Inc.* to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made searches of the internet to identify such institutions and will look for opportunities to contract with these firms to the extent that Volvo Group Canada's, the parent company,



policy allows. We will encourage our customers and suppliers to utilize these institutions. We will review the list at each new bidding opportunity.

To date we have identified the following such institutions in [Attachment 5](#).

Information on the availability of such institutions can be obtained from the *DBE Liaison Officer*.

Section 26.29 **Prompt Payment Mechanisms**

Nova Bus (US) Inc. 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 30 days from the receipt of each payment the prime contract receives from *Nova Bus (US) Inc.* The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of *Nova Bus (US) Inc.* This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 **Directory**

Nova Bus (US) Inc. subscribes to a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory is managed and regularly updated. It includes, but is not limited to, the following information:

- Address
- Phone number
- Website
- Other means by which interested parties can obtain access to the directory

Note: The Directory may be found in [Attachment 2](#) to this program document.

Section 26.33 **Overconcentration**

Nova Bus (US) Inc. has not identified that overconcentration exists in the types of work that our DBEs perform. *Nova Bus (US) Inc.* will seek to identify overconcentration by tracking the types of work performed by DBEs. We will do this as part of our Transit Vehicle Manufacturer Annual DBE Goal Submittal to the Federal Transportation Administration. As is required by the Federal Transportation Administration, we will make a review, by NAICS code, of all of the scope of work subcontracted and identify the availability of DBEs to perform this work. We will also make a similar review of the DBEs currently under contract to perform this work. A review will be performed to ascertain the nature of the services provided by the contracted DBEs and to check for clustering of activities. *Nova Bus (US) Inc.* will seek to avoid overconcentration of subcontracting in any one area.

Section 26.35 Business Development Programs

Nova Bus (US) Inc. has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

Nova Bus (US) Inc. will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109 activities.
2. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by making occasional on-site visits to various DBEs.
3. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Fostering small business participation.

Nova Bus (US) Inc. is taking reasonable steps to structure contracting requirements to facilitate competition by small business concerns in order to eliminate obstacles to their participation. Elements of this program may include, but are not limited to, the following strategies:

- i. Requiring bidders on large contracts to identify and/or provide specific structuring procurements to facilitate bid buy and awards to small business consortia and joint ventures, etc.
- ii. We will be using the local and regional economic development agencies to support our outreach efforts, by holding round-table discussions to look for ways to communicate opportunities for small businesses to contract with us.

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



SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

Nova Bus (US) Inc. does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in [Attachment 4](#) to this program. This section of the program will be updated annually.

In accordance with Section 26.45(f) *Nova Bus (US) Inc.* will submit its overall goal to DOT on August 1 of each year.

CONSULTATION: Before establishing the overall goal each year, *Nova Bus (US) Inc.*, will consult with minority, women’s and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and *Nova Bus (US) Inc.* efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice in local the newspaper or trade publications of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) 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. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.47 Short-Fall Analysis

Nova Bus (US) Inc. will conduct a short fall analysis, in accordance with Section 26.47 if we do not meet our overall goal. We will analyze, in detail, the reasons we failed to meet our overall goal and establish specific steps and milestones to correct the problems we have identified.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in [Attachment 4](#) to this program. This section of the program will be updated annually when the goal calculation is updated.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses in order to make contracts more accessible to small businesses;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other services;
4. And carrying out information and communication programs on contracting procedures and specific contract opportunities.

Section 26.51(d-g) Contract Goals

Nova Bus (US) Inc. will use contract goals to meet any portion of the overall goal *Nova Bus (US) Inc.* 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, and the size of contract goals will be adapted to the circumstances of each such contract (e.g. type and location of work, availability of DBEs to perform the particular type of work.)

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

Having established our DBE contract goal, *Nova Bus (US) Inc.* agrees to make good faith efforts to achieve it. We will demonstrate that this has been done by either meeting the contract goal or documenting good faith efforts. Actions may include, but are not limited to, the following:

1. Soliciting through all reasonable and available means the interest of all certified DBEs who have the capability to perform the work of the contract.
2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved.
3. Providing interested DBEs with adequate information about plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. Negotiating in good faith with DBEs.

The *Diversity Officer* is responsible for determining whether a bidder/offeree who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

Information to be submitted (26.53(b))

Nova Bus (US) Inc. treats bidder's/offerees' 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/offerees to submit the following information:

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



Administrative reconsideration (26.53(d))

Within 30 days of being informed by *Nova Bus (US) Inc.* that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidders/offerors should make this request in writing to the following reconsideration official: *Karl Leroux, Purchasing & Tenders Manager, c/o Nova Bus (US) Inc., 260 Banker Road, Plattsburgh NY 12901, (450) 974-6028, karl.leroux@volvo.com.* The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do 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 (26.53(f))

Nova Bus (US) Inc. 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.

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.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of *Nova Bus (US) Inc.* to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 10% percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offerors' commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in Section 26.55.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

Nova Bus (US) Inc. will direct potential DBEs to local UCP for information regarding certification.

We will refer applicants to:

<https://nysdot.newnycontracts.com/>



Department of Transportation DBE Certification System

Log In

NYSUCP Certified Directory

Search our database of DBE/ACDBE certified vendors on the [New York UCP Directory](#).

