

Disadvantaged Business Enterprise Program Plan for Federal Transit Administration Programs

Prepared by NDOT Civil Rights Office
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Contents

Policy Statement	1
Subpart A – General Requirements.....	2
Section 26.1 Objectives	2
Section 26.3 Applicability	2
Section 26.5 Definitions.....	2
Section 26.7 Non-discrimination Requirements	2
Section 26.11 Record-Keeping Requirements	2
Reporting to USDOT	2
Bidders List	3
DBE Records Retention and Reporting.....	3
Section 26.13 Federal Financial Assistance Agreement.....	3
Assurance: 26.13(a)	3
Assurance: 26.13(b)	4
Subpart B – Administrative Requirements.....	5
Section 26.21 DBE Program Updates	5
Section 26.23 Policy Statement.....	5
Section 26.25 DBE Liaison Officer (DBELO).....	5
Section 26.27 DBE Financial Institutions	6
Section 26.29 Prompt Payment Mechanisms	6
Retainage	7
Monitoring of Prompt Payment	7
Enforcement Actions for Noncompliance of Participants.....	7
Monitoring Contracts and Work Sites.....	8
Section 26.31 Directory	8
Section 26.33 Overconcentration	8
Section 26.35 Business Development Programs	8
Section 26.37 Monitoring Responsibilities.....	9
Monitoring Payments to DBEs and Non-DBEs.....	9
Prompt Payment Complaints and Dispute Resolution.....	9
Enforcement Actions for Noncompliance of Participants.....	9
Monitoring Contracts and Work Sites.....	9
Section 26.39 Fostering Small Business Participation.....	9
Subpart C – Goals, Good Faith Efforts, and Counting	11
Section 26.43 Set-Asides or Quotas.....	11
Section 26.45 Overall Goals	11
Prior FTA Concurrence	12
Section 26.47 Failure to Meet Overall Goals.....	12
Section 26.49 Awards to Transit Vehicle Manufacturers.....	12
Section 26.51 Means Used to Meet Overall Goals	13
Breakout of Estimated Race-Neutral and Race-Conscious Participation.....	13
Contract Goals	14
Section 26.53 Good Faith Efforts Procedures with a Contract DBE Goal.....	14
Award of Contract	14
Good Faith Efforts	15
Administrative Reconsideration.....	16
Section 26.55 Counting DBE Participation.....	17

Subpart D – Certification Standards	18
Subpart E – Certification Procedures	19
Section 26.81 Unified Certification Programs	19
Subpart F – Compliance and Enforcement	20
Section 26.101 Compliance Procedures Applicable to NDOT	20
Section 26.109 Information, Confidentiality, Cooperation, and Intimidation or Retaliation.....	20
Appendix A: Terms and Definitions	A-1
Appendix B: DBE Program Organizational Chart.....	B-1
Appendix C: Fostering Small Business Participation	C-1
Appendix D: Transit DBE Goal Setting Methodology.....	D-1
Appendix E: DBE Certification Standards and Procedures for USDOT Programs.....	E-1

Nebraska Department of Transportation Disadvantaged Business Enterprise Program Policy Statement

The Nebraska Department of Transportation (NDOT) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the requirements of the U.S. Department of Transportation (USDOT) and the [Code of Federal Regulations, Title 49, Subtitle A, Part 26](#) (49 CFR Part 26). NDOT has received federal financial assistance from USDOT, and as a condition of receiving this assistance, NDOT has signed an assurance that it will comply with the requirements of 49 CFR Part 26.

It is the policy of NDOT to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also NDOT's policy:

1. to ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. to create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. to ensure that the DBE program is narrowly tailored to applicable federal and state law;
4. to ensure that only firms that meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. to help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. to promote the use of DBEs in all types of federally assisted contracts and procurement activities;
7. to assist the development of firms that can compete successfully in the marketplace outside the DBE program;
8. to provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

The NDOT Diversity, Equity, and Inclusion Manager, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the NDOT DBE program funded through the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA) programs. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by NDOT in its financial assistance agreements with USDOT.

This policy statement is published on the [NDOT website](#) and a notice of availability of the policy statement has been distributed to all offices of NDOT; subrecipients of FHWA, FTA, and FAA funds; as well as DBE and non-DBE businesses that perform work on USDOT-assisted contracts in Nebraska.

Vicki Kramer, Director

Date

Subpart A – General Requirements

Section 26.1 Objectives

The objectives include the bulleted list found in the policy statement on the first page of this document.

Section 26.3 Applicability

NDOT is the recipient of federal transit funds authorized by Divisions A, B, and C of the Bipartisan Infrastructure Law (BIL), Pub. L. 117-58.

As a recipient of federal funds from FTA, NDOT has established its DBE program in accordance with 49 CFR Part 26 and has committed to ensuring compliance on all FTA-funded transportation projects through monitoring, reporting, and goal setting. NDOT distributes federal transportation funds to local public agencies, non-profit agencies, and tribal agencies throughout Nebraska. As a condition of receipt of funding, these subrecipients must adopt the NDOT FTA DBE Program Plan.

Section 26.5 Definitions

A list of terms used in this document and their definitions can be found in Appendix A: Terms and Definitions.

Section 26.7 Non-discrimination Requirements

NDOT 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 based on race, color, sex, or national origin.

In administering its DBE program, NDOT 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

Reporting to USDOT

The NDOT Transit Program Specialist and NDOT DBELO will coordinate to produce and submit the Uniform Report of DBE Awards or Commitments and Payments Form (Uniform Report) on a semiannual basis to FTA on or by June 1 and December 1 each year in the Transit Award Management System (TrAMS) to ensure accurate and timely reporting of DBE Participation to FTA. The submitted form of June 1 will cover the reporting period from October 1 through March 31. The submitted form of December 1 will cover the reporting period from April 1 through September 30.

NDOT's Uniform Reports will reflect payments made to DBEs on USDOT-assisted contracts by NDOT and its subrecipients. Subrecipients receiving FTA funds will submit a DBE activity report to NDOT semiannually through the Local Assistance Division's Nebraska Public Transit Portal. The DBE activity report gathers awards/commitments; contracts, purchase orders, and invoices; payments on ongoing contracts; and total payments on contracts completed during the reporting period. The information

on the activity report will be combined for all subrecipients and additional contract and payment information maintained by NDOT to populate the Uniform Report that is sent to FTA.

The Uniform Report can be found in [49 CFR Part 26, Appendix B](#).

Bidders List

The NDOT Civil Rights Office will coordinate with other offices within NDOT, subrecipients receiving bids on FTA-funded projects, and consultants overseeing FTA-funded projects to develop and maintain a bidders list to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who have sought work (successfully or unsuccessfully) on NDOT USDOT-assigned contracts for use in setting the overall DBE goal(s). All firms on the bidders list will be surveyed to determine the age and size of business, where they are located, and if they are interested in participating in FTA-funded projects.

DBE Records Retention and Reporting

For each DBE-certified firm, NDOT will retain a record of the firm's complete application package and all affidavits of no-change, change notices, on-site reviews, and records documenting the firm's compliance with the requirements of [49 CFR Part 26](#). These records will be retained in accordance with all applicable record retention requirements of NDOT's financial assistance agreement. Other certification or compliance-related records will be retained for a minimum of 3 years or as required by the [Records Retention and Disposition Schedules](#) of the State of Nebraska (State), unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer. These records will be filed and archived using means acceptable under State law and policy.

By January 1 of each calendar year, NDOT will submit to USDOT's Office of Civil Rights the percentage and location in Nebraska of certified DBE firms controlled by the following and listed in the Nebraska Unified Certification Program (NUCP) DBE directory:

- Women
- Socially and economically disadvantaged individuals (other than women)
- Individuals who are women and are otherwise socially and economically disadvantaged individuals

Section 26.13 Federal Financial Assistance Agreement

NDOT has signed the following assurances, applicable to all USDOT-assisted contracts and their administration.

Assurance: 26.13(a)

Each financial assistance agreement NDOT signs with FTA (or a primary recipient) will include the following assurance:

The NDOT shall not discriminate based on race, color, national origin, or sex in the award and performance of any FTA-assisted contract or in the administration of its DBE program or the requirements of [49 CFR Part 26](#). NDOT shall take all necessary and reasonable steps under [49 CFR Part 26](#) to ensure nondiscrimination in the award and administration of FTA-assisted contracts.

The NDOT DBE program, as required by [49 CFR Part 26](#) and as approved by FTA, is incorporated by reference in this assurance. Implementation of this program is a legal obligation, and failure to carry out its terms shall be treated as a violation of this assurance. Upon notification to NDOT of its failure to carry out its approved program, FTA may impose sanctions as provided for under [49 CFR Part 26](#) and may, in appropriate cases, refer the matter for enforcement under [18 United States Code \(USC\) 1001](#) and/or the Program Fraud Civil Remedies Act of 1986 ([31 USC 3801 et seq.](#)).

Assurance: 26.13(b)

NDOT will ensure the following clause is included in each FTA-funded contract it signs with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor, subrecipient, or subcontractor shall not discriminate based on 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 USDOT-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 of progress payments;*
- 2. assessing sanctions;*
- 3. liquidated damages; and/or*
- 4. disqualifying the contractor from future bidding as non-responsible.*

Subpart B – Administrative Requirements

Section 26.21 DBE Program Updates

NDOT is required to have a DBE program that meets the requirements of [49 CFR Part 26](#) because it will award prime contracts, the cumulative total value of which exceeds \$250,000 in FTA funds in a federal fiscal year. NDOT is not eligible to receive USDOT financial assistance unless USDOT has approved this DBE program and NDOT is in compliance with it and [49 CFR Part 26](#). NDOT will continue to carry out this program until all funds from USDOT financial assistance have been expended. NDOT does not have to submit regular updates of this DBE Program Plan if it remains in compliance. However, significant changes in this DBE Program Plan, including those required by regulatory updates, will be submitted for USDOT approval.

Section 26.23 Policy Statement

The Policy Statement is included on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBELO for NDOT:

Kimberly Baker
Diversity, Equity, and Inclusion Manager/DBELO
1500 Nebraska Parkway
Lincoln, NE 68502

Phone: 402-479-4544

Email: kimberly.k.baker@nebraska.gov

In coordination with other appropriate officials, the DBELO is responsible for developing, implementing, and monitoring the DBE program and ensuring that NDOT complies with all provisions of [49 CFR Part 26](#). The DBELO has direct, independent access to Vicki Kramer, NDOT Director, concerning DBE program matters and reports administratively to the Program Management Division Administrator. An organizational chart displaying the DBELO's position in the organization is provided in Appendix B: DBE Program Organizational Chart.

The DBELO has a staff of four full-time and two part-time employees to carry out the NDOT Civil Rights program, including the DBE program. The DBELO supplements resources with consultant staff through on-call contracts as needed. The DBELO coordinates with other NDOT offices for the administration of the program as appropriate.

The duties and responsibilities of the DBELO include the following:

- Implement the NDOT DBE program in compliance with [49 CFR Part 26](#).
- Oversee and designate staff and resources in the development or execution of the NDOT DBE program to ensure compliance with [49 CFR Part 26](#).
- Incorporate the requirements of the NDOT DBE program into the appropriate manuals, directives, and policies relating to their respective areas of operations.
- Assist the agency divisions, contractors, and FTA subrecipients in understanding, implementing, and complying with the requirements of the NDOT DBE program and [49 CFR Part 26](#).

- Monitor and enforce agency, subrecipient, and contractor compliance with the NDOT DBE program and [49 CFR Part 26](#).
- Assist firms in applying for DBE certification in Nebraska.
- Ensure that only firms meeting the certification requirements and standards of the NDOT DBE program and [49 CFR Part 26](#) are certified in Nebraska.
- Maintain an accurate and up-to-date directory of certified DBE firms in Nebraska.
- Advise NDOT leadership on DBE matters and achievements.
- Work with appropriate divisions to set transit DBE goals.
- Identify contracts and procurements to determine if a DBE goal is appropriate and what DBE goal(s) should be included.
- Review third party contracts and purchase requisitions for compliance with this program.
- Analyze NDOT progress toward goal attainment and identify ways to improve progress.
- Ensure that bid notices and requests for proposals are available to DBEs in a timely manner.
- Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- Plan and participate in DBE training seminars.
- Provide outreach to the DBEs and community organizations to advise them of opportunities.
- Gather and report statistical information as required by USDOT.

Section 26.27 DBE Financial Institutions

It is NDOT policy to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, and to encourage prime contractors on FTA-assisted contracts to use these institutions.

The NDOT DBELO investigated the availability of socially and economically disadvantaged financial institutions in Nebraska and in the states adjacent to Nebraska. NDOT will notify prime contractors of the availability of these institutions and will encourage the use of these institutions by way of a statement included in the letting notice. NDOT believes this notice provides reasonable encouragement given the already vigorous efforts of the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) Minority Depository Institution (MDI) programs.

NUCP-certified financial institutions are listed in the NDOT DBE directory. A list of nationwide current MDIs can be found on the FDIC website at fdic.gov/regulations/resources/minority/mdi.html.

Section 26.29 Prompt Payment Mechanisms

NDOT requires that all subcontractors performing work on DOT-assisted contracts be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with [49 CFR Section 26.29](#), NDOT requires all contractors at every tier to include a Prompt Payment Clause in every subcontract. The Prompt Payment Clause shall stipulate:

- Payments to first-tier subcontractors for work completed shall be made by the contractor within 20 calendar days of receipt of progress payments from NDOT for said work.
- For lower-tier subcontracts the payment by any upper-tier subcontractor to a lower-tier subcontractor for work completed shall be made within 10 calendar days of receipt of progress payments from the upper-tier subcontractor for said work.
- The return of any and all retainage withheld by any upper-tier subcontractor shall be made within 30 calendar days after the satisfactory completion of the work by the lower-tier subcontractor.
- Subcontractors at any tier shall return to the Contractor or upper tier subcontractor, as the case may be, any and all overpayments that result from adjustments to measured and recorded quantities (as part of the preparation of subsequent progress payments or the final records) within 20 calendar days of receipt of written notice of the amount of overpayment.
- Subcontractors at any tier may not withhold from, delay, or postpone payment to lower-tier subcontractors without just cause and the written approval from the Department. All requests from the upper-tier subcontractor to withhold, delay, or postpone payment shall be submitted to the Department in writing, through the Contractor, describing the reason for the request, within 10 calendar days of receiving knowledge of the cause that supports the request.

Retainage

NDOT does not hold retainage from prime contractors. NDOT requires prime contractors to make prompt and full payment of any retainage kept by the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

Monitoring of Prompt Payment

NDOT requires subrecipients to use an NDOT approved consultant to assist with contract administration and monitoring. The Contracted Consultant will acquire and report all payment information made to contractors and their subcontractors using means specified by NDOT. Contracted Consultants shall record and submit to NDOT the amount of the payment, whether the amount paid was subject to withholding, the date of payment, and the name of the contractor/subcontractor to which the payment was made. NDOT will regularly use the submitted information to determine whether prime contractors are making payments to subcontractors in a timely manner.

NDOT requires Contracted Consultants to perform DBE commercially useful function reviews and to gather and report NDOT Prime Contractor Identification of DBE Goal Achievement Form 441 and NDOT DBE Identification of Work Performed Form 442 from contractors and subcontractors as part of final project review.

NDOT requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of 3 years. These records will be made available for inspection upon request by any authorized representative of NDOT or FTA. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

Enforcement Actions for Noncompliance of Participants

The Contractor's failure to comply with the specifications outlined in these sections is a breach of contract. Remedies for a breach of contract may include NDOT withholding progress payments to the Contractor, terminating the contract, or applying remedies described elsewhere in the contract. Remedies shall be in the sole discretion of NDOT and in no event shall a subcontractor have rights, or cause of action, against NDOT.

The failure of any subcontractor to comply with applicable terms of these sections shall be communicated by the Contractor or upper-tier subcontractor to the subcontractor or lower-tier subcontractor, as the case may be, in writing and may result in NDOT withholding subcontract approval for future work.

Monitoring Contracts and Work Sites

NDOT reviews contracting records and actively monitors 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 performed by the DBEs to which the work was committed. Work site monitoring and verification of construction activities is performed through observation and reporting. NDOT will maintain written certification that contracting records have been reviewed and monitored for this purpose.

Section 26.31 Directory

NDOT is a certifying member of the NUCP. The NUCP maintains a directory identifying all firms eligible to participate as DBEs across all USDOT programs, including transit. The NUCP provides a framework consistent with the elements required by [49 CFR Section 26.31](#). The purpose of the NUCP is to provide a single DBE directory for the State. The [NUCP agreement](#) is posted on the [NDOT Civil Rights website](#).

Section 26.33 Overconcentration

NDOT is not aware of overconcentration in any work area. If NDOT determines that DBE firms are overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in that type of work, NDOT will take one or both of the following measures to address the overconcentration:

- Use incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which NDOT has determined that non-DBEs are unduly burdened.
- Vary the use of contract goals, to the extent consistent with [49 CFR Section 26.51](#), to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

NDOT will obtain the approval of FTA for its determination of overconcentration and the measures taken to address it.

Section 26.35 Business Development Programs

NDOT has a DBE Business Development Program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE Program.

The purpose of the BDP is to provide selected DBE firms of demonstrated need a program of intensive business management training, technical training, and consultation/assistance that is tailored and designed to help each individual firm achieve self-established business objectives. The primary goals of the BDP are:

- To improve the capability and capacity of each DBE participant to successfully compete for and execute contracts, primarily in areas of work directly related to the construction, design, or planning of transportation projects;
- To achieve sustained business growth and profitability for program participants;

- To develop competencies in work types outside the participant's traditional areas of DBE participation; and
- To reduce or eliminate poor performance, delays in project completion, and delays in progress payments.

The DBE Development Stage of the BDP is designed to assist participants in overcoming their social and economic disadvantage by providing such training as may be needed to develop essential business knowledge, skills and abilities. The DBE Transitional Stage of the BDP is designed to assist participants in overcoming, insofar as practical, their social and economic disadvantage and to prepare them for sustained success upon graduating from the program. The business review portion of the BDP provides a level of proactive engagement and support that is conducive to the success of the participants and the achievement of BDP goals. Participants are graduated or discontinued upon achieving the BDP goals.

Section 26.37 Monitoring Responsibilities

NDOT requires subrecipients to use an NDOT approved consultant to assist with contract administration and monitoring for FTA funded capital improvement projects.

NDOT implements and carries out appropriate mechanisms to ensure compliance with [49 CFR Part 26](#) program requirements by all program participants, including prompt payment, and describes and sets forth these mechanisms in this DBE Program Plan.

NDOT actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments made to DBE firms), including a means of comparing these attainments to commitments.

Monitoring Payments to DBEs and Non-DBEs

NDOT undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities are discussed above in Section 26.29 Prompt Payment Mechanisms.

Prompt Payment Complaints and Dispute Resolution

NDOT will take the steps discussed above in Section 26.29 Prompt Payment Mechanisms to resolve disputes as to whether work has been satisfactorily completed for purposes of [49 CFR Section 26.29](#).

Enforcement Actions for Noncompliance of Participants

NDOT will use the means discussed above in Section 26.29 Prompt Payment Mechanisms to enforce prompt payment mechanisms.

Monitoring Contracts and Work Sites

NDOT monitors contracts and work sites in the ways discussed in Section 26.29 Prompt Payment Mechanisms to ensure that work committed to DBEs at contract award or subsequently is performed by the DBEs to which the work was committed.

Section 26.39 Fostering Small Business Participation

NDOT 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 Appendix C: Fostering Small Business Participation to this DBE Program Plan. The program elements are actively implemented to foster small business participation.

Subpart C – Goals, Good Faith Efforts, and Counting

Section 26.43 Set-Asides or Quotas

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

Section 26.45 Overall Goals

NDOT establishes an overall goal for DBE participation in FTA-assisted contracts. This goal covers a 3-year federal fiscal year period because NDOT anticipates awarding FTA-funded prime contracts of a cumulative total value that exceeds \$250,000 in USDOT funds during any one or more of the reporting fiscal years within the 3-year goal period. In accordance with [49 CFR Section 26.45\(f\)](#), NDOT will submit its 3-year overall DBE participation goal to FTA by August 1 of the year in which the goal is due. The coming years in which NDOT must submit this updated overall DBE participation goal are 2023, 2026, 2029, and 2032, and every 3 years thereafter.

NDOT may adjust its 3-year overall goal during the 3-year period to which it applies to reflect changed circumstances. NDOT will submit such an adjustment to the FTA Region 7 Regional Civil Rights Officer for review and approval.

NDOT's overall DBE participation goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on federally assisted contracts. The goal must reflect NDOT's determination of the level of DBE participation expected absent the effects of discrimination. NDOT's overall DBE participation goal is expressed as a percentage of all FTA funds that NDOT will expend in federally assisted contracts in the forthcoming 3 fiscal years.

A description of the methodology to calculate the overall goal and the most recent goal calculations can be found in Appendix D: Transit DBE Goal Setting Methodology.

In establishing an overall goal, NDOT must provide for consultation and publication. NDOT must consult with minority, women, and general contractor groups; community organizations; and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and NDOT's efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, and teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal-setting process, and it must occur before NDOT is required to submit its methodology to FTA for review.

NDOT will document the consultation process in its goal submission. NDOT will not implement its proposed goal until this requirement is met.

In addition to the consultation described above, NDOT will publish a notice announcing the proposed overall DBE participation goal before submission to the FTA on August 1. The notice will be posted on the [NDOT website](#) and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by FTA, the revised goal will be posted on the official internet web site.

The Overall Three-Year DBE Goal submission to FTA will include a summary of information and comments received, if any, during this public participation process and NDOT's responses to those comments.

NDOT will begin using the overall goal on October 1 of the relevant period, unless other instructions from FTA have been received.

Prior FTA Concurrence

NDOT understands that prior FTA concurrence with the overall DBE participation goal is not required. However, if FTA's review suggests that the overall goal has not been correctly calculated or that the method employed by NDOT for calculating goals is inadequate, FTA may, after consulting with NDOT, adjust the overall goal or require that the goal be adjusted by NDOT. The adjusted overall DBE participation goal is binding.

