

Fairbanks North Star Borough



PREFACE

The U.S. Department of Transportation (DOT) has in place a program providing for the "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" (49 CFR Part 26). The DOT's Disadvantaged Business Enterprise Program (DBE) is intended to achieve several objectives, such as ensuring nondiscrimination in the award and administration of DOT-assisted contracts, creating a level playing field on which DBEs can compete fairly for DOT-assisted contracts, ensuring the DOT's DBE program is narrowly tailored in accordance with applicable law and helping remove barriers to the participation of DBEs in DOT-assistance contracts (49 CFR Part 26.1)

DOT's DBE rule requires that all Federal Transit Administration (FTA) recipients receiving planning, capital and /or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year must have a DBE program. A recipient's DBE Program is submitted to the FTA for its review and approval (49 CFR Part 26.21).

The Fairbanks North Star Borough is a second class Borough that provides fixed route bus service and administers paratransit service throughout the Fairbanks North Star Borough, Alaska. As a recipient of FTA funds, the Borough has awarded prime contracts exceeding \$250,000 in a fiscal year. As a result of meeting this threshold, The Borough developed its initial DBE program in accordance with 49 CFR Part 26 in 2004. The Program is being revised and updated to reflect significant changes that have occurred due to revisions to 49 CFR Part 26 and in the administration of the DBE Program by the Borough [49 CFR Part 26.21 (b) (2)] has established the following Disadvantaged Business Enterprise including a Small Business Aspect (DBE program for the Borough in Accordance with Code of Federal Regulations (CFR) of the U.S. Department of Transportation (DOT), 49 CFR, Part 26. All reference to Subparts and Section numbers throughout this DBE policy (i.e. Subpart A 26.1, 26.3, etc.) are to the 49 CFR Part 26 regulations.

Please note that the terms used in this program will have the meanings as defined in 49 CFR 26.5.

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FNSB DBE PROGRAM POLICY STATEMENT

Fairbanks North Star Borough

809 Pioneer Road PO Box 71267 Fairbanks, Alaska 99707-1267 (907)459-1297 FAX (907)459-1100

Section 1 Disadvantaged Business Enterprise Objectives/Policy Statement

In accordance with 49 Code of Federal Regulations 26.39: Fostering Small Business Participation, the Fairbanks North Star Borough has amended its Disadvantaged Business Enterprise (DBE) program to include a Small Business Concern (SBC) element. As a recipient of Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Fairbanks North Star Borough has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Fairbanks North Star Borough to ensure that DBEs and other small businesses, as defined in part 26, have an equal opportunity to receive and participate in DOT- assisted contracts. It is also our policy:

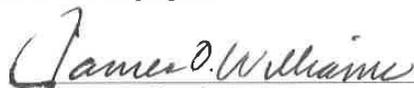
1. To ensure nondiscrimination in the award and administration of DOT- assisted contracts;
2. To create a level playing field on which DBEs and other small businesses can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
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 and other small businesses in subcontracts that are receiving funds from DOT assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE Program.
7. To maximize the opportunity for small business concerns to participate and compete as a prime contractor and subcontractor.

Carolyn Yurkovich, General Services Director has been delegated as the DBE Liaison Officer and in that capacity Carolyn Yurkovich has the principle responsibility for implementing all aspects of the DBE/SBE program to include ensuring nondiscrimination in the award and administration of all contracts, the establishment and periodic review of goals for participation by DBEs/SBCs, and ensuring consistency with sound procurement principles and applicable laws.

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Fairbanks North Star Borough in its assurance to comply with 49CFR Part 26 of the Transit Authority's financial assistance agreements with the Department of Transportation.

This policy has been signed by the Fairbanks North Star Borough Mayor. The Borough has disseminated this policy statement to the Mayor, Borough Assembly, Directors, and all other 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. The DBE Policy Statement is published on the Borough's web site and posted in the General Services Department. The DBE Policy Statement has been distributed to the local offices of the DODGE Plans Room, AGC (Associated General Contractor), ABC, Inc. (Associated Builders and Contractors, Inc.), MEET (Minority Entrepreneurial Educational Training).

The borough recognizes that the achievement of its DBE program will significantly contribute to the economic and social progress of the Fairbanks North Star Borough's Transit zone. Thus, the borough will make every effort to ensure the ongoing success of its DBE program.


for Karl Kassel, Borough Mayor

Date: 7/28/16


for Carolyn Yurkovich, Chief Procurement Officer

Date: 7/28/16

SUBPART A- GENERAL REQUIREMENTS**Section 2 Objectives**

The objectives are found in the policy statement on the first page of this program.

Section 3 Applicability

The Fairbanks North Star Borough is the 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 4 Definitions

The Fairbanks North Star Borough will adopt the definitions contained in 49 CFR 26.5 for this program.

Section 5 Non-discrimination Requirements

The Fairbanks North Star Borough 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 Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the Fairbanks North Star Borough 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 6 Record Keeping Requirements

DBE reporting and record keeping will comply with DOT requirements on a quarterly basis, using DOT Form 4630.

The Fairbanks North Star Borough will utilize the bidders list of the Alaska Unified Certification Program (UPC) maintained by the State of Alaska-DOT & PF, consisting of information about all DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list for notification of Fairbanks North Star Borough procurement opportunities.

In reaching the DBE goal, we intend to use the bidders list of the Alaska UPC. In addition, we may utilize contract clauses requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts; a notice in all solicitations, and request to firms quoting on subcontracts to report information directly to the Fairbanks North Star Borough.

1. Bidders List (49 CFR Part 26.11) The Fairbanks North Star Borough has created and maintains a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on DOT-assisted contracts for use in helping to set the Borough's overall goals under this DBE Program.
2. Reporting to DOT (49 CFR Part 26.11). The Fairbanks North Star Borough will report DBE participation on a semi-annual basis (by June 1 through December 1) in TEAM. The Uniform Report in TEAM requests information on the awards/commitments to DBE firms during the reporting period and the actual payments made to DBE firms during the reporting period and the actual payments made to DBEs on DOT-assisted contracts that were completed during this reporting period. The DBELO will be responsible for preparing and filing the report. A copy of the Uniform Report Form and the instructions for filling out the form are included as Attachment.
3. Analysis of Overall DBE Goal and Uniform Report (49 CFR Part 26.47). If the awards and commitments shown on the Borough's Uniform Report at the end of the any fiscal year (see #2 above) are less than the overall DBE goal for that fiscal year, the Borough will analyze in detail the reason for the difference. After completing this analysis, specific steps and milestones will be established to correct the problems identified in the analysis in order to enable the Borough to fully correct the problems.

Section 7 Federal Financial Assistance Agreement Assurance

Fairbanks North Star Borough has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Fairbanks North Star Borough 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 the Fairbanks North Star Borough of its failure to carry out its approved program, the Department may impose sanction 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.).

If the Borough provides DOT financial assistance to a sub recipient, the Borough will assure that the financial assistance agreement with the sub recipient includes this assurance.

SUBPART B- ADMINISTRATIVE REQUIREMENTS

Section 8 DBE Program Updates

Since the Fairbanks North Star Borough has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, we 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 9 Policy Statement

The Policy Statement is elaborated on the first page of this program that expresses the Borough's commitment to its DBE Program, states the Program's objectives and outlines the responsibilities for the Program's implementation.

The Borough's DBE Program is available for review through the Borough's Purchasing website.

Section 10 DBE Liaison Officer (DBELO)

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

Carolyn Yurkovich, Chief Procurement Officer

P.O. Box 71267

Fairbanks, AK 99707 Phone (907)459-1292 Fax (907)459-1110

Email: cyurkovich@fnsb.us

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Fairbanks North Star Borough complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Borough Mayor concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is 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 three administrative support staff to assist with outreach and reporting. 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/SBEs 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 Fairbanks North Star Borough's progress toward attainment and identifies ways to improve progress.
7. Advises the Mayor on DBE matters and achievement.
8. Plans and participates in DBE training seminars.
9. Participates with Legal and Project Directors to determine contractor good faith effort evaluation as required on bids & proposals.
10. Provides outreach to DBEs and community organizations regarding contracting opportunities.

Section 11 DBE Financial Institutions

It is the policy of the Fairbanks North Star Borough 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 the following efforts to identify and use such institutions:

1. Reviewed current participants in the Alaska Unified Certification Program (AUCP), updated and maintained by the State of Alaska, Civil Rights Office, located at <http://www.dot.state.sak.us/cvlrts>
2. Reviewed the Alaska Directory of Banks and Financial Institutions, updated and maintained by the State of Alaska, Division of Banking and Securities, located at <http://www.dced.state.ak.us/bsc/banking.htm>

To date, no financial institutions owned and controlled by socially and economically disadvantaged individuals have been identified.

Section 12 Contract Clauses

1. Contract Assurance. As required by 49 CFR Part 26.13 (b), the Fairbanks North Star Borough will ensure that the following clause is placed in every DOT-assisted contract and subcontract:
 - a. 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.
2. Retainage: As required by 49 CFR §26.29(b) the following clause will include the following clause in each DOT-assisted prime contract.
 - a. Prime contractors are not permitted to hold retainage from subcontractors until the end of project when the borough has made final payment to the prime.
 - b. The Borough may withhold retainage from prime and release a percentage of the retainage incrementally as portions of the contract are completed and accepted, e.g. monthly progress payments.

The borough requires that prime contractors on contract will release all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after recipient pays prime (could be the portion that is included in the prime's payment).
3. Prompt Payment. As required by 49 CFR Part 26.29, The Fairbanks North Star Borough will include the following clause in each DOT-assisted prime contract:
 - a. 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 Fairbanks North Star Borough. The prime contractor agrees further to return retainage payments to all subcontractors 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 the Fairbanks North Star Borough. This clause applies to both DBE and non-DBE subcontracts.
4. Invitation to Bid/Propose. All invitations to bid or propose will include the following statement:
 - a. The Fairbanks North Star Borough solicits and encourages disadvantaged business enterprise participation. DBEs shall be afforded full consideration of their response and will not be subject to discrimination.
 - b. The instructions for including the above Contract Clauses in the appropriate and applicable contracts, subcontracts and the invitation to bid or propose are provide for in General Services procurement procedures.

Section 13 Directory

The Fairbanks North Star Borough recognizes DBEs certified by the Alaska Department of Transportation & Public Facilities (DOT&PF). The Borough relies upon the directory maintained and updated by the Alaska UPC 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 updated by the Alaska UPC on a regular interval. The Directory may be found on the web at: <http://www.dot.state.ak.us>. Individuals interested in obtaining a copy of the directory may contact the ADOT&PF at (907) 269-0850 or contact the Fairbanks North Star Borough DBE Liaison Officer.

A copy of the directory, dated July 25, 2016 is included with this DBE Program document as Attachment G.

In instances where subcontracting opportunities are available, the Fairbanks North Star Borough will seek out available DBEs from the Directory and provide them a copy of the invitation to bid/propose and the specifications. Where formal advertisement is not generally performed (purchases under \$20,000 as provided for in the Borough's Procurement Procedures), The Borough will seek to identify DBEs who are able to perform the work required or provide the product needed and obtain a written quote.

