

DBE PROGRAM – 49 CFR PART 26

CITY OF MANKATO

MANKATO REGIONAL AIRPORT

August 01, 2024



POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

It is the policy of the City of Mankato to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the City of Mankato policy to engage in the following actions on a continuing basis:

1. Ensure nondiscrimination in the award and administration of DOT- assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT- assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Jeffrey E. Johnson has been delegated as the DBE Liaison Officer. In that capacity, the DBE Liaison Officer 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 Mankato in its financial assistance agreements with the Department of Transportation.

The City of Mankato has disseminated this policy statement to the City's Chamber of Commerce, Blue Earth County Public Works Department, State of Minnesota Contractors Association, MnDOT Aeronautics, State of Minnesota Minority Business Development Office and the Federal Aviation Administration Office of Civil Rights. This statement has been distributed to DBE and non-DBE business communities that may perform work on City of Mankato DOT-assisted contracts. The distribution was accomplished via the City's official internet website.

Susan MH Arntz

Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The City of Mankato is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The City of Mankato will use terms in this program that have their meanings defined in Part 26, § 26.5.

Section 26.7 Non-discrimination Requirements

The City of Mankato 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 Mankato 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 26.11 Data Collection and Reporting Requirements

Reporting to DOT

The City of Mankato will provide data about its DBE Program to the Department as directed by DOT and its operating administrations.

DBE participation will be reported to the Federal Aviation Administration (FAA) as follows:

The City of Mankato will transmit to FAA annually, by or before December 1, the information required for the “Uniform Report of DBE Awards or Commitments and

Payments”, as described in Part 26. The City of Mankato will similarly report the required information about participating DBE firms. All reporting for this purpose will be done through the FAA’s designated reporting system.

Bidders List

The City of Mankato will collect bidders list information as described in § 26.11(c)(2) and enter it into the system designated by DOT. The purpose of the bidders list is to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our 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.

The City of Mankato will obtain the following bidders list information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each of our federally assisted contracts:

- 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
- Annual gross receipts of the firm. The gross receipts can be obtained 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.

The City of Mankato will collect the data from all bidders for our federally assisted contracts by requiring the information in paragraph (c)(2) of this section to be submitted with their bids or initial responses to negotiated procurements.

The City of Mankato will enter this data 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 City of Mankato will enter the data no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

The City of Mankato will maintain records documenting a firm’s compliance with the requirements of this part. At a minimum, the City of Mankato will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with all applicable record retention requirements of The City of Mankato’s financial assistance agreement. Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention

requirements for the financial assistance agreement, whichever is longer.

Section 26.13 Assurances Recipients and Contractors Must Make

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

Assurance: 26.13(a) - Each financial assistance agreement The City of Mankato signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The City of Mankato 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 Mankato 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 Mankato 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 Mankato of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR 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: 26.13(b) - The City of Mankato 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):

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, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible.

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The City of Mankato is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year.

The City of Mankato is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the City of Mankato is in compliance with it and Part 26. The City of Mankato will continue to carry out this program until all funds from DOT financial assistance have been expended. The City of Mankato does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted to the relevant operating administration for approval.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this DBE Program.

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBE Liaison Officer for the City of Mankato:

Jeffrey E. Johnson
Director of Public Works
10 Civic Center Plaza, Mankato, MN 56001
Phone: (507) 387-8640
E-mail: jjohnson@mankato.mn.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Mankato complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the *City Manager* concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is included in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of 4, including the consulting engineer for the airport, to assist in the administration of the program. 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 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 Mankato's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Mankato 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 contracts to make use of these institutions. Availability of such institutions will be investigated on an annual basis on the Minnesota United Certification Program's website (<http://mnucp.metc.state.mn.us/Default.aspx>).

This information will be provided to the prime contractors on applicable projects. Information for DBE Financial Institutions will be gathered for the following NAICS codes:

522320 Processing financial transactions
522320 Electronic financial payment services
522320 Financial transactions processing (except central bank)
523930 Financial planning services, customized, fees paid by client
524126 Credit and other financial responsibility insurance carriers, direct

Section 26.29 Prompt Payment Mechanisms

The City of Mankato requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law. Prompt payment and return of retainage requirements also apply to lower-tier subcontractors.

In accordance with 49 CFR § 26.29, the City of Mankato established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the City of Mankato.

The City of Mankato ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to § 26.29, the City of Mankato has selected the following method to comply with this requirement:

The City of Mankato will decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor(s) within 30 days after the subcontractor's work is satisfactorily completed.

For every airport construction project funded under Federal grant assistance programs, the City of Mankato includes the applicable clause from FAA Advisory Circular 150/5370-10 (Section 90-06) pertaining to the selected retainage method. If state or local prompt payment laws provide for payment in less than 30 days, any reference to "30 days" will be revised accordingly.

Prompt Payment Monitoring for DBEs and Non-DBEs

The City of Mankato clearly understands and acknowledges that reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism. Therefore, the City of Mankato undertakes proactive monitoring and oversight of prime contractors' compliance with subcontractor prompt payment and return of retainage requirements of 49 CFR Part 26. Such monitoring activities will be accomplished through the following method(s):

1. Withholding of payment to the contractor under the contract until they comply.
2. Cancellation, termination, or suspension of the contract in whole or in part.
3. Any other available legal remedy.