Section 26.47 Failure to Meet Overall Goals

NDOT understands that to be compliant with [49 CFR Part 26](#), an approved DBE program and overall DBE participation goal must be maintained, and this DBE program must be administered in good faith. Should DBE participation fall short of the overall DBE participation goal, NDOT cannot be penalized or treated by FTA as being in noncompliance with [49 CFR Part 26](#) unless NDOT fails to administer its DBE program in good faith.

NDOT understands that if the awards and commitments shown on the Uniform Report at the end of any fiscal year are less than the overall DBE participation goal applicable to that fiscal year, a Shortfall Analysis composed of the following actions must be taken to be regarded by USDOT as implementing this FTA DBE program in good faith:

- Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year.
- 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.
- Within 90 days of the end of the fiscal year, prepare the analysis and corrective actions developed under paragraph (c)(1) and (2) of [49 CFR Section 26.47](#).
- Retain a copy of the Shortfall Analysis and corrective actions in records for a minimum of 3 years and make it available to FTA upon request.

Section 26.49 Awards to Transit Vehicle Manufacturers

NDOT requires that each transit vehicle manufacturer (TVM) that quotes bids or proposes procurement in Nebraska must certify to NDOT that it is in compliance with this section.

Each TVM must establish an annual overall DBE percentage goal using [49 CFR Section 26.45](#) as a guideline. Each TVM may also establish contract-specific DBE goals with FTA concurrence. Each TVM must provide certification to NDOT that FTA has concurred with the TVM's overall and/or contract goal. Before accepting bids, NDOT confirms with FTA that the TVM has an approved DBE program and has submitted all required documentation.

NDOT will report all transit vehicle purchases to FTA via the TVM Reporting tool on the FTA website within 30 days of contract award by the subrecipient.

Section 26.51 Means Used to Meet Overall Goals

Breakout of Estimated Race-Neutral and Race-Conscious Participation

NDOT will meet the maximum feasible portion of its overall goal by using race- and gender-neutral means of facilitating race- and gender-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. Measures used to achieve this may include the following:

- Publicize construction project notices and consulting requests to encourage DBE firms and other small businesses to participate;
- Provide a supportive services program for DBE firms and other small businesses designed to facilitate development of business management skills, project management skills, and use of supporting technologies that:
 - Recruits and enrolls DBE Firms
 - Develops DBE Participants Business Plan (BDP)
 - Proactively engages DBEs to achieve DBE BDP goals
 - Provides training to develop the essential business knowledge, skills and abilities of the Participant.
 - Assists DBEs transition from the program upon graduation
- Provide other technical assistance to DBE firms and other small businesses as needed;
- Identify and promote projects that can be unbundled in order to promote DBEs and other small businesses to perform as a prime;
- Identify and promote joint venture opportunities to allow DBE firms and other small businesses to perform prime contracts in cooperation; and
- Ensure that a reasonable number of prime contracts are of a size that DBE firms and other small businesses can reasonably perform.
- 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);
- 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;
- Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- 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 NDOT's most recently approved FTA goal-setting methodology (see Appendix D).

NDOT 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 [49 CFR Section 26.39](#).

Contract Goals

NDOT will use race-conscious contract goals to meet any portion of the overall goal that it does not project being able to meet using race-neutral means. This will be accomplished by advertising all projects regardless of their size, providing outreach and training opportunities to DBEs, and doing subrecipient outreach in their local communities.

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

If it is determined that the FTA DBE participation goal can be met through race-neutral means, the program will be implemented without establishing specific contract goals during that year.

Section 26.53 Good Faith Efforts Procedures with a Contract DBE Goal

Award of Contract

The apparent successful bidder is the bidder (DBE or non-DBE) who submits the lowest bid, is qualified and responsible, and signs the proposal document accompanying the bid stating that the firm will perform the work of the contract and comply with the various regulations and special provisions, including the appropriate DBE special provisions and the DBE goal, when applicable. These provisions further require the contractor to identify, no later than 5 days after bid opening as a matter of responsibility, the DBE(s) that will be used in commitment of meeting any DBE goal requirement, or in providing documentation of its good faith efforts (GFE) to meet the DBE goal requirement if it was unable to do so.

After bids are opened and analyzed, NDOT sends a notice of intent to award to the apparent low bidder contingent on completion of all pre-award conditions. These conditions include, but are not limited to, completion and submission of the NDOT Required DBE Participation Form, which provides the following information:

- Names and addresses of all subcontractors that bid, successfully or unsuccessfully, on subcontracts on the project
- Names and addresses of the DBE subcontractors that will participate in meeting the contract goal
- A complete description (by item number or group, etc.) of the work each named DBE subcontractor will perform
- The dollar amount of participation by each named DBE subcontractor

- Written and signed documentation from the bidder of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
- Written and signed confirmation from each DBE by 5:00 p.m. on the fifth calendar day following the letting that the DBE is participating in the contract as provided in the prime contractor's commitment.
- If the contract goal is not met, the apparent low bidder must submit evidence of GFEs.

The submitted bid and completed Required DBE Participation Form is reviewed by the NDOT Civil Rights Office to determine whether the apparent low bidder has committed to meet the DBE contract goal by using certified DBEs who will be performing or supplying specific contract items for which they are licensed and certified to perform and will be performing commercially useful functions. Then, if the DBE goal requirement is met, and all other requirements set forth in the contract are met, NDOT issues the *Notice to Proceed* to the contractor.

Note that once a contract has been awarded, the winning contractor is responsible for achieving the dollar amount of DBE participation committed to, both as a whole and for each individual DBE identified as part of the bid commitment, even if that amount exceeds the original DBE goal of the contract.

Good Faith Efforts

GFEs are those demonstrated efforts taken by a contractor in compliance with [49 CFR Section 26.53](#) to achieve a DBE goal on a federally assisted contract, and which, by their scope, intensity, and appropriateness to the objective, can be reasonably expected to achieve the goal. Guidance concerning the standards of GFEs can be found in [49 CFR Section 26.53](#).

It is the obligation of every contractor to demonstrate that it has made a GFE to retain a DBE to complete work on projects with DBE goals. The bidder/contractor can demonstrate that it has done so either by fulfilling the goal or providing documented evidence of GFEs.

The NDOT Civil Rights Office examines and evaluates bids and monitors contract performance using the "running tally" process to determine if a contractor has achieved or is likely to achieve the contract DBE goal. If not, the NDOT Civil Rights Office determines, in accordance with [49 CFR Section 26.53](#) and [49 CFR Part 26, Appendix A](#), if the contractor made GFEs to achieve the DBE goal and then issues a written notice of its determination to the contractor.

When evaluating documented GFEs, the NDOT Civil Rights Office will examine what efforts were made by the contractor, when they were made, and how intensely those efforts were undertaken. Considerations in making the determination will include, but not be limited to, the following:

- Whether the contractor solicited DBEs through all reasonable and available means, allowing adequate time for response, and following up on initial solicitations.
- Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation).
- Whether the contractor provided interested DBEs with information about the plans, specifications, and requirements of the contract in a timely manner. What is timely may vary, but timeliness is directly related to the size of the contract, the complexity in preparing bids or quotes, and the urgency of project circumstance. Larger contracts that require greater complexity in creating bids or quotes will demand more time to complete than smaller or simpler contracts. An urgent project timeline during a replacement of a DBE on an existing contract will increase the expectancy of rapid response to solicitations.

- Whether the contractor negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough evaluation of their current capabilities and previous work.
- Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by NDOT or the bidder.
- Whether the contractor took into consideration all relevant factors in negotiating with and selecting subcontractors and suppliers, DBE and non-DBE, including, but not limited to, each firm's price and capabilities, as well as subcontract and overall project goals.
- Whether the contractor, in not selecting a DBE subcontractor for reason of costs alone, demonstrated that such costs were out of line with comparative costs observed in the current competitive marketplace.
- Whether the contractor, in not achieving the DBE goal, selected to self-perform work for which a qualified DBE firm was available and willing to perform that work.
- Whether the contractor made efforts to assist interested DBEs in obtaining equipment, supplies, materials, or related assistance or services.
- Whether the contractor effectively used the services of available community organizations, contractor's groups, government business assistance offices, or other resources that might assist in identifying DBE firms.

If a contractor is attempting to prove GFEs at the time of a bid, documentation of GFEs shall be provided by a contractor to the NDOT Civil Rights Office by the close of business on the fifth business day following the letting (not counting the day of the letting). Extensions to this time frame may be granted at the discretion of the NDOT Civil Rights Office, but requests for extension must be received in writing by the NDOT Civil Rights Office within the original 5 business days.

The NDOT Civil Rights Office will carefully examine and weigh the GFE documentation submitted by the contractor. The NDOT Civil Rights Office will determine whether the GFE submittal was sufficient to prove that the contractor made a GFE to retain and use DBE subcontractors. The determination on whether the GFE submittal was sufficient will be made by the close of business on the second business day following receipt of the GFE documentation (not counting the day of receipt). The NDOT Civil Rights Office will prepare a document that will include the analysis of GFE factors, the application of those factors to the facts at hand, and all evidence submitted by the contractor. This document will serve as the record of decision. The record of the decision will then be sent to the contractor both electronically and by mail.

In the context of GFEs at the time of letting, if the NDOT Civil Rights Office determines that the contractor has demonstrated GFEs, the bid will be accepted. If the NDOT Civil Rights Office determines the contractor failed to demonstrate GFEs, NDOT will refuse the bid.

In the context of GFEs during the execution of a contract, if a contractor fails to achieve their DBE commitment but the NDOT Civil Rights Office determines that the contractor demonstrated a GFE in attempting to achieve the goal, the contractor will not be found in breach of contract. However, if a contractor fails to achieve the contract DBE commitment and the NDOT Civil Rights Office determines that the contractor failed to demonstrate a GFE, NDOT may find the contractor in breach of contract.

Administrative Reconsideration

If the NDOT Civil Rights Office determines that the contractor failed to demonstrate GFEs, either at the time of the bid or during the performance of a contract, the contractor may request administrative

reconsideration in accordance with [49 CFR Section 26.53\(d\)](#). The request by the contractor for administrative reconsideration must be made in writing and received by the NDOT Civil Rights Office by the close of business on the fifth business day after the contractor has received notice of the determination (not counting the day that the notice was received). If the contractor fails to make such a request, they will be deemed to have waived their right to request administrative reconsideration, and the determination of the NDOT Civil Rights Office will stand.

In an administrative reconsideration of a determination of GFE, the final decision is made by an office and personnel who did not take part in the original finding and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions. In fulfillment of this requirement, the final decision in the administrative reconsideration will be made by an attorney with the Nebraska Attorney General's office at NDOT or by an NDOT executive with guidance from the Attorney General's office. The selection of an executive will depend on availability at the time of the administrative reconsideration. When available, the administrator will be the NDOT Construction Engineer, who has a familiarity with the DBE program and has served in the capacity of hearing officer for prior GFE administrative reconsiderations. The Attorney General's office at NDOT is familiar with the DBE program, has a long history of experience with various DBE issues, and is an expert in the interpretation and application of facts and laws.

The contractor will have the opportunity to provide written documentation, or argument concerning the issue of whether it met the goal or made adequate GFEs to do so, to the reconsideration official. The contractor can also meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate GFEs to do so.

The NDOT DBELO will provide the reconsideration official with all evidence relating to the contractor's GFEs, as well as a written memorandum of analysis and conclusions. The NDOT DBELO will also meet with the reconsideration official to answer questions and discuss issues pertaining to the findings.

The reconsideration official will prepare and send to the contractor and the NDOT DBELO a record of decision explaining the basis for the finding that the contractor did or did not meet the goal or make adequate GFEs to do so.

The result of the administrative reconsideration process is not administratively appealable to USDOT.

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in [49 CFR Section 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 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 [49 CFR Part 26, Subpart D](#) at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals except as provided in [49 CFR Section 26.87\(j\)](#).

Subpart D – Certification Standards

NDOT will use the certification standards of [49 CFR Part 26, Subpart D](#) to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. NDOT makes all certification decisions based on the facts provided by the potential DBE firm.

For information about the certification process or to apply for certification, firms should contact Kimberly Baker, the NDOT DBELO. She can be reached by mail, phone, or email at:

Kimberly Baker
Diversity, Equity, and Inclusion Manager/DBELO
1500 Hwy 2
Lincoln, NE 68509

Phone: 402-479-4544

Email: kimberly.k.baker@nebraska.gov

The Nebraska Uniform Certification Application form and documentation requirements can be found on the [NDOT Civil Rights website](#).

Subpart E – Certification Procedures

Section 26.81 Unified Certification Programs

It is the policy of all Nebraska recipients of USDOT financial assistance (including FTA) that firms certified as DBEs will have a level playing field on which to participate in USDOT-assisted contracts. To help remove barriers that may exist to the participation of all eligible DBE firms, and in accordance with [49 CFR Section 26.81](#), NDOT has entered into an agreement establishing the Nebraska Unified Certification Program (NUCP).

The purpose of the NUCP is to simplify and create a more efficient DBE certification process. The NUCP will provide “one-stop shopping” for firms applying for DBE certification with recipients of USDOT financial assistance in Nebraska. This includes recipients of USDOT financial assistance from FHWA, FAA, and FTA. The NUCP will have one application, one certification process, and one certification decision, which will allow eligible firms to participate as DBEs anywhere in the state in the respective categories of work for which the firms are certified.

The NUCP will follow all DBE certification procedures and standards of [49 CFR Part 26](#) on the same basis as USDOT recipients. The NUCP will cooperate fully with all oversight, review, and monitoring activities of USDOT and its operating administrations. The NUCP will implement all USDOT directives and guidance concerning DBE certification matters. USDOT recipients agree to commit sufficient resources and expertise to the NUCP to ensure that the NUCP can carry out the requirements of [49 CFR Part 26](#).

The full text of the [Nebraska Unified Certification Program Agreement](#) can be found on the [NDOT Civil Rights website](#). The [Uniform Certification Application](#) can also be found on the [NDOT Civil Rights website](#).

For NDOT’s DBE Certification Standards and Procedures for all USDOT Programs, See Appendix E: DBE Certification Standards and Procedures for USDOT Programs. For information about the certification process or to apply for certification, firms should contact:

Kimberly Baker
Diversity, Equity, and Inclusion Manager/DBELO
1500 Nebraska Parkway
Lincoln, NE 68502

Phone: 402-479-4544

Email: kimberly.k.baker@nebraska.gov

Subpart F – Compliance and Enforcement

Section 26.101 Compliance Procedures Applicable to NDOT

NDOT understands that if it fails to comply with any requirement of [49 CFR Part 26](#), NDOT may be subject to formal enforcement action under [49 CFR Section 26.103](#) or [49 CFR Section 26.105](#) or appropriate program sanctions by FTA, 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 FTA program, any actions permitted under 49 USC 53 or applicable FTA program requirements.

Section 26.109 Information, Confidentiality, Cooperation, and Intimidation or Retaliation

For each DBE-certified firm, NDOT will retain a record of the firm's complete application package and all affidavits of no change, change notices, on-site reviews, and records documenting the firm's compliance with the requirements of [49 CFR Part 26](#) during the time the firm is certified and for 3 years following the firm's withdrawal, decertification, or other removal from the program.

Other certification- or compliance-related records will be retained for a minimum of 3 years or as required by the [Records Retention and Disposition Schedules](#) of the State, whichever is longer. These records will be filed and archived using means acceptable under State law and policy.

NDOT will safeguard from disclosure to third parties' personal information and information that may be regarded as confidential business information in a manner consistent with federal and State law. Notwithstanding any contrary provisions of State law, NDOT will not release personal information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter, including applications for DBE certification and supporting information. However, this information will be transmitted to USDOT in any certification appeal proceeding under [49 CFR Section 26.89](#) or to any other state to which the individual's firm has applied for certification under [49 CFR Section 26.85](#).

All participants in USDOT'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 USDOT 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 that uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

NDOT, contractors, and any other participant in the DBE 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 [49 CFR Part 26](#) or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under [49 CFR Part 26](#). Any violator of this prohibition will be considered in noncompliance with [49 CFR Part 26](#).

Appendix A: Terms and Definitions

Appendix A: Terms and Definitions

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

- 1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:
 - i. One concern controls or has the power to control the other; or
 - ii. A third party or parties controls or has the power to control both; or
 - iii. An identity of interest between or among parties exists such that affiliation may be found.
- 2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

Assets mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

Business, business concern or business enterprise means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States, or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

Compliance means that a recipient has correctly implemented the requirements of this part (49 CFR Part 26).

Contingent Liability means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part (49 CFR Part 26), a lease is a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a USDOT-assisted highway, transit, or airport program.

Days mean calendar days. In computing any period described in this part (49 CFR Part 26), the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

Department or USDOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Director means the Director of the Nebraska Department of Transportation.

Disadvantaged business enterprise or DBE means a for-profit small business concern—

- 1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- 2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Disadvantaged Business Enterprise Liaison Officer or DBELO is the person within the Nebraska Department of Labor responsible for implementing all aspects of the NDOT DBE program. See definition of "[civil rights program manager or CRPM](#)" in this section.

USDOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good faith efforts or GFE means efforts to achieve a DBE goal or other requirement of this part (49 CFR Part 26) which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Civil Rights Program Manager or CRPM is the office within the Nebraska Department of Transportation that administers NDOT's civil rights programs as established and required by Federal and State law. This includes the NDOT DBE program.

Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides.

See definition of "[tribally-owned concern](#)" in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Liabilities mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Nebraska Department of Transportation or NDOT means the Nebraska Department of Transportation, the state government agency charged with building and maintaining the state and federal transportation systems in the State of Nebraska. NDOT is a recipient of USDOT funding.

Nebraska Unified Certification Program or Nebraska UCP or NUCP means the Nebraska Unified Certification Program, a consortium of USDOT recipients in the State of Nebraska in which the members of signed an agreement to provide “one stop shopping” to applicants for DBE certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state. NDOT is a signatory member of the NUCP.

Noncompliance means that a recipient has not correctly implemented the requirements of this part (49 CFR Part 26).

Operating Administration or OA means any of the following parts of USDOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site: <http://www.census.gov/eos/www/naics/>.

Primary recipient means a recipient which receives USDOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

Program means any undertaking on a recipient's part to use USDOT financial assistance, authorized by the laws to which this part (49 CFR Part 26) applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part (49 CFR Part 26), *race-neutral* includes gender- neutrality.

Recipient is any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or SBA means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

- 1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if required.
- 2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - iii. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

- iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- vi. Women;
- vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- viii. Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

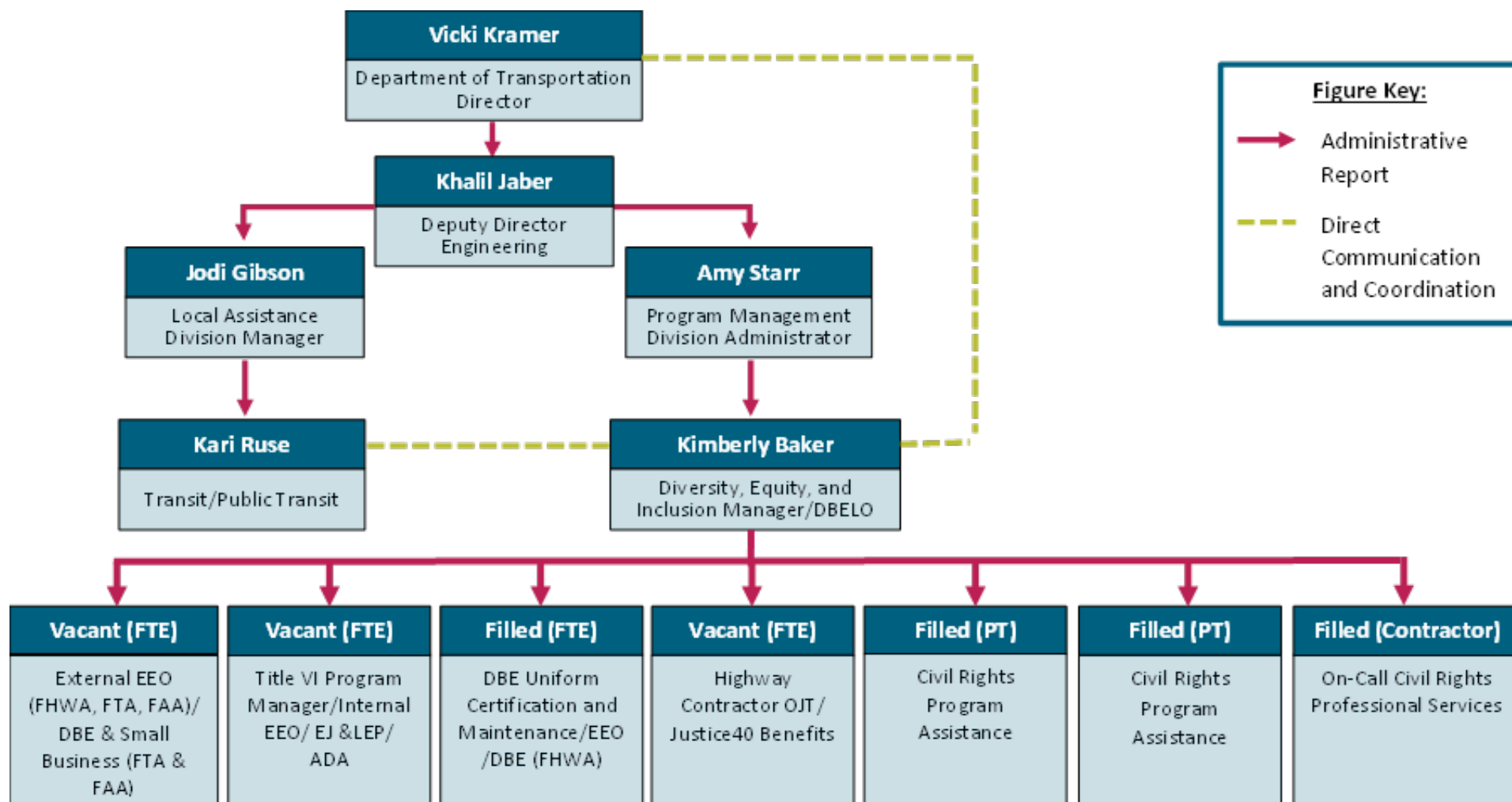
Spouse means a married person, including a person in a domestic partnership or a civil union recognized under State law.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale "off the lot" are not considered transit vehicle manufacturers.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part (49 CFR Part 26) or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

Appendix B: DBE Program Organizational Chart



Appendix C: Fostering Small Business Participation

UNDER DEVELOPMENT

Appendix D: Transit DBE Goal Setting Methodology

Nebraska Department of Transportation FTA Disadvantaged Business Enterprise (DBE) Goal Setting Methodology FY 2024–2026

July 2023

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION



Background

This document details the methodology used by the Nebraska Department of Transportation (NDOT) to establish its three-year (FY 2024-2026) overall annual Disadvantaged Business Enterprise (DBE) goal for contracts that contain financial assistance from the Federal Transit Administration (FTA) of the U.S. Department of Transportation (USDOT). This goal applies to NDOT's Public Transit program, which receives and distributes federal funding from FTA to subrecipients and is responsible for oversight of those subrecipients and compliance with applicable federal regulations.