Section 14 Overconcentration

To date, the Fairbanks North Star Borough has not identified any overconcentration in the types of work that DBEs perform.

Section 15 Business Development Programs

To date, the Fairbanks North Star Borough has not established a business development program.

Section 16 Monitoring and Enforcement Mechanisms

The Fairbanks North Star Borough 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 Alaska UPC 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.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Fairbanks North Star Borough, Title 16.60.010 of the Borough Code of Ordinance, provides remedies available for non-compliance with the DBE regulation by a participant in our procurement activities. Reference Attachment No. 2.
3. 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 reporting at regular intervals by the contractor to the appropriate Fairbanks North Star Borough Project Manager.
4. Fairbanks North Star Borough Project Managers will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. The Borough will require contractors to submit regular reports of the actual payments made to DBE firms for work committed to them at the time of contract award. A sample of the report to be submitted by a contractor is included as Attachment. The Borough will review the reports submitted by the prime contractor and seek confirmation, as needed, that payment was actually made to the DBE firm.
5. The borough requires the contractor to obtain prior written consent to the project manager for good cause delays in payment to the subcontractor. If the subcontractor is not paid timely this is considered a breach of the prompt payment or release of retainage contract clause.
6. The project manager will be responsible for ensuring that participating DBEs on a job are performing a commercially useful function.
7. The Fairbanks North Star Borough has created a Small Business Element component to this DBE Program to structure contracting requirements to facilitate competition by small business concerns, by taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as contractors or subcontractors. The Fairbanks North Star Borough will actively implement the program elements to foster small business participation; doing so is a requirement of good fair implementation of the DBE Program.

SUBPART C- GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 17 Set-asides or Quotas

The Fairbanks North Star Borough does not use quotas in any way in the administration of this DBE program.

Section 18 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 3 to this program. This section of the program will be updated annually.

In accordance with Section 26.45(f) the Fairbanks North Star Borough will submit its overall goal to DOT on August 1 of each year or as determine by the operating administration which is a triennial goal at this time. Before establishing the overall goal each year, Fairbanks North Star Borough will consult at a minimum with the UPC and DOT, MEET, AGC, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts to establish a level playing field for the participation of DBEs. Following this consultation, we will publish in the Fairbanks Daily News Miner and on the Fairbanks North Star Borough's web site a notice 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 19 Transit Vehicle Manufacturers Goals

Fairbanks North Star Borough will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, Fairbanks North Star Borough may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 20 Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation is not being implemented at this time. Monitoring shall occur on a bi-annual basis to determine if this component is necessary.

Section 21 Contract Goals

Pursuant to the guidance provided by the General Counsel of the Department of Transportation, published in the Federal Register, Volume 71, Number 56, dated March 23, 2006 (Docket No. FTA-2006-24063)¹, the Fairbanks North Star Borough has determined that it does not currently have sufficient evidence of discrimination or its effects. Therefore, the Fairbanks North Star Borough shall be establishing a race neutral overall for years 2016, 2017 and 2018. Efforts used to meet the race-neutral goal are The Fairbanks North Star Borough may use contract goals to meet any portion of the overall goal.

¹ Based on a recent court decision issued by the 9th Circuit Court of Appeals regarding Western States Paving Co. v. United States & Washington State Department of Transportation; The Fairbanks North Star Borough overall goals for Year 2013-15 shall be all-race neutral.

Section 22 Good Faith Efforts Procedures**Demonstration of good faith efforts 22(a)**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The Fairbanks North Star Borough General Services Purchasing staff attends pre-bid construction conferences and job walkthroughs to solicit the interest of certified DBEs who have the capability to perform the work of the contract.

The Fairbanks North Star Borough General Services Purchasing staff is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive or responsible.

The Fairbanks North Star Borough will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted 22(b)

Fairbanks North Star Borough treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness and/or responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information (Reference Attachment 4):

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 the bidder/offeror 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. Bidder confirms DBEs listed are certified under NAICS that corresponds with the work DBE intends to perform.
7. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration 22(c)

Within 5 days of being informed by Fairbanks North Star Borough that it is not responsive and/or responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Carolyn Yurkovich
Chief Procurement Officer
P.O. Box 71267
Fairbanks, AK 99707
Phone: (907) 459-1292
Fax: (907)4 59-1100
Email: cyurkovich@fnsb.us

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

¹ Based on a recent court decision issued by the 9th Circuit Court of Appeals regarding Western States Paving Co. v. United States & Washington State Department of Transportation; The Fairbanks North Star Borough overall goals for Year 2013-15 shall be all-race neutral.

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. 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 22(d)

Fairbanks North Star Borough 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.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

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 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: 22(e)

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Fairbanks North Star Borough 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 (to be determined) 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/offeror's 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 23 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D- CERTIFICATION STANDARDS

Section 24 SPECIAL CONDITION REGARDING MBE/WBE COMMITMENT

I. Joint Ventures

The formation of joint ventures to provide MBEs and WBEs with capacity and experience at the prime contracting level, and thereby meet the contract's MBE/WBE participation goals (in whole or in part) is encouraged. A joint venture may consist of any combination of MBEs, WBEs, and non-certified firms as long as one member is an MBE or WBE.

- A. The joint venture may be eligible for credit towards the contract's MBE/WBE participation goals only if:
1. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
 2. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;

3. Each joint venture partner executes the bid to the Borough; and
 4. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items 1, 2, and 3 above in this Paragraph A.
- B. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other Borough contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the contract's MBE/WBE participation goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive MBE or WBE credit for work performed by the MBE or WBE joint venture partner(s) equal to the value of work performed by the MBE or WBE with its own forces for a distinct, clearly defined portion of the work.

Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work then the value of the work may be counted toward the contract's MBE/WBE participation goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other MBEs and WBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the contract's MBE/WBE participation goals.

C. Schedule B: MBE/WBE Affidavit of Joint Venture

Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its proposal a Schedule B and the proposed joint venture agreement. These documents must both clearly evidence that the MBE or WBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the MBE's or WBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

1. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;
2. Work items to be performed by the MBE's or WBE's own forces and/or work to be performed by employees of the newly formed joint venture entity;
3. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and
4. The MBE's or WBE's commitment of management, supervisory, and operative personnel to the performance of the contract.

Notice: Vague, general descriptions of the responsibilities of the MBE or WBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions of the work. Roles assigned should require activities that are performed on a regular, recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the Borough entails the delivery of goods or services to various sites in the Borough, stating that the MBE or WBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

Notice: The Borough requires that, whenever a joint venture is proposed as the prime Consultant, each joint venture partner must separately sign the proposal to the City, in the pages captioned TO BE EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR, as applicable.

II. **COUNTING MBE/WBE PARTICIPATION TOWARD THE CONTRACT GOALS**

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Contract Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors as provided in 49 CFR 26.55

Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals. For example, a firm certified as both a MBE and a WBE may only listed on the bidder's compliance plan under one of the categories, but not both.
Only payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Contract Specific Goals.

- A. Only expenditures to firms that perform a **Commercially Useful Function** as defined above may count toward the Contract Specific Goals.
1. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
 2. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.
- B. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its **Area of Specialty** in which it is certified counts toward the Contract Specific Goals.
- C. If the MBE or WBE performs the work itself:
- 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Contract Specific Goals, including the cost of supplies and materials purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces (except supplies and equipment the MBE or WBE subcontractor purchases or leases from the prime consultant or its affiliate). **0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals**
- D. If the MBE or WBE is a manufacturer:
- 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Contract Specific Goals. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or consultant.
- E. If the MBE or WBE is a distributor or supplier:
- 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Contract Specific Goals.
- F. If the MBE or WBE is a broker:
1. 0% of expenditures paid to brokers will be counted toward the Contract Specific Goals.
 2. As defined above, Brokers provide no commercially useful function.
- If the MBE or WBE is a member of the joint venture consultant/bidder:

G.

1. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Contract Specific Goals; or
2. If employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.
3. A joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs, however, work subcontracted out to non-certified firms may not be counted.

H. If the MBE or WBE subcontracts out any of its work:

1. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Contract Specific Goals.
2. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except as allowed by C.1. above).
3. The fees or commissions charged for providing a *bona fide* service, such as professional, technical, consulting or managerial services or for providing bonds or insurance and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, may be counted toward the Contract Specific Goals, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
5. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

III. PROCEDURE TO DETERMINE BID COMPLIANCE

A bid may be rejected as non-responsive if it fails to submit one or more of the following with its bid demonstrating its Good Faith Efforts to meet the Contract Specific Goals by reaching out to MBEs and WBEs to perform work on the contract: 1) An MBE/WBE compliance plan demonstrating how the bidder plans to meet the Contract Specific Goals; and/or

Only compliance plans utilizing MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements will be counted toward the Contract Specific Goals.

The following Schedules and described documents constitute the bidder's MBE/WBE proposal, and must be submitted in accordance with the guidelines stated:

A. Schedule C-1: Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier, and/or Consultant

The bidder must submit the appropriate Schedule C-1 with the bid for each MBE and WBE included on the Schedule D.

1. Suppliers must submit the Schedule C-1 for Suppliers, first tier subcontractors must submit a Schedule C-1 for Subcontractors to the Prime Consultant, and second or lower tier subcontractors must submit a Schedule C-1 for second tier Subcontractors. The Borough encourages subcontractors to utilize the electronic fillable format Schedule C-1, which is available at the General Services website; <http://fnsb.us>. Each Schedule C-1 must accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C-1 must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a

facsimile copy of the Schedule C has been submitted with the bid, an executed original Schedule C must be submitted by the bidder for each MBE and WBE included on the Schedule D-1 within five (5) business days after the date of the bid opening.

Failure to submit a completed Schedule C-1 in accordance with this section shall entitle the Borough to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

B. Joint Venture Agreements.

If the bidder's MBE/WBE proposal includes the participation of an MBE/WBE as joint venture on any tier (either as the bidder/consultant or as a subcontractor), the bidder must provide a copy of the joint venture agreement and a Schedule B along with all other requirements listed in Section III above. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) contributions of capital and equipment; (2) work responsibilities or other performance to be undertaken by the MBE/WBE; and (3) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the contract. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

C. Schedule D-1: Affidavit of MBE/WBE Goal Implementation Plan

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm. The bidder must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or, in the case of Term Agreements - depending upon requirements agreements and blanket agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the opening, the bidder may submit a revised Schedule D-1 (executed and notarized to conform to Schedule C-1). Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Contract Specific Goals, however, consultants are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

All commitments for joint venture agreements must be delineated in the Schedule B.

IV. REPORTING REQUIREMENTS DURING THE TERM OF THE CONTRACT

- A. The Consultant will, not later than thirty (30) calendar days from the award of a contract by the Borough, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
- B. The consultant will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the Borough to the consultant for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the with instructions to report payments that have been made in the prior month to each subcontractor.
- C. All subcontract agreements between the consultant and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the Fairbanks North Star Borough requiring them to report payments received for the prime or the non-certified firm.
- D. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the consultant's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the consultant's records by any officer or official of the Borough for any purpose.
- E. The consultant shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after final acceptance of the work. Full access to these records shall be granted to Borough, federal or state authorities or other authorized persons.