Certification

Apply for new certification or manage your certification status

Certification

System Training

OR

<https://www.dot.ny.gov/main/business-center/audit/dbe-certification>



SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 **Information, Confidentiality, Cooperation**

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.

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 *Nova Bus (US) Inc.* or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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 states in the schedule of DBE participation.

ATTACHMENTS

[Attachment 1](#)

[Attachment 2](#)

[Attachment 3](#)

[Attachment 4](#)

[Attachment 5](#)

Organizational Chart

DBE Directory

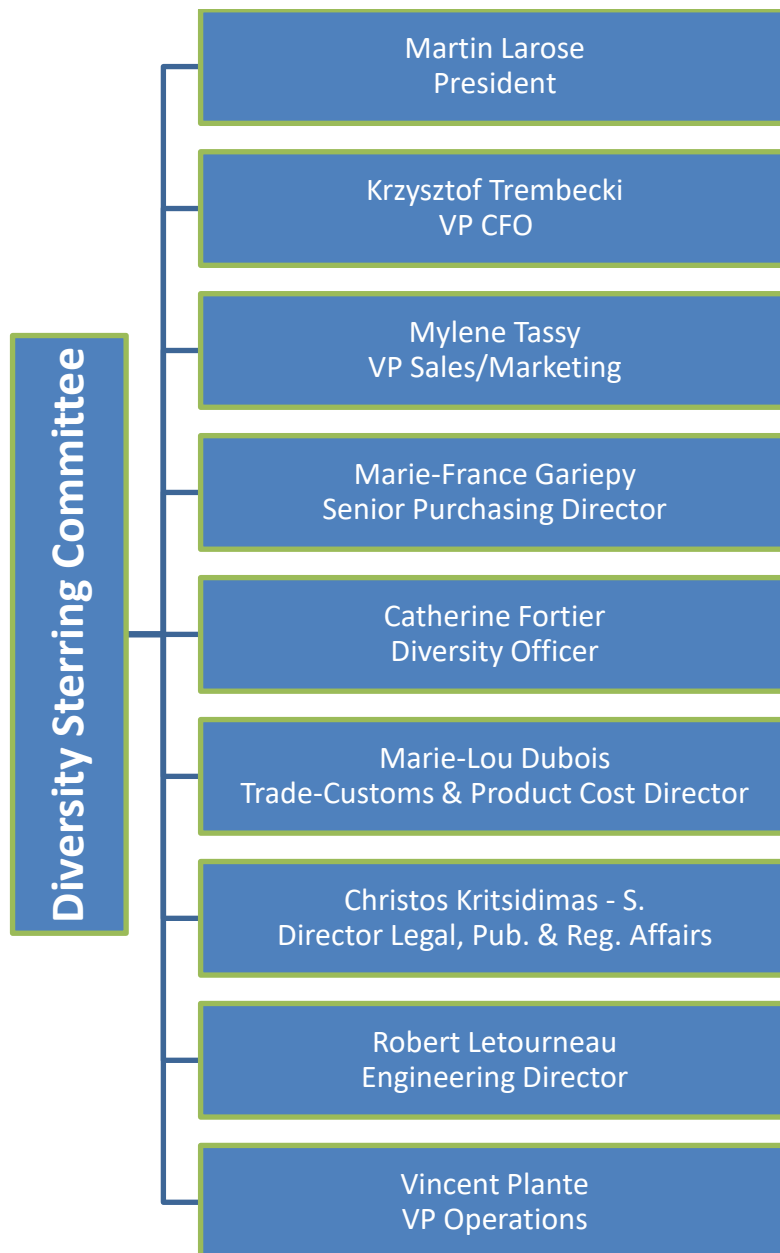
Monitoring and Enforcement Mechanisms

FY 2021 DBE TVM Goal Setting Calculation Letter

DBE Financial Institutions

ATTACHMENT 2

ORGANIZATIONAL CHART





[ATTACHMENT 2](#)

DBE DIRECTORY

Nova Bus (US) Inc., as a subsidiary of Volvo have subscribed to a managed database of DBE suppliers. We can demonstrate this directory upon request. Below is an extraction of the database and is presented as an example of the information available. In this extraction I request New York Enterprises with Minority Ownership.

[DirectoryExtract.xlsx](#)

ATTACHMENT 3

MONITORING AND ENFORCEMENT MECHANISMS

The Airport Authority has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26;
2. Enforcement action pursuant to 49 CFR Part 31;
3. Prosecution pursuant to 18 USC 1001.



[ATTACHMENT 4](#)

See attached FY2021 TVM DBE Goal Setting Exercise Document

ATTACHMENT 5

Section 26.27 DBE Financial Institutions in NY

Business & Contact Information	
Business Name	CORPORATE LEASING ASSOCIATES, INC.
Owner	Eileen Lesnick
Address	21 Morris Ave
> Map This Address	Rockville Centre, NY 11570
Phone	212-732-5571
Fax	516-596-7777
Email	adam@corplease.com
Website	http://www.corplease.com
County	Nassau (NY)

Certification Information	
Certifying Agency	The Port Authority of New York & New Jersey
Certification Type	DBE - Disadvantaged Business Enterprise
Certified Business Description	equipment finance and lease company.

Copied from the NYS UCP Directory: <https://nysucp.newnycontracts.com/>