NDOT established this goal in accordance with Part 26, Title 49 of the Code of Federal Regulations (49 CFR Part 26.45). NDOT evaluated potential contracting opportunities to be offered using FTA funds, the ready, willing, and able DBEs to participate in such opportunities, and other relevant evidence in order to determine its overall goal. NDOT proposes the following FTA DBE goals for the period of October 1, 2024, through September 30, 2026 (FY 2024-2026). NDOT expects to meet the full goal with race-neutral measures.

Overall goal:	0.57%
Race Neutral portion:	0.57%
Race Conscious portion:	0.00%

NDOT published the proposed goal on June 28, 2023, and comments were solicited from known DBEs, subrecipient organizations, and local industry associations. Public meetings were held virtually and in person to include a live question-and-answer session for attendees. NDOT considered comments received carefully. NDOT will continue to engage in conversations with the industry and its Highway Commission about the methodology, overall annual goal, and potential options to encourage DBE participation to meet or exceed the race-neutral goal over the next three federal fiscal years.

NDOT's goal setting methodology and calculations used in arriving at the proposed goal, including adjustments, are detailed below.

FTA Funding Allocation

NDOT has analyzed the following FTA funding for FY 2024-2026. This funding includes anticipated funding from the Bipartisan Infrastructure Law (BIL). The NDOT FTA DBE goal represents contracting opportunities from subrecipients throughout the State of Nebraska. NDOT referred to the NDOT Statewide Transportation Improvement Program (STIP) to identify the programs receiving FTA funding allocations. The programs receiving FTA Funding allocations are represented in Table 1. These funds were utilized to inform the overall DBE goal.

Table 1 – FTA Programmed Funds from NDOT STIP for FY 2024-2026

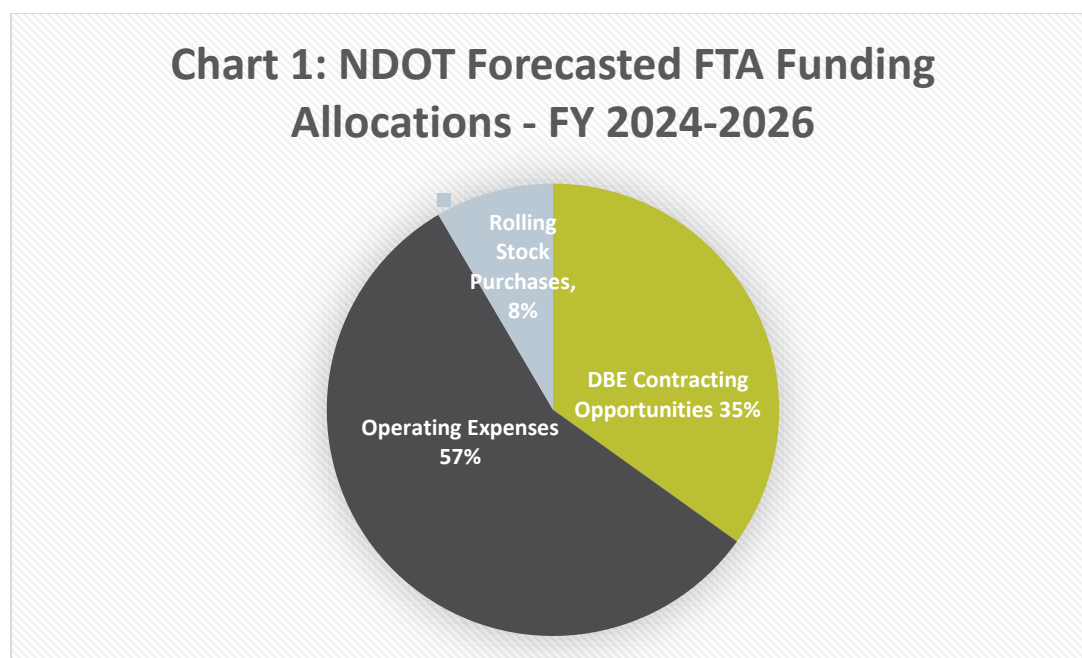
Program	FY 2024	FY 2025	FY 2026	Total
FTA - 5304	\$160,000	\$170,000	\$180,000	\$510,000
FTA-5310	\$900,000	\$1,000,000	\$1,100,000	\$3,000,000
FTA-5311	\$26,880,000	\$18,980,000	\$20,080,000	\$65,940,000
FTA-5339	\$500,000	\$500,000	\$500,000	\$1,500,000
FTA Subtotal	\$28,440,000	\$20,650,000	\$21,860,000	\$70,950,000

NDOT and its subrecipients use FTA funds for operations, administration, and capital purchases. FTA-assisted contracting opportunities from subrecipients tend to consist of micro purchases (purchases $\leq \$10,000$) of goods and services. NDOT captures these contracting opportunities through Semi-Annual Uniform Reporting to FTA and through routine and ad-hoc interactions with subrecipients.

FTA Contracting Opportunities

The FTA provides a significant financial contribution to support the NDOT Public Transit program and its subrecipients. As required per 49 CFR Part 26.45, the overall goal only applies to FTA funded contracting opportunities with NDOT and its subrecipients. Approximately one-third of the total amount of FTA funding received by NDOT is anticipated to fund contracting opportunities. NDOT has excluded the anticipated use of FTA funding associated with administration/operating expenses and rolling stock purchases (transit vehicles). These activities are not considered for this DBE goal because they are not DBE contracting opportunities or are covered by other contracting requirements. Therefore, the potential for DBE contracting opportunities is limited to approximately one-third of the total funding provided by FTA to NDOT.

Chart 1 shows a breakdown of the anticipated FTA funds allocation and potential contracting opportunities used as the basis for the goal setting methodology:



Because subrecipients seek reimbursement through NDOT-provided FTA funds over multiple years, receipt of FTA funds and contracting opportunities can occur in different years. NDOT accounted for the gap in time between the receipt of funds and contracting opportunities by using the average of grantee expenditures in various contracting categories. Any special allocations within the programming timeframe were taken into consideration in determining potential opportunities.

FTA DBE Goal Setting Calculation

NDOT used the two-step goal setting methodology specified in 49 CFR 26.45(c). This method was informed by the projected funding allocations during the FY 2024-2026 time period and ready, willing, and able DBEs. The two-step process is as follows:

1. Develop a base figure for the relative availability of DBEs in NDOT's local market area.
2. Adjust the base figure, as needed, to arrive at the overall goal.

Step 1 – Determine a Base Figure

(a) Definition of “Local Market Area”

As defined by the *USDOT Goal Setting Tips*, the local market area is the area in which the substantial majority of the contractors and subcontractors doing business are located, and the area in which the substantial majority of its contracting dollars are spent. For the purpose of calculating the DBE goal, the State of Nebraska is the local market area.

(b) Base Figure Calculation

The base figure was calculated using the relative availability of DBEs in relation to the availability of non-DBE firms in the state for the types of contracts NDOT anticipates awarding. The [NDOT DBE directory](#) and [U.S. Census Bureau](#) data were used to determine the base figure. The NDOT DBE directory provided information regarding the availability of all ready, willing, and able businesses certified by NDOT. The U.S. Census Bureau's County Business Patterns 2020 for Nebraska, released April 28, 2022, was analyzed to determine the number of all businesses available in the market within the same North American Industry Classification System (NAICS) codes. These NAICS codes were then narrowed in consideration of anticipated contracting opportunities within Nebraska on FTA funded projects during FY 2024-2026. NDOT anticipates FTA funded contracting opportunities will total **approximately 35%, or \$24,750,000 of all FTA funding awarded to Nebraska**. The anticipated categories of work include:

1. Expenses related to goods and services;
2. A bus facility in Norfolk, NE;
3. Bus equipment; and,
4. Anticipated professional services contracts.

Table 2 – Number of Businesses on NDOT DBE List versus Total Number of Businesses by NAICS Codes used for FY 2024-2026 FTA DBE Base Figure

NAICS	Meaning of Code	DBEs	All Firms
238110	Poured Concrete Foundation and Structure Contractors	6	299
238130	Framing Contractors	2	208
238140	Masonry Contractors	1	145
238150	Glass and glazing contractors	0	45
238160	Roofing contractors	0	251
238210	Electrical Contractors and Other Wiring Installation Contractors	2	640
238220	Plumbing, heating, and air-conditioning contractors	0	817
238310	Drywall and Insulation Contractors	1	202
238320	Painting and wall covering contractors	0	288
238330	Flooring contractors	0	166
238350	Finish Carpentry Contractors	2	324
238910	Site Preparation Contractors	15	341
424120	Stationery and office supplies merchant wholesalers	0	20
485991	Special needs transportation	0	11
485999	All other transit and ground passenger transportation	0	7
518210	Data processing, hosting, and related services	0	96
524210	Insurance agencies and brokerages	0	1563
541211	Offices of certified public accountants	1	345
541214	Payroll services	1	29
541511	Custom computer programming services	1	340
541512	Computer systems design services	0	256
541611	Administrative management and general management consulting services	2	372
541612	Human resources consulting services	0	43
541613	Marketing consulting services	0	171
541618	Other management consulting services	0	14
541620	Environmental consulting services	0	31
561720	Janitorial services	3	487
561730	Landscaping services	11	880
811111	General automotive repair	0	695
Total		48	9086

Ready, willing, and able DBEs

All ready, willing, and able firms (DBE & non-DBE)

$$\frac{48}{9086} = 0.53\%$$

Weighting

Since NDOT distributes FTA funding to over 50 subrecipients and the majority of contracting opportunities are micro purchases of goods and services by these individual agencies, NDOT determined that it is not possible to estimate the percentage of FTA funding anticipated to be spent in individual NAICS codes over the FY 2024-2026 period.

NDOT effectively weighted the FY 2024-2026 FTA DBE goal by including construction-related NAICS codes in the base calculation. Construction codes were included because there is \$11,500,000 in FTA funding allocated in 2024 for construction of a bus facility – in most years FTA funding is not expended on construction projects.

Using the NDOT DBE Directory and US Census Data, the base figure for the FY 2024-2026 NDOT FTA DBE goal is 0.53%.

Step 2 – Adjust the Base Figure as Needed

(a): Past DBE participation

NDOT evaluated past participation compared to the base figure developed under Step 1, to determine if an adjustment is warranted. Table 3 shows NDOT's annual FTA DBE participation for the past five (5) federal fiscal years (FY 2018–2022). By using the median, the extreme outliers, representing atypical conditions are moderated, allowing NDOT to analyze DBE participation patterns more accurately.

Table 3: Past NDOT FTA DBE Goal Achievement

State Fiscal Year	Annual Overall NDOT FTA DBE Goal	DBE Participation
2018	0.18%	4.71%
2019	0.18%	0.60% (median)
2020	0.18%	0.00%
2021	0.53%	18.77%
2022	0.53%	0.00%

NDOT found the median overall percentage of DBE participation in the previous five-year period to be 0.60% (FY 2019). The difference between the five-year mean and the 0.53% base figure of Step 1 was considered significant enough to warrant a Step 2 adjustment based on the demonstrated DBE capacity. Pursuant to USDOT guidance, NDOT is adjusting the Step 1 base figure by averaging with the five-year median DBE participation of 0.60%. This resulted in a revised **overall annual DBE goal of 0.57%**.

(b): Other Data Considered

For Step 2 adjustments, USDOT guidance recommends consideration of other sources that may provide additional information on the number of ready, willing, and able DBEs in NDOT's Local Market Area (the state of Nebraska). These sources include disparity studies; data on employment, self-employment, education, training, and union apprenticeship programs; and information from other government agencies/offices as well as non-governmental organizations. NDOT researched and contacted numerous agencies and organizations regarding the availability of data to inform the goal

setting process. This research did not yield any useful information to make further adjustments to the NDOT DBE goal. The results of this research are summarized below:

Disparity Studies and Stakeholder Input

The most recent disparity study available that is directly applicable to goal calculation is from the year 2000 and is titled “Nebraska Department of Roads Availability and Goal-Setting Study.” The study uses data from the mid-to late-1990s to calculate various figures related to DBE goal setting in Nebraska. NDOT does not believe that the information contained in this study is recent enough to justify using it for any adjustments to the base figure.

The Federal Minority Business Development Agency (MBDA) maintains a list of disparity studies, which are listed at <https://www.mbda.gov/research-and-data/research/disparity-studies>. The nearest disparity studies listed are in Colorado and in Hennepin County, Minnesota. There are no other studies listed in NDOT’s jurisdiction, and therefore none of these studies were used to make adjustments to the DBE goal.

NDOT examined data related to self-employment, education, training, and union apprenticeship programs through the relevant US Census Bureau publications, specifically the released portions of the 2022 Economic Survey and the Annual Business Survey, which are the most recent publications available. However, the data did not clearly relate to opportunities for DBEs to participate in NDOT’s program. Therefore, NDOT concluded that further Step 2 adjustments built off census survey data and estimates are not warranted.

NDOT reached out to several organizations to gather additional information that could be applied in a Step 2 adjustment. Below is a list of the organizations contacted, along with a summary of the information obtained from each:

- Nebraska Department of Economic Development: Nebraska DED has an MWBE (Minority and Women-Owned Businesses) outreach program under its Community Development Block Grant Disaster Recovery (CDBG-DR) program. DED confirmed in correspondence that as the program matures and data on participation rates become available, that information will be reported, but that there is no data to report at this time.
- Nebraska Equal Opportunity Commission: The EOC was unable to provide any relevant information. The EOC explained in correspondence that it deals with individual complaints of discrimination, which are confidential, and that the commission deals only with the discrimination in the employer-employee relationship and does not have jurisdiction over contracts between entities (e.g., between the state and a DBE).
- City of Omaha, Department of Human Rights and Relations: The department was unable to provide relevant data regarding DBEs. In correspondence, a program administrator from the department highlighted its Small Emerging Business (SEB) program but emphasized that the program is race/gender neutral and asserted that this neutrality is mandated by Section 30 of Article 1 of the Nebraska constitution.
- University of Nebraska at Omaha, Nebraska Business Development Center: The NBDC provided a report titled “Entrepreneurship in Nebraska” that included a discussion of diversity in entrepreneur networks but did not provide data of any specificity to warrant an adjustment to the DBE goals. NBDC staff also referred NDOT to the SBA district office in Omaha, whom NDOT had already reached out to.
- Small Business Administration district office, Omaha, NE: NDOT did not receive a response to a request for information. Other organizations have confirmed that SBA does not track the needed information.

- University of Nebraska, Bureau of Business Research: The Bureau of Business Research confirmed that they do not track relevant information on DBE issues. Bureau staff stated that they reached out to other University of Nebraska entities as well and were unable to identify any relevant sources of information.
- Associated General Contractors of America, Nebraska Chapter: The AGC chapter stated they have not conducted any disparity studies and did not have any data to provide. They did offer one data point: that 10% of their members have obtained DBE certification.
- Grand Island Area Chamber of Commerce: The Chamber stated that they do not collect any relevant information on DBEs.

NDOT also contacted the following agencies and organizations but did not receive a response:

- Nebraska Department of Labor
- City of Lincoln, Commission on Human Rights
- Grand Island, Commission on Human Rights
- National Association of Women in Construction
- Nebraska Concrete Paving Association
- Greater Omaha Chamber of Commerce
- Lincoln Chamber of Commerce
- Nebraska Minority Resource Center
- Nebraska Center for Rural Affairs
- Nebraska Hispanic Chamber of Commerce
- The Empowerment Network, Entrepreneurship Collaborative

Race Neutral and Race Conscious Participation

NDOT strives to meet the maximum feasible portion of the overall goal by using race neutral means. Race neutral DBE participation includes any time DBE participation is obtained as a prime contractor through customary competitive procurement procedures, is obtained as a subcontractor on a contract without a DBE goal or is obtained in excess of a contract or project goal. **The DBE overall goal of 0.57% is proposed as a race neutral goal.** A race-conscious goal is not proposed at this time. NDOT is committed to monitoring DBE participation for all federal-aid transit projects to ensure the overall goal is being met. DBE achievements will be evaluated annually to determine whether market conditions warrant adjustments to the overall DBE goal, or the fully race-neutral approach. NDOT will also evaluate larger transit projects awarded through the competitive process for race-conscious DBE goals, if appropriate.

NDOT Efforts to Increase DBE Participation

In Fall 2022 NDOT launched the DBE Business Development Program (BDP) using federally allocated Supportive Services (SS) funds. The BDP/SS provides targeted training and technical assistance to DBE construction firms so they may develop and improve both their capability and capacity to successfully compete for and execute contracts on federally funded projects; so they may achieve sustained profitability in areas outside of their traditional DBE participation; and so they may reduce or eliminate noncompliant performance, delays in project completion, and delays in progress payments.

The program includes instructional sessions as well as one-on-one coaching and assistance in developing a business plan. Information about the program, including contacts to enroll, is posted on NDOT's Civil Rights webpage.

As of May 2023, NDOT has enrolled seven firms in the BDP/SS program. Two of the seven firms have progressed to Level 2 of the program. NDOT believes that the BDP/SS will, over time, result in greater Race Neutral participation as DBE firms in the program are strengthened and better able to compete in the marketplace outside of the DBE Program.

Consultation and Solicitation of DBE Participation

NDOT conducted stakeholder meetings on June 28, 2023, at the NDOT Headquarters in Lincoln and on June 29, 2023, at the NDOT Operations Center in Omaha. The purpose of these meetings was to present information about NDOT's overall DBE program, including supportive services, and to present the FY 2024-2026 DBE goals for FHWA and Federal Transit Administration (FTA) funding. Both meetings were also accessible via Webex video conferencing.

A stakeholder database was created and utilized to send meeting invitations. The database included all DBEs on NDOT's certified list, Nebraska Municipal Planning Organizations, FTA subrecipients, contractor organizations, chambers of commerce, and other business and community groups with a potential interest. The stakeholder database is included as Attachment A.

Outreach efforts for the meetings included sending a letter invitation, an email invitation, and an email reminder to the invitation list, as well as launching social media posts on NDOT's Facebook and Twitter pages. In Lincoln, there were 9 attendees in person and 9 attendees on Webex. In Omaha, there were 7 attendees in person and 6 attendees on Webex. The meetings culminated in a Q&A discussion covering questions related to geographic distribution of the certified DBE list, program benefits, goals, and eligibility. The presentation and a full summary of the Q&A discussion are included as Attachment B.

Following the second meeting, a thank you email was sent to those in the stakeholder database, as well as any new email addresses collected from meeting attendees. The email contained a link to a follow-up survey which received 2 responses. Additionally, 3 comments were collected via email. The survey responses and email comments are summarized below and included as Attachment C.

Monitoring of the DBE Goal

NDOT is committed to monitoring DBE participation for all federal-aid transit projects to ensure the overall goal is being met. NDOT will monitor DBE participation and progress toward goal achievement as described within the approved NDOT FTA DBE Program Plan and will make adjustments as necessary throughout the performance period. NDOT will also evaluate larger transit projects awarded through the competitive process for race-conscious DBE goals, if appropriate.