V. CHANGES TO COMPLIANCE PLAN

- A. No changes to the Compliance Plan or contractual MBE and WBE commitments or substitution of MBE or WBE subcontractors may be made without the prior written approval of the Contract Compliance Officer. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the consultant's own forces, shall be a violation of these Special Conditions and a breach of the contract with the City, and may cause termination of the executed Contract for breach, and/or subject the bidder or consultant to contract remedies or other sanctions. The facts supporting the request for changes must not have been known nor reasonably could have been known by the parties prior to entering into the subcontract. Bid shopping is prohibited. The bidder or consultant must negotiate with the subcontractor to resolve the problem. If requested by either party, the Department of General Services shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.
- B. Substitutions of a MBE or WBE subcontractor shall be permitted only on the following basis:
1. Unavailability after receipt of reasonable notice to proceed;
 2. Failure of performance;
 3. Financial incapacity;
 4. Refusal by the subcontractor to honor the bid or proposal price or scope;
 5. Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
 6. Failure of the subcontractor to meet insurance, licensing, or bonding requirements;
 7. The subcontractor's withdrawal of its bid or proposal;
 8. Subcontractor provided false information; or
 9. De-certification the subcontractor as a MBE or WBE (graduation from the MBE/WBE program does not constitute de-certification).
- C. If it becomes necessary to substitute a MBE or WBE or otherwise change the Compliance Plan, the procedure will be as follows:
1. The bidder or consultant must notify the Contract Compliance Officer and Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its scope of work must be submitted with the request.
 2. The Borough will approve or deny a request for substitution or other change within 15 business days of receipt of the written request
 3. Where the bidder or consultant has established the basis for the substitution to the satisfaction of the Chief Procurement Officer, it must make Good Faith Efforts to meet the Contract Specific Goal by substituting a MBE or WBE subcontractor. Documentation of a replacement MBE or WBE, or of Good Faith Efforts, must meet the requirements in section V. If the MBE or WBE Contract Specific Goal cannot be reached and Good Faith Efforts have been made, as determined by the Chief Procurement Officer, the bidder or consultant may substitute with a non-MBE or non- WBE.
 4. If a bidder or consultant plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the bidder or consultant must obtain the approval of the Chief Procurement Officer to modify the Compliance Plan and must make Good Faith Efforts to ensure that MBEs or WBEs have a fair opportunity to bid on the new scope of work.
 5. A new subcontract must be executed and submitted to the Contract Compliance Officer within five business days of the bidder's or consultant's receipt of Borough approval for the substitution or other change.
- D. The Borough shall not be required to approve extra payment for escalated costs incurred by the consultant when a substitution of subcontractors becomes necessary to comply with MBE/WBE contract requirements.

Section 25 Certification Process

Fairbanks North Star Borough does not certify, decertify, or recertify DBEs directly, nor does it entertain any ineligibility proceedings to certifications of other entities. The Borough recognizes DBEs certified and/or recognized by ADOT&PF (a DOT recipient).

For information about the certification process or to apply for certification, firms should contact:

ADOT&PF
PO Box 196900
Anchorage, AK 99519

Any appeals received regarding certification shall be directed to the Alaska Department of Transportation and Public Facilities, or as may be appropriate the following:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 2103
Washington, D.C. 20590

SUBPART E- CERTIFICATION PROCEDURES**Section 26 Unified Certification Programs**

Fairbanks North Star Borough is the member of a Unified Certification Program (UCP) administered by AKDOT&PF. The UCP agreement is attached.

The Borough verifies the Small Business Federal NAICS codes through the State of Alaska Business, small business programs. <http://alaska.gov/businesshome.html>

SUBPART F- COMPLIANCE AND ENFORCEMENT**Section 27 Information, Collection, Reporting and Analysis****1. Information, Confidentiality, Cooperation**

- a. The Fairbanks North Star Borough will safeguard from disclosure to third parties information that may reasonably be regarded as proprietary business information, consistent with Federal, state and local law
- b. Except as otherwise required by Federal or state law, the Borough will not release any information that may reasonably be construed as proprietary business information to any third party without the written consent of the contractor that submitted the information. This includes applications for DBE certification and supporting information.

2. Monitoring Payments to DBEs

- a. 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 the Fairbanks North Star Borough or DOT. This reporting requirement also extends to any certified DBE subcontractor.
- b. 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.

3. Worksite Reviews

- a. Ensure that the work committed to DBEs is performed by DBEs as indicated in LOI.
- b. Monitor performance and provide remedies if necessary for breach of contract.
- c. The borough recognizes that on-going staff training and professional development opportunities are essential in maintaining competent professionals. Thereby the borough encourages all compliance, procurement, and DBE professionals the opportunity to enroll in ongoing technical assistance, workshops, seminars and programs that keep them informed of any changes to the USDOT regulations and policies.
- d. Prime contractors will make available for inspection all files DBEs performance of a contract. This reporting requirement is also required by DBE certified subcontractors.
- e. The borough will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps provided in 26.109.

Section 28 Fostering Small Business Participation

Introduction and Background

During its normal course of business, the Fairbanks North Star Borough utilizes small business in such areas as custodial services, security services, landscaping services, printing and the purchase of select bus parts, tires windshields and electrical supplies. The use of small businesses by the Borough reflects the size of the contracts available and the desire to use local businesses.

On the other hand, the opportunities for small business participation are limited in terms of the numbers of available contracts/purchases orders and overall contract values since the Borough is a relatively small authority: The Borough operates under fifteen fixed bus routes. The maintenance and servicing of a bus fleet will require the purchase of bus parts and supplies (diesel fuel) from vendors who can provide these parts and supplies.

Operating Budget-Funded Contract

Most of the operating budget-funded contracts and purchase orders awarded by the Borough in a fiscal year are under \$25,000. The major exception to this contract value is for the purchase of diesel fuel. The Borough believes small businesses can successfully compete and be awarded contracts and purchase orders with a value over \$25,000. The contract value threshold for which a small business can successfully bid will vary depending on the proposed scope of work for the service or good and the availability of ready and willing small businesses.

The Borough anticipates that in the future the operating budget-funded procurements will follow the current pattern in terms of the value and number awarded. The tracking of contracts award to small businesses will help the Borough monitor this contract value and the Borough's continued support for the small business community.

Capital Budget-Funded Contracts

In a prime general construction contract there are likely to be significantly more opportunities for small business participation as a sub-contractor based on the nature and the scope of the work. Prime mechanical, plumbing and electrical contracts generally have more limited opportunities for small business participation as subcontractors based on the scope of this type of construction work.

Generally, capital projects with prime contracts and sub-contracts under \$250,000 provide opportunities for small business participation. This \$250,000 guideline is subject to adjustment in the future based on the Borough's contracting experience and the tracking of contract awarded to small businesses.

In order to foster small business participation through race-neutral measures, the Borough may require the prime contractor to provide subcontracting opportunities of a size that willing and able small businesses can perform on prime contracts requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform rather than self-performing all the work involved.

The DEBELO will attend pre-bid meetings to ensure understanding of the requirement by potential bidders.

Objective

This small business element is intended to facilitate competition by and expand opportunities for small businesses. The Borough is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as contractors or subcontractors. The Borough will meet its objective using a combination of the following methods and strategies:

Small Business Concern Eligibility Requirements

The Borough will accept the following certifications for participation in this small business element of the DBE Program with applicable stipulations:

1. In accordance with 49 CFR, Part 26.5, the Borough will utilize the definition as defined for a small business concern pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).
2. Defining Small Business will be based upon the SBA.gov NAICS codes and thresholds for each industry verified through the State of Alaska SBA.
3. State of Alaska SBA.

Assurances

The Borough makes the following assurances:

1. Unbundling: The Borough, may, where feasible, "unbundle" projects by separating large contracts into smaller contracts which may be more suitable for small business participation. The Borough will encourage its Public Works department and its consultants to unbundle large projects to facilitate participation by small businesses.
2. The Borough will develop an inventory of current businesses who supply services, part or equipment. Information will be sought to assist in determining whether these businesses qualify as a small business and whether this new element is helping achieve the objectives of the circular.
3. To further foster the growth and development of SBEs the Borough will provide the following race-neutral activities:
 - a. Conduct Outreach to SBEs: The Fairbanks North Star Borough will publicize its current and new SBE Elements through the use of its website; press contacts and networking.
 - b. Develop "How to Do Business with the Borough" brochure. Provide training to potential bidders on "How to Bid".
 - c. Attendance at Vendor Fairs/Business Networking Events.

Definition:

1. Small Business:

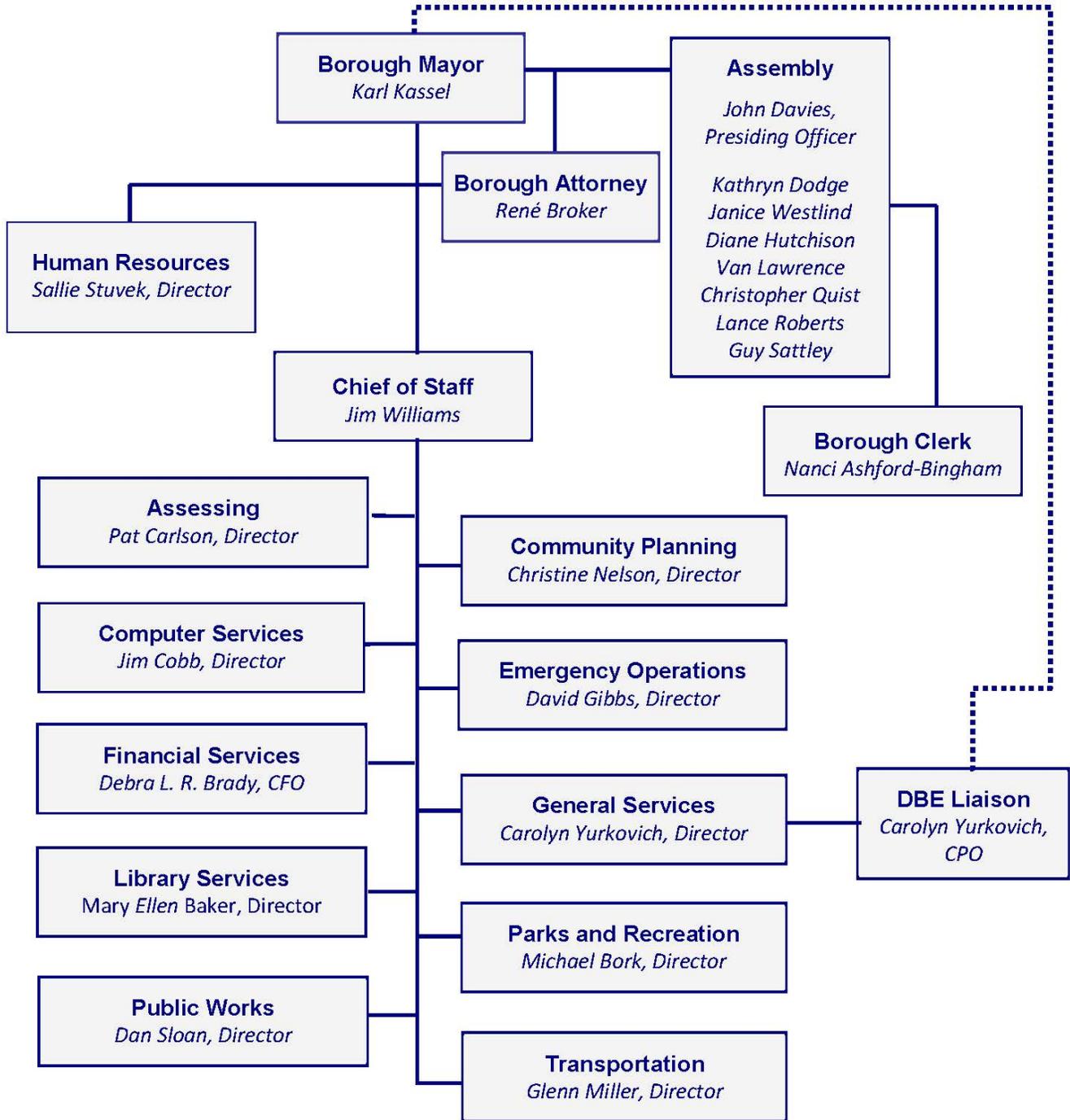
A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121) (15 U.S.C 632 (ii)).

