

DES MOINES AREA REGIONAL TRANSIT AUTHORITY

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Responsible Division: DART Finance Division

Date Issued: 7/01/2014

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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

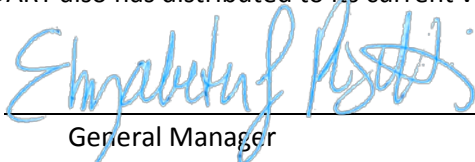
The Des Moines Area Regional Transit Authority (DART) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. DART has received Federal financial assistance from the Department of Transportation,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

It is the policy of DART to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

The DART Chief Finance Officer has been delegated as the DBE Liaison Officer. In that capacity, the CFO 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 DART in its financial assistance agreements with the Department of Transportation.

DART has disseminated this policy statement to the DART Commission and all of the components of our organization. DART has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The statement will be distributed through the bidding process. DART also has distributed to its current vendors shown through our contractor's list.

Signature: 
General Manager

Date: July 1, 2014



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SUBPART A - GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

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

Section 26.3 Applicability

DART is the recipient of federal transit funds authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users – SAFETEA-LU; Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

DART will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

DART 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, DART 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 Record Keeping Requirements

Uniform Report of DBE Awards or Commitments and Payments 26.11(a)

DART will report DBE participation to FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation. FTA requires grantees to report in TEAM on a semi-annual basis unless otherwise specified.

Bidders List 26.11(c)

DART will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, NAICS code, and annual gross receipts of firms.

DART will collect this information in the following ways:

1. The Iowa Department of Transportation disseminates its DBE unified directory at least annually and updates this information regularly on its website.
2. Prime bidders are required to report the name and dollar amount of all firms who quote to them on subcontracts to DART.
3. The System for Award Management (old CCR) may be utilized by DART to obtain addresses of SBA's in both the Des Moines MSA and in Iowa for expanding DART's bidders list. The web address is listed as follows: <https://www.sam.gov/portal/public/SAM/>.

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Section 26.13 Assurances

DART has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance: 26.13(a)

DART shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to DART of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13(b)

We will ensure that the following clause is placed in every DOT-assisted contract and subcontracts

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.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since DART has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, DART will continue to carry out this program until all funds from DOT financial assistance have been expended. DART will provide to DOT updates representing significant changes in the program.

Section 26.25 DBE Liaison Officer

DART has designated the following individual as our DBE Liaison Officer:

Jamie Schug, Chief Finance Officer
620 Cherry Street
Des Moines, IA 50309
515/283-8119
jschug@ridedart.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that DART complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to

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DART's General Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 1** to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of 3 to assist in the administration of the program. The duties and responsibilities include the following:

Chief Finance Officer/DBELO – Jamie Schug

1. Works with Financial Analyst to set overall annual goals.
2. Participates in pre-bid meetings.
3. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
4. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
5. Plans and participates in DBE training seminars.
6. Advises the General Manager/DART Commission on DBE matters and achievement.
7. Acts as liaison to the continued development of the Uniform Certification Process in Iowa.

Financial Analyst– Debra Meyer

1. Prepares three year DBE goal and DBE plan updates as deemed necessary.
2. Plans and participates in DBE training seminars.
3. Analyzes DART's progress toward goal attainment and identifies ways to improve progress.

Accounts Payable Clerk – Elaine German

1. Gathers and reports statistical data and other information as required by DOT.
2. Maintains DART's copy of the directory on certified DBEs. This directory is the UCP Directory, which all DBE's are certified through the Iowa DOT.

Purchasing Manager – Mike Tiedens

1. Reviews third party contracts and purchase requisitions for compliance with this program.
2. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
3. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
4. Plans and participates in DBE training seminars.
5. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
6. Maintains DBE Bidders List throughout the year.
7. The Iowa DOT retains a consultant to aid DBE firms. This aid includes:

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- Assistance in the preparation of the certification application;
- Information about how to obtain bidding documents and plans;
- Assistance in reading plans;
- Assistance in dealing with contractors;
- Information about dealing with the Iowa DOT;
- Assistance in developing loan packages and financial statements.

Section 26.27 DBE Financial Institutions

It is the policy of DART to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions:

1. Review the IDOT DBE plan and Directory for DBE financial institutions annually
2. Provide DBE financial institution information to prime contractors on DOT-assisted contracts.