Attachment A

Stakeholder Database

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
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Stakeholder Database

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Stakeholder Database

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N/A	JUSTISE RHODEN		AURORA, NE CHAMBER OF COMMERCE AND DEVELOPMENT CORPORATION	1604 L ST	AURORA	NE	68818	HELLO@AUORANEBRASKA.COM
N/A	KAREN GIBLER	PRESIDENT	SARPY, NE CHAMBER OF COMMERCE	1243 GOLDEN GATE DR	SARPY COUNTY	NE	68046	PRESIDENT@SARPYCHAMBER.ORG
N/A	KARINA PEREZ	EXECUTIVE DIRECTOR	CENTRO HISPANO COMUNITARIO DE NEBRASKA	3214 25TH ST, STE 1	COLUMBUS	NE	68601	KARINA@CENTROHISPANOS.COM
N/A	KAROL GONZALEZ RIVERA	DIRECTOR	CATHOLIC CHARITIES MICROBUSINESS & ASSET DEVELOPMENT PROGRAM	3300 N 60TH ST	OMAHA	NE	61804	KAROLG@CCOMAHA.ORG
N/A	KATHERINE LOPEZ	COMMUNICATIONS DIRECTOR	CENTRO HISPANO COMUNITARIO DE NEBRASKA	3214 25TH ST, STE 1	COLUMBUS	NE	\$68,601	KAT@CENTROHISPANOS.COM
N/A	KATIE GARWOOD	PRESIDENT	EUSTIS CHAMBER OF COMMERCE	PO BOX 372	EUSTIS	NE	69028	info@eustischamber.com
N/A	KILEY PHELPS	NBDC OMAHA DIRECTOR	NEBRASKA BUSINESS DEVELOPMENT CENTER	6708 PINE ST, 200 MAMMEL HALL	OMAHA	NE	68182	KCPHELPS@UNOMAHA.EDU
N/A	KIM PRESTON	DIRECTOR	REAP (RURAL ENTERPRISE ASSISTANCE PROJECT)	PO BOX 136	LYONS	NE	68038	KIMP@CFRA.ORG
N/A	KRIS SHRADER	PRESIDENT	ELMWOOD MURDOCK MERCHANTS ASSOCIATION (EMMA)	PO BOX 258	ELMWOOD	NE	68407	EMMALEADSTHEWAY@GMAIL.COM
N/A	KYLE KLEIN	PRESIDENT	RED CLOUD, NE AREA CHAMBER OF COMMERCE	413 N WEBSTER	RED CLOUD	NE	68970	VISITREDCLOUDNE@GMAIL.COM
N/A	LANA SHAW	PRESIDENT	OGALLALA/KEITH COUNTY CHAMBER OF COMMERCE	119 E 2ND ST	OGALLALA	NE	69153	INFO@EXPLOREKEITHCOUNTY.COM
N/A	LAURA TILSON	PRESIDENT	ELWOOD, NE CHAMBER OF COMMERCE	PO BOX 92	ELWOOD	NE	68937	ELWOODCHAMBER@HOTMAIL.COM
N/A	LISA RHYNALDS	PRESIDENT	THE VILLAGE OF OXFORD CHAMBER OF COMMERCE	326 OGDEN ST	OXFORD	NE	68967	
N/A	LISA TEDESCO	DEPUTY DISTRICT DIRECTOR	SMALL BUSINESS ADMINISTRATION- NEBRASKA DISTRICT OFFICE	10675 BEDFORD AVE, STE 100	OMAHA	NE	68134	MELISSA.TEDESCO@SBA.GOV
N/A	LOGAN LEE	BUSINESS SPECIALIST	CATHOLIC CHARITIES MICROBUSINESS & ASSET DEVELOPMENT PROGRAM	3300 N 60TH ST	OMAHA	NE	68104	LOGANL@CCOMAHA.ORG
N/A	LOREN KUCERA	NBDC WAYNE DIRECTOR	NEBRASKA BUSINESS DEVELOPMENT CENTER	WAYNE STATE COLLEGE 1111 MAIN ST, GARDNER HALL 101	WAYNE	NE	68787	LOKUCER1@WSC.EDU
N/A	LORI SCHRADER	LOAN SPECIALIST	CENTER FOR RURAL AFFAIRS- NORTHEAST REGION	PO BOX 136	LYONS	NE	68038	LORIS@CFRA.ORG
N/A	LUKE VIRGIL	EXECUTIVE DIRECTOR	WAYNE ECONOMIC DEVELOPMENT CHAMBER	108 W THIRD ST	WAYNE	NE	68787	LVIRGIL@WAYNEWORKS.ORG
N/A	MADONNA MOGUL	EXECUTIVE DIRECTOR	YORK, NE CHAMBER OF COMMERCE	603 N LINCOLN AVE	YORK	NE	68467	MADONNAM@YORKCHAMBER.ORG
N/A	MARCOS HERNANDEZ	IMMEDIATE PAST-CHAIR/EXECUTIVE DIRECTOR - BOARD OF DIRECTORS	MIDLANDS LATINO COMMUNITY DEVELOPMENT CORPORATION (MLCDC)	4923 S 24TH ST, STE 201	OMAHA	NE	68107	INFO@MIDLANDSLATINOCDC.ORG

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
N/A	MEGHANN BURESH	CONSULTANT	NEBRASKA BUSINESS DEVELOPMENT CENTER - NORFOLK PTAC	609 W NORFOLK AVE	NORFOLK	NE	68701	MBURESH@UNOMAHA.EDU
N/A	MICHAEL B. MARONEY	PRESIDENT	OMAHA ECONOMIC DEVELOPMENT CORPORATION	2221 N 24TH ST	OMAHA	NE	68110	INFO@OEDC.INFO
N/A	MICHELLE ANDAHL	PRESIDENT & CEO	GREATER BELLEVUE AREA CHAMBER OF COMMERCE	1036 BRUIN BLVD	BELLEVUE	NE	68005	PRESIDENT@BELLEVUENEBRASKA.COM
N/A	MONA WEATHERWAX	VILLAGE CLERK/ TREASURER	NIOBRARA, NEBRASKA VILLAGE BOARD	25414 PARK AVE ST	NIOBRARA	NE		NIOCC@GPCOM.NET
N/A	MORAIN DAVIS-MAGNUSON	NBDC NORTH PLATTE & SCOTTSBLUFF DIRECTOR	NEBRASKA BUSINESS DEVELOPMENT CENTER	MID-PLAINS COMMUNITY COLLEGE, 1101 HALLIGAN DR 108A	NORTH PLATTE	NE	69101	MDAVIS-MAGNUSON@UNOMAHA.EDU
N/A	NICOLE SEDLACEK	ECONOMIC DEVELOPMENT MANAGER	NEBRASKA PUBLIC POWER DISTRICT	PO BOX 499	COLUMBUS	NE	68602	NJSEDLA@NPPD.COM
N/A	ODEE INGERSOLL	NBDC KEARNEY DIRECTOR	NEBRASKA BUSINESS DEVELOPMENT CENTER	UNIVERSITY OF NEBRASKA AT KEARNEY, 1917 W 24TH ST, RM 125 E	KEARNEY	NE	68849	INGERSOLLO@UNK.EDU
N/A	PAUL HEATH	PRESIDENT	CRETE CHAMBER OF COMMERCE	2905 BETTEN DR	CRETE	NE	68333	PAUL@HEATHSPORTS.COM
N/A	QUENTIN FARLEY	CONSULTANT	NEBRASKA BUSINESS DEVELOPMENT CENTER - LINCOLN PTAC	285 S 68TH ST PL	LINCOLN	NE	\$68,588	QFARLEY@UNOMAHA.EDU
N/A	RICK HARALDSON	CHAIR OF THE BOARD	BEATRICE, NE CHAMBER OF COMMERCE	218 N 5TH ST	BEATRICE	NE	68310	RHARALDSON@BCHHC.ORG
N/A	RICK SCHNEIDER	PRESIDENT	BUTLER COUNTY CHAMBER OF COMMERCE	457 D ST	DAVID CITY	NE	68632	DIRECTOR@DAVIDCITYCHAMBER.COM
N/A	RYAN DETTMAN	PRESIDENT	CENTRAL CITY AREA CHAMBER OF COMMERCE	1532 17TH AVE	CENTRAL CITY	NE	68826	CCAREACHAMBER@GMAIL.COM
N/A	SANDRA BARRERA	EXTENSION EDUCATOR - RURAL PROSPERITY NEBRASKA	UNL EXTENSION-HALL COUNTY OFFICE	3180 W HWY 34	GRAND ISLAND	NE	68801	SANDRA.BARRERA@UNL.EDU
N/A	STEPHANIE GRAFEL	EXECUTIVE DIRECTOR	BROKEN BOW CHAMBER OF COMMERCE	424 S 8TH AVE, STE 4	BROKEN BOW	NE	68822	EXECDIRECTOR@BROKENBOW-NE.COM
N/A	SUSAN NORRIS	DIRECTOR	PLAINVIEW ECONOMIC DEVELOPMENT DIRECTOR	PO BOX 757	PLAINVIEW	NE	68769	DIRECTOR@PCEDNE.COM
N/A	SUSAN UNZICKER	CHAMBER EXECUTIVE DIRECTOR	ALLIANCE, NE CHAMBER OF COMMERCE	305 BOX BUTTE AVE	ALLIANCE	NE	69301	CHAMBER@ALLIANCECHAMBER.COM
N/A	TERRI BACH	CHAMBER PRESIDENT	ALMA, NE CHAMBER OF COMMERCE	PO BOX 52	ALMA	NE	68920	ALMANECHAMBEROFCOMMERCE@GMAIL.COM
N/A	TIM REXIUS	BOARD CHAIRPERSON	RALSTON, NE AREA CHAMBER OF COMMERCE	5505 MILLER AVE	RALSTON	NE	68127	INFO@RALSTONAREACHAMBER.ORG
N/A	TIM SLADEK	PRESIDENT	COZAD AREA CHAMBER OF COMMERCE	135 W 8TH ST	COZAD	NE	69130	COZADCHAMBER@COZADTEL.NET
N/A	TINA BITEGHE BINDONG	EXECUTIVE DIRECTOR	WEST POINT, NE CHAMBER OF COMMERCE	200 ANNA STALP AVE	WEST POINT	NE	68788	INFO@WESTPOINTCHAMBER.COM
N/A	TOSHIA JONES	CHAMBER PRESIDENT-CEO	CHEYENNE COUNTY, NE CHAMBER OF COMMERCE	740 ILLINOIS ST	SIDNEY	NE	69162	DIRECTOR@CHEYENNECOUNTYCHAMBER.COM
N/A	TRENT SHOEMAKER	CHAIRMAN OF THE BOARD	O'NEILL, NE CHAMBER OF COMMERCE	125 S 4TH ST	O'NEILL	NE	68763	LAURI@ONEILLCHAMBER.COM
N/A	TRENT SVEHLA	PRESIDENT	WAVERLY, NE CHAMBER OF COMMERCE	PO BOX 331	WAVERLY	NE	68462	WAVERLYNECHAMBER@GMAIL.COM
N/A	TREVOR HUDSON	EXECUTIVE DIRECTOR	WEST O (WESTERN DOUGLAS COUNTY) CHAMBER OF COMMERCE	20801 ELKHORN DR	ELKHORN	NE	68022	INFO@WESTOCHAMBER.ORG
N/A	VERONICA DOGA	DIRECTOR	NEBRASKA BUSINESS DEVELOPMENT CENTER - OMAHA PTAC	6708 PINE ST, 200 MAMMEL HALL	OMAHA	NE	68182	VDOGA@UNOMAHA.EDU
N/A	VERONICA REYES SPINDOLA	NORTHEAST REGION SPECIALIST	REAP (RURAL ENTERPRISE ASSISTANCE PROJECT) - LATINO BUSINESS CENTER	PO BOX 343	COLUMBUS	NE	68602	VERONICAS@CFRA.ORG

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
N/A	WILLIE HAMILTON	EXECUTIVE DIRECTOR	BLACK MEN UNITED	4200 N 30TH ST	OMAHA	NE	68111	WILL@BLACKMENUNITED.ORG
N/A	YESENIA PECK	PRESIDENT	NEBRASKA HISPANIC CHAMBER OF COMMERCE	7914 W DODGE RD, STE 474	OMAHA	NE	68114	CONTACT@NEBRASKAHISPANICCHAMBER.ORG
N/A	ZACHARY WEST	EXECUTIVE DIRECTOR	RAVENNA, NE CHAMBER OF COMMERCE	318 GRAND AVE	RAVENNA	NE	68869	CHAMBER@MYRAVENNA.COM
N/A	ZANE LIMBACH	PRESIDENT	VALENTINE, NE CHAMBER OF COMMERCE	365 N MAIN ST	VALENTINE	NE	69201	VALENTINECC66@GMAIL.COM
N/A			ALBION, NE CHAMBER OF COMMERCE	420 W MARKET ST	ALBION	NE	68620	ALBIONCHAMBER@CITYOFALBION-NE.COM
N/A			ARTHUR, NE CHAMBER OF COMMERCE	103 N HWY 61	ARTHUR	NE	69121	
N/A			AUBURN NE CHAMBER OF COMMERCE	1101 J ST	AUBURN	NE	68305	AUBURNCHAMBEROFCOMMERCE@GMAIL.COM
N/A			BERTRAND AREA CHAMBER OF COMMERCE	PO BOX 215	BERTRAND	NE	68927	BERTRANDAREACHAMBER@YAHOO.COM
N/A			BURWELL CHAMBER OF COMMERCE	404 GRAND AVE	BURWELL	NE	68823	BURWELLINFO@NCTC.NET
N/A			CAMBRIDGE NE CHAMBER OF COMMERCE	722 PATTERSON ST	CAMBRIDGE	NE	69022	CAMBRIDGECHAMBER1@GMAIL.COM
N/A			CRAWFORD CHAMBER OF COMMERCE	PO BOX 145	CRAWFORD	NE	69339	
N/A			CURTIS CHAMBER OF COMMERCE	PO BOX 6	CURTIS	NE	69025	ALEE@CURTIS-NE.COM
N/A			DAWSON AREA DEVELOPMENT	1501 PLUM CREEK PARKWAY, STE 2B	LEXINGTON	NE	68850	DAWSONAREADIRECTOR@GMAIL.COM
N/A			NEBRASKA CITY CHAMBER OF COMMERCE	806 1ST AVE	NEBRASKA CITY	NE	68410	AMYA@NEBRASKACITY.COM
N/A			NORTH BEND, NE CHAMBER OF COMMERCE	PO BOX 361	NORTH BEND	NE	68649	NORTHBENDCHAMBER@GMAIL.COM
N/A			OAKLAND, NE CHAMBER OF COMMERCE	401 N OAKLAND AVE	OAKLAND	NE	68045	
N/A			ORLEANS CHAMBER OF COMMERCE	301 E MAPLE ST	ORLEANS	NE	68966	
N/A			OSCEOLA, NEBRASKA CHAMBER OF COMMERCE	PO BOX 136	OSCEOLA	NE	68651	clerk@cityofosceola.net
N/A			PAWNEE CITY, NE CHAMBER OF COMMERCE	PO BOX 6	PAWNEE CITY	NE	68420	PAWNEECITYASSISTEDLIVING@GMAIL.COM
N/A			PERU, NE CHAMBER OF COMMERCE	PO BOX 246	PERU	NE	68421	cityclerkcityofperu@gmail.com
N/A			PONCA NEBRASKA CHAMBER OF COMMERCE	PO BOX 465	PONCA	NE	68770	
N/A		LINCOLN CHAPTER # 39	SCORE LINCOLN	2124 Y ST	LINCOLN	NE	\$68,503	INFOLINCOLN@SCOREVOLUNTEER.ORG
N/A		GREATER OMAHA CHAPTER # 40	SCORE OMAHA	10675 BEDFORD AVE, STE 100	OMAHA	NE	68134	SCORE@SCOREOMAHA.ORG
N/A			SHELBY CHAMBER OF COMMERCE	PO BOX 27	SHELBY	NE	68662	
N/A			SUTHERLAND CHAMBER OF COMMERCE	PO BOX 81	SUTHERLAND	NE	69165	
N/A			SYRACUSE, NE CHAMBER OF COMMERCE	320 5TH ST, STE 201	SYRACUSE	NE	68446	CHAMBER@GOSYRACUSENE.COM
N/A			VERDIGRE, NE CHAMBER OF COMMERCE	301 MAIN ST	VERDIGRE	NE	68783	
N/A			WAHOO, NE CHAMBER OF COMMERCE	640 N BROADWAY	WAHOO	NE	68066	
N/A			WAVERLY ECONOMIC DEVELOPMENT	PO BOX 427	WAVERLY	NE	68462	
N/A			WILBUR, NE CHAMBER OF COMMERCE	101 W 3RD ST A	WILBUR	NE	68465	WILBER@DIODECOM.NET
N/A			YUTAN NEBRASKA CHAMBER OF COMMERCE	PO BOX 215	YUTAN	NE	68073	
488210	TINA BECKWITH	OWNER	BECKWITH RAILWAY SERVICES, LLC	725 S 10TH ST	PLATTSMOUTH	NE	68408	tina@beckwithrail.com
561720			BJ'S FLEET WASH, LLC	PO BOX 4702	OMAHA	NE	68114	info@bjsfleetwash.com
541370	ABHAY NIGAM		SYNERGY SYSTEMS & SERVICES, INC	11155 DOLFIELD BLVD, STE 114	OWINGS MILLS	MD	21117	COMPLIANCE@SSS-INC.COM
236220	ALLISON SCHMITT	PRESIDENT & CEO	DI BUILD, LLC	7055 CLARE RD	LENEXA	KS	66226	ASCHMITT@DIBUILD.COM

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
448110	ANITA LEOPOLD		FLYING LEAP, INC	2854 NORTH HILLS DRIVE	ATLANTA	GA	30305	ANITA_L@BELLSOUTH.NET
444180	ANNA PENA-ROBERTS		GIL'S SALES COMPANY DBA GSC LIGHTING & SUPPLY	16506 CORNERSTONE DR	BELTON	MO	64012	ANNAROBERTS4GSC@SBCGLOBAL.NET
237110	ANNE DUFFIELD	PRESIDENT	MID STATES REBAR AND SUPPLY, INC	3221 73RD ST	ATKINS	IA	52206	ANNE@MIDSTATESREBARSUPPLY.COM
424690	ANTHONY NDAH		ATLANTIC PETROLEUM & MINERAL RESOURCES, INC	1445 N LOOP W, STE 242	HOUSTON	TX	77008	INFO@ATLANTICPETRO.COM
611710	ANTHONY SINGLETON		EDUCATORS 4 EDUCATION	527 PRIMOS AVE	FOLCROFT	PA	19032	ASINGLETON@EDUCATORS4EDUCATION.ORG
541611	BELINDA HARGROVE		TRANSSOLUTIONS ,LLC	14600 TRINITY BOULEVARD, STE 200	FORT WORTH	TX	76155	BHARGROVE@TRANSSOLUTIONS.COM
238290	BRANDON HENRY		GLOBAL CONVEYOR INSTALLATION, INC	3909 BOWFIN TRAIL	KISSIMMEE	FL	34746	B.HENRY26@YAHOO.COM
423610	CARL LACHMANSINGH		CARLO LACHMANSINGH SALES, INC	4801 4TH AVE S	MINNEAPOLIS	MN	55419	CARLO@CARLOELECTRICAL.COM
541330	CARLOS BANCHIK		INNOVA TECHNOLOGIES, INC	1432 S JONES BLVD	LAS VEGAS	NV	89146	MBBOHALL@INNOVANV.COM
237310	CARRIE GUIER	OWNER	KOPPEL FABRICATION, INC	10262 HWY 127	SWEET SPRINGS	MO	65351	CARRIE@KOPPELFAB.COM
238910	CARVORGGIO BROWN	OWNER	EXCLUSIVE JANITORIAL & FINAL CLEANING SERV LLC DBA CB CONST	6097 VILE DE SANTE DR	OMAHA	NE	68104	CYBROWN71@YAHOO.COM
238120	CASEL SATTAR		GUYTEC STEEL, INC	1106 WYCKOFF AVE	RIDGEWOOD	NY	11385	BOB@GUYTECSTEEL.COM
722515	CATHERINE TUNE		CATCO BUSINESS CONSULTING, LLC (DBA COFFEE SHACK)	3300 CAPITAL CR SW, STE 24	TALLAHASSEE	FL	32310	CATCOBUSINESSCONSULTING@HOTMAIL.COM
236115	CHARLES AGUIRRE		AGUIRRE PROJECT RESOURCES, LLC	2955 WOOD LAKE TRL	GRAND PRAIRIE	TX	75054	CHARLES.A@APR3D.COM
237310	CHERYL SMENT		INTERSTATE SEALANT & CONCRETE, INC	S40 W24211 ROCKWOOD WAY	WAUKESHA	WI	53189	CSMENT@INTERSTATESEALANT.COM
238290	CHRISTINE NORTON & ROBIN BAUGHMAN		VIC THOMPSON COMPANY (DBA VTC)	3751 NEW YORK AVE, STE 140	ARLINGTON	TX	76014	DTALBERT@VTC.US.COM
541330	CHRISTOPHER TUAN	FOUNDER/CREATIVE DIRECTOR	CONDUCTIVE CONCRETE TECHNOLOGIES, LLC	3314 N 152 AVE	OMAHA	NE	68116-7198	CHRISBTUAN@CONDUCTIVECONCRETETECHNOLOGIES.COM
423320	COLLEEN DONOVAN		DONOVAN ENTERPRISES, INC	PO BOX 7094	ST CLOUD	MN	56302	COLLEEN@DONOVANINC.COM
541611	CONNIE SPARKS		WADECO BUSINESS CENTER	24881 RAILROAD AVE, STE 201	NEWHALL	CA	91321	CSPARKS@WADECOBUSINESSCENTER.COM
541430	CYNTHIA JONES PARKS		JONES WORLEY DESIGN, INC	723 PIEDMONT AVENUE NE	ATLANTA	GA	30308	CJONESPARKS@JONESWORLEY.COM
611430	CYNTHIA SCOTT	PRESIDENT OF BUSINESS DEVELOPMENT	UNITED REGION TRANSIT SERVICES, LLC	1014 THATCHER AVE	ST LOUIS	MO	63153	CSCOTT@URTS.SUPPORT
238210	DARRELL COLEMAN	FOUNDER	MUSTANG ELECTRIC, INC	13805 MARINDA CIR	OMAHA	NE	68144-2453	DCOLEMAN@MUSTANG-ELECTRIC.COM
722513	DARRELL SEARCY		CHANDLER & CAMPBELLE INVESTMENT GROUP, LLC	310 VIZCAYA DR	PALM BEACH GARDENS	FL	33418	DARRELL@CHANDLERCAMPBELLE.COM
423320	DEBRA ROCKWAY		ALL SOURCE CONSTRUCTION & SAFETY SUPPLY	PO BOX 30898	PORTLAND	OR	97294	ORDERS@ASUPPLY.NET
238310	DEE ST CYR	PRESIDENT	BEAR WOMAN ENTERPRISES, LLC	790 UMATILLA ST, STE 200	DENVER	CO	80204	DEE@BEARWOMANENTERPRISES.COM