ATTACHMENTS

Attachment A	-	-	-	Organizational Chart
Attachment B	-	-	-	Monitoring and Enforcement Mechanisms/Legal Remedies
Attachment C	-	-	-	Overall Goal Calculation
Attachment D	-	-	-	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment E	-	-	-	Alaska UCP Agreement
Attachment F	-	-	-	DBE Subcontractor and Supplier Solicitation Form DBE Subcontractor and Supplier Commitment Form
Attachment G	-	-	-	Agencies Providing Assistance to DBEs/SBEs and/or receiving information regarding Borough Policy
Attachment H	-	-	-	Instructions for Completing the Uniform Report of DBE Awards or Commitments and Payments
Attachment I	-	-	-	49 CFR Part 26

Attachment A Organizational Chart

BOROUGH ORGANIZATION



FNSB Organizational Chart revised 05/2016

Attachment B Monitoring and Enforcement Mechanisms/Legal Remedies**16.36.010 Authority to debar or suspend.**

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the chief procurement officer, after consulting with the borough attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. After consultation with the borough attorney, the chief procurement officer is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not exceeding three months. The causes for debarment or suspension include:

- A. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- B. Conviction under state and federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a borough contractor;
- C. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- D. Violation of contract provisions, as set forth below, of a character which is regarded by the chief procurement officer to be so serious as to justify debarment action:
 - 1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract, or
 - 2. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- E. Any other cause the chief procurement officer determines to be so serious and compelling as to affect responsibility as a borough contractor, including debarment by another governmental entity; and
- F. For violation of the ethical standards set forth in Chapter 16.44 FNSBC. (Ord. 2002-29 § 35, 2002; amended during 1993 republication; Ord. 82-69, 1982. 2004 Code § 16.60.010.)

Attachment C Overall Goal Calculation

Overall Goals

Step 1 Amount of Goal (49CFRPart 26.45)

1. Once the Borough defines its contracting programs and corresponding market areas for a given federal fiscal year, the Borough will establish a Base Figure of ready, willing, and able DBEs to participate on the Borough's contracts, following one of the federally prescribed goal setting methodologies, in accordance with Title 49 CFR, Part 26.45. The Borough understands that it must submit to the FTA for approval any adjustment the Authority decides to make to the DBE goal during this three (3) year period based on changed circumstances.
2. Method Used in Calculating the Overall Goal (49CFR Part 26.45 and 49 CFR Part 26.51) Utilizing the most current data available from DBE directories, namely the State of Alaska UCP database and the U.S. Census Bureau's Business County Pattern database to determine the number of ready, willing, and able DBEs in the designated market area and the number of ready willing and able businesses that perform work in the same NAICS work codes - utilizing methodologies that are based on demonstrable evidence of local market conditions that are designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the Borough's market area.

Step 2 Analysis: Adjustment to Step 1Base Figure

49 CFR Part 26 recommends factors to consider in the adjustment to Step 1, including examining historic overall goal accomplishments, and researching real-market areas and the disparity study conducted within the northern region of Alaska within the last seven years; and other relevant factors including:

1. The number, types, and dollar value of contracting opportunities, projected to be financed with federal funds and to be awarded during a fiscal year.
2. The methods used by the Borough to increase DBE participation in federally assisted contracts.
3. The data from statistical disparities in the ability of DBEs to obtain financing, bonding and insurance requirements to participate in the Borough's DBE program.
4. The data on employment and self-employment, education and training programs, to the extent the Borough can relate it to the opportunities for DBEs to perform in the Borough's DBE program.

The Borough has no historical data to estimate race-neutral (RN) vs. race-conscious (RC) participation. Contract goals are used only to the extent necessary to ensure a level playing field.

Step 3 Public Participation and Outreach Efforts

In establishing its overall DBE goal, the Borough will provide opportunities for public participation. The Borough will consult with several of the agencies or organizations listed on Attachment G to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and the Borough's efforts to establish a level playing field for the participation of DBEs and promote fair competition.

The Borough's will publish a notice of the proposed overall goal to inform the public that the methodology and proposed annual overall goal for the DBE participation is available for inspection for a period of 30 days from the date of publication at the Borough's General Services Department during normal business hours, and informing the public that the Borough will accept comment on the goals for forty-five (45) days from the date of the notice. The notice of the goal will be published in the Fairbanks Daily News Miner and available minority-focus media.

Upon receipt, the Borough will analyze the public comments, summarize the result and formulate modifications to the proposed overall DBE goal or methodology as deemed necessary and forward the comments to the Authority for review.

The overall DBE goals will be reaffirmed by to the Authority before formal adoption by the FTA Civil Rights Officer.

Transit Vehicle Manufacturers (TVM) Certifications (26.49)

The Borough shall require Transit Vehicle Manufactures to certify that they have full complied with the requirements of this section. During its review of the bids or proposals received, the Borough will consult the listing of approved TVM's on FTA's website. This requirement is only applicable for vehicles specifically made for transit service.

Race-Conscious Measures

The Borough will annually consider the following factors to project levels of DBE participation to be met through race-conscious measures in order to determine its Overall Annual Goal by identifying general dollar volume of work; by designated category (i.e. construction, professional services, maintenance and supplies and equipment).

Conducting open pre-bid meetings for all interested contractors.

Providing contractors with a list of DBE certified businesses whose work scope matches work scope for specified projects that can be subcontracted in order to increase the likelihood that the DBE goals will be achieved.

Attachment D Forms 1 & 2 for Demonstration of Good Faith Efforts

The Borough will require (Bidder/Proposer) to comply with Good Faith Effort requirements as a matter of responsiveness. The obligation of the Bidder/Proposer is to make Good Faith Efforts towards meeting DBE participation. The Bidder/Proposer can demonstrate that it has done so by complying with the Forms 1 and 2 provided as part of the solicitation documents prior to submitting its bid/proposal to do so. The Bidder/Proposer must demonstrate that it took all necessary and reasonable steps to obtain sufficient DBE participation, even if the Bidder/Proposer was not fully successful.

The DBELO will be responsible for determining whether a Bidder/Proposer who has not met Good Faith Efforts has documented sufficient evidence to be regarded as responsive.

The Borough as part of the Pre-Bid Conference will solicit the interest of certified DBEs who have the capability to perform the work of the contract.

Subsequent efforts to solicit DBEs within all available subcontracting areas addressed on Forms 1 & 2.

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to a minimum of _____% DBE utilization on this contract

_____ The bidder/offeror (if unable to meet the DBE Goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By: _____
(Signature)

Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$_____.

Affirmation

The above named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)

Attachment E Alaska UCP Agreement

The Alaska Unified Certification Program Agreement

The United States Department of Transportation (USDOT) has issued regulations at 49 CFR 26.81 (Subpart E) requiring that all direct and indirect recipients of USDOT funding within a state establish a Unified Certification Program (UCP). The purpose of the UCP is to provide a one-stop certification process for all businesses within each state seeking certification to participate in the USDOT Disadvantaged Business Enterprise (DBE) Program. USDOT agencies requiring the UCP include: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA).

As a recipient of USDOT funds, all the undersigned USDOT recipients have entered into this Agreement to form an Alaska Unified Certification Program (AUCP). The AUCP will be administered by the Alaska Department of Transportation & Public Facilities (ADOT&PF). The undersigned agree the AUCP shall make all certification decisions on behalf of all USDOT recipients within Alaska. The AUCP will provide "one-stop shopping" to applicants for DBE certification so that an applicant is required to apply only once for a DBE certification which will be honored by all recipients in Alaska. All obligations of recipients with respect to certification and nondiscrimination will be carried out by the AUCP and recipients may only use other UCPs that comply with the certification and nondiscrimination requirements of 49 CFR Part 26. The undersigned also agree to the following terms and conditions:

1.0 AUCP Certification Location

The ADOT&PF, 2200 East 42nd Avenue, Anchorage, Alaska (mailing address is PO Box 196900, Anchorage, AK 99519-6900) will serve as the centralized certification location for the AUCP.

1.1 Certification Standards

The AUCP will follow the Certification Standards of 49 CFR Part 26, Subpart D and the Certification Procedures and Standards of 49 CFR Part 26 Subpart E in determining eligibility of firms to participate as a DBE in DOT-assisted contracts. Firms must meet all certification eligibility standards as indicated in the 49 CFR Part 26. Certification decisions are solely based on the minimum requirements indicated in 49 CFR Part 26. All certifications made by the AUCP are pre-certifications in accordance with 49 CFR 26.81(c).

1.2 Certification Appeals

Any firm or complainant wishing to appeal the AUCP's administrative, final denial of certification or decertification (under the provisions of 49 CFR 26.85, 26.87 and 26.89) may do so in writing to USDOT:

Department of Transportation
Office of Civil Rights
Certification Appeals Branch
400 7th St., SW, Room 5414A
Washington, DC 20590

The AUCP will promptly implement any USDOT certification appeal decision affecting the eligibility of a DBE for USDOT-assisted contracting in Alaska.

1.3 Annual DBE Affidavits

The AUCP will require all DBEs to annually submit a written affidavit which will verify any change in circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with their application for certification as required by 49 CFR 26.83(j).

The AUCP will notify all currently certified DBE firms of these obligations annually by certified mail.