To date we have identified the following such institutions:

West Bank of Des Moines, IA

Contact: Michele Belden, VP

Additional information regarding the institution can be obtained from the IDOT DBE Liaison Officer; Director of the Office of Contracts; Iowa DOT; 800 Lincoln Way; Ames, IA 50010; 55/239-1414. DART will re-evaluate the availability of DBE financial instructions every two years.

Section 26.29 Prompt Payment Mechanisms

Prompt Payment 26.29(a)

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from DART. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of DART. This clause applies to both DBE and non-DBE subcontracts

Retainage 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of DART. This clause applies to both DBE and non-DBE subcontracts

Monitoring and Enforcement 26.29(d)

DART has established the following procedures to monitor and enforce that prompt payment and return of retainage are in fact occurring:

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1. Request verification from prime contractors that subcontractors were paid within timeframe specified in 26.29.
2. Hold payment to prime contractor until subcontractor is paid.
3. If payments were still not made, DART would consider any future bids non-compliant due to a lack of good faith.

Section 26.31 Directory

The State of Iowa released their unified statewide directory under the Iowa Department of Transportation in February 2002. DART utilizes the Iowa DOT directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE by NAICS code. The Iowa DOT revises the printed Directory annually and updates regularly on its website.

The IDOT DBE program is described online at:

http://www.dot.state.ia.us/contracts/dbe_program.pdf

DART refers all new vendors, bidders and subcontractors to the following site for a DBE application or if they have questions regarding the certification process.

External Civil Rights Team
Office of Employee Services
Iowa Department of Transportation
800 Lincoln Way
Ames, Iowa 50010
Phone: 515-239-1422
Fax: 515-239-1325

The Iowa DOT directory may be found in Attachment 2 to this program document or at the following website: <http://www.ia.bidx.com/lettings/dbealpha.pdf>.

Section 26.33 Overconcentration.

DART does not have overconcentration in one or more types of work. We will re-evaluate the need for such a program every two years.

Section 26.35 Business Development Programs

DART has not established a business development program. We will re-evaluate the need for such a program every two years.

Monitoring and Enforcement Mechanisms (26.37)

DART will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. DART will bring to the attention of the Iowa Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps provided in 26.109.

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2. DART will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. DART will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished through the bidding process, on-site monitoring, payroll reviews, and maintenance of reports through the accounting department for quarterly DBE process. DART will include a certification of contract reviews and monitoring at contract close-out on projects which DBE's are participating.
4. DART will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Small Business Participation

DART has incorporated the following non-discriminatory elements to its DBE program as of July 1, 2013, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBE's and non-DBE small businesses).

- DART will unbundle large contracts to make them more accessible to small businesses.
- DART will require prime contractors to identify small business subcontracts on projects over \$2.5 million.
- DART will establish a race-neutral small business set-aside for prime contracts under \$250,000 (or close). The set-aside will be done annually through consultation with the finance and purchasing departments and assessment of upcoming projects. DART will provide a reasonable number of prime contracts for small businesses and expects to award a minimum of four contracts annually.
- DART will promote the small business element of the DBE plan by notifying potential bidders of upcoming projects and pre-bid meetings through the Iowa DBE directory and the local office of the Small Business Administration. DART will also post the information on its website under "procurements".

A small business will be defined according to the Small Business Administration (SBA) standards found in 13 CFR part 121. To meet the size requirements of the small business program, a firm, including its affiliates, must have average annual gross receipts, over the firm's previous three fiscal years that do not exceed size standards in a particular area of work (NAICS code).

- The size standards and limits by NAICS code can be found at www.sba.gov.
- The North American Industry Classification System (NAICS) codes can be found at www.census.gov/eos/www/naics.

DART will also establish personal net worth requirement (PNW) as part of its Small Business definition. The amount is defined in 49 CFR part 26, section 26.67. See: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=f0c1e1bbec5384cc4325f71af058dbbe&rgn=div5&view=text&node=49:1.0.1.1.20&idno=49>.

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A certified DBE firms is presumed eligible to participate in a small business program. All other firms claiming Small Business status will need to provide verification with their bid submittals. Small Business certifications from other agencies will be accepted as long as their program meets the requirements specified in 49 CFR part 26.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

DART does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

In accordance with Section 26.45, DART will submit its triennial overall DBE goal to FTA on August 1st of the year specified by FTA. DART's next goal is due August 1, 2014.

DART will also request use of project-specific DBE goals as appropriate and/or will establish project-specific DBE goals as directed by FTA.