The City of Mankato requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the City of Mankato's

financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the City of Mankato or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- The City of Mankato proactively reviews contract payments to subcontractors including DBEs quarterly. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the City of Mankato by the prime contractor.

Prompt Payment Dispute Resolution

The City of Mankato will take the following steps to resolve disputes as to whether timely prompt payment and retainage releases are being made as required by § 26.29.

The Architect/Engineer/Construction Coordinator shall decide any and all questions which may arise as the quality and acceptability of materials furnished and work performed and as to the manner of performance and rate of progress of said work. Their decision shall be final and binding on all parties concerned.

The City of Mankato has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

The Contractor shall pay interest of 1-1/2 percent per month or any part of a month to any Subcontractor on any undisputed amount not paid within ten days of receipt of payment by the Contractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the Contractor shall pay the actual penalty due to the Subcontractor. Pursuant to Minn. Stat. § 471.425, subd. 4a, a Subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney fees, incurred in bringing the action.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the City of Mankato to resolve prompt payment disputes,

affected subcontractor may contact the responsible Architect/Engineer/Construction Coordinator contact.

- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

The City of Mankato provides appropriate means to enforce the requirements of § 26.29. These means include:

- In accordance with the contract, the Contractor shall pay interest of 1-1/2 percent per month or any part of a month to the Subcontractor on any undisputed amount not paid within ten days.
- Subcontractor may seek payment from the surety on the payment bond provided by the Contractor.

The City of Mankato will actively implement the enforcement actions detailed above.

Section 26.31 Directory of Certified Firms

The City of Mankato is a non-certifying member of the Minnesota Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs and/or ACDBEs, and it contains all the elements required by §26.31. The directory lists all firms eligible to participate as a DBE and/or ACDBE in the program. In the listing for each firm, the UCP directory includes the following details about the firm:

- Business address
- Business phone number
- Firm website(s)
- The types of work the firm has been certified to perform as a DBE and/or ACDBE.
- The type of work a DBE and/or ACDBE is eligible to perform is listed by using the most specific NAICS code available to describe each type of work the firm performs. Pursuant to § 26.81(n)(1) and (3), the UCP directory allows for NAICS codes to be supplemented with specific descriptions of the type(s) of work the firm performs.
- The UCP directory may include additional data fields of other items readily verifiable in State or locally maintained databases, such as State licenses held, Pre-qualifications, and Bonding capacity.
- The UCP directory is an online system that permits the public to search and/or filter for DBEs by:
 1. Physical location
 2. NAICS code(s)
 3. Work descriptions

4. All additional data fields of readily verifiable optional information described above.

The directory includes a prominently displayed disclaimer that states the information within the directory is not a guarantee of the DBE's capacity and ability to perform work.

Section 26.33 Over-concentration

The City of Mankato has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development and Mentor-Protégé Programs

The City of Mankato has not established a Business Development Program or a Mentor-Protégé Program as described by 49 CFR Part 26.

Section 26.37 Monitoring Responsibilities

The City of Mankato implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants and describes and sets forth these mechanisms in this DBE program.

The City of Mankato actively monitors attainment toward overall goals by maintaining running tally that provides for a frequent comparison of cumulative DBE awards/commitments to DOT-assisted prime contract awards to determine whether our implementation of contract goals is projected to be sufficient to meet the annual goal. The running tally for overall goal monitoring will be maintained by the Architect/Engineer/Construction Coordinator by requesting the Prime Contractor to provide DBE payment information with each Partial Payment request during the project. This mechanism to maintain a running tally of overall goal attainment will be used to inform The City of Mankato's decisions to implement goals on contracts to be advertised, according to our established contract goal-setting process.

The City of Mankato actively monitors participation with respect to each DBE commitment by using 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. The running tally for contract goal monitoring will be maintained by the Architect/Engineer/Construction Coordinator by requesting the Prime Contractor to provide DBE payment information with each Partial Payment request during the project. These contract-specific running tallies will be used 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).

Monitoring Contracts and Work Sites

The City of Mankato reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed, and such work is counted according to the requirements of § 26.55. Work site monitoring for counting and commercially useful function review is performed the Consultant. Contracting records are reviewed by the Consultant and the DBELO. The City of Mankato will maintain written certification that contracting records have been reviewed and work sites have been monitored to ensure the counting of each DBE's participation is consistent with its function on the contract.

Section 26.39 Fostering Small Business Participation

The City of Mankato has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, 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 prime contractors or subcontractors.

The small business element is incorporated as Attachment 10 to this DBE Program. The program elements will be actively implemented to foster small business participation. The City of Mankato acknowledges that implementation of the small business element is required for us to be considered by DOT as implementing our DBE program in good faith.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The City of Mankato does not use quotas or race-conscious set-asides in any way in the administration of this DBE program.

Section 26.45 Overall Goals

The City of Mankato will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the City of Mankato will submit its Overall Three-year DBE Goal to the FAA by August 1st of the year in which the goal is due, as required by the schedule established by FAA.

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the City of Mankato does not anticipate awarding prime contracts

the cumulative total value of which exceeds \$250,000 in DOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and the City of Mankato will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The City of Mankato will use the DBE Directory Information and Census Bureau Data as a method to determine the base figure. The City of Mankato understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The City of Mankato will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will 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 the City of Mankato market.

