



U.S. Department
of Transportation
**Federal Transit
Administration**

Office of Civil Rights

1200 New Jersey Avenue S.E.
Washington DC 20590

January 19, 2017

Tashai R. Smith
Deputy Executive Officer
Diversity & Economic Opportunity Department
Los Angeles Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

Re: Guidance on Counting and Calculating DBE Credit

Dear Ms. Smith

This letter is a response to your December 21, 2016 letter regarding the Los Angeles County Metropolitan Transportation Authority's (LACMTA) determination that G&C Equipment Corporation (G&C) meets the Disadvantaged Business Enterprise (DBE) definition of a "regular dealer" of specialty items, including pre-cast concrete decking paneling. In that letter, you ask the Federal Transit Administration (FTA) to provide an advisory opinion on that determination.

The regulations draw a distinction between DBE businesses that manufacture supplies and materials; those that regularly sell or lease equipment, supplies and materials; and those that procure supplies and materials that it does not manufacture or sell regularly. In all cases, the business must be a certified DBE. It is possible for a regular dealer to engage in digital transactions rather than having large warehouses and brick and mortar stores. Therefore, the recipient must also determine whether the firm is able to effectively supply quantities needed on the contract and to demonstrate that it regularly deals in the items or products. Otherwise, the DBE firm may simply be a broker or expeditor of the transaction and such participation on a contract is counted differently under the DBE regulation. The guidance to make this distinction is given at §26.55 (e)(2) for regular dealers and §26.55 (e)(3) for brokers or expeditors.

We have reviewed LACMTA's process and justification for the determination that G&C was a DBE regular dealer and found they relied on appropriate guidance and sought to answer the questions above. LACMTA's process and determination are consistent with the guidance at 49 C.F.R. §26.55. Please do not hesitate to contact Lynette Little, Civil Rights Officer for Region IX at lynette.little@dot.gov if you have any additional questions or need further clarification.

Sincerely,

Monica McCallum, Chief of Regional Operations Division, FTA Office of Civil Rights

cc: Michael Cabral, Executive Director, Diversity & Economic Opportunity Department
Linda Perryman, Manager, Small Business Programs
Jerome Jacobsen, Principal Contract Compliance Officer
Lynette Little, Civil Rights Officer, Region IX, FTA
Scheryl Portee, Senior Attorney, FTA