



Metropolitan Area Transit

650 23rd Street N
Fargo, ND 58102
Phone: 701-241-8140
Fax: 701-241-8558

February 12, 2025

Eboni Younger-Riehl
Regional Civil Rights Officer
Federal Transit Administration
1961 Stout Street
Suite 13-301
Denver, CO 80202

Subject: City of Fargo Tier 1 Transit DBE Program

Dear Eboni Younger-Riehl:

The City of Fargo respectfully submits the updated DBE Program:

The Federal Transit Administration is moving to a two-tiered system for Disadvantaged Business Enterprise (DBE) program compliance for recipients that receive planning, capital, or operating assistance.

City of Fargo Transit is a Tier 1 recipient receiving a cumulative total value of \$670,000 or more in FTA funds in a federal fiscal year, excluding transit vehicle purchases. Tier 1 recipients must have a DBE program that meets all requirements.

The updated DBE Program was approved by the City of Fargo City Commission on February 3, 2025.

Should you have any questions, please contact me at 701-476-5967.

Sincerely,

A handwritten signature in blue ink that reads "Julie Bommelman".

Julie Bommelman
Transit Director, DBELO

Shaun Crowell, Mobility Manager
City of Fargo
650 23rd St N
Fargo, ND 58102
scrowell@matbus.com

For Schedule Information: 701-232-7500

CITY OF FARGO, NORTH DAKOTA – TRANSIT
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
Updated January 2025
Tier 1 Recipient

Objectives/Policy Statement (Section 26.1, 26.23)

City of Fargo Transit has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Fargo Transit has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Fargo Transit has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of City of Fargo Transit to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

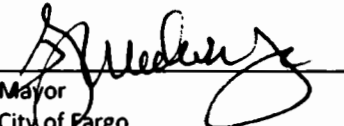
1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only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

Julie Bommelman, City of Fargo Transit Director, has been delegated as the DBE Liaison Officer for Transit. In that capacity she is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Fargo Transit in its financial assistance agreements with the Department of Transportation.

City of Fargo Transit will disseminate this policy statement to the MATBUS Coordination Committee, the City of Fargo Commission and all of the components of our organization. We will distribute this statement to DBE and non-DBE business communities, including known socially and economically disadvantaged businesses, organizations and associations, whom perform work for us on DOT-assisted contracts through public notices for products and services procured and notices published in regional newspapers.



City of Fargo Transit Director
Fargo Transit



Mayor
City of Fargo

1.22.25

Date

2/3/25

Date

1. Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR 26.5.

2. Nondiscrimination (26.7)

City of Fargo Transit 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, City of Fargo Transit will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishments of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

3. DBE Program Updates (26.21)

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.

4. Quotas (26.43)

We do not use quotas in any way in the administration of this DBE program.

5. DBE Liaison Officer (DBELO) (26.45)

We have designated the following individual as our DBE Liaison Officer: Julie Bommelman, Transit Director, 650 23rd St N, Fargo, ND 58102; 701-476-6737; jbommelman@cityoffargo.com. In that capacity, Julie Bommelman is responsible for implementing all aspects of the DBE program and ensuring that Fargo Transit complies with all provisions of 49 CFR Part 26. The Transit Director has direct, independent access to the City of Fargo Administrator. An organizational chart is attached to this program which displays the DBELO's position in the organization.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by North Dakota DOT or the US DOT.
2. Reviews third party contracts and purchase requisitions of Transit Department for compliance with this program.
3. Sets overall annual goals for Transit Department.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes Fargo Transit's progress toward goal attainment and identifies ways to improve progress.
7. Participates in applicable pre-bid meetings.
8. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
9. Acts as liaison to the North Dakota DOT in regard to updated directory on certified DBEs.
10. Acts to provide outreach to DBEs and community organizations to advise them of opportunities.

6. Federal Financial Assistance Agreement Assurance (26.13)

Fargo Transit has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

Fargo Transit 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 [Name Recipient] of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

7. DBE Financial Institutions (26.13)

It is the policy of the City of Fargo Transit 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 the DOT-assisted contract to make use of these institutions. The City has made the following inquiries throughout the Fargo area:

- Federal Reserve Minority-Owned Banks Quarterly Report
- North Dakota Bankers Association
- North Dakota DOT DBE Directory
- US Department of Treasury Financial Management Service

To date, no financial institutions located within the Fargo area are owned and controlled by socially and economically disadvantaged individuals.