In establishing the overall goal, the City of Mankato will provide for consultation and publication. This includes 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 the efforts by the City of Mankato to establish a level playing field for the participation of DBEs. The consultation will 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 will occur before the City of Mankato is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the City of Mankato engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the City of Mankato will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on the City of Mankato official internet web site and may be posted in other sources (e.g., minority-focused media, trade association publications). If the

proposed goal changes following review by the FAA, the revised goal will be posted on the City of Mankato official internet web site.

The Overall Three-Year DBE Goal submission to the FAA will include any information and comments received, who provided the comment, and how the City of Mankato considered and responded to any comments and information received before finalizing the goal.

The City of Mankato will begin using the overall goal on October 1 of the relevant period, unless other instructions from the FAA have been received.

Project Goals

If permitted or required by the FAA an overall goal may be expressed 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. A project goal is an overall goal, and it must meet all the substantive and procedural requirements pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

Prior Operating Administration Concurrence

The City of Mankato understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the City of Mankato for calculating goals is inadequate, the FAA may, after consulting with the City of Mankato, adjust the overall goal or require that the goal be adjusted by the City of Mankato. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 5 to this program.

Section 26.47 Failure to meet overall goals

The City of Mankato cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the City of Mankato fails to administer its DBE program in good faith.

The City of Mankato understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The City of Mankato understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year.
- (2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met.
- (3) The City of Mankato will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The City of Mankato will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to the FAA upon request.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

The City of Mankato will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- (6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program.

The City of Mankato will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order to meet the overall goal.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established 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).

Contract goals will be expressed as a percentage of the Federal share of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeree that has made good faith efforts to meet the contract goal. The bidder/offeree can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO is responsible for determining whether a bidder/offeree who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsible.

The City of Mankato will ensure that all information is complete and accurate and adequately documents the bidder/offeree's good faith efforts before committing to the performance of the contract by the bidder/offeree.

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeree:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
 - a. The names and addresses of DBE firms that will participate in the contract;
 - b. A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - c. The dollar amount of the participation of each DBE firm participating;
 - d. Written documentation of the bidder/offeree's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - e. Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment. Each DBE listed to perform work as a regular dealer or distributor must confirm its participation according to the requirements of § 26.53 (c)(1).

- f. If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract;
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:
- (4) No later than 5 days after bid opening as a matter of responsibility.

Provided that, in a negotiated procurement, such as a procurement for professional services, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the City of Mankato. This paragraph (b)(3)(ii) does not apply to a design-build procurement, which must follow the provisions in paragraph (e) of 49 CFR § 26.53.

For each DBE listed as a regular dealer or distributor the City of Mankato will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §§ 26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The preliminary determination will be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor, the City of Mankato will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

In a design-build contracting situation, in which the City of Mankato solicits proposals to design and build a project with minimal project details at time of letting, the City of Mankato may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information required in paragraph (b) of § 26.53(b). To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amounts) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, the City of Mankato will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. The City of Mankato and the design-builder may agree to make written revisions of the OEPP throughout the life of the

project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

The City of Mankato will apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, the City of Mankato will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

Administrative Reconsideration of Good Faith Efforts determinations

Within 2 business days of being informed by the City of Mankato that it is not responsible because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Susan Arntz – City Manager
Mankato City Hall, 10 Civic Center Plaza, Mankato, MN 56001
(507) 387-8695

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 the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do so. The bidder/offeror will be sent 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 procedural requirements (post-solicitation/award)

The City of Mankato will include in each prime contract the contract clause required by § 26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section that the City of Mankato deems appropriate if the prime contractor fails to comply with the requirements of this section.

The City of Mankato will require the awarded contractor to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

The City of Mankato will require that a prime contractor not terminate a DBE or any portion of its work listed in response to § 26.53(b)(2) (or an approved substitute DBE firm per § 26.53(g)) without our prior written consent, unless the City of Mankato causes the termination or reduction. A termination includes any reduction or underrun in work listed for a DBE not caused by a material change to the prime contract by the recipient. This requirement applies to instances that include but are not limited to: when a prime contractor seeks to perform work originally designed for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The City of Mankato will include in each prime contract a provision stating that:

- (1) The contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the City of Mankato's written consent as provided in § 26.53(f); and
- (2) Unless the City of Mankato consent is provided under § 26.53(f), the prime contractor must not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The City of Mankato may provide such written consent only if it agrees, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the listed DBE or any portion of its work.

Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that is relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged, or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award. For purposes of § 26.53(f)(3), good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit worthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR parts 180, 215, and 1200 or applicable state law;

- (6) The City of Mankato has determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to the City of Mankato written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract; and
- (10) Other documented good cause that the City of Mankato determines compels the termination of the DBE subcontractor;

Before transmitting to the City of Mankato the request to terminate a DBE subcontractor or any portion of its work, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the City of Mankato sent concurrently, of its intent to request to terminate and the reason for the proposed request.

The prime contractor's written notice must give the DBE five (5) days to respond, advising the City of Mankato and the prime contractor of the reasons, if any, why it objects to the proposed termination of its subcontract or portion thereof and why the City of Mankato should not approve the prime contractor's request. If required in a particular case as a matter of public necessity (e.g., safety), the City of Mankato may provide a response period shorter than five (5) days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions or changes to DBEs or their listed work put forward by offerors in negotiated procurements.