The process generally used by DART to establish over DBE goals is as follows:

1. In step 1, DART's base figures were calculated to determine the relative availability of DBE's in specific areas of expertise using the State of Iowa Directory of Certified Disadvantaged Business Enterprises and NAICS codes census information.
2. In step 2, DART's figure of the actual DBE participation in the US DOT assisted contracts during the previous years were considered and the base number was adjusted accordingly.

Before establishing the overall goal each time, DART will consult with IDOT, minority, women's, general contractor groups and other small businesses to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's, and DART's efforts to establish a level playing field for the participation of DBE's.

Following this consultation, DART will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at DART's office for 30 days following the date of the notice, and informing the public that DART and the FTA will accept comments on the goals for 45 days from the date of the notice. This publication will be posted in newspaper (Des Moines Register), trade publication (Passenger Transport), minority-focused media (currently the Iowa Bystander), and DART's website (Ridedart.com). Normally, DART will issue this notice by June 1 of each three year period. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall goal submission to FTA will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

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DART will begin using our overall goal on October 1 of each three year period, unless we have received other instructions from FTA. If DART establishes a goal on a project basis, we will begin using our goal by the time of the first solicitation for a FTA-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

Section 26.47 Goal Setting & Accountability

If the awards and commitments shown on DART's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Retain information/records the analysis and efforts made for at least three years.

Section 26.49 Transit Vehicle Manufacturers Goals

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

Section 26.51 Meeting Overall Goals/Contract goals

DART will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so DART will unbundle large contracts to make them more accessible to small businesses; encourage prime contractors to subcontract portions of the work that they might otherwise perform themselves; and provide technical assistance, communications programs and other support services to facilitate consideration of DBE's and other small businesses.

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

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

DART will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Awards of Contracts with a DBE Contract goal 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, DART will not award the contract to a bidder who does not either:

1. Meet the contract goal with verified, countable DBE participation; or

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2. Documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so.

It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts 26.53 (a&c)

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible: The CFO and Purchasing Manager.

The process used to determine whether good faith efforts have been made by a bidder are as follows:

1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
3. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. See Appendix A to Part 26 for additional information.

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

Information to be Submitted 26.53(b)

DART treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsibility.

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

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

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Administrative Reconsideration 26.53(d)

Within 30 days of being informed by DART that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Elizabeth Presutti
620 Cherry Street
Des Moines, IA 50309
515/283-8111
Epresutti@ridedart.com

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

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. DART will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals 26.53(f)

DART requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without DART's written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53 (f)(3) of the DBE regulation.

Before transmitting to DART its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to DART prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise DART of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, DART will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

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Sample Bid Specification

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of DART to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

SUBPART D - CERTIFICATION STANDARDS

Section 26.61-26.73 Unified Certification Process

DART no longer certifies DBE's but participates within the Unified Certification Program as described below in SUBPART E. To be a certified as a DBE, a firm must meet all certification eligibility standards. The Iowa DOT certifies all DBE's within the State of Iowa and DART will direct any potential DBE's to certify under this unified process.

SUBPART E - CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

DART is the member of a Unified Certification Program (UCP) administered by the Iowa Department of Transportation. The UCP meets all of the requirements of this section. DART will use and count for DBE credit only those DBE firms certified by the Iowa UCP. DBE certification applications may be requested through the following contact at the Iowa DOT:

Civil Rights Administrator
Iowa DOT
Office of Contracts; EEO Section
800 Lincoln Way
Ames, IA 50010
515/239-1414 (phone)
515/239-1325 (fax)

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The following has the description of the UCP:

<https://forms.iowadot.gov/FormsMgt/External/650194.pdf>

Section 26.83-26.91 Procedures for Certification Decisions

For information about the certification process or to apply for certification, firms should contact the Iowa Civil Rights Administrator listed in 26.81.

A link to Iowa's UCP certification procedures and program is included under 26.81.

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

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave, SE
West Building, 7th Floor
Washington, D.C. 20590

We will promptly implement any DOT certification appeal decision affecting the eligibility of DBE's for our DOT-assisted contracting.

Please see attachment 6 or follow the Iowa UCP guidelines for the appeal process at:

http://www.dot.state.ia.us/contracts/dbe_program.pdf

SUBPART F - COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

DART will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. A summary of Iowa's FOIA law can be found at the following site: <http://www.nfoic.org/iowa-foia-laws>.