Stakeholder Database

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518210	DELE OJELABI		COMCENTIA, LLC	1025 W GLEN OAKS LN	MEQUON	WI	530092	INFO@COMCENTIA.COM
425120	DEMMI NUNN		ADELINA INTERNATIONAL, LLC	1914 ALTA VISTA DR	BAKERSFIELD	CA	93305	ADELINAINTL@GMAIL.COM
541320	EARL HARRISON	PRESIDENT	HG CONSULT, INC	7733 N WALLACE AVE	KANSAS CITY	MO	64158	EHARRISON@HGCONS.COM
237310	EDDIE BALES	VP - OPERATIONS	CONTRACTOR SERVICES, INC	1320 E 8TH ST, PO BOX 1306	NORTH PLATTE	NE	69103-1306	EDDIE@CSITRAFFIC.COM
561621	EDWARD ODOM		EJO VENTURES	PO BOX 1551	GOODLETTSVILLE	TN	37070	SALES@EJOVENTURES.NET
541430	EMILY ELMORE	FOUNDER/CREATIVE DIRECTOR	SINGLE WING, LLC (DBA SINGLE WING CREATIVE)	115 W 18TH ST, STE 302	KANSAS CITY	MO	64108	EMILY@SINGLEWINGCREATIVE.COM
237310	EMMA JEAN FREEMAN		JF CONSTRUCTION MANAGEMENT GROUP	301 S HARWOOD ST, STE 207	DALLAS	TX	75201	MSJFREEMAN1@GMAIL.COM
315210	GREGG DIMERY		FENWAY ENTERPRISES CONSULTING AND INNOVATIVE SOLUTIONS, LLC	200 N BRYANT AVE, STE 161	EDMOND	OK	73034	CUSTOMERSUPPORT@FENWAYENTERPRISES.COM
323111	IRA JR JACKSON		JAYCO ENTERPRISES, INC (DBA PERFECT IMAGE)	503 COMMERCE PARK DR, STE D	MARIETTA	GA	30060	IRA@PERFECTIMAGEPRINTING.COM
423990	JAMI JONES		LONGHOUSE INVENTORY SOLUTIONS, LLC	2301 EL ANDERSON BLVD, PO BOX 1212	CLAREMORE	OK	74018	JAMI@LISSTORE.COM
423390	JEFFREY TERRY		1ST RESOURCE SOLUTIONS, LLC	1916 W WILNO DR	MARION	IN	46952	DSANDERS@1STRESOURCESOLUTIONS.COM
237310	JENNIFER DIAMOND		PROTECH COATINGS, INC	1949 W 2300 S	SALT LAKE CITY	UT	84119	LICENSING@PROTECHCOATINGS.NET
238320	JOHN FILARETOU		STRUCTURAL COATINGS, INC	3140 LINDEN PL	CANFIELD	OH	44406	INFO@STRUCTURALCOATINGSINC.NET
541219	JONNA CONTACOS-SAWYER		HR CONSULTANTS, INC	160 JARI DR, STE 180	JOHNSTOWN	PA	15904	JONNA@HRCONSULTS.COM
541340	JOSE MESA		DIGITAL BUILDING SERVICES, LLC	11290 SW 30TH ST	MIAMI	FL	33165	JMESA@DBUILDS.COM
541990	JOSEPH SMITH JR.		GIA GROUP, LLC	1301 2ND AVENUE SOUTH, STE A340	MINNEAPOLIS	MN	55403	CLIENTS@GIALLCSERVICES.COM
424990	JULIA ESPEY		COURTLAND, LLC (DBA COURTLAND CONSTRUCTION SUPPLIES)	830 TOWER DR, STE 150	MEDINA	MN	55340	JULIAESPEY@COURTLANDLLC.NET
541320	JULIA MONTROY	PRESIDENT	DTLS, INC	1624 TOWER GROVE AVE, STE 1N	ST LOUIS	MO	63110-2206	JULIA@DTLS-STUDIO.COM
484110	JULIE DELP	OWNER	NATIONWIDE AUTO TRANSPORT, INC	6400 CORNHUSKER HWY, STE 150	LINCOLN	NE	68507-3190	JULIE@NWAT.COM
522320	JUSTIN CLAYBORNE		PURESKY, LLC	1132 FIRST AVE, UNIT 4D	NEW YORK	NY	10065	JUSTIN@INTERNATIONALCARDSOLUTIONS.COM
236118	JUSTIN MOORE	PROJECT MANAGER	SPENCER MANAGEMENT, LLC	2821 CALDWELL, PO BOX 111623	OMAHA	NE	68111-5623	JMOORE@SPENCERMANAGEMENT.ORG
236220	KAREN A WATSON	FOUNDER	K WATSON GROUP, LLC	117 N 32ND AVE, STE 201	OMAHA	NE	68131	KAREN@KWATSONGROUP.COM
541611	KAREN SCOTT		INSPIRED STRATEGIES, LLC	3809 ELMWOOD AVENUE	LOUISVILLE	KY	40207	KAREN@INSPIREDSTRATEGIESLLC.COM
236210	KENNETH MCCRALEY		MCC INDUSTRIES, INC (DBA KMS)	3848 SNELLING AVE S	MINNEAPOLIS	MN	55406	KEN@KMSCLEAN.COM
541613	KIM SIPPOLA		THE QUOTIENT GROUP, LLC	N1374 TUCKAWAY CT	GREENVILLE	WI	54942	KIM@THEQUOTIENTGROUP.COM

Stakeholder Database

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425120	KYLIE GANA		RESILIENT LOGISTICS, LLC	2133 W PANAMA RD	MARTELL	NE	68404	KYLIEG@RESILIENTLOGISTICSLLC.COM
484220	LAURA WIEDEWITSCH	OWNER	LAURA A WIEDEWITSCH TRUCKING, LLC	19500 SD HWY 79, PO BOX 106	VALE	SD	57788-0106	WIED28@YAHOO.COM
541330	LAWRENCE T BUTLER	OWNER	LAWRENCE T BUTLER, PROFESSIONAL ENGINEERING, LLC	4809 NW RADIAL HWY	OMAHA	NE	68104	LAWRENCE@LTBUTLER.COM
221310	LUIS LEON	OWNER, PRINCIPAL ENGINEER	LT LEON ASSOCIATES, INC	500 E LOCUST ST, STE 400	DES MOINES	IA	50309	LLEON@LTLEON.COM
236220	MARK SANTO	PRESIDENT	MARK VII ENTERPRISES, INC	4028 HAMILTON ST	OMAHA	NE	68131	MARK@MARKVIIENTERPRISES.COM
488119	MARY LYNCH		MARY A LYNCH	5719 OVERRIDGE DR	ARLINGTON	TX	76017	MALYNCH316@AOL.COM
237310	MARYNELL POPST	PRESIDENT	REECE CONSTRUCTION CO, INC	PO BOX 3227	SALINA	KS	67402-3227	MPOPST@REECECONSTRUCTION.COM
541370	MELISSA DIRR GENGLER	PRESIDENT	HISTORIC RESOURCES GROUP, INC	2840 CALVERT ST	LINCOLN	NE	68502	MELISSA@HRG-NEBRASKA.COM
423320	MELISSA THIEL		AMERICAN CONSTRUCTION SUPPLIES, INC	2373 60TH AVE	OSCEOLA	WI	54020	AMERICANCONSTRUCTIONSUPPLIES@GMAIL.COM
517111	MICHAEL ANDERSON		ANDERSON TECHNICAL SOLUTIONS, LLC	6422 BRIDGECREST DR	LITHIA	FL	33547	MPA@ATS04.COM
238210	MICHAEL YU		KELEUSMATIC TECHNOLOGIES, INC	8362 PINES BLVD, STE 131	PEMBROKE PINES	FL	33024	INFO@KELEUSMATIC.COM
488510	MICHELLE DEFRONZO		IMEX CARGO	1R NEWBURY ST	PEABODY	MA	01960	GROUP@IMEXCARGO.COM
541611	MICHELLE WEATHERSBY		LENS CONSULTING FIRM, LLC	2108 STAR SAPPHIRE DR	RALEIGH	NC	27610	INFO@LENSCONSULTINGFIRM.COM
541618	MONICA NEWHOUSE		NEWHOUSE & ASSOCIATES, LLC	14152 JAMIE DR	CARMEL	IN	46033	MONICA@NEWHOUSE.ASSOCIATES
488190	QUINCY BRANCH		LESLIE SAUNDERS INSURANCE AGENCY, INC	1535 N DALE MABRY, STE 101	LUTZ	FL	33548	INFO@BBC-INS.COM
541614	RAQUEL FLOYD		ROCK SOLID PROJECT SOLUTIONS, INC	500 S RANCHO RD, STE 7	LAS VEGAS	NV	89106	INFO@ROCK-SOLID-SOLUTIONS.COM
541430	REBECCA ASKEW	CEO	CIRCUIT MEDIA, LLC	560 CHEROKEE ST	DENVER	CO	80204	RASKEW@CIRCUITMEDIA.COM
237310	REBECCA OBERLE		JAMICO, INC	23902 PACIFIC ST, PO BOX 118	WATERLOO	NE	68069	REBA@JAMICO.NET
541618	ROBBIE SARLES		RLS & ASSOCIATES, INC	3131 S DIXIE DRIVE, STE 545	DAYTON	OH	45439	RLS@RLSANDASSOC.COM
485999	RONALD BURNS		GLOBAL PARKING SYSTEMS, LLC	6600 PLAZA DR STE 307	NEW ORLEANS	LA	70127	VBURNS@PARKGLOBAL.NET
484220	SEBASTIAN LORENZO	OWNER	SPL TRUCKING 26 LLC	3937 GOLD ST	OMAHA	NE	68105	SEBAS.LORENZO77@GMAIL.COM
541618	SHELIA A HUDSON	PRINCIPAL & CEO	HUDSON & ASSOCIATES, LLC	2229 PINE ST	ST LOUIS	MO	63103	SHUDSON@HUDSON-ASSOCIATESLLC.COM
238340	SHERRY HILL		TERRAZZO USA & ASSOCIATES, INC	426 S MCLLOUD RD	MCLLOUD	OK	74851	KIM@TERRAZZOUSA.COM
488119	SHIRLEY ROBERTS		AVIATION ALLIANCE, INC	PO BOX 799	COLLEYVILLE	TX	76034	SAR@AVIATIONALLIANCEINC.COM
518210	STEPHEN MARTINEZ		MARTINEZ GEOSPATIAL, INC	2915 WATERS RD, STE 100	EAGAN	MN	55121	JOHN@MTZGEO.COM
541330	SUE KNAPP		KFH GROUP	7200 WISCONSIN AVE, STE 320	BETHESDA	MD	20814	SKNAPP@KFHGROUP.COM

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
488190	SUMMER MARR	PRINCIPAL	MARR ARNOLD PLANNING, LLC	1328 CALIFORNIA AVE	AMES	IA	50014	SUMMER@MARRARNOLDPLANNING.COM
524291	TAWANDA HUFF		ABSOLUTE STAFFING & CONSULTING SOLUTIONS, LLC	532 BALTIMORE BLVD, STE 305	WESTMINSTER	MD	21157	AWADE@ASCS1.COM
423510	TOM BROWN		BROWNCO MANUFACTURING AND SALES, LLC	1525 N 105TH E AVE	TULSA	OK	74116	TOM@BROWNCOMFG.COM
237310	TOM MEDHI	PRESIDENT	ASSOCIATED ENGINEERING, INC	2705 NORTH MAIN ST	ELKHORN	NE	68022-3348	LMEDHI@AEPC-CLS.COM
423310	TRACEY MEENTS		BASELINE SUPPLY, LLC	65 TURNBERRY DR	MONROE TOWNSHIP	NJ	08831	BASELINESUPPLY@GMAIL.COM
238390	TRACI MICUCCI		EASTERN BRIDGE WORKS	401 SALT POINT TPKE	POUGHKEEPSIE	NY	12603	EASTERNBRIDGEWORKSDBE@GMAIL.COM
237990	VALLARIE HOLM		TIEDT NURSERY, LTD	2419 E BREMER AVE	WAVERLY	IA	50677	VHOLM.TNURSERY@GMAIL.COM
541219	VERNAE JONES-SEALS		ONESOURCE CONSULTING, LLC	6900 VIRGINIA MANOR RD, STE 111	BELTSVILLE	MD	20705	INFO@ONESOURCESBC.COM
423610	WILBUR A (GUS) STUART II		CENTREX ELECTRICAL SUPPLY, INC	3900 WASHINGTON BLVD	ST. LOUIS	MO	63108	GUSS@CENTREXELECTRIC.COM
237310	WILLIAM SHREWSBERRY		SHREWSBERRY & ASSOCIATES, LLC	7321 SHADLAND STATION, STE 160	INDIANAPOLIS	IN	46256	CERTIFICATIONS@SHREWSUSA.COM
237310			A PLUS CONTRACTING, LLC	705 S MALTBY AVE, PO BOX 131	SUTTON	NE	68979-0131	NAOTREJO@GMAIL.COM
237310			ALL ROAD BARRICADES, INC	5700 BALLARD AVE, PO BOX 29196	LINCOLN	NE	68529-9196	TAMMY@ALLROADSINC.COM
237110			ASPHALT PATCH MASTER, LLC	705 S MALTBY AVE	SUTTON	NE	68979	PATCHMASTER402@GMAIL.COM
237110			CAN DO CONSTRUCTION, LLC	2223 S 38TH ST	LINCOLN	NE	68506-6024	CANDOCONSTRUCTIONIII@YAHOO.COM
238910			CEDERBURG COMPANIES DBA RAHM SERVICES	8332 S 62ND ST	LINCOLN	NE	68516	CEDERBURG6@GMAIL.COM
332312			CONSTRUCTION ANCHORS, INC	13900 E 350 HWY	KANSAS CITY	MO	64138	LAURA@CONSTRUCTIONANCHORS.COM
237310			DANIELLE'S APPROACH, LLC	311 W NORFOLK AVE, STE 200	NORFOLK	NE	68701	DJKUBES@GMAIL.COM
237310			DORMARK CONSTRUCTION CO	3310 SW BROOKSIDE DR	GRIMES	IA	50111	ADMIN@DORMARK.COM
518210			DOSS TECHNICAL SERVICES	1010 S JOLIET ST, STE 105	AURORA	CO	80012	INFO@DOSSTECHNICAL.COM
237310			FORD CONSTRUCTION COMPANY LLC	2311 N 56TH ST	LINCOLN	NE	68504	FCC68504@GMAIL.COM
236118			FUTURE CONSTRUCTION SPECIALTIES, LLC	3113 S 19TH ST, PO BOX 8575	OMAHA	NE	68108-0575	TCFUTURECS@COX.NET
484110			GONZALEZ TRANSPORT LLC	4223 SEWARD ST	OMAHA	NE	68111-3948	GONZALEZTRANSPORTNE@GMAIL.COM
541211			HAYES & ASSOCIATES, LLC	1015 N 98TH ST, STE 200	OMAHA	NE	68114-2357	INFO@HAYES-CPA.COM
237110			I & A CONSTRUCTION LLP	1416 PIERCE ST	SIOUX CITY	IA	51105	IANDACONSTRUCTION2013@GMAIL.COM
315210			IMAGE CONCEPTS	3820 SACRAMENTO DR	LA MESA	CA	91941	PONDDIEGO@AOL.COM

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
237310			IRON WORKS, INC	212 S 6TH ST, PO BOX 77	NEBRASKA CITY	NE	68410	OFFICE@IRONWORKSREBAR.COM
237310			J RICHARDSON CONSTRUCTION CO, INC	22025 W 183RD ST	OLATHE	KS	66062	TR.JRICHARDSON25@GMAIL.COM
423320			JAMES ENTERPRISE, INC	25660 S 12TH ST	MARTELL	NE	68404	JAMESENTERPRISEINC04@GMAIL.COM
237210			JAPP BROTHERS GRADING, LLC	19163 CO RD 28	KENNARD	NE	68034	JBG@JAPPBROS.COM
238910			KEY CONTRACTING	2301 S ST	LINCOLN	NE	68503-3045	KEYCONTRACTINGNE@GMAIL.COM
236210			KIRK BARNES CONSTRUCTION, INC	1007 JENNY ST, PO BOX 656	VALENTINE	NE	69201-0656	CC@KBCCONST.COM
237310			KOLBE STRIPING, INC (DBA KSI)	550 TOPEKA WAY	CASTLE ROCK	CO	80109	RECEPTIONIST@KOLBESTRIPING.COM
722513			KRACKY MCGEE'S SNACK SHACK (DBA OF GPMM, INC)	4501 ABBOTT DR, STE 1425	OMAHA	NE	68110	PAM@GPMMGROUP.COM
236220			LMG CONSTRUCTION SERVICES, LLC	3011 ROANOKE RD	KANSAS CITY	MO	64108	LMG@LMGBUILDS.COM
115112			LOVCI CONSTRUCTION & FABRICATION LLC	4605 VALLEY VIEW DR	COLUMBUS	NE	68601-8063	CODIE@LOVCICONSTRUCTION.COM
238990			MAC'S FENCE, INC	6037 SPEAKER RD	KANSAS CITY	KS	66204	CBELL@MACSFENCE.COM
237310			MTZ CONSTRUCTION, LLC	330 SW 20TH ST	LINCOLN	NE	68522-1013	JORDAN.MTZLLC@GMAIL.COM
237310			NAVARRO LAWN & LANDSCAPE, INC	8535 MADISON ST	RALSTON	NE	68127-4124	JOHN.NAVARRONLL@GMAIL.COM
237130			NAVJOY CONSULTING SERVICES, INC	301 COMMERCIAL RD, STE B	GOLDEN	CO	80401	COMMUNICATION@NAVJOYINC.COM
423320			PACKER, INC	901 E 11TH ST	WOOD RIVER	NE	68883	DPACKER688@AOL.COM
541320			PATTI BANKS ASSOCIATES, LLC DBA VIREO	929 WALNUT, STE 700	KANSAS CITY	MO	64106	INFO@BEVIREO.COM
541611			PROJECT SOLUTIONS, INC	505 KANSAS CITY ST	RAPID CITY	SD	57701	INFO@PROJECTSOLUTIONSINC.COM
237310		PRESIDENT	RFB CONSTRUCTION CO, INC	565 E 520TH AVE	PITTSBURG	KS	66762-6829	DAB@RFBCONSTRUCTIONCO.COM
561720			RTG BUILDING SERVICES, INC	8317 GRANT ST	OMAHA	NE	68134-6122	FRED@RTGBUILDINGSERVICES.COM
236210			SAUL RAMOS CONSTRUCTION, INC	105 E RAILRD	SHELTON	NE	68876	RAMOSCONSTRUCTION@LIVE.COM
237310			SCM CONSTRUCTION, LLC	100 US HIGHWAY 36	CHILLICOTHE	MO	64601	SCMBISHOP@GMAIL.COM
722513			SIMPLY SCRUMPTIOUS (DBA GPMM, INC)	4501 ABBOTT DR, STE 1425	OMAHA	NE	68110	PAMELA.BRIERE@YAHOO.COM
423320			STANFORD MADLOCK TRUCKING, INC	6120 ARBOR RD	LINCOLN	NE	68517	MADLOCKTRUCKING@WINDSTREAM.NET
237310			TARIN LLC	PO BOX 254	LYMAN	NE	69352-0254	TARINTRUCK@YAHOO.COM
541310			TRAILS WEST ARCHITECTURE, LLC	818 S BELTLINE HWY E, STE C	SCOTTSBLUF F	NE	69361	MEGAN@TRAILSWARCH.COM
541611			TRANSITPLUS, INC	2800 E RIDGE RD	ELIZABETH	CO	80107	SUZANNE.TRANSITPLUS@GMAIL.COM
327320			WAHOO CONCRETE PRODUCTS, CO	1505 N HWY 77, PO BOX 143	WAHOO	NE	68066	SUSAN@WAHOOCONCRETE.COM

