

CITY OF MOORHEAD, MINNESOTA
DISADVANTAGED BUSINESS ENTERPRISE PLAN FOR PUBLIC TRANSIT
Approved December 10, 2012
Updated December 2024
Tier I Recipient

Objectives/Policy Statement (Section 26.1, 26.23)

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

It is the policy of the City of Moorhead 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:

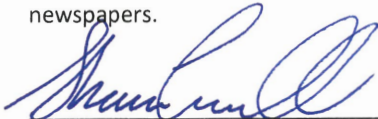
1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only 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.

The City of Fargo is working on behalf of the City of Moorhead through a Joint Powers Agreement and will operate transit services in compliance with federal regulations and will fulfill the DBE requirements under this policy. The Mobility Manager is funded in part by the City of Moorhead through a cost allocation plan which is part of the Joints Powers Agreement.

Shaun Crowell, Mobility Manager, has been delegated as the DBE Liaison Officer for the City of Moorhead. In that capacity the Mobility Manager 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 the City of Moorhead in its financial assistance agreements with the Department of Transportation.

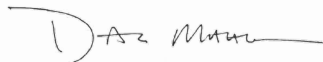
The Mobility Manager has direct, independent access to the City Manager of the City of Moorhead. An organizational chart is attached to this program which displays the DBELO's position in the organization.

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



Shaun Crowell, Mobility Manager and
DBE Liaison Officer

3-4-2025
Date



Dan Mahli, City Manager

2/4/2025
Date

1. Definitions of Terms

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

2. Nondiscrimination (26.7)

The City of Moorhead 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 City of Moorhead 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)

The City of Moorhead 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)

The City of Moorhead does not use quotas in any way in the administration of this DBE program.

5. DBE Liaison Officer (DBELO) (26.45)

The City of Moorhead has designated the following individual as our DBE Liaison Officer: Shaun Crowell, Mobility Manager, 650 23rd St. N. Fargo, ND 58102; 701-476-5967; scrowell@matbus.com. In that capacity, Shaun Crowell is responsible for implementing all aspects of the DBE program and ensuring the City of Moorhead complies with all provisions of 49 CFR Part 26. The Mobility Manager has direct, independent access to the City of Moorhead's City Manager concerning DBE program matters. An organizational chart is included as Attachment A 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 the Minnesota 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 public transit.
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 the City of Moorhead'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 Minnesota DOT in regard to the 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)

The City of Moorhead has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

The City of Moorhead 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 City of Moorhead 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 City of Moorhead'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 City of Moorhead 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.).

Contract Assurance: the City of Moorhead will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor)

7. DBE Financial Institutions (26.13)

It is the policy of the City of Moorhead 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-Moorhead metro area:

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

To date, no financial institutions located within the Fargo-Moorhead area are owned and controlled by socially and economically disadvantaged individuals. This will be reviewed every three years when updating the DBE goals.

8. Directory (26.25)

The City of Moorhead is part of a metropolitan area that includes Fargo, North Dakota. Therefore, DBE firms are referred to the appropriate State for certification. Also, both Minnesota and North Dakota DBE directories are utilized by the City of Moorhead in identifying potential vendors.

The Minnesota Department of Transportation, Office of Civil Rights, maintains a Minnesota Uniform Certification Program 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 on the web site listed below.

Minnesota Department of Transportation
Office of Civil Rights

Transportation Building
395 John Ireland Blvd
St. Paul, MN 55155-1899
MS 170
651-366-3073 (main office line)
651-366-3129 (fax)
<http://www.dot.state.mn.us/civilrights/dbe.html>
<http://mnucp.metc.state.mn.us>

The North Dakota Department of Transportation 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 at the website listed below.