8. Directory (26.25)

North Dakota DOT, Office of Operations, maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. They revise the Directory annually. They make the Directory available as follows NDDOT, 608 East Boulevard Avenue, Bismarck, ND 58505-0700; 701-328-2576; www.nd.gov.

Minnesota DOT, Office of Operations, maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. They revise the Directory annually. They make the Directory available as follows MnDOT, Transportation Building, 395 John Ireland Blvd, St. Paul, MN 55155; 651-366-3150, www.dot.state.mn.us.

9. Required Contract Clauses (26.13, 26.29)

Contract Assurance

The City of Fargo will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor 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.

Prompt Payment

We will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Fargo Transit. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's 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 Fargo Transit. This clause applies to both DBE and non-DBE subcontractors.

For purposes of this DBE Program

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

10. Monitoring and Enforcement Mechanisms (26.37)

The City of Fargo Transit 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 (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. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

DBE performance plan requirements for design-build projects

Will require primes responding to a request for Proposal on a design-build procurement to submit an open-ended DBE Performance Plan (DPP) with the proposal.

DPPs are to detail the types of work the prime will solicit DBEs to perform and a projected timeframe in which actual subcontracts will come to fruition.

Recipients monitor the prime's adherence to the plan throughout the life of the contract to evaluate good faith efforts, and parties may agree to make written DPP revisions through the life of the project.

To ensure prompt payment and retainage by prime contractors, recipient would periodically receive documentation from sub-contractors showing when they submitted billing and received payment within 30 days after our payment to the prime contractor.

A written account of actual payments to DBE firms for work committed to them at the time of contract award will be kept.

Interim audits of contract payments to DBEs will be performed. This audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Prime contractors will be required to maintain records and documents of payments to DBEs for three years following the performance of a contract. An authorized representative of the City of Fargo Transit

will make these records available for inspection upon request. The reporting requirement also extends to any certified DBE subcontractor.

We will implement the following running tally mechanisms:

- (1) With respect to achieving our overall goal, we will use a running tally that provides for a frequent comparison of cumulative DBE awards/commitments to DOT-assisted prime contract awards to determine whether our current implementation of contract goals is projected to be sufficient to meet our annual goal. This mechanism will inform our decisions to implement goals on contracts to be advertised according to our established contract goal-setting process.
- (2) With respect to each DBE commitment, we will use a running tally that provides for a frequent comparison of payments made to each listed DBE relative to the progress of work, including payments for such work to the prime contractor to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to address to meet the contract goal pursuant to [§ 26.53\(g\)](#).

11. Overall Goals (26.45)

GOAL METHODOLOGY

STEP 1: Determining the base figure: Step 1, Development of base figure, includes DBE's in the Fargo/Moorhead Metro area and ones we are likely to continue to use in the future, we use the NAICS listing to find DBE's in the Fargo/Moorhead Metro area and in North Dakota and Minnesota. The DBE's used in the step one base figure are DBE's that are available, ready, and willing. Our local market includes the Fargo/Moorhead area including surrounding communities. Also included are areas in the Twin Cities that have been used in the past are likely to use in the future. The numerator consists of firms that have been identified and utilized in the past that are DBE's, the denominator includes firms from North Dakota, Minnesota and the Fargo/Moorhead area that are DBEs and non-DBEs. We decided to not use weighting, We will account for any firms no longer in business in step one by doing online searches, No adjustments will be made based solely on changes in the amount of federal assistance we expect to receive. No alternative methods are used in Step One.

STEP 2: Adjustments to the base figure:

Step 2, Adjustment to the Base Figure. There is an adjustment for past participation, we will review the previous three years of DBE participation to get the median average, and take the average of the Step One Base Figure and the Median of past participation, to get the final goal.

Process:

City of Fargo Transit will provide notice for the disadvantaged business enterprise participation goal for each year. This notice will also be supplied to interested businesses within the transportation industry by placing the goal on the website at matbus.com. City of Fargo Transit will leave the public comment open for a period of 30 days for the purpose of obtaining input on the proposed goal and DBE contract special provisions that have been prepared for use on contract lettings during the fiscal years the goal will be in place. Any necessary adjustments to our goal, resulting from the public comment process, will be forwarded to your office.

RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION

City of Fargo Transit utilizes a *race-neutral* program in achieving the DBE goal. City of Fargo Transit feels a race-neutral program is the best approach in obtaining satisfactory DBE participation.

Consultation

49 CFR §26.45 (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.

Summarize any comments received during the consultation process or include information that no comments were given during the consultation and include it in your goal submission.

12. Awards to Transit Vehicle Manufacturers (TVMs) (26.49)

Awards to transit vehicle manufacturers (TVMs) will not be included in City of Fargo Transit's overall goal calculation.

City of Fargo Transit will require TVMs, as a condition of being authorized to bid or propose on any FTA-assisted transit vehicle procurements, to certify that they have complied with the requirements of §26.49.

1. City of Fargo Transit affirms that only those TVMs listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.
2. A TVM's failure to implement the DBE Program in the manner as prescribed in 49 CFR §26.49 and throughout Part 26 will be deemed as noncompliance, which will result in removal from FTA's certified TVMs list, resulting in that TVM becoming ineligible to bid.
3. City of Fargo Transit is aware that failure to comply with the requirements set forth in 49 CFR §26.49(a) may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).
4. City of Fargo Transit will submit, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract in the manner prescribed in the grant agreement.

City of Fargo Transit may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of 49 CFR §26.49.

13. Contract Goals (26.51)

City of Fargo Transit will use contract goals to meet any portion of the overall goal. City of Fargo Transit does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work)

14. Good Faith Efforts (26.53)

Information to be submitted

Fargo Transit treats bidder/offers' compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offers to submit the following information:

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

Demonstration of good faith efforts

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 IAW 49 CFR, Appendix A to part 26.

The following personnel are 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: *DBELO*.

The City of Fargo Transit will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before it commits to the performance of the contract by the bidder/offeror.

Administrative reconsideration

Within 30 days of being informed by City of Fargo Transit that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offers should make this request in writing to the following reconsideration official: City of Fargo Bids and Procurement, 225 4th St. N. Fargo, ND 58102, Ph:

701-241-1528. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

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

The City 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. The City 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 within 7 days with the possibility for an additional 7-day extension

The Prime contractor's written notice to terminate a DBE must provide DBEs with 5 days to respond.

In this situation, the City 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 still fails to comply, the contracting officer may issue a termination for default proceeding.

15. Counting DBE Participation (26.55)

The City of Fargo Transit will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Addressing overconcentration of DBEs in certain types of work

If it is determined that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work. In the Fargo/Moorhead metro area, there are a limited number of DBEs available and it is unlikely there will be an overconcentration for any certain type of work.

16. Certification (26.61 - 26.91)

NDDOT and MNDOT will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. NDDOT and MN DOT will make certification decisions decision based on the facts as a whole. Details on the certification process are contained in the ND and MN DBE Directories.

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

North Dakota Department of Transportation

608 E Boulevard
Bismarck, ND 58505-0700
Website: <https://dotnd.diversitycompliance.com>

MnDOT Office of Civil Rights
Transportation Building , MS 170
395 John Ireland Blvd
St. Paul, MN 55155
Website: <https://sbcp.mn.gov>

Certification Appeals

Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

***Department of Transportation Office of Civil Rights Certification Appeals Branch 400
7th St., SW, Room 2104 Washington, DC 20590***

"No Change" Affidavits and Notices of Change

NDDOT will require all DBEs to inform them, in a written affidavit, of any change in its 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 its application for certification.

All owners of all certified DBEs must submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the [Name Recipient] under 26.83(i). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.

This affidavit will also include documentation of the firm's size and gross receipts.

17. Information Collection and Reporting (Section 26.11)

The City of Fargo Transit will report DBE participation to FTA on a semi-annual basis (due June 1st and December 1st) using the Uniform Report of DBE Awards or Commitments and Payments form, which can be submitted currently online on TEAM-web Civil Rights DBE Uniform Reports. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

Bidders List

The City of Fargo Transit will create a bidders list consisting of information about all DBE and non-DBE firms that bid or submit a quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculate overall goals. The purpose of this bidders list information is to compile as accurate data as possible about the universe of

DBE and non-DBE contractors and subcontractors who seek to work on your federally assisted contracts for use in helping you set your overall goals, and to provide the Department with data for evaluating the extent to which the objectives of [§ 26.1](#) are being achieved.