Notwithstanding any contrary provisions of state or local law, DART will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

DART will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of DART or DOT. This reporting requirement also extends to any certified DBE subcontractor.

DART will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

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ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Goal Setting Methodology
Attachment 5	Good Faith Efforts Forms
Attachment 6	Certification Forms
Attachment 7	Regulations: 49 CFR part 26

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Attachment 2

DBE Directory - Unified Certified Program (UCP) Directory

<http://www.ia.bidx.com/lettings/dbealpha.pdf>

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Attachment 3

Monitoring and Enforcement Mechanisms

DART 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;
2. Breach of contract action, pursuant to Iowa State code;

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.

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Attachment 4

Section 26.45: Overall Goal Calculation

Amount of Goal

1. The Des Moines Area Regional Transit Authority's goal for the time period October 1, 2014 – September 30, 2017 is the following: **3%** of our total FTA assistance will be spent with DBE firms exclusive of FTA funds used to purchase transit vehicles. Of the overall goal, 100% will be achieved through race-neutral means.
2. DART expects to award \$3,306,470 in federal DOT-assisted contracts annually during FFY2015-FFY2017. This means that DART has set a goal of expending \$99,194 annually with DBE firms during this time period.

Methodology used to Calculate Overall Goal

The following is documentation of the method DART used to calculate this goal:

Step 1a: 26.45c Determine Weight - Determine the weight of each type of work by budget and NAICS code. The NAICS codes for each project are displayed in Table 4.1.

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	See 4.1	Fringe Benefits	\$250,183.45	0.0856
2)	See 4.1	Services	\$528,949.36	0.1810
3)	See 4.1	Materials & Supplies Consumed	\$1,143,974.80	0.3915
4)	See 4.1	Casualty & Liability	\$185,638.55	0.0635
5)	See 4.1	Purchased Transportation	\$147,400.00	0.0505
6)	See 4.1	Miscellaneous	\$7,429.00	0.0025
7)	See 4.1	Leases & Rentals	\$10,583.00	0.0036
8)	See 4.1	Special Planning Studies	\$114,666.67	0.0392
9)	See 4.1	Non-Rolling Stock Capital	\$532,847.73	0.1824
		Total FTA-Assisted Contract Funds	\$3,306,469.95	\$2,921,672.56

Step 1b: 26.45c Determine Availability - Determine the relative availability of DBE's by NAICS category.

The base figures were calculated to determine the relative availability of DBE's in specific areas of expertise using the State of Iowa Directory of Certified Disadvantaged Business Enterprises. DART used the 2011 Census State Business Patterns to determine the number of total establishments in the Iowa market.

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	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	See 4.1	Fringe Benefits	0	400	0.0000
2)	See 4.1	Services	85	13,083	0.0065
3)	See 4.1	Materials & Supplies Consumed	29	4,526	0.0064
4)	See 4.1	Casualty & Liability	1	2,410	0.0004
5)	See 4.1	Purchased Transportation	1	20	0.0500
6)	See 4.1	Miscellaneous	9	4,544	0.0020
7)	See 4.1	Leases & Rentals	2	3,136	0.0006
8)	See 4.1	Special Planning Studies	12	324	0.0370
9)	See 4.1	Non-Rolling Stock Capital	116	2,518	0.0461
Combined Totals			255	30961	0.0082
					Overall availability of DBEs

Step 1c: 26.45c Determine Weighted Base - Determine the weighted base figure (Weight*Availability).

The base figures were weighted by the expected amount of federal contract dollars to be expended in each NAICS code/budget category summarized.

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	See 4.1	Fringe Benefits	0.08563	x	0.00000	0.0000
2)	See 4.1	Services	0.18104	x	0.00650	0.0012
3)	See 4.1	Materials & Supplies Consumed	0.39155	x	0.00641	0.0025
4)	See 4.1	Casualty & Liability	0.06354	x	0.00041	0.0000
5)	See 4.1	Purchased Transportation	0.05045	x	0.05000	0.0025
6)	See 4.1	Miscellaneous	0.00254	x	0.00198	0.0000
7)	See 4.1	Leases & Rentals	0.00362	x	0.00064	0.0000
8)	See 4.1	Special Planning Studies	0.03925	x	0.03704	0.0015
9)	See 4.1	Non-Rolling Stock Capital	0.18238	x	0.04607	0.0084
					Total	0.0161
					Expressed as a % (*100)	1.61%

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Based on this information, the DBE relative availability for federal DOT assisted contracts is 1.61%.