North Dakota Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700
(701) 328-2576
<http://www.dot.nd.gov/dotnet2/dbedirectory>

9. Required Contract Clauses (26.13, 26.29)

Contract Assurance

Disadvantaged and Small Business Enterprise:

For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:

The contractor, subrecipient 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 C.F.R. 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, which may include, but is not limited to:

- a) Withholding monthly progress payments;
- b) Assessing sanctions;
- c) Liquidated damages; and/or
- d) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prompt Payment

The City of Moorhead will include the following clause in each DOT-assisted prime contract:

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days (payment required within 10 days or paying interest at 1 ½ percent per Minnesota State Statute 471.425 subd. 4a) from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

In connection with the performance of this service, the contractor will cooperate with the City of Moorhead in the utilization of disadvantaged business enterprises including women-owned business enterprises for

the duration of the contract and will use its best efforts to ensure that disadvantaged business enterprises have the maximum practicable opportunity to compete for subcontract work. In order to ensure that a fair proportion of the purchases of supplies and services is placed with disadvantaged business enterprises, the contractor agrees to take affirmative action to identify disadvantaged business firms, solicit bids or quotations from them for supplies and services related to this proposal.

The contractor agrees to meet any goals established by the City of Moorhead for purchases pertaining to the contract to the best of the contractor's ability and will provide the City of Moorhead with the necessary certification and records for reporting purposes. When the majority of the contract is labor, which is not a contracting opportunity, DBE goals will not be set but contractors are encouraged to use DBE businesses.

The contractor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

The contractor must promptly notify the DBE Liaison Officer whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City of Moorhead.

Fostering Small Business Participation

The City of Moorhead 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. This program is race- and gender- neutral, however SBEs can also count towards DBE goals.

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

We (the City of Moorhead) 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 (sample):

Step 1 Development of base figure, the City of Moorhead has decided not to weigh the goal. The goal as determined by the number of eligible DBEs that are ready, willing, and able divided by the estimated number of firms including ready, willing, and able DBEs and non-DBEs

STEP 2: Adjustments to the base figure:

Adjustments will be considered based on a current assessment of DBE businesses available.

The Cities determined the availability of Fargo-Moorhead businesses from information supplied by the Census Bureau, online searches and DBE Directories showing the number of DBEs that are currently certified with the North Dakota Department of Transportation and the Minnesota Department of Transportation. The businesses identified were in the categories of materials/supplies and professional services. This information was used to determine the pool of DBE's and non-DBE's available. Under the Joint Powers Agreement, Moorhead will count their share paid to the City of Fargo Transit for any contracts with DBEs towards their overall goal.

- Figures of past performance by DBEs in the Fargo-Moorhead metro area substantiate that this goal is achievable; however, there has been a very limited and narrow participation of DBEs.

- Availability of DBEs in the Fargo-Moorhead metro area is minimal; the metro area is defined as a 50-mile radius of Fargo-Moorhead.
- The types of contracts will be very similar from the types of contracts let in the past.

Process:

The City of Moorhead will provide notice for the disadvantaged business enterprise participation goal for each three-year period. This notice will also be supplied to interested businesses within the transportation industry. The City of Moorhead will leave the public comment open for a period of 45 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. Any necessary adjustments to our goal, resulting from the public comment process, will be forwarded to your office.

RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION

The City of Moorhead proposes to move forward utilizing a race-neutral program in achieving the DBE goal during the fiscal year. The City of Moorhead 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 the City of Moorhead's overall goal calculation.

The City of Moorhead 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. The City of Moorhead 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. The City of Moorhead 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. The City of Moorhead 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.

The City of Moorhead 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)

The City of Moorhead will use contract goals to meet any portion of the overall goal the City of Moorhead 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

The City of Moorhead treats bidder/offerors' 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/offerors 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 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 Moorhead 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 the City of Moorhead that it is not responsive 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: Lisa Bode, Governmental Affairs Director, 500 Center Avenue, PO Box 779, Moorhead, MN 56561-0779, 218-299-5372, email: lisa.bode@ci.moorhead.mn.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.

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 of Moorhead 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 of Moorhead 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 of Moorhead 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 Moorhead 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)

MNDOT and NDDOT 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. MNDOT and NDDOT 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 Policies.