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
111421			WDJB, INC	19825 S 204TH ST	GRETNA	NE	68028	WAYNE@WDJBINC.COM
561720			WHAYNE & SONS ENTERPRISES, INC	10515 E 40TH AVE	DENVER	CO	80239	WE@WHAYNEENTERPRISES.COM
561730			WORK TO PLAY, LLC	7004 N 51ST ST	OMAHA	NE	68152	WRK2PLAY@COX.NET
541910			ZANN & ASSOCIATES, INC	7752 E 4TH AVE, UNIT 1C	DENVER	CO	80230	INFO@ZANNINC.COM
N/A	BRAD KULWICKI	BUSINESS DEVELOPMENT CONSULTANT II	NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT	245 FALLBROOK BLVD, STE 002	LINCOLN	NE	68521	BRADLEY.KULWICKI@NEBRASKA.GOV
N/A	BRUCE GRUPE	EXECUTIVE DIRECTOR	NEBRASKA CONCRETE PAVING ASSOCIATION	5700 SEWARD AVE, STE B	LINCOLN	NE	\$68,507	BGRUPE@NEBRCONC.ORG
N/A	JASON BALL	PRESIDENT	LINCOLN CHAMBER OF COMMERCE	PO BOX 95128	LINCOLN	NE	\$68,508	JBALL@LCOC.COM
N/A	JENNIFER HARRIS	CHAPTER PRESIDENT	NATIONAL ASSOCIATION OF WOMEN IN CONSTRUCTION, OMAHA CHAPTER					JENNIFER.HARRIS@JEDUNN.COM
N/A	KATIE WILSON	EXECUTIVE DIRECTOR	ASSOCIATED GENERAL CONTRACTORS OF AMERICA, NEBRASKA CHAPTER	7435 O ST, STE 110	LINCOLN	NE	58510	KWILSON@AGCNE.ORG
N/A	MARIA ARRIAGA	EXECUTIVE DIRECTOR	NEBRASKA LATINO AMERICAN COMMISSION	SIXTH FLOOR, STATE CAPITOL, PO BOX 94965	LINCOLN	NE	68509-4965	MARIA.ARRIAGA@NEBRASKA.GOV
N/A	MARK ALLEN	BOARD CHAIR	GRAND ISLAND AREA CHAMBER OF COMMERCE	309 W 2ND ST	GRAND ISLAND	NE	68801	MARK@ALLENCAPGROUP.COM
N/A	NES VANCE	OUTREACH SUPPORT ASSOCIATE	UNIVERSITY OF NEBRASKA – LINCOLN, BUREAU OF BUSINESS RESEARCH	730 N 14TH ST, HLH 523	LINCOLN	NE	\$68,588	NESRIN.COMEZ-VANCE@UNL.EDU
N/A	NISHA AVEY	SMALL BUSINESS ASSISTANCE MANAGER	NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT	245 FALLBROOK BLVD, STE 002	LINCOLN	NE	68521	NISHA.AVEY@NEBRASKA.GOV
N/A	PAULA GARDNER	EXECUTIVE DIRECTOR	NEBRASKA EQUAL OPPORTUNITY COMMISSION - LINCOLN (MAIN) OFFICE	1526 K STREET, STE 310	LINCOLN	NE	68508	PAULA.GARDNER@NEBRASKA.GOV
N/A	RICK FEIS	BUSINESS DEVELOPMENT CONSULTANT II	NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT	245 FALLBROOK BLVD, STE 002	LINCOLN	NE	68521	RICK.FEIS@NEBRASKA.GOV
N/A	SARA HOUSTON	DIRECTOR	CITY OF LINCOLN, COMMISSION ON HUMAN RIGHTS	555 S 10TH ST, STE 304	LINCOLN	NE	68508	LCHR@LINCOLN.NE.GOV
N/A	SCOTT SHAFER	ADMINISTRATIVE PROGRAMS OFFICER	NEBRASKA COMMISSION ON INDIAN AFFAIRS	STATE CAPITOL BUILDING, 6TH FLOOR, EAST	LINCOLN	NE	68509-4981	SCOTT.W.SHAFER@NEBRASKA.GOV
N/A			CENTRAL NEBRASKA HUMAN RIGHTS COALITION					CNHR1@GMAIL.COM
N/A			NEBRASKA MINORITY RESOURCE CENTER	332 N MAIN ST	GORDON	NE	69343	INFO@NMRC-INC.ORG
N/A	WAYNE FEDORA	DIVISION ADMINISTRATOR NEBRASKA	FEDERAL HIGHWAY ADMINISTRATION	100 CENTENNIAL MALL NORTH, ROOM 220	LINCOLN	NE	\$68,508	R.Wayne.Fedora@dot.gov
N/A	ALLAN ZAFFT	MPO PROGRAM MANAGER	GRAND ISLAND AREA METROPOLITAN PLANNING ORGANIZATION	100 E 1ST STREET	GRAND ISLAND	NE	68801	ALLANZ@GRAND-ISLAND.COM
N/A	AUSTIN ROWSER	PRESIDENT	NEBRASKA CHAPTER OF THE AMERICAN PUBLIC WORKS ASSOCIATION					AUSTIN.ROWSER@CITYOFOMAHA.ORG
N/A	CARLOS MORALES	TRANSPORTATION AND DATA MANAGER	METROPOLITAN AREA PLANNING AGENCY (MAPA)	2222 CUMING STREET	OMAHA	NE	68102	CMORALES@MAPACOG.ORG
N/A	DAVE ZELNIO	MARKETING COMMUNICATIONS MANAGER	NEBRASKA TRUCKING ASSOCIATION	1701 K ST	LINCOLN	NE	\$68,508	DAVE@NEBTRUCKING.COM

Stakeholder Database

NAICS	NAME	TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP	EMAIL
N/A	EDEN BUTLER	EXECUTIVE DIRECTOR	GROW NEBRASKA WOMEN'S BUSINESS CENTER	421 W TALMADGE STREET, STE 1	KEARNEY	NE	68845	EDEN@GNWBC.org
N/A	ERICA WASSINGER	COFOUNDER, GENERAL PARTNER	PROVEN VENTURES	1004 FARNAM STREET, STE 400	OMAHA	NE	68102	ERICA@PROVEN.VENTURES
N/A	FELICIA BELTRAN	CIVIL RIGHTS SPECIALIST	FEDERAL HIGHWAY ADMINISTRATION	1200 NEW JERSEY AVE, SE	WASHINGTON	DC	\$20,590	FELICIA.BELTRAN@DOT.GOV
N/A	GRANT ANDERSON	COMMUNITY & ECONOMIC DEVELOPMENT MANAGER	METROPOLITAN AREA PLANNING AGENCY (MAPA)	2222 CUMING STREET	OMAHA	NE	68102	GANDERSON@MAPACOG.ORG
N/A	J.R. HOUSER	PRESIDENT	NEBRASKA ASSOCIATION OF COUNTY ENGINEERS, COUNTY HIGHWAY SUPERINTENDENTS & COUNTY SURVEYORS					NACE_NEBRASKA@YAHOO.COM
N/A	JEFF MULDER	PROMOTION DIRECTOR	NEBRASKA CONCRETE AND AGGREGATES ASSOCIATION	5700 SEWARD AVE, STE B	LINCOLN	NE	\$68,507	JEFF@NEBRCONCAGG.COM
N/A	JOSEFINA LOZA	CEO AND FOUNDER	LOZAFINA	7905 L ST, STE 310	OMAHA	NE	\$68,127	OFFICE@LOZAFINA.COM
N/A	KENT GRISHAM	PRESIDENT & CEO	NEBRASKA TRUCKING ASSOCIATION	1701 K ST	LINCOLN	NE	\$68,508	KENT@NEBTRUCKING.COM
N/A	LEANDER MERRICK	CHAIRMAN	BUREAU OF INDIAN AFFAIRS, OMAHA TRIBE OF NEBRASKA	PO BOX 368	MACY	NE	68039	
N/A	MICHELLE BOSTINELOS	EXECUTIVE DIRECTOR	SIOUXLAND INTERSTATE METROPOLITAN PLANNING COUNCIL	1122 PIERCE STREET	SIOUX CITY	IA	51105	SIMPCO@SIMPCO.ORG
N/A	MIKE HELGERSON	EXECUTIVE DIRECTOR	METROPOLITAN AREA PLANNING AGENCY (MAPA)	2222 CUMING STREET	OMAHA	NE	68102	MHELGERSON@MAPACOG.ORG
N/A	MOKHTEE AHMAD	REGIONAL ADMINISTRATOR (REGION 7)	FEDERAL TRANSIT ADMINISTRATION	901 LOCUST ST	KANASAS CITY	MO	\$64,106	MOKHTEE.AHMAD@DOT.GOV
N/A	NATHAN PREHEIM	GENERAL PARTNER	PROVEN VENTURES	1004 FARNAM STREET, STE 400	OMAHA	NE	68102	NATHAN@PROVEN.VENTURES
N/A	NILAH SOLOMON	SUPERINTENDENT	BUREAU OF INDIAN AFFAIRS, WINNEBAGO AGENCY	PO BOX 18	WINNEBAGO	NE	68071	
N/A	RACHEL CHRISTOPHER	TRANSPORTATION PLANNER	LINCOLN METROPOLITAN PLANNING ORGANIZATION	555 SOUTH 10TH STREET, STE 213	LINCOLN	NE	68508	RCHRISTOPHER@LINCOLN.NE.GOV
N/A	ROGER TRUDELL	CHAIRMAN	BUREAU OF INDIAN AFFAIRS, SANTEE SIOUX NATION	108 SPIRIT LAKE AVE	WEST NIOBRARA	NE	68760	
N/A	VICTORIA KITCHEYAN	CHAIRWOMAN	BUREAU OF INDIAN AFFAIRS, WINNEBAGO TRIBE OF NEBRASKA	PO BOX 687	WINNEBAGO	NE	68071	
N/A			NEBRASKA LOCAL TECHNICAL ASSISTANCE PROGRAM	650 J STREET, STE 215 A	LINCOLN	NE	68508	PSCHWAB@UNL.EDU
N/A			NORTH END TELESERVICES	1500 N 24TH ST	OMAHA	NE	68110	INFO@NORTHENDTELESERVICES.COM

Attachment B

Presentation & Q&A Discussion Summary

Disadvantaged Business Enterprise Goal Setting Stakeholder Meeting

June 28 & 29, 2023

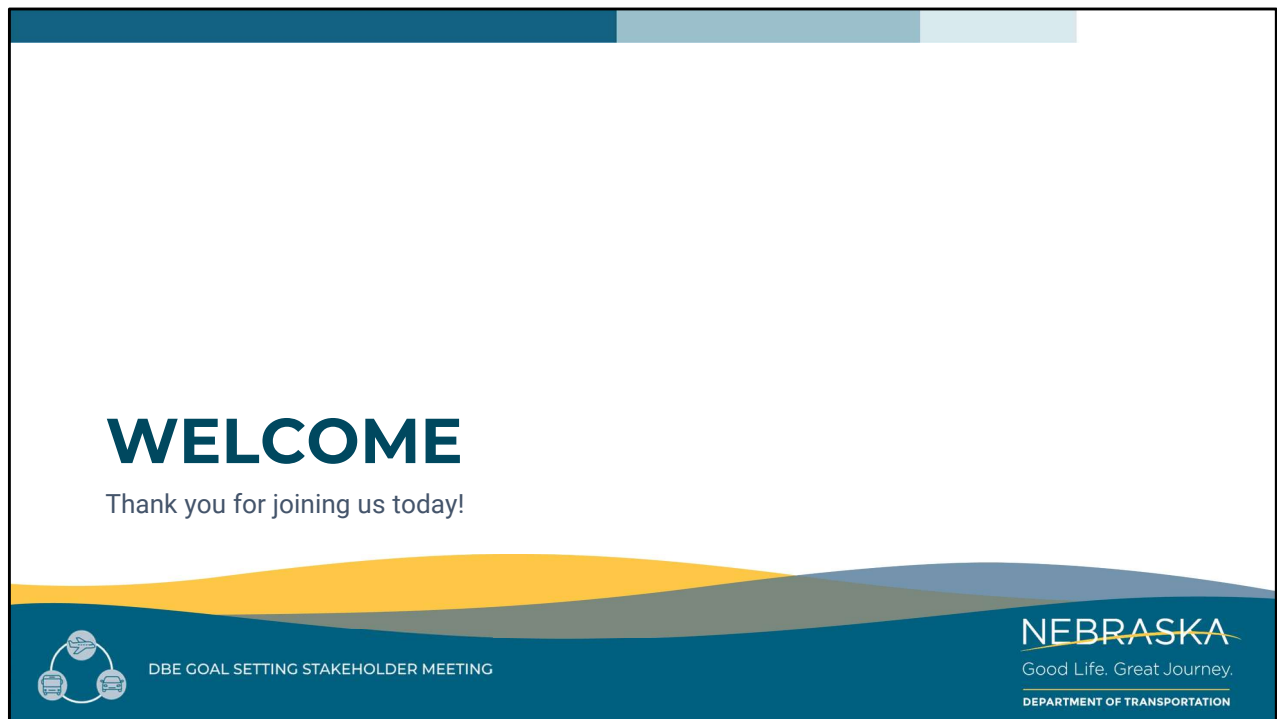


DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION



Speaker: NDOT – Kimberly

Hello! Welcome to NDOT's meeting to discuss our disadvantaged business enterprise program (also known as DBE). Thank you for joining us.

INTRODUCTIONS - NDOT



Kimberly Baker

*Diversity, Equity, and
Inclusion Manager*



Amy Starr

*Program Management
Engineer*



Jodi Gibson

*Local Assistance
Division Manager*



Kari Ruse

*Transit Programs
Specialist*



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

First, I'd like to introduce our NDOT staff here today.

I'm Kimberly Baker, NDOT's Diversity, Equity, and Inclusion Manager. I also serve as NDOT's DBE Liaison Officer.

The other NDOT staff with me today are:

- Amy Starr, Program Management Engineer
- Jodi Gibson, Local Assistance Division Manager
- And Kari Ruse, Transit Programs Specialist.

INTRODUCTIONS - FHWA



Felicia Beltran

*Federal Highway Administration (FHWA)
Civil Rights Specialist*



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

Joining us from the Federal Highway Administration is Felicia Beltran, Civil Rights Specialist. You'll hear more from her later!

INTRODUCTIONS – HDR



Lisa Richardson



Bre TenHulzen



Julie Molacek



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

HDR team members assisting us with this meeting are Lisa Richardson, Bre TenHulzen and Julie Molacek.

LOGISTICS

- For those of you in person, please sign-in at the welcome table if you haven't already
- Staff will be available after this presentation to discuss your questions and comments
- A survey will be emailed to you later this week



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

Before we dive into the meeting, I'd like to cover a few logistical items:

- For those of you here in person, please be sure to sign in at the welcome table if you haven't already
- Staff will be available after this presentation to discuss your questions and comments
- Also, a survey will be emailed to you later this week.

**THIS MEETING IS
BEING RECORDED**



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

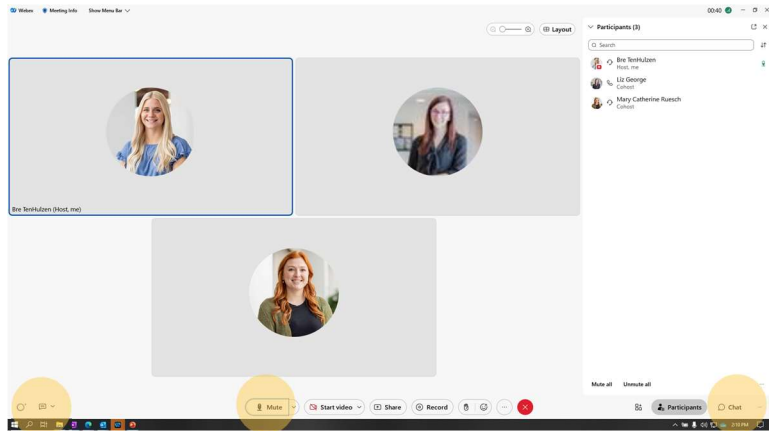
Just so everyone is aware, this meeting is being recorded via Webex.

LOGISTICS

○ Today's technology: Webex

- Mute
- Raise hand function
- Chat box

Chat **Julie Molacek** if you have any technical difficulties!



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

The technology we're using today is Webex, and we want to go over a few important features for our virtual participants:

- First is the mute button, highlighted in yellow on the screen. Everyone attending virtually was automatically muted upon entrance and will remain muted throughout the meeting.
- Next is the chat function. During the Q&A session, virtual participants may send questions in the chat box, and Julie Molacek will read them out loud.
- Julie is going to send a message to the chat right now - please make sure you can see it! You can chat her directly if you are having any technical difficulties by scrolling to her

name or typing it in the dropdown box.

- If you would like to turn on closed captions, please hit the button in the bottom left corner of your screen. This will turn on captions for your personal device only.

Again, feel free to reach out to Julie Molacek if you're having issues hearing or seeing this presentation, or any other technical difficulties.

MEETING OVERVIEW & PURPOSE

- NDOT develops a goal for DBE participation in our program every three years. To support this process, stakeholder engagement is conducted with:

- DBE contractors
- General contractor groups
- Community organizations
- Other officials who might have knowledge about disadvantaged and non-disadvantaged businesses

PURPOSE: Promote DBE program, obtain information relevant to the goal setting process, identify ways to improve the program



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

With that, let's get started on the reason you're all here today. NDOT develops a goal for DBE participation in our program every three years. To support this process, stakeholder engagement is conducted with:

- DBE contractors
- General contractor groups
- Community organizations
- And other officials who might have knowledge about disadvantaged and non-disadvantaged businesses

The purpose of this meeting is to promote our DBE program and get feedback that will inform our goal-setting process. We also hope to identify ways we can improve our DBE program to help you succeed on NDOT projects

STAKEHOLDER ENGAGEMENT

- Stakeholder engagement allows:
 - Access to diverse perspectives, enriching the goal-setting process
 - Increased transparency and trust-building
 - Informed decision-making through valuable input and insights
- Through this process, NDOT will be able to:
 - Gather relevant information to inform the goal-setting process
 - Address disparities and promote equity
 - Enhance program effectiveness by aligning DBE goals and outreach with community needs



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

Meetings like this allow NDOT to:

- Hear diverse perspectives that enrich the goal-setting process
- Foster increased transparency and trust-building between NDOT and stakeholders
- And promote informed decision-making through DBE participant insight.

Through this process, NDOT will be able to:

- Gather relevant information to inform the goal-setting process
- Address disparities and promote equity
- And enhance program effectiveness by aligning DBE goals and outreach with community needs.

AGENDA

- DBE Program Overview
- DBE Goal Setting Procedures
- Current & Future Goals
- Protections & Support
- Q&A Discussion



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

Here's our agenda for today:

- We'll start with an overview of the US DOT and NDOT's DBE programs.
- We will discuss how we set goals for the program and present our current and future goals.
- We'll cover some of the protections and support that our program provides DBEs.
- And finally, we'll have an opportunity for questions and discussion at the end of the meeting.

Q&A SESSION

- The Q&A session at the end of the meeting will seek insight on:
 - How can encourage more participation to increase the availability of ready, willing and able DBEs in Nebraska?
 - What are the effects of discrimination on opportunities for DBEs?
 - What efforts can NDOT make to further establish a level playing field for DBEs to participate in transportation projects in Nebraska?



DBE GOAL SETTING STAKEHOLDER MEETING

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DEPARTMENT OF TRANSPORTATION

Speaker: NDOT – Kimberly

During the Q&A session, we hope to get feedback from you on the following questions:

- How can we encourage more participation to increase the availability of ready, willing and able DBEs in Nebraska?
- What are the effects of discrimination on opportunities for DBEs?
- What efforts can NDOT make to further establish a level playing field for DBEs to participate in transportation projects in Nebraska?

DBE PROGRAM OVERVIEW



DBE GOAL SETTING STAKEHOLDER MEETING

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DEPARTMENT OF TRANSPORTATION

Speaker: NDOT - Kimberly

At this time, I will turn it over to Felicia with the Federal Highway Administration to introduce the US DOT's DBE program which guides and informs our program here at NDOT.

USDOT DBE PROGRAM OVERVIEW



DBE GOAL SETTING STAKEHOLDER MEETING

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DEPARTMENT OF TRANSPORTATION

Speaker: Felicia

Thank you all for your attendance today, we are grateful you are here whether it is in person or virtual.

Your participation in this event means a lot to us and adds great value to the NDOT DBE program.

The following US DOT video does a great job explaining the DBE Program, goal setting and more importantly how your voice matters.

As you enjoy viewing the video, please think about your role in the DBE program and any suggestions, barriers to participation, or questions and comments we need to hear in establishing NDOT's DBE participation goals.

Again, thank you for being here, we look forward to hearing your ideas to ensure that everyone has the capability to build capital, expand their business networks, and attain new skills and experiences through USDOT contract opportunities.

NDOT DBE PROGRAM OVERVIEW

- Formula funds estimated to be administered by NDOT during FY 2024-2026:
 -  **\$1.2 billion** for Federal Highway Administration (FHWA) – related work
 -  **\$25 million** for Federal Transit Administration (FTA) – related work
- NDOT Business Opportunities for DBEs
 - Highway construction
 - Asset management projects – overlays, culvert and bridge repairs, etc.
 - Traffic control, pavement repair, erosion control, suppliers, haulers, etc.
 - Building construction/remodeling
 - Maintenance yards
 - Transit facilities
 - Professional services
 - Goods and services related to transit operations



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: NDOT – Amy

Thanks, Felicia! Hello everyone, I'm Amy Starr, and I will be talking about our DBE program in Nebraska.

NDOT's program offers substantial business opportunities for DBE firms – over the next 3 years, NDOT will administer nearly 1.2 billion dollars of funding from the Federal Highway Administration along with nearly 25 million dollars from the Federal Transit Administration.

Business opportunities with NDOT include:

- Highway construction, such as:

new construction, pavement repair, overlays, culvert replacement, bridge repair projects, traffic control, pavement repair, erosion control, material hauling, and more.

- Projects with building construction and remodeling for maintenance yards and transit facilities.
- Professional services such as engineering and surveying.
- And lastly, there are opportunities for providing goods and services related to transit operations.

NEBRASKA UNIFORM CERTIFICATION PROGRAM

- Be a for-profit business performing transportation-related work for a recipient of FHWA, FTA, or FAA funds
- Be at least 51% owned and controlled by socially and economically disadvantaged individual(s)
- Disadvantaged owners must be U.S. citizens or permanent residents
- Meet Small Business Administration (SBA) size standards and do not exceed \$23.98M in gross annual receipts for DBEs being certified for FHWA- or FTA-related work

For more information or to apply, visit **NDOT's Civil Rights webpage.**



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: NDOT – Amy

As a recipient of federal transportation dollars, NDOT must comply with US DOT regulations for the DBE program.

One element of that is NDOT's Uniform Certification Program. NDOT certifies all DBE firms in the state. This means there is one application and certification process to qualify as a DBE for federal transportation contracts whether those contracts are issued by NDOT or local governments.

Firms wishing to be certified must meet the federal eligibility requirements for business size and ownership:

- They must be at least 51% owned and controlled by socially and economically disadvantaged individuals
- Disadvantaged owners must be U.S. citizens or permanent residents
- They must meet Small Business Administration size standards for their NAICS codes
- And finally, for DBEs being certified for FHWA or FTA-related work, gross annual receipts cannot exceed 23.98 million dollars

Additional information and the application are available on NDOT's Civil Rights webpage.

DBE GOAL SETTING PROCESS



DBE GOAL SETTING STAKEHOLDER MEETING

NEBRASKA

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DEPARTMENT OF TRANSPORTATION

Speaker: NDOT - Amy

Now I will turn it over to Lisa to talk about the DBE goal setting process.

IMPORTANCE OF DBE GOALS

- These goals help NDOT to achieve its mission of promoting a safe, reliable, affordable, and efficient transportation system while also **supporting the growth and development** of DBEs



DBE GOAL SETTING STAKEHOLDER MEETING

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DEPARTMENT OF TRANSPORTATION

Speaker: HDR – Lisa

Thank you, Amy.

Every three years, NDOT establishes goals for DBE participation for both the highway and transit programs.