Step 2: 26.45(d) Adjust Base Figure

After calculating a base figure of the relative availability of DBE's, evidence was examined to determine if adjustments were needed to the base figure in order to arrive at the overall goal.

Step 2.1: The reason we chose to adjust our figure using this data was as follows:

In looking at past DBE achievements over the last 12 months, DART reached 7.19% in the last six months of FY2013 and 0.82% in the first six months of FY2014.

DART calculated the average past performance of DBE participation to adjust the overall goal.

Average 12 month DBE participation = $(7.19\% + .82\%) / 2 = 4.01\%$

Step 2.2: Adjust Base Figure: DART then adjusted the step 1 base for past participation by taking the average of the Step 1 Base Figure and the average past participation.

Step 2.1 Base Figure Adjusted = $(1.61\% + 4.01\%) / 2 = 2.81\%$

From this data, we have adjusted our base figure to: **3%**

DART chose only the last 12 months to compare due to the inconsistencies in prior years reporting. Prior to 2013, our goal and contracts were not consistently reported as the federal participation. Both the goal and reporting now reflect federal expenditures only in both DBE awards/expenditures and total contracts/expenditures.

Public Participation

Federal regulations require that DART publish a notice in general circulation media, women/minority-focused media, and trade association publications announcing DART's proposed overall annual goals for FFY2015-17 contracts assisted by USDOT. Such notice informs the public that the proposed goals and their rationale are available for inspection during normal business hours at the Des Moines Area Regional Transit Authority for 30 days following the date of the notice and that DART and FTA will accept comments on the goals for 45 days from the date of the notice.

DART published our goal information in the Des Moines Register, Iowa Bystander, El Comunicador, and APTA publication as well as on DART's website. No comments were received on the DBE program.

Section 26.51: Breakout of Estimate Race Neutral & Race Conscious Participation

DART will meet the maximum feasible portion of its DBE overall goal by using race-neutral methods of facilitating DBE participation. DART uses the following race-neutral means to increase DBE participation.

Unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they might otherwise perform themselves;

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providing technical assistance, communications programs and other support services to facilitate consideration of DBE's and other small businesses.

DART estimates that in meeting our overall goal of 3% for FFY15-FFY17, 100% will be obtained through race-neutral participation. In prior years, a multi-year task based DBE contract was reported under race conscious when it should have been listed under race neutral (confusion with the former purchasing manager).

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation. For reporting purposes, race-neutral DBE participation includes, but is not limited to the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; and DBE participation through a subcontractor from a prime contractor that did not consider a firm's DBE status in making the award.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

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Table 4.1. - Projects by NAICS Codes

Projected Federal Operating Assistance for FY2015	\$ 5,459,998.00
Budgeted Total Operating Expense for FY2015	\$ 28,452,041.00
Federal Share of Operating Expenses	19%
Federal Share of Capital, Purchased Transportation, & Planning Expenses	80%

NAICS		2011 Iowa Establishments	2014 Iowa DBE Directory
1)	FRINGEBENEFITS		
524113	Direct life insurance carriers	180	0
524114	Direct health and medical insurance carriers	69	0
621330	Offices of mental health practitioners (except physicians)	151	0
	TOTAL FRINGE	400	0
2)	SERVICES		
238210	Electrical contractors and other wiring installation contractors	745	3
238220	Plumbing, heating, and air-conditioning contractors	1125	2
238290	Other building equipment contractors	91	2
238990	All other specialty trade contractors	295	28
323119	Other commercial printing	21	0
333921	Elevator and moving stairway manufacturing	7	0
444190	Other building material dealers	516	2
484210	Used household and office goods moving	75	0
488410	Motor vehicle towing	66	0
492110	Couriers and express delivery services	116	0
492210	Local messengers and local delivery	46	1
511110	Newspaper publishers	220	0
511120	Periodical publishers	89	0
511140	Directory and mailing list publishers	12	0
512110	Motion picture and video production	57	0
515111	Radio networks	16	0
515112	Radio stations	106	0
515120	Television broadcasting	21	0
517110	Wired telecommunications carriers	518	0
517210	Wireless telecommunications carriers (except satellite)	114	0
519130	Internet publishing and broadcasting and web search portals	29	0
522110	Commercial banking	1473	0
524291	Claims adjusting	45	1
541110	Offices of lawyers	1434	0
541219	Other accounting services	284	0
541320	Landscape architectural services	15	10
541380	Testing laboratories	71	2
541511	Custom computer programming services	359	6
541519	Other computer related services	57	3
541612	Human resources consulting services	52	1
541613	Marketing consulting services	160	5
541810	Advertising agencies	91	1
541890	Other services related to advertising	73	1
541922	Commercial photography	31	1
541990	All other professional, scientific, and technical services	90	6
561320	Temporary help services	277	1
561612	Security guards and patrol services	65	1
561613	Armored car services	17	0
561710	Exterminating and pest control services	105	0
561720	Janitorial services	544	1
561990	All other support services	201	4
562111	Solid waste collection	182	0

