

## BOARD RULE NO. 19

Adopted: December 3, 1998

Subject: Disadvantaged Business Enterprise ("DBE") Policy

**Summary:** This rule sets forth a Disadvantaged Business Enterprise ("DBE") policy for the corporation substantively similar to the Alaska Department of Transportation & Public Facilities' DBE Program. As a recipient of federal financial assistance from the United States Department of Transportation ("DOT"), the ARRC is required to adopt such a program. The purpose of the program is to ensure that DBEs, as defined by DOT regulations, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with funds from DOT.

## **Summary: Proposed Board Rule 19, Adopting a Disadvantaged Business Enterprise Policy for the Corporation**

The proposal being submitted to the ARRC Board for adoption as Board Rule 19 is directly related to ARRC's receipt of federal funds from the United States Department of Transportation ("DOT") under the Transportation Equity Act for the 21<sup>st</sup> Century, or "TEA-21." Under TEA-21, the ARRC is required to implement a Disadvantaged Business Enterprise ("DBE") Plan. In such a plan, the ARRC pledges to provide DBEs, or small businesses owned and operated by certain minorities and women, the maximum opportunity to participate in ARRC contracts funded in whole or in part with DOT funds. One of the specific TEA-21 requirements is a policy statement at the entity's highest level of authority adopting that commitment. This proposed Board Rule constitutes that policy statement and delegates to the President and CEO the authority to implement the DBE program. Because of timing requirements for certain federal grant applications, ARRC staff has already drafted a DBE plan which will be implemented as soon as possible following the Board's action on Rule 19 and in any event by year-end.

The prominent provisions of the ARRC's DBE Plan will be:

- **ARRC Board of Directors Policy Statement** – a statement signed by Chairman Binkley setting forth the ARRC's commitment to providing DBEs with the maximum opportunity to participate in contracts funded in whole or in part with DOT funds [Rule 19, if adopted by the Board, will serve as this policy statement];
- **Designation of DBE Liaison Officer** – the ARRC employee chiefly responsible for carrying out the ARRC's obligations under the DBE Plan;
- **Procedures for ensuring that DBEs have equitable opportunities to compete for contracts and subcontracts** – actions to be taken by the ARRC to ensure that DBEs have the opportunity to participate in ARRC contracts;
- **Opportunities for DBE banks** – the ARRC's duty to investigate the possibility of using banks owned and operated by minorities and women;
- **DBE Directory** – a list of certified DBEs that is maintained by the ARRC and disseminated to contractors, subcontractors, and the public;
- **Procedures for certifying DBEs** – methods by which small businesses may apply to the ARRC for DBE status and challenge procedures for determining whether an individual presumed to be socially and economically disadvantaged is in fact socially and economically disadvantaged;
- **Percentage goals** – procedures for establishing annual overall DBE goals and project-specific DBE goals for the ARRC;

- **Compliance and Enforcement Procedures** – procedures for ensuring that contractors are aware of and comply with the ARRC's DBE goals and responsibilities;

The corporation's DBE Plan will be administered by the ARRC DBE Liaison Officer, a position that will be in the ARRC's Executive Department. As required by DOT regulations, the Liaison Officer will report directly to the ARRC President and CEO.

The ARRC's DBE Plan must be submitted to DOT for approval at the time that the ARRC applies to DOT for the release of appropriated funds. An approved DBE plan is a prerequisite to the release of DOT funds to the ARRC.

Formal notice of proposed Board Rule 19, Adopting a Disadvantaged Business Enterprise Policy for the Corporation, has been given as required by AS 42.40.180. ARRC has received no written public comments as of the date of this summary. An open comment period will be afforded to the public at the Board meeting at 3:00 p.m. on December 2, 1998. Any written comments received subsequent to this summary will be provided to the Board at that meeting.

**Board Rule 19**  
**Adopting a Disadvantaged**  
**Business Enterprise Policy for the Corporation**

The Alaska Railroad Corporation ("ARRC") hereby establishes a Disadvantaged Business Enterprise ("DBE") program in accordance with the requirements of the U. S. Department of Transportation ("DOT"). As a recipient of funding from DOT, the ARRC hereby assures DOT that it will comply with the provisions of Title 49 of the Code of Federal Regulations ("C.F.R.") Part 23, "Participation by Disadvantaged Business Enterprise in DOT Programs."

It is the policy of the ARRC that DBEs, as defined in 49 C.F.R. Part 23, shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with funds from DOT. No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any contract funded in whole or in part by DOT funds on the basis of race, color, national origin, or sex.

Responsibility for implementation of the DBE Program is hereby delegated to the ARRC President and Chief Executive Officer. The President and Chief Executive Officer is hereby authorized to promulgate and administer a DBE Plan for the corporation, including such amendments thereto as are deemed necessary or advisable from time to time to remain consistent with this Board Rule and to comply with applicable federal law and regulations.