Establishing these goals helps NDOT to achieve its mission of promoting a safe, reliable, affordable, and efficient transportation system while also **supporting the growth and development** of DBEs.

DBE GOAL-SETTING PROCESS

- FHWA and FTA provide funding to NDOT for transportation projects
- NDOT's DBE program establishes annual DBE participation goals in collaboration with FHWA and FTA
 - Goals are established triennially and are based on multiple factors, including the availability of DBEs to perform work in specific industries and locations as well as past participation by DBEs
 - Each year, NDOT reviews the triennial goal to evaluate progress toward achieving it



DBE GOAL SETTING STAKEHOLDER MEETING

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DEPARTMENT OF TRANSPORTATION

Speaker: HDR - Lisa

NDOT's DBE program establishes DBE participation goals in collaboration with FHWA and FTA.

These goals are established triennially, or every three years, and are based on multiple factors, including:

- The availability of DBEs to perform work in specific industries and locations, as well as past participation by DBEs
- Each year, NDOT reviews actual DBE participation against the current goal to evaluate progress toward achieving it.

DBE GOAL-SETTING PROCESS

- Race-neutral means – encourage participation of all small businesses, not limited to DBEs
 - Provide business opportunities/contracts of a sufficiently small size that small businesses can successfully compete, win and perform the work.
- Race-conscious means – setting goals for DBE participation on individual contracts
 - Contract opportunities considered individually to determine potential applicability of a DBE goal



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: HDR - Lisa

It's NDOT's desire to achieve its goal for DBE participation by race-neutral means – this is any time a DBE wins a prime contract through the normal competitive procurement process or is awarded a subcontract on a prime contract that does NOT have a DBE contract goal.

To facilitate race-neutral participation, NDOT tries to provide at least 25% of business opportunities and contracts of a sufficiently small size that small businesses can successfully compete, win and perform the work.

To encourage additional DBE participation on construction projects, NDOT sets goals for DBE participation on some contracts – this is known as race-conscious contracting. These project goals encourage prime contractors to use DBEs for some of the work.

NDOT individually considers contract opportunities to determine the potential for a DBE goal – this includes consideration of the amount and type of work and whether there are DBEs certified in the state who can handle the work.

CURRENT & FUTURE GOALS



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: HDR – Lisa

Now I'll go over NDOT's current and proposed goals.

CURRENT PARTICIPATION GOALS

NDOT's goals for fiscal years 2021-2023 are:



5.81% for FHWA



0.53% for FTA

The goals are expressed as a percentage of all federal dollars expended on NDOT and sub-recipient contracts (i.e., cities, counties, transit agencies, etc.) during the specific period



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Speaker: HDR – Lisa

NDOT's DBE participation goals for fiscal years 2021 through 2023 are 5.81% for FHWA funding and 0.53% for FTA funding. The goals are expressed as a percentage of all federal dollars expended on contracts by NDOT and sub-recipients, such as cities, counties, and transit agencies during the specific period.

In the years immediately prior to the pandemic NDOT was seeing high enough DBE participation on construction contracts to meet their triennial FHWA DBE goals; however, since the pandemic the number of firms bidding on NDOT contracts has reduced by about 35%.

FY2024-2026 PARTICIPATION GOALS - FHWA

NDOT'S proposed FHWA goal for fiscal years 2024-2026 is **4.93%**

- This translates to approximately **\$59,000,000** in transportation work for DBE firms on a triennial basis.
- In Nebraska, FHWA funding is generally used for professional services and construction activities.



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Speaker: HDR – Lisa

Due to the effects of the pandemic, NDOT's proposed FHWA goal for fiscal years **2024-2026 is 4.93%**, which is slightly lower than the previous goal.

This translates to approximately **59 million dollars** in transportation work for DBE firms over the next 3 years
In Nebraska, FHWA funding is generally used for professional services and construction activities.

FY2024-2026 PARTICIPATION GOALS - FTA

NDOT's proposed FTA goal for fiscal years 2024-2026 goal is **0.57%**

- This translates to approximately **\$150,000** in work for DBE firms on a triennial basis
- In Nebraska, FTA funding is generally used for professional services and smaller goods and services purchases rather than construction.



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: HDR – Lisa

NDOT's proposed FTA goal for fiscal years **2024-2026 is 0.57%**, which is slightly higher than the previous goal. This translates to approximately **\$150,000** in work for DBE firms over the next 3 years

In Nebraska, transit providers who receive FTA funding are spread across the state, and there are a limited number of service-oriented DBE firms outside of the Lincoln and Omaha metro areas. Because of this, the FTA goal has historically been met with DBE participation on professional services contracts such as engineering.

The FHWA and FTA goals are developed based on the availability of DBE firms to perform the types of contracting opportunities that are expected in the coming years.

PROTECTIONS & SUPPORT



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Speaker: HDR – Lisa

In addition to certifying DBE firms and developing goals, NDOT also provides protection and support for DBEs.

PROTECTIONS

- NDOT's DBE program also includes a range of protections to ensure DBEs are treated fairly once they win contracts, including:
 - NDOT monitors payments to make sure all subs are being paid on time by the prime contractor
 - NDOT monitors worksites to make sure work that was committed to DBEs during contracting is performed by DBEs
 - NDOT also has a process that allows DBEs to report any violations or discrimination experienced in the contracting process



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: HDR - Lisa

NDOT's program includes a range of protections to ensure DBEs are treated fairly once they win contracts. Some of these include:

- Monitoring payments to make sure all subs are being paid on time by the prime contractor
- And monitoring worksites to make sure that the work committed to DBEs during contracting is actually performed by DBEs.

NDOT also has a process that allows DBEs to report any violations or discrimination they have experienced in the contracting process

SUPPORTIVE SERVICES

NDOT has a free program to assist DBEs:

- Broaden business knowledge
- Strengthen their financial literacy
- Develop skills and abilities in the areas of business and construction management
- Create a business plan
- Program includes instructional sessions as well as one-on-one consulting



DBE GOAL SETTING STAKEHOLDER MEETING



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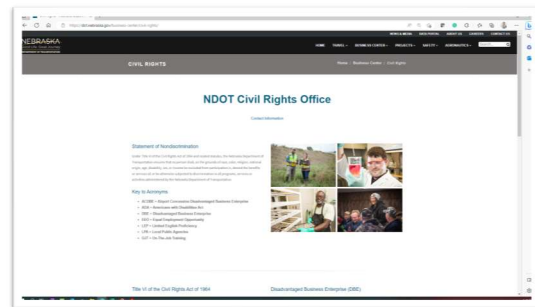
Speaker: HDR – Lisa

NDOT also provides supportive services free of charge to help DBE firms and those wishing to become certified as a DBE. This program provides financial and business management training and assistance to help DBEs develop their businesses. The Supportive Services Program includes instructional sessions as well as one-on-one coaching. The program is free and helps DBEs to:

- Broaden their business knowledge
- Strengthen their financial literacy
- Develop skills and abilities in business and construction management
- And ultimately, it helps them to create a business plan.

MORE INFORMATION

- The Civil Rights webpage provides information on:
 - Becoming a certified DBE
 - DBE participation requirements on NDOT contracts
 - NDOT business opportunities
 - Construction bidding
 - Professional services



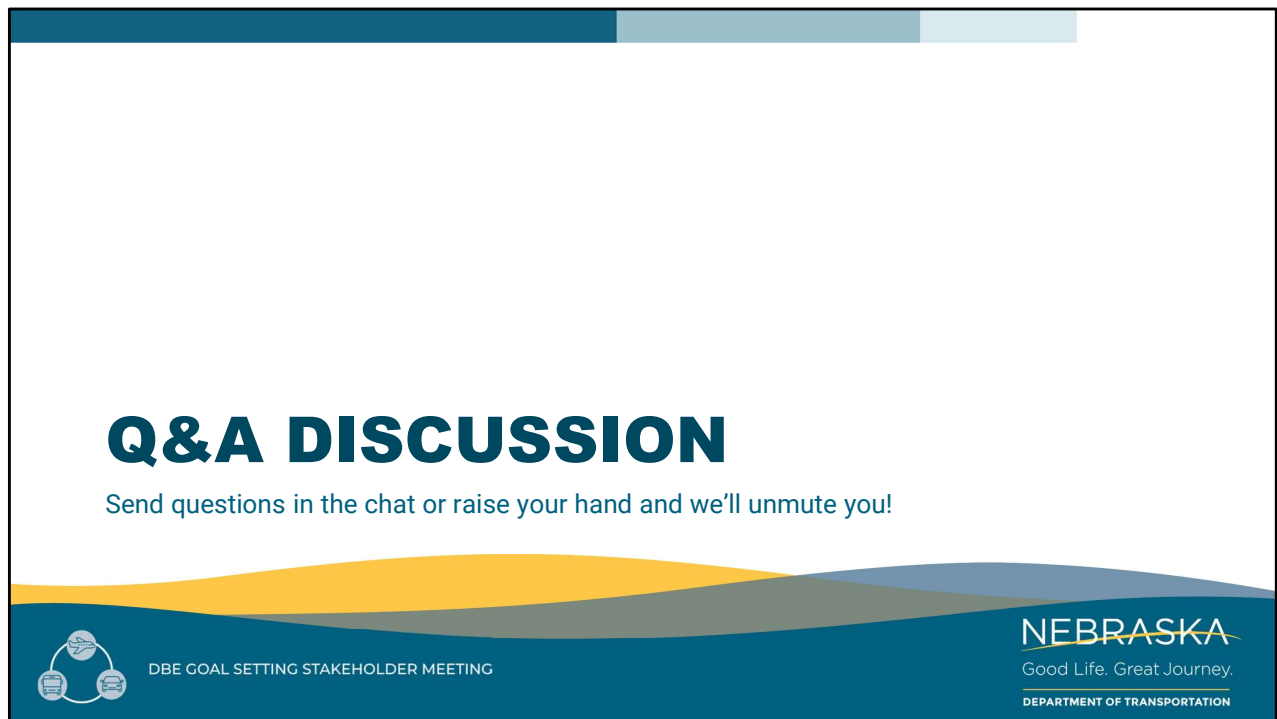
DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: HDR – Lisa


That concludes our presentation. For more information on NDOT's DBE program, please go to the NDOT Civil Rights webpage where you can find information on:

- Becoming a certified DBE
- DBE participation requirements on NDOT contracts
- And NDOT business opportunities for construction projects and professional services



Q&A DISCUSSION

Send questions in the chat or raise your hand and we'll unmute you!

 DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: HDR – Lisa

Now we will start our Q&A discussion. Those of you in person can raise your hand, and Bre will come around with a microphone for you to ask your question. For our virtual participants, please send your questions in the chat box, and Julie Molacek will read them out loud.

FEEDBACK

- Please respond to the **survey** sent to your email!
- Written comments can be submitted to:

NDOT
Civil Rights Office
P.O. Box 94759
Lincoln, NE 68509
ndot.hcro-dbe@nebraska.gov



DBE GOAL SETTING STAKEHOLDER MEETING

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Speaker: NDOT – Kimberly

Thank you for your participation today. Your feedback is valuable to us.

Please respond to the post-meeting survey which will be sent to your email soon!

Written comments can be mailed or emailed to the NDOT's Civil Rights Office at the addresses listed on the screen.

THANK YOU!



DBE GOAL SETTING STAKEHOLDER MEETING

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NDOT – Kimberly

Thank you again for your time!

Q&A Discussion Summary

DBE Participation in the State

- Participants were interested in how many DBEs are currently certified in the state of Nebraska (local and out-of-state companies), how many of them are active, and what is being done (or can be done) to help increase participation.
 - NDOT noted that there are currently 153 certified DBEs in the state (a complete list is available on the website). Of those, 103 are out-of-state firms, 23 are firms based in the Omaha metro, and 27 firms are located throughout the rest of the state. There are 38 certified DBEs that are currently active – that list is not available online, but NDOT can provide it.
 - NDOT noted that they put the DBE supportive services in place to help support the growth of existing DBEs and to help encourage them to continue to expand their abilities to connect with available projects and complete more work. NDOT is looking for input and ideas on how they can help increase participation in the DBE program.

Benefits of Participation in the Program

- Participants asked about the method for getting DBEs more work and what the incentive of participating in the program is (since this is not a set-aside program, granting a competitive advantage when bidding).
 - NDOT noted that if competing for a prime contract, the DBE would be competing just like any other company and would need to submit the low bid. However, they are trying to provide smaller contracts that would be more attractive for DBEs and smaller companies to bid on. Their goal is to have 25% of their contracts be less than \$1M.
 - To ensure a percentage of the work to DBEs, NDOT requires prime contractors to follow project-specific DBE goals. The prime contractor is required to indicate within their bid how they will contract with the DBEs, as well as how much work and what types of work the DBE will complete to meet this goal. If the prime does not meet these project goals, the prime faces consequences and needs to explain why it was not met.
 - The benefit of becoming a certified DBE is that they are eligible to be sub-contractors that would help primes meet their DBE goals, and they would be able to utilize the DBE supportive services, free of charge. The goal of these supportive services is to help the DBE become involved in NDOT projects and start building them up to potentially become more competitive as a prime contractor. The supportive services program helps DBEs follow good practices to become competitive. A DBE can submit an application to go through the supportive services curriculum. There's a brochure on the NDOT civil rights website that explains the different levels and the process to apply.
 - There is a list of pre-qualified contractors available on the website and a plan list available to a DBE that is interested in seeing which primes have pulled plans for projects. NDOT also noted that the office is available to help walk people through the application form and answer any questions that come up.

DBE Goal

- There were several questions about the DBE goal, including what led to the decrease of the proposed DBE goal, if the percentage is based on a job or dollars spent per year, if the goal changes based on the funding source, if the goals apply to consulting contracts, and who the goal applies to.
 - NDOT noted that the lower goal is currently just the proposed goal. These meetings are being used as a way to get input from the industry to gauge whether the goal should be lower, higher, or if it's on target. NDOT proposed lowering the goal this year due to several of certified DBE firms going out of business during the pandemic, so there are fewer eligible DBEs available to complete the work. NDOT is trying to set a goal that is challenging but also attainable due to capacity.
 - A goal is assigned per project, but NDOT monitors the program overall to see if they're on target to meet the yearly goal. They also look at each individual project, including the project location and the line items in the project, to see if there are DBEs capable of completing the work.
 - NDOT intends to meet the 4.93% over three years, over all of their projects. Some individual project goals may be higher or lower based on specific line items and if discretionary funds are received for a specific project.
 - The DBE goal applies to any federal projects let by NDOT – including any local projects that have federal participation. It is a combined race-neutral/race-conscious goal for both the prime and sub. There is no specific goal for subcontracting on a project. NDOT does not prescribe how the contractor has to meet that goal. Right now, NDOT is capturing when a DBE is used on a consulting contract, but there are not currently race-conscious goals established on consulting contracts.
- There was also a question asking if a DBE can be used as a second-tier sub to fulfill a DBE project goal. For instance, if a company may not be equipped to do a big box culvert, but could handle the pipe extensions and smaller efforts on the project, could they bid as a 2nd-tier sub to fill that goal?
 - NDOT noted they will look into this possibility.

DBE Eligibility

- Participants had several questions regarding eligibility to become a DBE. Regarding the Small Business Administration size standards, there was a question about whether the gross annual receipts total of under \$23.9M was an average or the previous year's total. NDOT noted that this is based on a 3-year average.
 - Regarding the discussion about "professional services" projects, there was a question on what disciplines that refers to. NDOT noted that they primarily use federal aid for architecture, engineering, land surveying, and landscape architecture (and some services such as economic assessments, urban planning, etc.).

Attachment C

Post-Meeting Survey Responses & Email Comments

Post-Meeting Survey Responses

Submission Date	29-Jun-23	29-Jun-232
First Name	Daniel	Tania
Last Name	Kuchar	Gonzales
Email	dckuchar@unomaha.edu	tgonzales@omahachamber.org
Business Name	Nebraska Business Development Center	Greater Omaha Chamber - REACH
Phone Number	(402) 853-3933	(402) 978-7951
Is your business currently registered as a DBE?	No	
Are you interested in registering your business as a DBE?	No	No
Do you feel adequately informed about NDOT's DBE program and opportunities for DBE firms? If not, what additional information would be helpful?	For the most part, yes. I just need to follow up to access the list of Prime contractors.	
If you are not currently registered as a DBE, what is hindering you from applying?	N/A	
How effective are NDOT's supportive services for DBE firms? Are there any additional services you think should be offered?	I think the supportive services are great, just needs to be promoted better to resource partners and potential new DBEs.	
Have you faced any barriers or challenges in participating in NDOT projects as a DBE firm? If so, what were they and how can they be addressed?	N/A	
What suggestions do you have for NDOT to improve engagement and communication with DBE firms?	<ul style="list-style-type: none"> - Make the website more accessible for folks trying to get to DBE information (less clicks and easier navigation from main landing pages) - Increased participation at local business events, particularly ones focused on contractors and minority-owned businesses (Omaha REACH events, NBDC APEX Accelerator events, MPMSDC events, etc.) - Use partner organizations to help disseminate information about the program 	
What strategies can NDOT implement to increase DBE participation in its projects?	<ul style="list-style-type: none"> - Have buy in from Contracting officers, project managers, engineers, and prime companies - Make primes pick new DBE firms if they continue to use the same subs - Direct email DBE companies bids that may fit their scopes - Send opportunities to partner organizations to disseminate to the DBE firms they work with (or potential new DBE firms) - Can the DBE used as a set-aside in the future? 	
If you are registered as a DBE, is there anything else you would like to share with us about your experiences working with NDOT?	N/A	
Are there any other thoughts you would like to share with us?	Thank you for the events yesterday and today. I gained valuable information and hope that I could provide some useful thoughts. I absolutely want to stay in contact regularly and work together to increase DBE participation here in Nebraska.	
What is your zipcode?	\$68,104	68102
Choose your age group.	25-34	18-24
What is your race and/or ethnicity?	White, Non-Hispanic/Latino	Hispanic/Latino of any race

From: [Baker, Kimberly K](#)
To: [Richardson, Lisa \(Omaha\)](#)
Subject: FW: Request for DBE application assistance
Date: Thursday, July 6, 2023 1:14:56 PM
Attachments: [image003.png](#)
[image004.png](#)
[Application for DBE ACDBE Certification.pdf](#)
[Personal Financial Statement.pdf](#)
[instructions-how-to-apply-for-dbe.pdf](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: Baker, Kimberly K
Sent: Friday, June 30, 2023 10:38 AM
To: jlozafina@gmail.com
Cc: NDOT, HCRO DBE <NDOT.HCRO-DBE@nebraska.gov>
Subject: RE: Request for DBE application assistance

Good morning,

Thank you for reaching out. The attached documents are the same as the ones on the Civil Rights webpage, and are provided for ease of reference. The attachments include the DBE application and the Personal Net Worth Statement that will need to be completed, along with the basic instructions and contact info for our office.

If you haven't previously reviewed the DBE application and Personal Net Worth Statement, I recommend reviewing those prior to an in-person meeting.

What is your schedule availability? My availability for next week is limited, but I have some time available July 10, 11, and 12. Otherwise the end of July or early August would also work for me.

We look forward to meeting with you,

Kimberly Baker
Diversity, Equity, and Inclusion Manager

Nebraska Department of Transportation
402-479-4544
Kimberly.k.baker@nebraska.gov
dot.nebraska.gov | [Twitter](#)

From: lozafina <jlozafina@gmail.com>

Sent: Wednesday, June 28, 2023 2:38 PM

To: TenHulzen, Bre <Breanna.TenHulzen@hdrinc.com>

Subject: Re: FW: You're Invited to Nebraska DOT's DBE Goal Setting Stakeholder Meetings!

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Thank you so much for sending this along.

I am interested in applying for the DBE certification. Is there a way I can get started on setting appointments with someone who can assist me with this process? Thanks,
J

On Wed, Jun 28, 2023 at 1:40 PM TenHulzen, Bre <Breanna.TenHulzen@hdrinc.com> wrote:

Josefina, thank you for your NDOT DBE Goal Setting Stakeholder Meeting registration! The in-person meeting information is below, and calendar Webex invitations are attached.

Please let me know if you have any questions.

Thanks,

Bre TenHulzen

D 402.392.8783 M 712.898.3876

hdrinc.com/follow-us

From: TenHulzen, Bre <Breanna.TenHulzen@hdrinc.com>

Sent: Thursday, June 15, 2023 4:35 PM

To: TenHulzen, Bre <Breanna.TenHulzen@hdrinc.com>

Subject: FW: You're Invited to Nebraska DOT's DBE Goal Setting Stakeholder Meetings!



Nebraska Department of Transportation (NDOT) Disadvantaged Business Enterprise (DBE) Goal Setting Stakeholder Meeting

Overview

NDOT invites you to participate in an upcoming stakeholder meeting to discuss and provide input for NDOT's development of FY 2024-2026 DBE program goals for Federal Transit

From: [Daniel Kuchar](#)
To: [TenHulzen, Bre](#)
Subject: NDOT DBE Event Follow-Up
Date: Friday, June 30, 2023 9:07:08 AM
Attachments: [image001.jpg](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Bre,

Great to meet with you at yesterday's NDOT DBE goal setting meeting! Thank you very much for your efforts in putting together a great event on an important topic.

As I mentioned, I would love to make sure I am on any distribution lists for pertinent events like these and others that HDR supports. Our team is always looking to get involved in local events and disseminate information to the partner orgs and clients we serve.

Please let me know if there is anything we can do to help further all of the great communications efforts you are doing.

Have a wonderful holiday weekend!

Sincerely,

Daniel Kuchar

Business Development Specialist | NBDC APEX Accelerator

Nebraska Business Development Center (NBDC)
6708 Pine Street, Suite 200 | Omaha, NE 68182
o: 402.554.6270
c: 402.853.3933
dckuchar@unomaha.edu
nbdc.unomaha.edu

signature_4099945137



Confidentiality Note: This email may contain confidential and/or private information. If you received this email in error, please delete and notify the sender.