Information obtained for the bidders list will include:

- Firm Name
- Firm Address including ZIP code
- Firm's status as a DBE or non-DBE
- Race and gender information for the firm's majority owner
- NAICS code applicable to each scope of work the firm sought to perform in its bid
- Age of the firm
- The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (*e.g.*, less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million; etc.) rather than requesting an exact figure from the firm.

This data will be entered in the Department's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded. In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to [§ 26.53\(e\)](#), the data must be entered no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

We will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, we must keep a complete application package for each certified firm and all Declarations of Eligibility, change notices, and on-site visit reports. These records must be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

The City of Fargo Transit will enter into an online USDOT system of data about companies bidding on contracts or subcontracts, such as company name, DBE or non-DBE status, fields of work bid and related NAICS codes, etc.

Monitoring Payments to DBEs

Prime contractors will be required to maintain records and documents of payments to DBEs for three years following the performance of a contract. An authorized representative of the City of the DOT will make these records available for inspection upon request. The reporting requirement also extends to any certified DBE subcontractor.

A written account of actual payments to DBE firms for work committed to them at the time of contract award will be kept.

Interim audits of contract payments to DBEs will be performed. This audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to FTA

City of Fargo Transit will report DBE participation to FTA as required, which is currently on a semi-annual basis (due every June 1 and December 1) online on TEAM-web Civil Rights DBE Uniform Reports. These reports will reflect payments and what is awarded actually made to DBEs on DOT assisted contracts. Bidder list information will be submitted with bids or initial responses to negotiated procurements. Will include the names of DBEs, NAICS codes performed in a contract, the federally assisted contract number(s), and the dollar value of the contract.

Confidentiality

City of Fargo Transit will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

18. Fostering Small Business Participation (26.39)

Effective August 31, 2012, the City of Fargo Transit has established a small business element to its DBE program, pursuant to 49 CFR 26.39. This program aims to provide opportunities and foster small business enterprises (SBE)/participation in contracting with the City of Fargo Transit. Due to the relatively low participation, historic transit contract needs, and general lack of larger business enterprises in the Fargo area, we expect most contracts in the future will be fulfilled by small businesses. This program is race- and gender- neutral, however SBEs can also count towards DBE goals. To fulfill these requirements, the City reserves the right to employ the following strategies:

(a) Set-asides or reservations: The City of Fargo Transit will establish a race-neutral small business set-aside for prime contracts on a per fiscal year basis. The DBE Liaison Officer will include participation by other applicable City functions. Contracts under \$1M will be reserved for SBEs. Exceptions are made if no SBEs bid on a contract or if the amount is significantly more than a competing non-SBE bid. An annual assessment of contracting opportunities with transit will be performed to identify any set-asides.

(b) Sub-contracting requirements: For multi-year design-build contracts or other large projects over \$1M, which require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBE's, can reasonably perform, the prime contractor must identify how they will subcontract a portion of the project and make it available to SBEs. This will assist to ensure a reasonable number of prime contracts are available to small businesses. This can be included in the evaluation criteria of RFPs and RFQs.

(c) SBE Consortia: Large projects can be split into smaller portions so that SBEs have a better chance of bidding. The City of Fargo Transit will not allow bundling of contracts in an effort to foster small business participation. In instances where there is a large project, oversight and management can be delegated to one firm, however, the larger firm is required to follow the same guidelines as the City of Fargo Transit as applicable to all federal clauses including small business participation.

(d) Outreach: The City of Fargo Transit will coordinate with the local Chamber of Commerce, the Metropolitan Council of Governments, local universities and their extension offices, the Small Urban and Rural Transit Center, the Downtown Community Partnership, or small business development centers, and other partners to identify potential SBEs. If a SBE provides goods or services that are applicable to the project, the City of Fargo Transit will check the listing of eligible SBEs, as identified and verified by the Small Business Administration, and notify the SBE of the contracting opportunity and given a chance to bid on the project. SBEs are defined according to number of employees and gross receipts, and thresholds are determined by the Small Business Administration according to industry type.