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NAICS	2011 Iowa Establishments	2014 Iowa DBE Directory
562112 Hazardous waste collection	13	0
562991 Septic tank and related services	50	0
611430 Professional and management development training	37	2
611710 Educational support services	51	1
621111 Offices of physicians (except mental health specialists)	1219	0
621498 All other outpatient care centers	56	0
811111 General automotive repair	1037	0
811121 Automotive body, paint, and interior repair and maintenance	507	0
811122 Automotive glass replacement shops	67	0
812320 Drycleaning and laundry services (except coin-operated)	102	0
812930 Parking lots and garages	33	0
TOTAL SERVICES	13083	85

3) MATERIALS & SUPPLIES

221210 Natural gas distribution	14	0
323121 Tradebinding and related work	7	0
325510 Paint and coating manufacturing	17	0
326199 All other plastics product manufacturing	76	0
332312 Fabricated structural metal manufacturing	47	3
332999 All other miscellaneous fabricated metal product manufacturing	36	1
333992 Welding and soldering equipment manufacturing	2	0
334310 Audio and video equipment manufacturing	1	0
336322 Other motor vehicle electrical and electronic equipment manufacturing	13	0
336999 All other transportation equipment manufacturing	9	0
339950 Sign manufacturing	48	1
339999 All other miscellaneous manufacturing	28	0
423120 Motor vehicle supplies and new parts merchant wholesalers	112	0
423130 Tire and tube merchant wholesalers	28	0
423390 Other construction material merchant wholesalers	35	5
423420 Office equipment merchant wholesalers	92	0
423450 Medical, dental, and hospital equipment and supplies merchant wholesalers	59	1
423610 Electrical apparatus and equipment, wiring supplies, and related equipment merc	138	4
423690 Other electronic parts and equipment merchant wholesalers	83	1
423710 Hardware merchant wholesalers	49	1
423730 Warm air heating and air-conditioning equipment and supplies merchant wholesa	46	1
423830 Industrial machinery and equipment merchant wholesalers	261	0
423840 Industrial supplies merchant wholesalers	73	1
423850 Service establishment equipment and supplies merchant wholesalers	61	1
423860 Transportation equipment and supplies (except motor vehicle) merchant wholesa	19	1
423930 Recyclable material merchant wholesalers	140	1
424110 Printing and writing paper merchant wholesalers	14	0
424120 Stationery and office supplies merchant wholesalers	51	0
424720 Petroleum and petroleum products merchant wholesalers (except bulk stations a	38	1
441310 Automotive parts and accessories stores	509	0
441320 Tire dealers	284	0
443120 Computer and software stores	105	0
444130 Hardware stores	289	0
451110 Sporting goods stores	228	0
448110 Men's clothing stores	68	0
448190 Other clothing stores	122	0
453210 Office supplies and stationery stores	79	0
453998 All other miscellaneous store retailers (except tobacco stores)	201	0
454390 Other direct selling establishments	258	0
561499 All other business support services	42	1
561621 Security systems services (except locksmiths)	22	1