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
701-527-0931

MnDOT Office of Civil Rights
Transportation Building , MS 170
395 John Ireland Blvd
St. Paul, MN 55155
651-366-3073 <https://www.dot.state.mn.us/civilrights/become-small-business.html>

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 and MNDOT 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)

Reporting to FTA

The City of Moorhead 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.

Bidder's List

The City of Moorhead 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 Moorhead 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 Moorhead 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

The City of Moorhead will report DBE participation to FTA as required, which is currently on a semi-annual basis (due every June 1 and December 1) online in the Federal TrAMS System. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

Confidentiality

The City of Moorhead 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 26.21

Effective August 31, 2012, the City of Moorhead 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 Moorhead. Due to the relatively low participation, historic transit contract needs, and general lack of larger business enterprises in the Fargo-Moorhead 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 of Moorhead reserves the right to employ the following strategies:

(a) Set-asides or reservations: the City of Moorhead 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 Moorhead 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 Moorhead as applicable to all federal clauses including small business participation.

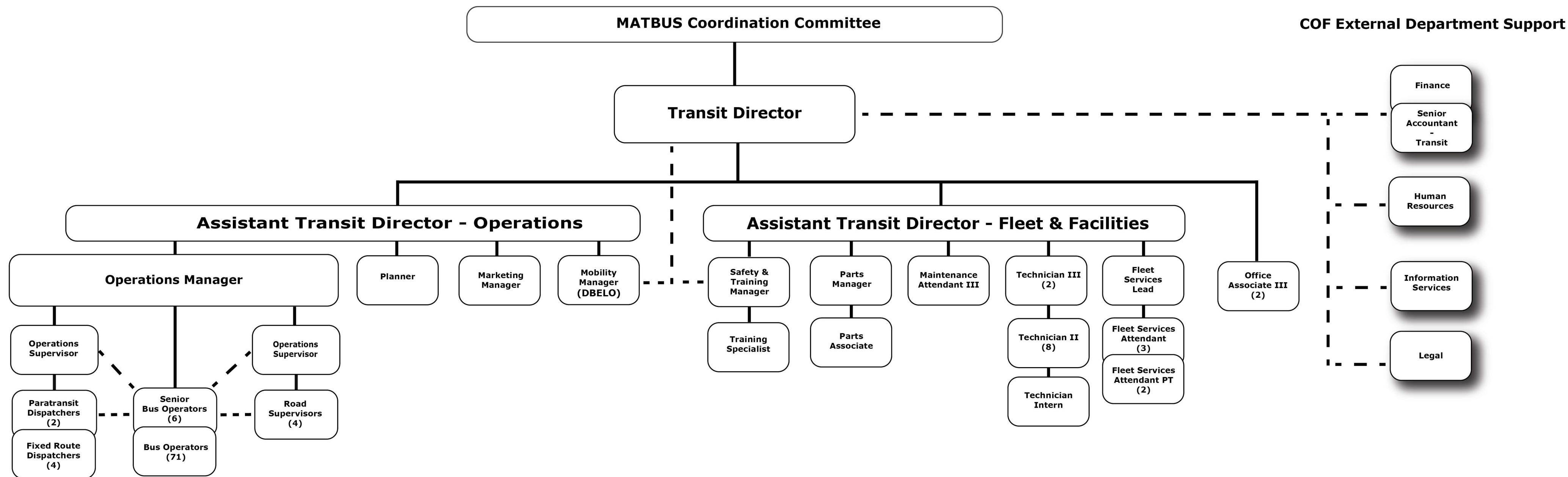
(d) Outreach: the City of Moorhead will coordinate with the local Chamber of Commerce, the Metropolitan Council of Governments, local universities and their extension offices, the Small Urban and Rural Transit Center, the Downtown Community Partnership, or small business development centers, and other partners to identify potential SBEs. If a SBE provides goods or services that are applicable to the project, the City of Moorhead 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.

Attachments: MATBUS Organizational Chart, City of Moorhead Administration Division Organizational Chart



———— Direct Report
- - - - Gives Work Direction

2026 Transit Organizational Chart



Administration Division

Organizational Chart