1.4 Denial of DBE Certification to New Applicants

When a firm not previously certified as a DBE is found to be ineligible at the time of the firm's application submission, the firm will be denied certification as a DBE. The firm will be provided a written explanation of the reasons for denial as required by 49 CFR 26.85. Any firm denied certification as a DBE may appeal this decision within 90 days to USDOT at the address listed in Section 1.2.

When DBE certification is denied, the firm in question is ineligible to participate as a DBE on federally funded USDOT projects and may not reapply for certification for at least one year from the date of the final decision by either the ADOT&PF Civil Rights Office or USDOT, whichever decision is the latter.

1.5.1 Removal of DBE Certification

When a DBE firm fails to continue to meet the minimum standards for DBE certification, a written preliminary determination by ADOT&PF to remove their DBE certification will be sent to the firm. When the owner(s) of a DBE firm believes the ADOT&PF has made an error in its preliminary determination to remove its DBE certification, they may request an informal hearing of this determination, in accordance with subsection 1.5.3, Informal Hearing Process.

If a DBE firm chooses not to request an informal hearing, the determination shall be made final and the DBE certification will be removed. The DBE firm in question is not eligible to participate as a DBE on federally funded USDOT projects and may not reapply for DBE certification for at least one year from the date of the final decision by either ADOT&PF or USDOT, whichever decision is the latter.

The Alaska Unified Certification Program
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DBE firms may be subject to removal of DBE certification for various reasons including, but not limited to the following:

- a. The DBE firm no longer meets the eligibility requirements of 49 CFR Part 26;
- b. The DBE firm fails to provide current annual affidavits about the personal net worth of the DBE owners and/or changes that would affect the eligibility of the firm as a DBE under 49 CFR Part 26;
- c. The DBE firm at any time refuses to cooperate with requests by the ADOT&PF for information and/or documentation required by 49 CFR Part 26;
- d. The DBE firm is debarred or suspended by the ADOT&PF or USDOT;
- e. The ADOT&PF determines that DBE eligibility was based on "Pro Forma" practices, procedures, or changes;
- f. The DBE fails to cooperate with the ADOT&PF in accordance with 49 CFR Part 26.109(c).

1.5.2 Due Process

When allegations or concerns have arisen which could result in the removal of the DBE certification of a firm, ADOT&PF will assign a CRO Certification Officer to review and consider the allegations and/or concerns. The assigned CRO Certification Officer will evaluate the information that has been provided and identify those issues, which, if true, could impact the DBE firm's continued eligibility. If the allegations/concerns are found to be true, ADOT&PF will provide written notice to the DBE firm, Notice of Preliminary Determination to Remove DBE Certification, which identifies the problem areas and provides a timeframe within which the DBE firm must respond to the allegations/concerns. A DBE firm so notified is entitled to an informal hearing as described in subsection 1.5.3, except for an ADOT&PF determination that concludes the DBE firm owner(s) exceed the personal net worth standards and the determination is not disputed by the DBE firm.

Should the DBE firm fail to exercise its right to an informal hearing within the time limits specified, then the DBE certification shall be removed for that firm effective the day after the expiration of their right to an informal hearing.

1.5.3 Informal Hearing Process

A DBE firm that is notified of intent to remove its certification is entitled to an informal hearing in accordance with §26.87. The firm may elect to present information and arguments in person, writing or telephonically at a hearing. To ensure separation of functions in an informal hearing, we have determined that a member of the Western Region Executive Committee will serve as the knowledgeable decision-maker.

By utilizing the resources of the Western Region Executive Committee, the ADOT&PF has established an administrative firewall to ensure that the knowledgeable decision-maker will not have participated in any way in the preliminary determination to remove the certification of the DBE firm.

While an informal hearing decision is pending, the DBE in question is eligible to participate as a DBE on USDOT federally funded projects. Once the informal hearing decision is issued, and the preliminary decision of ADOT&PF is made final, the firm may not reapply for DBE certification for at least one year from the date of the decision by the member of the Western Region Executive Committee, or one year from final appeal decision by USDOT, whichever decision is the latter.

A firm may appeal the informal hearing decision in writing to USDOT within 90 days from the date of the final decision by the member of the Western Region Executive Committee.

2.0 Third Party Complaints Regarding DBE Certification

Any third party may file a written complaint with ADOT&PF regarding the qualification of a firm that is currently certified or have applied for certification as a DBE. The complaint must include all relevant and factual information, which addresses the firm's qualifications. ADOT&PF will provide written notice to both the complainant and the firm in question that a complaint has been received relative to the firm's DBE qualifications.

The identity of the complainant shall be maintained by ADOT&PF as confidential information, unless it hinders or prevents the investigation of the complaint (i.e., the nature and/or circumstances of the complaint would disclose the identity of the complainant to the DBE firm in question) in accordance with 49 CFR 26.109(b). In such cases where the DBE firm in question may know or be able to discern the identity of the complainant, or result in a denial of appropriate administrative due process to other parties, ADOT&PF will inform the complainant and request written permission from to disclose their identity should it become necessary during the course of the investigation.

The complaint will be investigated by ADOT&PF to determine whether the DBE firm is qualified for the DBE Program under the provisions of 49 CFR Part 26. If the investigation concludes that there is no validity, ADOT&PF will provide the findings with reasons for the finding of no reasonable cause in writing to both the complainant and the firm. Also, the complainant will be provided information of the right to appeal ADOT&PF's decision to USDOT.

If ADOT&PF determines there is reasonable cause to believe the firm in question is unqualified, ADOT&PF will:

- follow the procedures as outlined in 49 CFR Part 26 and subsection 1.4 of this agreement to deny certification for new applicants; or
- follow the procedures as outlined in 49 CFR Part 26 and subsection 1.5 of this agreement to remove a DBE firm's certification.

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3.0 DBE Directory

The AUCP will maintain a directory identifying all firms certified as a DBE. The directory will include: firm's name, address, phone number, re-certification due date, and the type of work the firm has been certified to perform. The AUCP will make the Directory available as follows:

- The electronic directory will be updated when changes are made in accordance with 49 CFR 26.81(g) and will be the most current and accurate version available. The electronic directory should be used as the primary reference and is on the internet at: <http://www.dot.state.ak.us/evlrts/directory.shtml>
- The hardcopy directory will be updated once every three months. Hardecopies will be available at ADOT&PF Civil Rights Office and all other AUCP participants' locations. The public may request a copy be sent by mail from the ADOT&PF Civil Rights or any other AUCP participant.

Firms Previously Certified By Alaska DOT Recipients

Incorporation of DBE firms certified by another USDOT recipient prior to the formation of the AUCP, will be accommodated based on a review by ADOT&PF on behalf of the AUCP of their eligibility for the DBE Program under 49 CFR Part 26. The review will consist of an analysis of the annual information required of all DBE firms and an on-site review to verify eligibility. Any DBE firm proposed for removal of DBE certification by the new AUCP will be offered an opportunity for an informal hearing as stated under 49 CFR Part 26 and subsection 1.5.3. Firms may reapply for certification within 12 months from the receipt of final determination. Firms that were previously denied certification by ADOT&PF and upheld on appeal by USDOT, but retained by other Alaska USDOT recipients will not be certified for listing in the AUCP DBE Directory and no additional hearing rights will be offered. This means that firms reviewed for eligibility by ADOT&PF and found ineligible (with verification of ineligibility by USDOT) will not be accepted for transfer to the AUCP DBE Directory. These firms may re-apply for certification if it has been 12 months since the last certification decision by ADOT&PF. Other Alaska USDOT recipients who performed certifications in the past will transfer all files to ADOT&PF within 60 days after the AUCP is approved by USDOT.

4.0 Cooperation, Oversight, Review and Monitoring Activities

The AUCP will fully cooperate with the oversight, review and monitoring activities of USDOT and its operating administrations (FHWA, FAA and FTA).

5.0 USDOT Directives and Guidance

The AUCP shall implement all required USDOT directives and guidance relative to DBE certification matters.

6.0 Resources and Expertise of the AUCP

All Alaska USDOT recipients are committed to insuring there are adequate resources to carry out the functions of the AUCP. The ADOT&PF has assured all USDOT recipients that currently they have received the necessary resources within their own operating budget and have the adequate staff to administer the AUCP. ADOT&PF will add an additional Certification Officer position to handle additional certification demands for the AUCP at no cost to the other recipients. However if in the future resources are no longer adequate, ADOT&PF will notify all other USDOT recipients to request assistance for program needs. One option, which ADOT&PF will pursue, if necessary, is to acquire a percentage off the top of all USDOT grants to cover AUCP administration.

ADOT&PF will also have a general email address and an in-state toll free telephone number for the AUCP DBE applicants. All Alaska USDOT recipients that are signatories to the AUCP Agreement affirm and concur that ADOT&PF has provided assurance that they have sufficient resources and expertise to carry out the certification requirements of 49 CFR Part 26.

7.0 Annual Meeting

At a minimum, normally during the month of January, ADOT&PF Civil Rights will host a meeting in Anchorage for all Alaska USDOT recipients. The purpose of the meeting will be to discuss the functionality and improvement of the AUCP and/or discuss any needed changes/amendments. For those unable to attend in person, ADOT&PF will provide teleconferencing as an option for participation. ADOT&PF will not provide travel or lodging for this meeting.

8.0 Disputes with Administration of the AUCP

Any Alaska USDOT recipient may dispute the administration of the AUCP. Such a dispute shall be stated in writing, specifying the alleged administrative error(s) committed by the AUCP and supported by evidence based on 49 CFR Part 26. The dispute shall be submitted to the ADOT&PF Civil Rights Manager for final resolution within 60 calendar days from date of receipt of the dispute. The Civil Rights Manager will: (1) acknowledge receipt and distribute immediately to all AUCP participants and (2) solicit and accept input from AUCP participants in addressing the concern(s). Once the fact gathering and input has concluded, the final outcome will be provided to all AUCP participants in writing.

9.0 Recipients - Direct and Indirect

Each Alaska USDOT direct recipient that is a signatory to the AUCP Agreement will ensure that all of its sub-recipients are bound by the terms and conditions of the AUCP. This will be done through a formal Transfer Of Responsibility Agreement or similar agreement. Any failure to do so will be subject to review by the USDOT.

10.0 Participation in Regional UCPs

The AUCP will not participate in a regional UCP with another State unless Agreement to do so is reviewed and approved by all Alaska USDOT recipients.

11.0 Amendment of the AUCP Agreement

This Agreement will not be amended unless agreed to by all signatories to the Agreement or if ordered to do so by USDOT. Any significant change, which affects or alters the intent of the Agreement, is subject to review by the AUCP membership and approval by USDOT.

12.0 Implementation Schedule

Upon approval of this Agreement by the US Secretary of Transportation this Agreement will be implemented. The AUCP agreement will be posted on the ADOT&PF website.

13.0 Entire Agreement

This Agreement represents the entire Agreement between the parties. Any previous statements, whether oral or written, are merged into this Agreement.

The undersigned Alaska USDOT recipients agree to and accept the terms and conditions of the AUCP.

14.0 Agreement Interpretation

The language of this Agreement is to be construed according to its fair meaning and is not to be construed with a bias in favor of or against ADOT&PF or the other signers of the Agreement.