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NAICS	2011 Iowa Establishments	2014 Iowa DBE Directory
561990 All other support services	201	4
811118 Other automotive mechanical and electrical repair and maintenance	45	0
811212 Computer and office machine repair and maintenance	39	0
811213 Communication equipment repair and maintenance	6	0
811310 Commercial machinery repair and maintenance	407	0
811420 Reupholstery and furniture repair	24	0
TOTAL MATERIALS & SUPPLIES	4526	29
4) CASUALTY & LIABILITY		
524126 Direct property and casualty insurance carriers	259	0
524210 Insurance agencies and brokerages	2151	1
TOTAL CASUALTY & LIABILITY	2410	1
5) PURCHASED TRANSPORTATION		
485310 Taxi service	20	1
TOTAL PURCHASED TRANSPORTATION	20	1
6) MISCELLANEOUS		
424470 Meat and meat product merchant wholesalers	21	0
445110 Supermarkets and other grocery (except convenience) stores	595	0
445299 All other specialty food stores	59	0
448310 Jewelry stores	202	0
452910 Warehouse clubs and supercenters	64	0
453110 Florists	229	0
453210 Office supplies and stationery stores	79	0
531120 Lessors of nonresidential buildings (except miniwarehouses)	263	0
541990 All other professional, scientific, and technical services	90	6
611430 Professional and management development training	37	2
611710 Educational support services	51	1
722110 Full-service restaurants	2425	0
722320 Caterers	84	0
813910 Business associations	345	0
921190 Other General Government Support	0	0
TOTAL MISCELLANEOUS	4544	9
7) LEASE & RENTAL		
423910 Sporting and recreational goods and supplies merchant wholesalers	44	1
531190 Lessors of other real estate property	126	0
532111 Passenger car rental	37	0
532210 Consumer electronics and appliances rental	46	0
532412 Construction, mining, and forestry machinery and equipment rental and leasing	42	1
532420 Office machinery and equipment rental and leasing	3	0
532490 Other commercial and industrial machinery and equipment rental and leasing	53	0
562991 Septic tank and related services	50	0
713910 Golf courses and country clubs	310	0
722110 Full-service restaurants	2425	0
TOTAL LEASE & RENTAL	3136	2
8) PLANNING		
541611 Administrative management and general management consulting services	324	12
TOTAL PLANNING	324	12
9) NON ROLLING STOCK CAPITAL		
236220 Commercial and institutional building construction	492	8
238210 Electrical contractors and other wiring installation contractors	745	3

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NAICS	2011 Iowa Establishments	2014 Iowa DBE Directory
238220 Plumbing, heating, and air-conditioning contractors	1125	2
238990 All other specialty trade contractors	295	28
323119 Other commercial printing	21	0
332322 Sheet metal work manufacturing	34	5
332999 All other miscellaneous fabricated metal product manufacturing	36	1
423120 Motor vehicle supplies and new parts merchant wholesalers	112	0
423210 Furniture merchant wholesalers	40	1
423420 Office equipment merchant wholesalers	92	0
423690 Other electronic parts and equipment merchant wholesalers	83	1
423830 Industrial machinery and equipment merchant wholesalers	261	0
423850 Service establishment equipment and supplies merchant wholesalers	61	1
423860 Transportation equipment and supplies (except motor vehicle) merchant wholesa	19	1
443120 Computer and software stores	105	0
444110 Home centers	68	0
453210 Office supplies and stationery stores	79	0
541310 Architectural services	117	2
541320 Landscape architectural services	15	10
541330 Engineering services	335	29
541511 Custom computer programming services	359	6
541512 Computer systems design services	239	9
541519 Other computer related services	57	3
541990 All other professional, scientific, and technical services	90	6
TOTAL NON ROLLING STOCK CAPITAL	2518	116
 TOTAL ALL	 30,961	 255

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Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By:

(Signature)

Title



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FORM 2: LETTER OF INTENT (Submit this page for each DBE subcontractor.)

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By

(Signature)

(Title)

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

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Attachment 6

Certification Forms

DART no longer certifies DBE's and therefore no application is attached. The State of Iowa is now under the Unified Certification Program and all certifications go through the Iowa Department of Transportation. DART refers and assists all new or interested vendors/firms in contacting the following for an application and additional explanation of the DBE program:

External civil rights team
Office of Employee Services
Iowa Department of Transportation
800 Lincoln Way
Ames, Iowa 50010
Phone: 515-239-1422
Fax: 515/239-1325

As stated previously, DART no longer certifies DBE eligibility or removes DBE's from eligibility. This is currently the responsibility of the Iowa Department of Transportation under the Unified Certification Program, which began in February 2002. The procedures for removal can be viewed through the following Iowa DOT website address: http://www.dot.state.ia.us/contracts/dbe_program.pdf or direct questions may be asked to the above address.

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Attachment 7

Regulations: 49 CFR Part 26

Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Assistance Programs may be viewed at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl.

All attachments will be made available in printed form upon request.