When a DBE subcontractor or a portion of its work is terminated by the prime contractor as provided in § 26.53(f), or if work committed to a DBE is reduced due to overestimations made prior to award, the prime contractor must use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal. The good faith efforts shall be documented by the contractor. If the City of Mankato requests documentation under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days, if necessary, at the request of the contractor. The City of Mankato shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in § 26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in § 26.87(j).

For FAA-funded projects **only**, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and may be counted for DBE credit toward overall and contract goals on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The City of Mankato is a **non-certifying member** of the Minnesota Unified Certification Program (UCP) and relies upon the UCP's determinations of certification eligibility. Minnesota UCP will use the certification standards of Subpart D 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. Certifying Minnesota UCP members make all certification decisions based on the facts as a whole.

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

MnDOT Office of Civil Rights
Transportation Building, MS 170
395 John Ireland Blvd
St. Paul, MN 55155-1899
651-366-3073 (main office line)
651-366-3129 (fax)

The Uniform Certification Application form, Personal Net Worth statement, and documentation requirements can be reviewed at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>.

SUBPART E – CERTIFICATION PROCEDURES

Any procedures included here are highlights only. Detailed certification procedures are enumerated in the full Minnesota UCP agreement. The full UCP agreement is included in Attachment 9.

Section 26.81 Unified Certification Programs

The City of Mankato is a non-certifying member of a Unified Certification Program (UCP) administered by the Minnesota UCP Commission. The UCP will meet all certification standards and procedures requirements of Subparts D and E of Part 26.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to the City of Mankato

The City of Mankato understands that if it fails to comply with any requirement of this part, the City of Mankato may be subject to formal enforcement action under § 26.103 or § 26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

The City of Mankato understands that, as provided in statute, it will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because it has been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

Section 26.103 Enforcement Actions Applicable to FHWA and FTA Programs

The provisions of this section apply to enforcement actions under FHWA and FTA programs. **ONLY** paragraph (2) of this section is also applicable in FAA programs.

- (1) **Noncompliance complaints.** Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. A complaint must be filed no later than 180 days after the date of the alleged violation or the date on which the complainant learned of a continuing course of conduct in violation of this part. In response to a complainant's written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of a complainant's identity as provided in § 26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.
- (2) **Compliance reviews.** The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.
- (3) **Reasonable cause notice.** If it appears, from the investigation of a complaint or the results of a compliance review that the City of Mankato is in noncompliance

with part 26, the appropriate DOT office will promptly send the City of Mankato, return receipt requested, a written notice advising that there is reasonable cause to find the City of Mankato in noncompliance. The notice states the reasons for this finding and directs the City of Mankato to reply within 30 days concerning whether you wish to begin conciliation.

(4) Conciliation.

- a. If the City of Mankato requests conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of the request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.
- b. If the City of Mankato and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and the City of Mankato is regarded as complying. The conciliation agreement sets forth the measures the City of Mankato has taken or will take to ensure compliance. While a conciliation agreement is in effect, the City of Mankato remains eligible for FHWA or FTA financial assistance.
- c. The concerned operating administration shall monitor the implementation of the conciliation agreement and ensure that its terms are complied with. If the City of Mankato fail to carry out the terms of a conciliation agreement, the City of Mankato is in noncompliance.
- d. If the City of Mankato does not request conciliation, or a conciliation agreement is not signed within the time provided earlier in this section, then enforcement proceedings begin.

(5) Enforcement actions.

- a. Enforcement actions are taken as provided in this subpart.
- b. Applicable findings in enforcement proceedings are binding on all DOT offices.

Section 26.105 Enforcement Actions Applicable to FAA Programs

Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The provisions of § 26.103(b) and this section apply to enforcement actions in FAA programs.

Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

Section 26.107 Enforcement Actions Applicable to Participating Firms

If a firm that does not meet the eligibility criteria of subpart D of this part attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

If a firm, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

The Department may take enforcement action under [49 CFR Part 31](#), Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under [49 CFR part 31](#).

The Department may refer to the Department of Justice, for prosecution under [18 U.S.C. 1001](#) or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

Section 26.109 Confidentiality, Cooperation, and Intimidation or Retaliation

In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to DOT in any certification appeal proceeding under § 26.89 or to any other state to which the individual's firm has applied for certification under § 26.85.

All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The City of Mankato, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The City of Mankato understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

- Attachment 1 Regulations: Link to 49 CFR Part 26 (eCFR)
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 Link to UCP Directory of Certified Firms
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts Forms
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 Link to Certification Application Form and Personal Net Worth Statement
- Attachment 9 State's UCP Agreement
- Attachment 10 Small Business Element Program

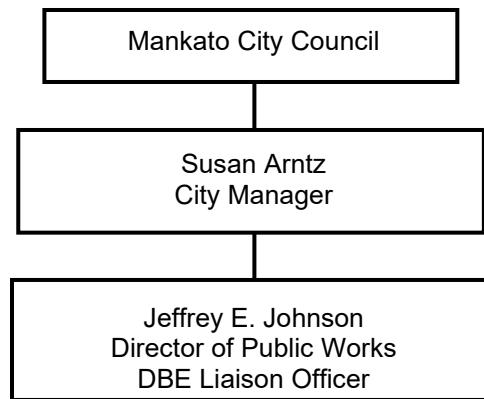
ATTACHMENT 1

DBE program regulations are codified in Title 49 of the Code of Federal Regulations, Part 26. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