15.0 Term of This Agreement

This agreement shall be valid as long as an AUCP is required by USDOT of its recipients for highway, airport and mass transit funding assistance.

The undersigned is authorized to execute the Alaska Unified Certification Program Agreement conditionally approved by USDOT on May 8, 2003 and to bind the named recipient to the terms and conditions set forth in this agreement.

Name of Recipient (Agency)

Date

**DBE Liaison Officer/Authorized Representative
(Printed)**

(Signature)

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Attachment F DBE Subcontractor and Supplier Forms, Schedules, Etc.

SCHEDULE A

**FAIRBANKS NORTH STAR BOROUGH
GENERAL SERVICES DEPARTMENT**

SUBCONTRACTORS LIST AND BIDDER'S STATEMENT OF PROPOSED DBE PLAN

BIDDER MUST LIST FIRST TIER SUBCONTRACTORS*. DBE SUBCONTRACTORS MUST BE IDENTIFIED WITH THE CONTRACT DOLLAR VALUE. A DBE GOOD FAITH EFFORT WAIVER IS REQUIRED IF THE DBE PARTICIPATION IS BELOW THE ESTABLISHED PROJECT GOAL.

Pursuant to Administrative procedures and policies, the GS Director may verify and / or clarify information as it relates to the Affidavit of Good Faith Efforts and / or the Bidder's Statement of Proposed DBE Plan.

IFB No. _____ Project Name: _____

Subcontractor's Name	Trade/Industry	Dollar Value of Contract DBE

***There is no requirement to list non-DBE Subcontractors with contract values less than \$5,000**

Bidder's Base Bid Amount \$ _____

Total Claimed DBE Participation \$ _____ %

I hereby certify by signing below that the foregoing DBE firms shall be contracted to work on the trades identified above and/or supply material and/or equipment for this project. The information shown above is a true reflection of the proposed subcontracts expressed as a percentage of the base bid.

Company Name: _____

Signature: _____ Phone No. _____

Date: _____ Name & Title: _____

SCHEDULE B

**FAIRBANKS NORTH STAR BOROUGH
DEPARTMENT OF TRANSPORTATION
CERTIFICATION REGARDING
PROMPT PAYMENT TO SUBCONTRACTORS**

Contract Number _____ Contractor _____

Project Number _____

I certify that to the best of my knowledge, for the estimate period of _____ that all subcontractors have been paid, including retainage where applicable, for the quantities estimated to date by the Department in accordance with the tables below. I have listed exceptions and reasons for non-payment to Subcontractors and where joint checks were utilized, as provided below.

Signature Title Date

Exceptions:

Subcontractor	DBE Yes/No	Reason For Nonpayment

Only complete the following if joint checks were utilized⁽³⁾:

Subcontractor	DBE Yes/No	Date Agmt Signed	Amount Paid On Estimate	Total Paid To Date

Guidelines:

1. This certification will be required before processing a monthly progress payment to the Contractor. The certification will run two months in arrears (i.e. progress payment for August 2014 would require certification for June 2014).
2. This certification shall be sent to the project supervisor. When exceptions or joint check subcontractors are listed, the project supervisor shall send copies to the Director of Public Works and the Department of Transportation. If an exception or joint check includes a DBE subcontractor then an additional copy shall be sent to the General Services Department.
3. Copies of joint checks are to be attached to this report.

This certification is for the Department's information only and does not place any obligation on the part of the Department with regard to any party including but not limited to any subcontractor and Contractor's surety.



**FOR
NON-CONSTRUCTION
PROJECTS ONLY**

SCHEDULE C-1

MBE/WBE Letter of Intent to Perform as a Subcontractor, Supplier, or Consultant

Project Name: _____

Specification No.: _____

From: _____
(Name of MBE/WBE Firm)

To: _____ and Fairbanks North Star
(Name of Prime Consultant)
Borough.

The MBE or WBE status of the undersigned is confirmed. 100% MBE or WBE participation is credited for the use of a MBE or WBE "manufacturer." 60% participation is credited for the use of a MBE or WBE "regular dealer."

The undersigned is prepared to perform the following services in connection with the above named project/contract. If more space is required to fully describe the MBE or WBE proposed scope of work and/or payment schedule, including a description of the commercially useful function being performed. Attach additional sheets as necessary:

The above described performance is offered for the following price and described terms of payment:

SUB-SUBCONTRACTING LEVELS

A zero (0) must be shown in each blank if the MBE or WBE will not be subcontracting any of the work listed or attached to this schedule.

_____ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to non MBE/WBE contractors.

_____ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to MBE or WBE contractors.

NOTICE: If any of the MBE or WBE scope of work will be subcontracted, list the name of the vendor and attach a brief explanation, description and pay item number of the work that will be subcontracted. MBE/WBE credit will not be given for work subcontracted to Non-MBE/WBE contractors, except for as allowed in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Consultant, conditioned upon your execution of a contract with the Fairbanks North Star Borough, within three (3) business days of your receipt of a signed contract from the Fairbanks North Star Borough.

NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES.

(Signature of President/Owner/CEO or Authorized Agent of MBE/WBE) (Date) (Name/Title-Please Print)

(Email & Phone Number)



**FOR
NON-
CONSTRUCTION
PROJECTS ONLY**

SCHEDULE D-1

Compliance Plan Regarding MBE/WBE Utilization Affidavit of Prime Consultant

MUST BE SUBMITTED WITH THE BID; FAILURE TO SUBMIT THE SCHEDULE D-1 WILL CAUSE THE BID TO BE REJECTED. DUPLICATE AS NEEDED.

Project Name: _____

Specification No.: _____

In connection with the above captioned contract, I HEREBY DECLARE AND AFFIRM that I am a duly authorized representative of _____, and that
(Name of Prime Consultant/Contractor)

I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the MBE/WBE goals of this contract.

I. Direct Participation of MBE/WBE Firms:

NOTE: The bidder/proposer shall, in determining the manner of MBE/WBE participation, first consider involvement with MBE/WBE firms as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this contract.

A. If bidder/proposer is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach a copy of Joint Venture Agreement clearly describing the role of each MBE/WBE firm(s) and its ownership interest in the joint venture.

B. Complete this section for each MBE/WBE Subcontractor/Supplier/Consultant participating on this contract:

1. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation _____%

2. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation _____ %

3. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation _____ %

II. Indirect Participation of MBE/WBE Firms

NOTE: This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, Consultant will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

1. Name of MBE/WBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation _____ %

Plan Holder List

Agency	Address	City, State	Zip	Phone	Email	Contact
Associated General Contractors / The Plans Room	3750 Bonita	Fairbanks, AK	99701	452-1809	karen@agc.ak.org	Karen
Associated General Contractors	8005 Schoon Street	Anchorage, AK	99518	561-5354		
AK Small Business Development Center / Procurement Technical Assistance	3750 Bonita	Fairbanks, AK	99701	456-7232	mary.sheehan@aksbdc.org	Mary
Interior Alaska Building Association	938 Aspen Street	Fairbanks, AK	99701	455-6650	iaba@mosquitonet.com	Home Building
Fairbanks Chamber of Commerce	100 Cushman St., Ste 102	Fairbanks, AK	99701	452-1105		Lisa, Executive Director
Associated Builders and Contractors of Alaska	1900 W. Benson Blvd., Suite 201	Anchorage, AK	99518	565-5600	amy@abcalaska.org	Amy Nibert. President CEO
NAWIC, Alaska Chapter 197	P.O. Box 91945	Anchorage, AK	99509	223-3098	cmo@ak.net	Tamie Taylor
Anchorage Home Builders Association	8301 Schoon St., Ste 200	Anchorage, AK	99518	522-3605	jdial@rainproofroofing.com	Jason Dial, Co-chair Membership
Mat-Su Home Builders Association	609 South Knik Goose Bay Road, Suite G	Wasilla, AK	99645	376-2600	mshba@mtaonline.net	Sarah Collins
McGraw-Hill Construction Dodge	200 SW Michigan St., Ste 100A	Seattle, WA	98106	378-4799	katrina.ramos@mhfi.com	
Native American Contractors Assoc.	3211 Providence Drive, DPL 202	Anchorage, AK	99508	786-5444	nfkloudia@uaa.alaska.edu	
Alaska Small Business Resource	420 L St., Ste 300	Anchorage, AK	99501	271-2297	marichu.relativo@sba.gov	Marichu, Procurement Center Representative

Attachment G DBE Directory List

DBE Directory- Alphabetical by NAICS Code

July 25, 2016

Work Areas/Regions of Alaska**CR Central Region****NR Northern Region****SR Southeast Region**

NAICS Code - Description		Work Area		
23622 - Commercial and Institutional Building Construction		NR	CR	SR
1	A & A CONSTRUCTION LLC	No	Yes	No
2	ANCOR INC No Yes No	No	Yes	No
3	ARCTIC CONTRACTING LLC	Yes	Yes	No
4	BRISTOL ENVIRONMENTAL REMEDIATION SERVICES LLC	Yes	Yes	No
5	GLACIER ELECTRIC CONSTRUCTION INC	No	Yes	No
6	GLACIER STATE CONTRACTORS INC	No	No	No
7	GLACIER STATE CONTRACTORS INC	No	No	Yes
8	JKM GENERAL CONTRACTORS LLC	Yes	Yes	Yes
9	JOHNSON CONSTRUCTION & SUPPLY INC	No	No	Yes
10	JOHNSON CONSTRUCTION & SUPPLY INC	No	No	No
11	LITTLE SUSITNA CONSTRUCTION CO INC	Yes	Yes	Yes
12	MAHTO CONSTRUCTION INC	Yes	Yes	Yes
13	NORTH STAR PAVING & CONSTRUCTION INC	No	Yes	No
14	NORTH STAR PAVING & CONSTRUCTION INC	No	No	No
15	NORTHERN DAME CONSTRUCTION INC	Yes	Yes	No
16	O & S CONSTRUCTION	No	Yes	No
17	SAMCO'S CONTRACTING LLC.	No	Yes	No
18	SBH SERVICES INC	Yes	Yes	Yes
19	TUNISTA CONSTRUCTION LLC	Yes	Yes	Yes
20	WARNING LITES OF ALASKA INC	Yes	Yes	Yes
21	YENNEY & ASSOCIATES CONSTRUCTION INC	Yes	Yes	No
23731 - Highway, Street, and Bridge Construction		NR	CR	SR
1	A & A CONSTRUCTION LLC No Yes No	No	Yes	No
2	ALASKA PREMIUM PAINTING LLC	Yes	Yes	Yes
3	AMIGO LLC	Yes	Yes	Yes
4	ANCOR INC	No	Yes	No
5	ASRC CIVIL CONSTRUCTION, LLC	Yes	Yes	Yes
6	BRISTOL ENVIRONMENTAL REMEDIATION SERVICES LLC	Yes	Yes	No
7	CHANNEL CONSTRUCTION INC	No	No	Yes
8	CLI CONSTRUCTION INC	Yes	Yes	No
9	COMPASS CONSTRUCTION, LLC	Yes	Yes	Yes
10	FRAWNER CORPORATION	Yes	Yes	Yes
11	GLACIER STATE CONTRACTORS INC	No	No	Yes
12	GLACIER STATE CONTRACTORS INC	No	No	No
13	ILIAMNA LAKE CONTRACTORS LLC	No	No	No
14	ILIAMNA LAKE CONTRACTORS LLC	No	Yes	No
15	JOHN-WAYNE CONSTRUCTION COMPANY	No	Yes	Yes
16	JOLT CONSTRUCTION & TRAFFIC MAINTENANCE INC	Yes	Yes	Yes
17	NORTH STAR PAVING & CONSTRUCTION INC	No	No	No
18	NORTH STAR PAVING & CONSTRUCTION INC	No	Yes	No
19	NORTH WIND SERVICES LLC	Yes	Yes	Yes
20	NORTHCOAST CONSTRUCTION INC	Yes	No	No