ATTACHMENT 2

ORGANIZATIONAL CHART



ATTACHMENT 3

Bidder's List Collection Form

Firm Name	Firm Address (including ZIP code)	DBE or Non-DBE Status	NAICS Code(s) of Scope(s) Bid	Race/Gender of Majority Owner	Age of Firm	Annual Gross Receipts
				☐ Black American ☐ Hispanic American ☐ Asian-Pacific American ☐ Subcontinent Asian American ☐ Native American ☐ Non-minority Woman ☐ Other	☐ Less than 1 year ☐ 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than \$1 million ☐ \$1-3 million ☐ \$3-6 million ☐ \$6-10 million ☐ Over \$10 million
				☐ Black American ☐ Hispanic American ☐ Asian-Pacific American ☐ Subcontinent Asian American ☐ Native American ☐ Non-minority Woman ☐ Other	☐ Less than 1 year ☐ 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than \$1 million ☐ \$1-3 million ☐ \$3-6 million ☐ \$6-10 million ☐ Over \$10 million
				☐ Black American ☐ Hispanic American ☐ Asian-Pacific American ☐ Subcontinent Asian American ☐ Native American ☐ Non-minority Woman ☐ Other	☐ Less than 1 year ☐ 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than \$1 million ☐ \$1-3 million ☐ \$3-6 million ☐ \$6-10 million ☐ Over \$10 million

ATTACHMENT 4

Minnesota UCP Directory may be found here:

<https://mnucp.metc.state.mn.us/>

ATTACHMENT 5

Overall DBE Three-Year Goal Methodology

Name of Recipient: City of Mankato

Goal Period: FY 2023-25 (10/1/2022 through 9/30/2025)

DOT-assisted contract amounts:

Year 1	\$390,902
Year 2	\$340,152
Year 3	\$2,160,000
Totals	\$2,891,054

Overall Three-Year Goal: 1.5%, to be accomplished through 1.5% Race Conscious and 0.0% Race Neutral

Total dollar amount to be expended on DBEs: \$19,165

Describe the Number and Type of Contracts that the airport anticipates awarding:

Contracts in Fiscal Year #1

1. AIR TRAFFIC CONTROL TOWER SITE SELECTION - \$390,902

Contracts in Fiscal Year #2

1. ENVIRONMENTAL ASSESSMENT - ATCT - \$137,600
2. RUNWAY 15/33 AND TAXIWAY A PAVEMENT REHABILITATION - \$202,552

Contracts in Fiscal Year #3

1. AIR TRAFFIC CONTROL TOWER DESIGN - \$1,800,000
2. CONSTRUCT PERIMETER ROAD - \$315,000
3. PLANNING - RUNWAY 4/22 SHIFT STUDY - \$45,000

Market Area

MnDOT District No. 6 (Southeast), 7 (Southcentral), and 8 (Southwest)

Step 1. Actual relative availability of DBEs

The base figure for the relative availability was calculated as follows:

Method: Use DBE Directories (<https://mnucp.metc.state.mn.us/>) and Census Bureau Data (<https://data.census.gov/cedsci/>).

Weighted Availability of DBE firms:

Fiscal Year #1

For 10/1/2022 - 9/30/2023, award of the following is anticipated:

Project Name	Trade Description	NAICS Description	NAICS	Trade (\$)	Directory	Census	DBE (%)	DBE (\$) (= Trade \$ x DBE %)
AIR TRAFFIC CONTROL TOWER SITE SELECTION	ENGINEERING/PLANNING	Engineering Services	541330	\$390,902	1	879	0.1%	\$391
AIR TRAFFIC CONTROL TOWER SITE SELECTION				\$390,902			0.1%	\$391
Year 1 Total				\$390,902			0.1%	\$391

Fiscal Year #2

For 10/1/2023 - 9/30/2024, award of the following is anticipated:

Project Name	Trade Description	NAICS Description	NAICS	Trade (\$)	Director y	Censu s	DBE (%)	DBE (\$) (= Trade \$ x DBE %)
ENVIRONMENTAL ASSESSMENT - ATCT	ENGINEERING/PLANNING	Engineering Services	541330	\$137,600	1	879	0.1%	\$138
ENVIRONMENTAL ASSESSMENT - ATCT				\$137,600			0.1%	\$138
RUNWAY 15/33 AND TAXIWAY A PAVEMENT REHABILITATION	ENGINEERING/PLANNING	Engineering Services	541330	\$18,000	1	879	0.1%	\$18
RUNWAY 15/33 AND TAXIWAY A PAVEMENT REHABILITATION	TESTING & INSPECTION	Testing Laboratories and Services	541380	\$9,000	1	122	0.8%	\$72
RUNWAY 15/33 AND TAXIWAY A	TRUCKING	Trucking, specialized freight	484220	\$63,000	14	774	1.8%	\$1,134

PAVEMENT REHABILITATION		(except used goods), local							
RUNWAY 15/33 AND TAXIWAY A PAVEMENT REHABILITATION	PAVEMENT REPAIR	Highway, Street, and Bridge Construction	237310	\$112,552	9	260	3.5 %	\$3,939	
RUNWAY 15/33 AND TAXIWAY A PAVEMENT REHABILITATION				\$202,552			2.5 %	\$5,163	
Year 2 Total				\$340,152			1.6 %	\$5,301	