NAICS Code - Description		Work Area		
21	SBH SERVICES INC	Yes	Yes	Yes
22	TANGENT & TAPER CONSTRUCTION LLC	Yes	No	No
23	TUTKA, LLC	Yes	Yes	Yes
24	WORLD EQUIPMENT INC	Yes	Yes	No
23811 - Poured Concrete Foundation and Structure		NR	CR	SR
1	A & A CONSTRUCTION LLC	No	Yes	No
2	ALASKA PREMIUM PAINTING LLC	Yes	Yes	Yes
3	BELARDE CUSTOM CONCRETE COMPANY	No	Yes	Yes
4	CARPENTER CONTRACTING INC	Yes	No	No
5	COMPASS CONSTRUCTION, LLC	Yes	Yes	Yes
6	EARTH STONE INC	Yes	Yes	No
7	JOHN-WAYNE CONSTRUCTION COMPANY	No	Yes	Yes
8	O & S CONSTRUCTION	No	Yes	No
9	SADER CONCRETE CONSTRUCTION	No	No	Yes
10	YENNEY & ASSOCIATES CONSTRUCTION INC	Yes	Yes	No
23821 - Electrical Contractors		NR	CR	SR
1	ALASKA ELECTRICAL CONTRACTORS LLC	No	Yes	No
2	ALL WIRE ELECTRIC LLC	Yes	Yes	Yes
3	B&B ELECTRIC INC	Yes	Yes	Yes
4	EVER ELECTRIC INC DBA ISLAND ELECTRIC	Yes	Yes	Yes
5	GLACIER ELECTRIC CONSTRUCTION INC	No	Yes	No
6	JADE ELECTRIC LLC	No	Yes	No
7	LOCAL ELECTRIC INC	Yes	Yes	No
23899 - All Other Specialty Trade Contractors		NR	CR	SR
1	A & A CONSTRUCTION LLC	No	Yes	No
2	ABOVE AND BEYOND COMMUNICATIONS INC	No	Yes	No
3	ARCTIC SUN CONCRETE CUTTING	No	Yes	No
4	COMPASS CONSTRUCTION, LLC	Yes	Yes	Yes
5	GREEN EARTH LANDWORKS LLC	Yes	Yes	Yes
6	JOHN-WAYNE CONSTRUCTION COMPANY	No	Yes	Yes
7	KEE CONSTRUCTION LLC	Yes	Yes	Yes
8	KWAAN CONSTRUCTION LLC.	Yes	Yes	Yes
9	MOSS CAPE, LLC	Yes	Yes	Yes
10	SADER CONCRETE CONSTRUCTION	No	No	Yes
11	WARNING LITES OF ALASKA INC	Yes	Yes	Yes
314999 - All Other Miscellaneous Textile Product Mills		NR	CR	SR
1	TEAMS BY DESIGN INC	Yes	Yes	Yes
323113 - Commercial Screen Printing		NR	CR	SR
423610 - Electrical Apparatus and Equipment, Wiring Supplies, and Related		NR	CR	SR
1	POWERTECH CONTROLS COMPANY INC.	Yes	Yes	Yes
2	PROGRESSIVE INDUSTRIES INC	Yes	Yes	Yes

NAICS Code - Description		Work Area		
3	SOLID NETWORK SOLUTIONS LLC	Yes	Yes	Yes
4	TEC PRO LTD	Yes	Yes	Yes
44814 - Family Clothing Stores		NR	CR	SR
1	THE SOURDOUGH MERCANTILE INC	Yes	Yes	Yes
44819 - Other Clothing Stores		NR	CR	SR
1	JCM & ASSOCIATES, INC	Yes	Yes	Yes
453998 - All Other Miscellaneous Store Retailers (except Tobacco Stores)		NR	CR	SR
1	ALASKA LUGGAGE & SEAFOOD SHIPPING LLC (ALSS LLC)	Yes	Yes	Yes
2	GARNES ENGINEERING GROUP LTD	Yes	Yes	Yes
3	NORTHWIND VENTURES, INC	Yes	Yes	Yes
4	WARNING LITES OF ALASKA INC	Yes	Yes	Yes
485999 - All Other Transit and Ground Passenger		NR	CR	SR
54131 - Architectural Services		NR	CR	SR
1	CATHERINE FRITZ, ARCHITECT	Yes	Yes	Yes
2	PATRICIA PEIRSOL ARCHITECTS	Yes	Yes	Yes
54133 - Engineering Services		NR	CR	SR
1	AWR ENGINEERING, LLC	Yes	Yes	Yes
2	BRATSLAVSKY CONSULTING ENGINEERS INC	Yes	Yes	Yes
3	BRISTOL ENVIRONMENTAL REMEDIATION SERVICES LLC	Yes	Yes	No
4	BROOKS & ASSOCIATES	Yes	Yes	Yes
5	COOPER ZIETZ ENGINEERS INC DBA AKANA	Yes	Yes	Yes
6	EBSC ENGINEERING LLC	Yes	Yes	Yes
7	EXELTECH CONSULTING INC	Yes	Yes	Yes
8	EXELTECH CONSULTING INC	No	No	No
9	GARNES ENGINEERING GROUP LTD	Yes	Yes	Yes
10	H.B. RUETER ENGINEERING INC.	Yes	Yes	Yes
11	HARAI & ASSOCIATES INC	No	No	Yes
12	MERIT ENGINEERING INC	Yes	Yes	Yes
13	NORTH WIND SERVICES LLC	Yes	Yes	Yes
541512 - Computer Systems Design Services		NR	CR	SR
1	ALLIED GIS INC	Yes	Yes	Yes
2	DOON TECHNOLOGIES INC.	Yes	Yes	Yes
3	GEONORTH LLC	Yes	Yes	Yes
4	MICROWARE INC	Yes	Yes	Yes
5	SAVANT CONSULTING, INC.	Yes	Yes	Yes
54181 - Advertising Agencies		NR	CR	SR
1	MSI COMMUNICATIONS INC	Yes	Yes	Yes
2	SOLSTICE ADVERTISING LLC	Yes	Yes	Yes
3	WILLIAM FRASER & CO., LLC DBA WILLIAM FRASER ADVERTISING	Yes	Yes	Yes

Attachment H Procurement Flyer

How to Do Business with the Fairbanks North Star Borough



Contact Information

For questions on general FNSB procurement issues, contact:

Carolyn Yurkovich
Chief Procurement Officer
459-1292
cyurkovich@fnsb.us

Debbie Ganley
General Services Manager
459-1290
dganley@fnsb.us

For questions on bids and request for proposals, contact

Marilyn Ordal
Procurement Specialist
459-1297
mordal@fnsb.us

Office Location

FNSB Juanita Helms Administration Center
809 Pioneer Road, 2nd Floor
Fairbanks, AK
P.O. Box 71267
Fairbanks, AK 99707-1267

Office Hours

Monday through Friday
8:00 a.m. - 5:00 p.m.

Email: purchasing@fnsb.us

Goods/Services Purchased

- Office Supplies
- Office Equipment
- Vehicles
- Consulting Services
- Fire & Safety Equipment
- Construction Services
- Paint
- Cleaning Products
- Vehicle Maintenance Parts
- Hazardous Material Drums
- Furniture
- Advertising
- Grounds Maintenance Equipment
- Playground Equipment
- Books and Periodicals
- Janitorial Services
- Security Services
- Software and Hardware
- Paper Products
- Flowers
- Pet food
- To name a few...

Procurement

HOW TO SELL TO FNSB

Initial contact is made at purchasing@fnbsb.us. The vendor must provide business name, phone number, physical address, email address and a list of goods and/or services being offered. The Purchasing Division maintains vendor lists and notifies vendors of upcoming solicitations.

Vendors do not pay to utilize the FNSB website. To view and download IFB/RFP documents a vendor is not required to register. However, to be electronically notified of amendments or changes to bid documents, the vendor must register. Please visit <http://fnbsb.us/ga> portal to submit a Bidder's Registration.

BID AND PROPOSAL PROCESS

Purchasing uses competitive methods to acquire goods and services for the Fairbanks North Star Borough.

All competitive solicitations are issued through Bids Online and are published in the legal section of the Fairbanks Daily News Miner. The minimum value of each bid is \$20,000.

In unusual circumstances, a Bid Waiver or a Sole Source process may be used.

HOW DOES THE FNSB BUY?

PURCHASES OVER \$20,000

Purchases over \$20,000 are procured by formal sealed bids. These bids are advertised a minimum of 15 days prior to bid opening. Bids are advertised in the Fairbanks Daily News-Miner and posted on the FNSB website at Online Procurement Solicitations.

A Request for Proposals (RFP) process may be used when the scope of work cannot be clearly defined.

Bids must be delivered to the Purchasing Division prior to the bid deadline to be accepted.

Bids are opened in an open forum at the FNSB Juanita Helms Administration Center 2nd floor, Purchasing Division, 809 Pioneer Road, Fairbanks, Alaska 99701, at the time and date stated in the bid specifications. Vendors are welcome (but not required) to attend Bid Openings.

Contracts resulting from bid solicitations in excess of \$100,000 are awarded by the Fairbanks North Star Borough Assembly during regularly scheduled Thursday meetings. The agendas for these meetings are posted at the FNSB JHAC Building and in the Fairbanks Daily News-Miner.

Annual contracts may be used to purchase goods and services the FNSB buys repetitively over the course of a year. Annual contracts are bid for estimated quantities of commodities, equipment, or services at firm prices, for a specified period of time; usually one year increments with annual renewals.

Procurement, cont.

Awards are made to qualified vendors who meet specifications and conditions. Quantities are based on prior usage FNSB requires but are not guaranteed. FNSB requires successful bidders to have proof of:

1. Commercial general liability, occurrence basis: \$1,000,000 limit per occurrence;
2. Comprehensive automobile liability: \$1,000,000 combined single limit;
3. Workers' Compensation coverage including Employer's Liability with limits of \$100,000 each accident, \$500,000 disease--policy limit, and \$100,000 disease--each employee.

When a construction contract is awarded in excess of \$100,000, the following bonds are required:

1. Bid Bond of 5 percent of the bid price; and
2. Performance and Payment bond in an amount equal to 100 percent of bid/contract price.

PURCHASES UNDER \$20,000

Purchases under \$20,000 are considered small purchases.

Small purchases are handled using verbal or written quotes depending on the technical nature of the requested item. A minimum of three vendors must be contacted.

If you would like to provide FNSB a good or service, please contact us at purchasing@fnbsb.us.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY STATEMENT

It is the policy of FNSB to ensure nondiscrimination in the award and administration of DOT-assisted contracts. We create a level playing field on which DBEs and other small businesses can compete fairly. Bidders are required to make "Good Faith Efforts" to subcontract, where applicable, or purchase supplies from these businesses.

SMALL BUSINESS ADMINISTRATION (SBA)

To assist in the development of firms and remove barriers in order for small business to compete successfully in the market place.

LOCAL VENDOR PREFERENCE

The Purchasing Division of General Services is required to seek the participation of, and award to, local bidders.

Upcoming Projects

Project Name	Bid Opening
Pioneer Park Communication System Replacement.....	04/11/16
Mary Siah Recreation Center Tennis Court Improvement	
Borough Administrative Center Carpet Replacement	04/11/16
Completion.....	03/29/16
Ester Lump RSA Road Improvements.....	04/12/16
South Davis Park - Phase VI.....	03/31/16
Palo Verde Avenue Sidewalk Improvements.....	03/31/16
Transfer Sites Major Maintenance & Improvements.....	04/11/16
NSVFD Station #4 Driveway Repair.....	05/03/16
Farmers Loop East Transfer Site.....	04/12/16
Farmers Loop West Transfer Site.....	04/14/16
Chena Point RSA Road Improvements.....	04/26/16
Steese VFD#2 Water Well Install.....	05/01/16
Pioneer Park Water Main and Service Connection.....	05/03/16
Schools Arc Flash Phase III.....	05/14/16
SRTS Bike Racks.....	05/07/16
Borough Administrative Office HVAC Modifications.....	05/12/16
Birch Hill Ski Building Exterior Finish.....	05/09/16
Big Dipper Parking Lot Repair & Restriping.....	05/17/16
Carlson Activity Center Parking Lot Repair and Restriping	
.....	05/24/16
Manika Street Warehouse Exterior, Ventilation, Emergency Generator.....	06/11/16
Borough Administrative Center Parking Lot Resurfacing	
.....	05/31/16
Arc Flash Repairs Phase I.....	06/02/16
Noel Wien Library Maintenance.....	08/09/16
Tanana Lakes Recreation Area Playground.....	04/11/17
Big Dipper Locker Room Asbestos Abatement, Ventilation & Sprinkler Improvement.....	04/11/17
Mary Siah Recreation Center Remove/Replace Existing Water Service.....	04/11/17
Birch Hill Parking Lot Improvement.....	04/11/17
Animal Shelter DDC Upgrade.....	04/11/17
North Pole Middle School Mechanical Systems Replacement & Upgrades.....	04/11/17
Pioneer Park Hardening Car Improve. - Phase II.....	04/11/17
NSF Station #1 Expansion.....	04/11/17
Borough-wide UST Improvements.....	06/11/17
Solid Waste Landfill Closure Phase IV.....	04/11/18

View Current Bid Opportunities at
<http://fnbsb.us/ga>

Attachment I Instructions for Completing the Uniform Report of DBE Awards or Commitments and Payment**INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS**

(Disadvantaged Business Enterprise: Program Implementation Modifications Final Rule Pages 149-160)

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.

2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet.

3. Specify the Federal fiscal year (i.e., October 1-September 30) in which the covered reporting period falls.

4. State the date of submission of this report.

5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1 - March 31. If this report is due December 1, data should cover April 1 - September

30. If the report is due to the FAA, data should cover the entire year.

6. Provide the name and address of the recipient.

7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include gender-conscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

Section A: Awards and Commitments Made During this Period

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded

and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the total dollar amount for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the total number of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the dollar amount awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

8(D). From the total number of prime contracts awarded in item 8(B), specify the number of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race- neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the dollar amount awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form

for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all sub contracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of sub contracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs

9(D). From the total number of sub contracts awarded or committed in item 9(B), specify the number of sub contracts awarded or committed to DBEs

9(E). From the total dollar amount of sub contracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of sub contracts awarded or committed to DBEs this period, provide the number of sub contracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of sub contracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of sub contracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C – H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs this period.

11 – 17. Further breakdown the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DBEs in 10(C).

Likewise the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The “Non-Minority” category is reserved for any firms whose owners are not members of the presumptively disadvantaged groups already listed, but who are either “women” OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

Section C: Payments on Ongoing Contracts

Line 18(A – E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period.

18(C). From the total number of contracts provided in 18(A) provide the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F) Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in

18(B). Round percentage to the nearest tenth.

Section D: Actual Payments on Contracts Completed this Reporting Period

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts, and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(B) to derive this percentage. Round to the nearest tenth.

20(A)-20(E). Items 21(A)-21(E) are derived in the same manner as items 19(A)-19(E), except these figures should be based on contracts completed using Race Neutral measures.

20(C). This field is closed.

21(A)- 21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

25. Phone number of the Authorized Representative.

**Submit your completed report to your Regional or Division Office.

Attachment J Internal Policy**DISADVANTAGED BUSINESS ENTERPRISE PROCEDURES**

As required in Appendix C Part 26.25: The liaison office must also have adequate staff to administer the program in compliance with this part.

Reporting Section

The DBE Liaison for the Fairbanks North Star Borough is the Chief Procurement Officer. The backup to this position is the General Services Manager and Procurement Specialist.

The Liaison works with the Procurement Section of General Services to ensure that Record keeping is conducted for all federally funded procurements. The Liaison is responsible for the monitoring and reporting of DBEs for the Fairbanks North Star Borough.

The Procurement Section maintains a bidders list by project through a vendor registration. The Procurement Section is responsible for inserting s into the bidding documents forms for bidders to comply with demonstrating good faith efforts.

- 1) Disadvantaged Business Enterprise utilization form.
- 2) Sub-contractor list by the awardee.
- 3) Language complying with the prompt payment act through appropriate certification as to the payment of DBEs and participants in the contract.
- 4) Hold retainage from the prime and conduct phases and acceptance of work, return retainage to the prime and require that they do the same to their subcontractor.

The DBELO, GS Manager and Procurement Specialist have attended the NTI Disadvantaged Business Enterprise Program and FTA seminars on the Semi-Annual Reporting and Goal Setting and are adequately trained and have participated in record keeping of all DBE requirements, monitoring and reporting.

The DBE Liaison is responsible for monitoring that DBE goals are meet. This is done through tracking of bids and purchase orders and applying counting standards per CFR 26.55.

- 1) Track a list of all contracts issued and contract amount.
- 2) "Yes" or "No" as a DBE.
- 3) DBE subcontract.
- 4) Non-DBE Sub.
- 5) Through purchase orders track suppliers as 60% of expenditures may be counted if they are regular dealers.
- 6) Mechanism to count actual DBE participation towards FNSB DBE goals.

The DBE Liaison will follow the 49 CFR Part 26 Appendix B and submit semi-annual reports reflecting payment and commitments actually made to DBEs on DOT assisted contracts.

- 1) Include all FTA funded award activity even if there is not a DBE goal.
- 2) Information to be reported is gathered from Finance through ORG keys set up specifically to track projects. Transportation has been instructed to send the procurement section of General Services a spreadsheet of activity semi-annually that tracks the purchase orders and actual payments. The DBE Liaison or their backup will also verify formal procurement activity with purchasing and ensure that the bids and DBE goals match with the information provided by the public works project managers.
- 3) The PW project manager is required coordinate with DBELO that the Prime Contractor has not deviated from the original bidding paperwork of subcontractors utilized including DBE subcontractors.

Transportation and Public Works is to provide the General Services Contract Awards and Payments one month before the semi-annual report is due to FTA. This information is set-up in Microsoft Outlook Calendar to track the reporting period. If Transit and PW do not provide the information in a timely manner than it is the responsibility of the DBE to obtain the information through the borough's financial system which is new and has the capability to drill down and report on encumbrances and payments.

Reports are due June 1 (for period October 1 - March 31) and December 1 (for the period April 1 through September 30). The DBELO, GS manager and Procurements Specialist will provide accurate reporting information and ensure that timely Semi-Annual Uniform Report of DBE Awards and Commitments and Payments form will be loaded in the FTA TRAMs system prior to the Semi-Annual deadline.

The DBE Liaison, General Services Manager and Procurement Specialist have been given rights through the Mayor's office (appropriate FNSB Authority) to allow access in Civil Right production and the ability to modify and update the reports).

On an annual basis the DBE Liaison will follow section 26.47 if the semi-annual reports do not meet the overall goal of the borough. An analysis will be contact and steps taken to correct the problem.

- 1) Monitor and review the current participants in the Alaska Unified Certification Program.
- 2) Update bidder's list and continually outreach to DBE's.
- 3) Conduct interviews to see if DBE's outside of Fairbanks are interested in bidding on FNSB projects.
- 4) Coordinate with the Transportation Department to see if the project has changed since goalsetting and re-evaluate the North American Industry Classification System (NAICS) codes that were originally utilized.
- 5) Update if required the goals to the Civil Right department into TRAMS.

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of July 26, 2016

Title 49 → Subtitle A → Part 26 → Subpart C → §26.45

Title 49: Transportation
 PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF
 TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS
 Subpart C—Goals, Good Faith Efforts, and Counting

§26.45 How do recipients set overall goals?

(a)(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.

(2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market. When using this approach, you must establish a mechanism (documented in your goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on your DOT-assisted contracts.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) *Alternative methods.* Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market. The exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section, is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.

(2) If you are an FTA or FAA recipient, as a percentage of all FT or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the three forthcoming fiscal years.

(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit or require you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration.

(i) A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals.

(ii) A project goal covers the entire length of the project to which it applies.

(iii) The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal.

(iv) The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

(f)(1)(i) If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site.

(ii) You may adjust your three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. You must submit such an adjustment to the concerned operating administration for review and approval.

(iii) The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(iv) While you are required to submit an overall goal to FHWA, FTA, or FAA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

(v) You may make, for informational purposes, projections of your expected DBE achievements during each of the three years covered by your overall goal. However, it is the overall goal itself, and not these informational projections, to which the provisions of section 26.47(c) of this part apply.

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(2) If you are a recipient and set your overall goal on a project or grant basis as provided in paragraph (e)(3) of this section, you must submit the goal for review at a time determined by the FHWA, FTA or FAA Administrator, as applicable.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (*see* 26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the operating administration will be guided by goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

(6) Timely submission and operating administration approval of your overall goal is a condition of eligibility for DOT financial assistance.

(7) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive DOT financial assistance.

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

(i) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site.

(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30-day comment period. Notice of the comment period must include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

(h) Your overall goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003; 75 FR 5536, Feb. 3, 2010; 76 FR 5097, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

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