Fiscal Year #3

For 10/1/2024 - 9/30/2025, award of the following is anticipated:

Project Name	Trade Description	NAICS Description	NAICS	Trade (\$)	Director y	Censu s	DBE (%)	DBE (\$) (= Trade \$ x DBE %)
AIR TRAFFIC CONTROL TOWER DESIGN	ARCHITECTURAL SERVICES	Architectural Services	541310	\$1,800,000	1	345	0.3 %	\$5,400
AIR TRAFFIC CONTROL TOWER DESIGN				\$1,800,000			0.3 %	\$5,400
CONSTRUCTION PERIMETER ROAD	ENGINEERING/PLANNING	Engineering Services	541330	\$36,000	1	879	0.1 %	\$36
CONSTRUCTION PERIMETER ROAD	TESTING & INSPECTION	Testing Laboratories and Services	541380	\$9,000	1	122	0.8 %	\$72
CONSTRUCTION PERIMETER ROAD	TRUCKING	Trucking, specialized freight (except used goods), local	484220	\$90,000	14	774	1.8 %	\$1,620
CONSTRUCTION PERIMETER ROAD	ROAD CONSTRUCTION	Highway, Street, and Bridge	237310	\$180,000	9	260	3.5 %	\$6,300

				Construction				
CONSTRUCTION				\$315,000			2.5 %	\$8,028
PERIMETER ROAD								
PLANNING - ENGINEERING/PLANNING	ENGINEERING/PLANNING	Engineering Services	541330	\$45,000	1	879	0.1 %	\$45
RUNWAY 4/22 SHIFT STUDY								
PLANNING - RUNWAY 4/22 SHIFT STUDY				\$45,000			0.1 %	\$45
Year 3 Total				\$2,160,000			0.6 %	\$13,473

The base goal projection after weighting is as follows:

- Total Weighted DBE Availability: **\$19,165**
- Total for All Trades: **\$2,891,054**

Dividing the weighted DBE totals by the total estimate for all trades gives a base DBE availability figure for the projects anticipated during the goal-setting period. This figure is expressed as a percentage and serves as the basis for the three-year overall goal.

Base of DBE Goal: **0.7%**

Past History Participation

One piece of data used to determine the adjustment to the base figure was the median of historical DBE accomplishments, as follows:

FY	Total Grant \$ Amount	DBE Goals			Accomplishments			Type of Work
		Race Conscious (%)	Race Neutral (%)	Total	Race Conscious (%)	Race Neutral (%)	Total	
FY 22	\$2,265,234	2.1%	0.0%	2.1%	2.2%	0.0%	2.2%	Highway, Street, and Bridge Construction, Other Support Activities for Road Transportation
FY 21	\$3,332,118	2.1%	0.0%	2.1%	2.3%	0.0%	2.3%	Highway, Street, and Bridge Construction, Other Support Activities for Road Transportation
FY 20	\$3,845,898	2.1%	0.0%	2.1%	2.3%	0.0%	2.3%	Supplier of Water, Sewer, and Storm Sewer parts, Hauling/Supply of asphalt
FY 19	\$337,770	2.1%	0.0%	2.1%	0.0%	0.0%	0.0%	None

Arranging this historical data from low to high (0%, 2.2%, 2.3%, 2.3%), the median is **2.3%**.

Step 1 Base averaged with historical median: **$(0.7\% + 2.3\%) / 2 = 1.5\%$**

To arrive at an overall goal, the Step 1 base figure was added to the Step 2 adjustment figure and the total was averaged, arriving at an overall goal of **1.5%**. City of Mankato believes this adjusted goal accurately reflects DBE participation that can be achieved for the type(s) of work being awarded during this three-year goal period (FY 2023-25).

Furthermore, there are no applicable disparity studies for the local market area or recent legal case information from the relevant jurisdictions to show evidence of barriers to entry or competitiveness of DBEs in the market area that is sufficient to warrant making an adjustment to the base goal.

Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender Conscious” (RC) Participation

City of Mankato will meet the maximum feasible portion of the overall goal by using race neutral means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
9. Assist DBEs and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

City of Mankato estimates that in meeting the established overall goal of 1.5%, it will obtain 0.0% from RN participation and 1.5% through race conscious measures.

This breakout is based on: *Mankato Regional generally achieves the DBE participation goal, with a few cases of over-achievement. Using DBE contract goals and race conscious efforts should best ensure that the goal is achieved.*

City of Mankato holds quarterly meetings open to all small businesses that are realistically expected to result in at least 0.0% additional DBE participation in 2018; therefore, 0.0% of the 1.5% goal is anticipated to be met via race-neutral means and the remaining 1.5% through race-conscious participation.

City of Mankato will adjust the estimated breakout of race neutral and race conscious DBE participation as needed to reflect actual DBE participation (see §26.51(f)) and track and report race neutral and race conscious participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract obtained through

customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal, and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Consultation

In establishing the overall goal, City of Mankato provided for consultation and publication. This process included 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 the City of Mankato's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows.

The consultation was engaged via electronic mail correspondence describing upcoming FAA CIP identified projects, which was sent on 1/16/2023 to contractors listed on the Minnesota Unified Certification Program (MNUCP) in the relevant work areas in upcoming projects. Contractors were given contact information and encouraged to ask questions regarding the upcoming work.

The following comments were received during the course of the consultation: No comments were received after outreach was conducted.

A notice of the proposed goal was published on the City of Mankato official website before the methodology was submitted to Federal Aviation Administration.

Following the consultation, a notice was published on the Mankato Regional official website regarding the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City of Mankato offices for 30 days following the date of the notice, and informing the public that the City of Mankato will accept comments on the goals for 30 days from the date of the notice.

If the proposed goal changes following review by Federal Aviation Administration, the revised goal will be posted on City of Mankato official website.

Notwithstanding paragraph (f)(4) of §26.45, City of Mankato proposed goals will not be implemented until this requirement has been met.

Sample Public Notice Language

PUBLIC NOTICE

City of Mankato hereby announces its proposed Disadvantaged Business Enterprise (DBE) participation goal of 1.5% for FAA-funded contracts/agreements. The proposed goal pertains to federal fiscal years 2023 through 2025 (10/1/2022 - 9/30/2025). A consultation was engaged via electronic mail correspondence was sent on 1/19/2023 for the purpose of consulting with stakeholders to obtain information relevant to the goal-setting process.

Revision Date: 2024-08-01

The proposed goal and its attendant methodology are available for inspection between 8:00 a.m. 6:00 p.m. Monday through Friday at 10 Civic Center Plaza, Mankato, MN 56001 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 30 days from the date of this publication and can be sent to the following:

Jeffrey E. Johnson

Director of Public Works

10 Civic Center Plaza, Mankato, MN 56001

Phone: (507) 387-8640

E-mail: jjohnson@mankato.mn.gov

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1, 2, and 3

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner:

☐ Bidder/offeror has met the DBE contract goal

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

☐ Bidder/offeror has not met the DBE contract goal

The bidder/offeror is committed to a minimum of ____% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm: _____

Bidder/Offeror Representative:

Name & Title

Signature

Date

FORM 2: LETTER OF INTENT

Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.

Name of bidder/offeror's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of DBE firm: _____

Name & title of DBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Work to be performed by DBE firm:

Description of Work	NAICS	Dollar Amount / %*	Manufacturer/Regular Dealer/Distributor/Broker**

**Percentage is to be used only in negotiated procurements*

***For DBE suppliers only, state how the DBE will perform. For dealer/distributor/broker, Form 3 must be included.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is \$ _____. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

Signature of Bidder/Offeror's Authorized Representative

Date: _____

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

Signature of DBE's Authorized Representative

Date: _____

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

Submit this page for each DBE subcontractor.

Form 3: DBE Regular Dealer/Distributor Affirmation Form

OMB Approval Pending 04/17/2024

U.S. Department of
Transportation**DBE Regular Dealer/Distributor
Affirmation Form**

Bidder Name:

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DISCLAIMER: This form has not yet received OMB/PRA approval and is subject to change. We are making it available for your voluntary use.

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

- a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?

☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

- b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

☐ YES ☐ NO* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO¹

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

¹ If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacturer's facility)?

☐ YES² ☐ NO³

- a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES² ☐ NO³

² If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

³ If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

ATTACHMENT 7

Administrative Enforcement Mechanisms

The City of Mankato has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract, as follows
 - I. Withholding of payment to the contractor under the contract until they comply.
 - II. Cancellation, termination, or suspension of the contract in whole or in part.
 - III. Any other available legal remedy.
2. Breach of contract action, pursuant to **Minnesota State Statute 337.**
3. In addition, the Federal government has available several enforcement mechanisms that it may apply including, but not limited to, the following:
 - I. Suspension or debarment proceedings pursuant to 2 CFR Parts 180 & 1200.
 - II. Enforcement action pursuant to 49 CFR Part 31.
 - III. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 8

[MNUCP - About the MNUCP](#)

ATTACHMENT 9

Minnesota UCP Agreement can be found here:

Minnesota Uniform Certification Program (MnUCP) was established in accordance with Federal regulations (49 CFR Part 26) to offer a "one-stop" shop for certification of Disadvantaged Business Enterprises on U.S. Department of Transportation contracts in Minnesota.

The Minnesota Unified Certification Program includes both certifying and non-certifying members. Certifying members include MnDOT, the Metropolitan Airports Commission, the Metropolitan Council and the City of Minneapolis. Non-certifying members include all other government entities in Minnesota that receive U.S. DOT funds.

The MNUCP DBE Program is subject to the following Federal Regulations · CFR 49 Part 26 · CFR 49 Part 23· EPA Regulations

ATTACHMENT 10

Small Business Element

CITY OF MANKATO MANKATO REGIONAL AIRPORT

The Mankato Regional Airport and its Sponsor are committed to procuring race and gender-neutral small business enterprise participation in construction, professional services and procurement, as prime and subcontractors. Since DBE firms are also defined as small businesses, participation by these entities will augment the Airport's race-neutral efforts to meet their DBE goal(s). In facilitating participation by small businesses, the Airport hopes to facilitate additional opportunities for DBE participation in addition to expanding opportunities for all small businesses.

a. **Definitions:**

"Small Business Enterprise" or SBE for the purposes of this section means a for-profit business:

1. That is at least 51% owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens.
2. Whose management and daily business operations are controlled by one or more of the individuals who own the small business; and
3. That is not dominant in its field, and which its size is not greater than the Small Business Administration business size standard(s) found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts under this section of the Airport's DBE Program.

b. **Certification and Verification:**

The Airport and its Sponsor will accept the following certifications for participation in the small business element of the Airport's DBE Program:

1. Minnesota Unified Certification Program (MnUCP) Certification – Valid DBE certification by a certifying UCP member which stipulates that a firm was determined to meet all requirements outlined in 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by a UCP certifying agency. The Applicant shall submit a copy of the certification letter and verification of status on the current Minnesota UCP database.
2. Valid certification by UCP along with two years of business tax returns or a copy of the business' current balance sheet if the business has been established for less than twelve (12) months to verify ability to meet size standards;
3. City/County/Authority Certification – The SBE shall provide a current, valid city, county and/or authority government certification indicating eligibility to participate in women, minority and/or veteran's procurements. Further, applicants also must submit two years of business tax returns or a copy of the business' current balance sheet if the business has been established for less than twelve (12) months to verify ability to meet size standards;
4. SBA 8(a) Business Development Certification – The applicant will submit a copy of the Federal 8(a) certification as described in 13 CFR Part 121 and

124 and two years of business tax returns or a copy of the business' current balance sheet if the business has been established for less than twelve (12) months to verify ability to meet size standards.

c. Methods:

To facilitate competition and expand opportunities for small businesses, the Airport has and continues to take all reasonable steps to eliminate potential obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The Airport will meet this objective using a combination of the following methods and strategies.

1. On a case-by-case basis, the Mankato Regional Airport and the City of Mankato may consider dividing a project into smaller-sized packages (i.e. unbundling) that are within the financial resources and capacity of SBEs. Solicitation documents will clearly identify these contract opportunities. The Airport will determine the feasibility of unbundling by reviewing the grant application for the federal project and determining the work elements that are likely to be grouped for construction and/or purchase. The Airport will also consider the economic feasibility, constructability and schedule impacts associated with unbundling a project to provide additional opportunities for small business participation.
2. In certain multi-year, design-build contracts or other large contracts the Airport will encourage bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform;
3. On prime contracts that do not have DBE contract goals, the Airport may encourage 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.
4. To meet the portion of our overall goal projected to be met through race-neutral measures, the Airport will ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
5. The Airport advertises contracting opportunities through various outlets, including local newspapers, websites, and public meetings. The Airport also addresses the small business enterprise element and opportunities during pre-bid and other public outreach meetings including the periodic Chamber of Commerce Economic development meetings. Mankato Regional Airport and City of Mankato Staff are also available via phone or email to address small business and disadvantaged business questions and concerns. These meetings and other contact will continue to illustrate the Airport's commitment to the new small business enterprise (SBE) element and encourage participation of both SBE and DBE firms on airport-related projects.

The Airport will utilize a variety of methods to facilitate small business participation. In each federally assisted contract, the DBELO will document the method in which the small business elements will be implemented.

d. Implementation:

The Airport will implement this SBE Program element of its DBE Program within 90 days of receipt of FAA approval. The Airport will utilize the time to properly set

up the program in order to maximize the successful implementation of this program element. Activities will include:

1. Review, in coordination with the Development Staff, all upcoming projects in an effort to determine which, if any, will be conducive to any of the selected
2. Review, in coordination with Development Staff, Compliance, and Contract/Legal staff the necessary revisions and modifications to solicitation language and documentation prior to implementation.
3. Coordination with current consultants, contractors, and the FAA will identify existing and upcoming projects that may be candidates for “unbundling” or other race-neutral methods to support small business participation as well as providing information regarding small business certification, bid documentation, good faith efforts, monitoring and payment requirements, etc.

e. Principal Responsible Person

The principal responsible person for overseeing and implementing the Airport’s Small Business Program will be the Disadvantaged Business Enterprise Liaison Officer.

f. Assurances:

The Airport makes the following assurances regarding the small business element of the Airport’s DBE Program:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size requirements established under the DBE program are presumptively eligible to participation in the small business element of the DBE Program;
3. There are no geographic or local preferences/limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging or untried businesses; and
6. Steps will continue to be taken to encourage minority and/or women-owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to obtain UCP DBE certification.

In order to actively implement the Airport’s program elements to foster small business participation and to comply with the requirement of good faith implementation of our DBE program, the Airport will require that the Prime Contractor(s) for Construction Work Items and for Professional Services Work Items complete the form entitled, Fostering Small Business Participation, located in of pages 4 and 5 of this SBE program.

The Special Conditions of the Contract will indicate the amount of small business participation as determined by the Mankato Regional Airport and the City of Mankato.

Fostering Small Business Participation

Sponsor's Name:	
Airport Name:	
City, State:	
AIP Number:	
Federal Fiscal Year:	

In accordance with Section 26.39 the following detailed list shall be completed by Prime Contractor(s) for Construction Work Items as well as by Prime Contractor(s) for Professional Services Work Items. Note: The firms listed below may or may not be certified DBEs.

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	☐ Yes ☐ No		

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	☐ Yes ☐ No		

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	☐ Yes ☐ No		

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	☐ Yes ☐ No		

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	☐ Yes ☐ No		

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	☐ Yes ☐ No		

The following notation is for Sponsor Use Only:

Accepted by: _____ **Date:** _____