From: [Baker, Kimberly K](#)
To: [TenHulzen, Bre](#); [Richardson, Lisa \(Omaha\)](#); [Starr, Amy](#)
Cc: [Molacek, Julie](#)
Subject: FW: DBE Stakeholder meetings - additional public input received
Date: Sunday, July 2, 2023 1:23:36 PM
Attachments: [image001.png](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: Doug Hibbeler <dhibbeler@northendteleservices.com>
Sent: Friday, June 30, 2023 4:07 PM
To: Baker, Kimberly K <kimberly.k.baker@nebraska.gov>
Subject: RE: DBE Stakeholder meetings

Thanks Much Kimberly –

I really do appreciate the efforts our State makes to gather input from all stakeholders. North End Teleservices, LLC. and especially our CEO, Carmen Tapio is very engaged in community and civic events. Carmen sets that standard for our organization, encouraging our employees to participate in the public square. I have been fortunate to work with North End Teleservices for the last 7 years, during that time I have learned much about various State and Federal purchasing and procurement rules. It still seems like an endless fountain of new information to learn!

When I saw the mention of the DBE program I did want to speak up. I believe that the State's intention behind the DBE program is nearly the same as the intention in creating the Nebraska Enterprise Zones. Anything we can do to encourage economic opportunity in disadvantaged areas make a substantial impact on our state economy. As for my perspective, North End Teleservices, LLC is a certified African American woman-owned business located off 24th and Hamilton Street. We are in a Nebraska Enterprise Zone and a HUBZone. I understand most DBE programs are to help disadvantaged businesses when bidding on contracts. I would like to share a perspective that may be a little away from the norm. North End Teleservices (NET) opened intentionally in northeast Omaha in 2015. With the idea of creating jobs and changing lives, NET setup a call center in a disadvantaged area. Instead of locating in the suburban areas, where most other call centers are located, we brought the jobs to the people. Many people in northeast Omaha commute to find employment, what we offer is very different. A chance to live and work in your same community.

Looking at the economics, I have worked with the former Economics Chair at the University of Nebraska at Omaha, Dr. Chris Decker. Dr Decker created an economic impact study for NET, showing the economic impact we were making in the community. I have continued to work with Dr. Decker, and he advised me on the extrapolation of the Economic Impact, and we use that as a measurement of our success monthly. As of May, of this year our economic impact measured using the IMPLAN method, has exceeded \$250 million dollars. We are excited as this is the measurement

of the dollars churning through the economy.

What does disadvantaged really mean? 40% of the people we hire at NET, were previously on some form of assistance. We calculated an approximate spending by Nebraska on State Assistance programs, per person. We took the count of Nebraskan's that are at double the poverty rate and below = 193,820. Then we divided that into the 2019 Census Bureau's Expenditures by State, Nebraska averages \$17,544 annually. This is what Nebraska averages in assistance per person per year. At NET, when we take someone from Assistance-to-Work, there is a substantial savings for the State. For every NET employee hired, the math is 40% of the \$17,544, per year = \$7,017.60 per year saved on average. But that is only half of the story, by creating that job, we have also created a taxpayer. Using the average income tax paid per Nebraska Resident is \$5,529 per year.

Moving one person from Assistance-to-Work saves \$7,017 in assistance and provides \$5,529 in taxes to the state – a total net difference of \$12,546 per year, every year! If you take that difference divided by 2,080 (40 hours x 52 Weeks) annual hours of working – The business that is hiring people in a Nebraska Enterprise Zone is impacting the State by \$6 per hour! Another way of saying it, the State saves \$6 per labor hour, every hour in a Nebraska Enterprise Zone like ours!

Awarding a bid to a good DBE is certainly a good thing. When you start looking more at strategic sourcing – the state wins, the contractor wins, and our society wins! I would suggest it's more impactful to the State if the definition of a DBE included **“or a business that is located in a Nebraska Enterprise Zone”**. This enhanced DBE definition is something that will have a direct impact for the intent of the DBE program, but a big win for the taxpayers as it will more than pay for itself year after year. This also accomplishes another big goal of Nebraska, expanding our workforce.

If you have any questions on the arithmetic or would like me to walk through it, I would be happy to. Technically, there are other benefits in a Nebraska Enterprise Zone business, such as the 17.7% of the total returning to the State and localities in taxes. Thanks for considering this request to enhance the DBE program and have a great rest of your day.

Positively,

DOUG



Douglas Hibbeler
Director of Market Development
1500 N. 24th Street, Ste. 111
Omaha, Nebraska 68110
402-934-5724 (direct)
402-917-4580 (mobile)
www.northendteleservices.com

**** To set a time to chat with Doug, click [here](#).**

**This communication (including any attachments) may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.*

From: Baker, Kimberly K <kimberly.k.baker@nebraska.gov>

Sent: Friday, June 30, 2023 10:23 AM

To: Doug Hibbeler <dhibbeler@northendteleservices.com>

Subject: RE: DBE Stakeholder meetings

Doug,

Thank you for reaching out. Yes, we would be happy to receive your input. If you'd like to provide your input via email, please send any comments/questions related to NDOT's DBE Goal Setting to Kimberly.k.baker@nebraska.gov

Thank you,

Kimberly Baker

Diversity, Equity, and Inclusion Manager

Nebraska Department of Transportation

402-479-4544

Kimberly.k.baker@nebraska.gov

dot.nebraska.gov | [Twitter](#)

From: Doug Hibbeler <dhibbeler@northendteleservices.com>

Sent: Thursday, June 29, 2023 4:00 PM

To: Baker, Kimberly K <kimberly.k.baker@nebraska.gov>

Subject: Stakeholder meetings

Hi Kimberly –

I was not able to attend the meeting in the last two days; however, I would like to provide some input, provided that is still allowed after the meetings?

Please let me know, and I will provide it.

Thanks,

DOUG



Douglas Hibbeler
Director of Market Development

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Appendix E: DBE Certification Standards and Procedures for USDOT Programs

Appendix E: DBE Certification Standards and Procedures for USDOT Programs

NDOT Certification Contact

DBE certification applications, questions or concerns may be directed to Kimberly Baker, the NDOT DBELO, She reached by phone, e-mail, fax or mail at:

Kimberly Baker
Diversity, Equity, and Inclusion Manager/DBELO
1500 Nebraska Parkway
Lincoln, NE 68502

Phone: 402-479-4544

Email: kimberly.k.baker@nebraska.gov

Certification Standards

The NDOT, in determining whether to certify a firm as eligible to participate as a DBE, will, as set forth below, apply the requirements and standards of 49 CFR Part 26.

How are burdens of proof allocated in the certification process?

- a. The firm seeking certification has the burden of demonstrating to the NDOT, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.
- b. The NDOT will rebuttably presume that members of the designated groups identified in 49 CFR Part 26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to the NDOT that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement (see *Appendix C: Certification Forms*) that they are a member of one of the groups in 49 CFR 26.67(a). Applicants do have the obligation to provide the NDOT information concerning their economic disadvantage.
- c. Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to the NDOT, by a preponderance of the evidence, that they are socially and economically disadvantaged (see *Individual Determinations of Social and Economic Disadvantage*).
- d. The NDOT will make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

What rules govern group membership determinations?

- a.
 1. If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (see 49 CFR Part 26.61(c)), the NDOT has a well-founded reason to question the individual's claim of membership in that group, the NDOT will require the individual to present additional evidence that he or she is a member of the group.
 2. The NDOT will provide the individual a written explanation of its reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph b. of this section.
 3. In implementing this section, the NDOT will take special care to ensure that it does not impose a disproportionate burden on members of any particular designated group. Imposing a disproportionate burden on members of a particular group could violate CFR 49 Part 26.7(b) and/or Title VI of the Civil Rights Act of 1964 and 49 CFR Part 21.
- b. In making such a determination, the NDOT will consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. The NDOT may require the applicant to produce appropriate documentation of group membership.
 1. If the NDOT determines that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social and economic disadvantage on an individual basis.
 2. The NDOT's decisions concerning membership in a designated group are subject to the certification appeals procedure of 49 CFR Part 26.89.

What rules govern business size determinations?

- a. To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards. As a recipient, the NDOT will apply current SBA business size standard(s) found in [Title 13, Chapter I, Part 121—Small Business Size Regulations](#) (13 CFR Part 121) appropriate to the type(s) of work the firm seeks to perform in USDOT-assisted contracts, including the primary industry classification of the applicant.
- b. Even if it meets the requirements of part (a.) of this section, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR Part 121.402), over the firm's previous three fiscal years, in excess of \$23.98 million.
- c. USDOT adjusts the number in part (b.) of this section annually using the Department of Commerce price deflators for purchases by state and local governments as the basis for this adjustment.

What rules determine social and economic disadvantage?

- a. *Presumption of disadvantage*
 1. The NDOT will rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. The

NDOT will require applicants to submit a signed, notarized certification (see *Appendix C: Certification Forms* of this the NDOT DBE Program Plan) that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

2.
 - i. The NDOT will require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, to certify that he or she has a personal net worth that does not exceed \$1.32 million.
 - ii. The NDOT will require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. To meet this requirement, the NDOT will use USDOT's *Personal Net Worth Statement for DBE/ACDBE Program Eligibility* form provided in 49 CFR Part 26, Appendix G, without change or revision (see *Appendix C: Certification Forms* of the NDOT DBE Program Plan). Where necessary to accurately determine an individual's personal net worth, the NDOT may, on a case-by-case basis, require additional financial information from the owner of an applicant firm (e.g., information concerning the assets of the owner's spouse, where needed to clarify whether assets have been transferred to the spouse or when the owner's spouse is involved in the operation of the company). Requests for additional information shall not be unduly burdensome or intrusive.
 - iii. In determining an individual's net worth, the NDOT will observe the following requirements:
 - A. Exclude an individual's ownership interest in the applicant firm;
 - B. Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm). The equity is the market value of the residence less any mortgages and home equity loan balances. The NDOT will ensure that home equity loan balances are included in the equity calculation and not as a separate liability on the individual's personal net worth form. Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes.
 - C. Do not use a contingent liability to reduce an individual's net worth.
 - D. With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.
 - iv. Unless compelled by state or federal law, the NDOT will not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that the NDOT will transmit this information to USDOT in any certification appeal proceeding under 49 CFR Part 26.89 of this part or to any other state to which the individual's firm has applied for certification under 49 CFR Part 26.85.

b. Rebuttal of presumption of disadvantage

1. An individual's presumption of economic disadvantage may be rebutted in two ways.

If the statement of personal net worth and supporting documentation that an individual submits under part (a.) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted. The NDOT is not required, as per 49 CFR Part 26.67(b)(2), to hold a proceeding in order to rebut the presumption of economic disadvantage in this case.

Example to paragraph b.1.i.

An individual with very high assets and significant liabilities may, in accounting terms, have a personal net worth (PNW) of less than \$1.32 million. However, the person's assets collectively (e.g., high income level, a very expensive house, a yacht, extensive real or personal property holdings) may lead a reasonable person to conclude that he or she is not economically disadvantaged. The NDOT may rebut the individual's presumption of economic disadvantage under these circumstances, as provided in this section, even though the individual's PNW is less than \$1.32 million.

- ii. A. If the statement of personal net worth and supporting documentation that an individual submits under part a.2. of this section demonstrates that the individual is able to accumulate substantial wealth, the individual's presumption of economic disadvantage is rebutted. In making this determination, as a certifying agency, the NDOT may consider factors that include, but are not limited to, the following:
 1. Whether the average adjusted gross income of the owner over the most recent three-year period exceeds \$350,000;
 2. Whether the income was unusual and not likely to occur in the future;
 3. Whether the earnings were offset by losses;
 4. Whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm;
 5. Other evidence that income is not indicative of lack of economic disadvantage; and
 6. Whether the total fair market value of the owner's assets exceed \$6 million.
- B.
 1. The NDOT will have a proceeding under part (c.) of this section in order to rebut the presumption of economic disadvantage in this case.
 2. If the NDOT has a reasonable basis to believe that an individual who is a member of one of the presumptively disadvantaged groups is not, in fact, socially and/or economically disadvantaged, the NDOT may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. The NDOT's proceeding will follow the procedures of 49 CFR Part 26.87 (see the *Certification Procedures* section).

3. In such a proceeding, the NDOT has the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. The NDOT may require the individual to produce information relevant to the determination of his or her disadvantage.
4. When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$1.32 million, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage, so long as his or her PNW remains above that amount.

c. Transfers within two years

1. Except as set forth in paragraph c.2. below, the NDOT will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, to a trust a beneficiary of which is an immediate family member, or to the applicant firm for less than fair market value, within two years prior to a concern's application for participation in the DBE program or within two years of the NDOT's review of the firm's annual affidavit, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.
2. The NDOT will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

d. Individual determinations of social and economic disadvantage

Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. The NDOT will make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to the NDOT, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$1.32 million shall not be deemed to be economically disadvantaged. The NDOT will require that applicants provide sufficient information to permit determinations under the guidance of 49 CFR Part 26, Appendix E.

What rules govern determinations of ownership?

- a. In determining whether the socially and economically disadvantaged participants in a firm own the firm, the NDOT will consider all the facts in the record viewed as a whole, including the origin of all assets and how and when they were used in obtaining the firm. All transactions for the

establishment and ownership (or transfer of ownership) must be in the normal course of business, reflecting commercial and arms-length practices.

- b. To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.
 - 1. In the case of a corporation, such individuals must own at least 51 percent of the each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.
 - 2. In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals. Such ownership must be reflected in the firm's partnership agreement.
 - 3. In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals.
- c.
 - 1. The firm's ownership by socially and economically disadvantaged individuals, including their contribution of capital or expertise to acquire their ownership interests, must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. Proof of contribution of capital should be submitted at the time of the application. When the contribution of capital is through a loan, there must be documentation of the value of assets used as collateral for the loan.
 - 2. Insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, mere participation in a firm's activities as an employee, or capitalization not commensurate with the value for the firm.
 - 3. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and be entitled to the profits and loss commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements. Any terms or practices that give a non-disadvantaged individual or firm a priority or superior right to a firm's profits, compared to the disadvantaged owner(s), are grounds for denial.
 - 4. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

Example 1: An individual pays \$100 to acquire a majority interest in a firm worth \$1 million. The individual's contribution to capital would not be viewed as substantial.

Example 2: A 51% disadvantaged owner and a non-disadvantaged 49% owner contribute \$100 and \$10,000, respectively, to acquire a firm grossing \$1 million. This may be indicative of a pro forma arrangement that does not meet the requirements of this part.

Example 3: The disadvantaged owner of a DBE applicant firm spends \$250 to file articles of incorporation and obtains a \$100,000 loan, but makes only nominal or sporadic payments to repay the loan. This type of contribution is not of a continuing nature.

- d. All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this part, no securities or assets held in trust, or by any guardian for a minor, are considered as held by disadvantaged persons in determining the ownership of a firm.

However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm, if—

1. The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual; or
 2. The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policy-making, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.
- e. The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.
- f. The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:
1. The owner's expertise must be:
 - i. In a specialized field;
 - ii. Of outstanding quality;
 - iii. In areas critical to the firm's operations;
 - iv. Indispensable to the firm's potential success;
 - v. Specific to the type of work the firm performs; and
 - vi. Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.
 2. The individual whose expertise is relied upon must have a significant financial investment in the firm.
- g. The NDOT will always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual—
1. As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or
 2. Through inheritance, or otherwise because of the death of the former owner.
- h. 1. The NDOT will presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is:

- i. Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;
 - ii. Involved in the same or a similar line of business; or
 - iii. Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.
- 2. To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to the NDOT, by clear and convincing evidence, that—
 - i. The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and
 - ii. The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.
- i. The NDOT will apply the following rules in situations in which marital assets form a basis for ownership of a firm:
 - 1. When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, the NDOT will deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. The NDOT does not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.
 - 2. A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.
- j. The NDOT may consider the following factors in determining the ownership of a firm. However, the NDOT will not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because:
 - 1. A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in part (h.) of this section;
 - 2. There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or
 - 3. Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is

such an individual. In this case, the NDOT will give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

What rules govern determinations concerning control?

- a. In determining whether socially and economically disadvantaged owners control a firm, the NDOT will consider all the facts in the record, viewed as a whole.
- b. Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.
 1. In determining whether a potential DBE is an independent business, the NDOT will scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.
 2. The NDOT will consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.
 3. The NDOT will examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.
 4. In considering factors related to the independence of a potential DBE firm, the NDOT will consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.
- c. A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in 49 CFR Part 26.69(j)(2) (see also *What rules govern determinations of ownership?*).
- d. The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.
 1. A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).
 2. In a corporation, disadvantaged owners must control the board of directors.
 3. In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

- e. Individuals who are not socially and economically disadvantaged or immediate family members may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.
- f. The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the NDOT can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.
- g. The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.
- h. If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, the NDOT will not deny certification solely on the ground that the person lacks the license or credential. However, the NDOT may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm. (A directory of resources with information on obtaining professional or occupational licenses in Nebraska may be found online at <http://nebraskaccess.ne.gov/professionalloccupationallicenses.asp>.)
- i. 1. The NDOT may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. The NDOT may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

2. In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, the NDOT may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.
- j. In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.
- k.
 1. A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this part, the NDOT will make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as the NDOT does in other situations, without regard to whether or not the other persons are immediate family members.
 2. If the NDOT cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.
- l. Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the nondisadvantaged individual remains involved with the firm in any capacity, there is a rebuttable presumption of control by the non-disadvantaged individual unless the disadvantaged individual now owning the firm demonstrates to the NDOT, by clear and convincing evidence, that:
 1. The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and
 2. The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a nondisadvantaged individual who formerly owned and/or controlled the firm.
- m. In determining whether a firm is controlled by its socially and economically disadvantaged owners, the NDOT may consider whether the firm owns equipment necessary to perform its work. However, the NDOT will not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a

relationship with a prime contractor or other party that compromises the independence of the firm.

- n. The NDOT will grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to the NDOT only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. The NDOT will not require that the firm be recertified or submit a new application for certification, but the NDOT will verify the disadvantaged owner's control of the firm in the additional type of work.
 1. The types of work a firm can perform (whether on initial certification or when a new type of work is added) will be described in terms of the most specific available North American Industry Classification System (NAICS) code for that type of work. The selected NAICS code will be one that describes, as specifically as possible, the principal goods or services which the firm would provide to USDOT recipients. Multiple NAICS codes may be assigned where appropriate. The NDOT will rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If the NDOT maintained DBE directory does not list types of work for any firm in a manner consistent with this paragraph, the NDOT will update the directory entry for that firm to meet the requirements of this paragraph.
 2. Firms and the NDOT will check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work that the NDOT has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.
 3. If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the NDOT, in its certification documentation and DBE directory, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.
 4. The NDOT is not precluded from changing a certification classification or description if there is a factual basis in the record. However, the NDOT will not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.
 5. In addition to assigning appropriate NAICS codes, the NDOT may also assign a firm codified descriptors from its own schema of work types, which are used internally for the purpose of categorizing its registered contractors and vendors.¹ Assigned NDOT work types will be included along with the assigned NAICS codes for a firm's entry in the NUCP DBE directory. The NDOT work types do not replace or supersede the NAICS codes when determining or

¹ see [Appendix G: NDOT Nature of Business Classification Codes](#) for a list of NDOT-codified work types.

identifying the types of work a DBE firm may perform and have counted towards attainment of the DBE goal of a USODT-assisted NDOT contract.

- o. A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, the NDOT will generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.
- p. In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.
- q. The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

What are other rules affecting certification?

- a.
 - 1. Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in this part, the NDOT will not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.
 - 2. The NDOT may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.
- b.
 - 1. The NDOT will evaluate the eligibility of a firm on the basis of present circumstances. The NDOT will not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of the program.
 - 2. The NDOT will not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged status, size, ownership, and control requirements of the program, the firm is eligible for certification.

- c. DBE firms and firms seeking DBE certification shall cooperate fully with NDOT requests (and USDOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification (see 49 CFR Part 26.73(c)).
- d. Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.
- e. An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this part, a firm that is not owned by such individuals, but instead is owned by another firm—even a DBE firm—cannot be an eligible DBE.
 - 1. If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, the NDOT may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.
 - 2. The NDOT may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

Example 1: Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

Example 2: Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

Example 3: Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so the NDOT may certify the subsidiary, if all other requirements are met.

Example 4: Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, the NDOT cannot certify it because it fails to meet control requirements.

Example 5: Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so the NDOT cannot certify the subsidiary.

Example 6: The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of 49 CFR Part 26.65(b) (see item (b.) under *What rules govern business size determinations?*).

Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

- f. Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.
- g. The NDOT will not require a DBE firm to be prequalified as a condition for certification.
- h. A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of 49 CFR Part 26.65 (see the section *What rules govern business size determinations?*). Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in 49 CFR Part 26.71 (see the section *What rules govern determinations concerning control?*).
- i. The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs):
 - 1. Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:
 - i. The Settlement Common Stock of the underlying ANC and other stock of the ANC held by holders of the Settlement Common Stock and by Natives and descendants of Natives represents a majority of both the total equity of the ANC and the total voting power of the corporation for purposes of electing directors;
 - ii. The shares of stock or other units of common ownership interest in the subsidiary, joint venture, or partnership entity held by the ANC and by holders of its Settlement Common Stock represent a majority of both the total equity of the entity and the total voting power of the entity for the purpose of electing directors, the general partner, or principal officers; and
 - iii. The subsidiary, joint venture, or partnership entity has been certified by the Small Business Administration under the 8(a) or small disadvantaged business program.
 - 2. As a recipient to whom an ANC-related entity applies for certification, the NDOT does not use the USDOT uniform application form (see 49 CFR Part 26, Appendix F; or Appendix C: Certification Forms of this program plan). The NDOT will obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of this part. The NDOT will also obtain sufficient information about the firm to allow the NDOT to administer its program (e.g., information that would appear in NDOT-maintained DBE directory).
 - 3. If an ANC-related firm does not meet all the conditions of paragraph i.1., then it must meet the requirements of paragraph h. in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

Individual Determinations of Social and Economic Disadvantage

The following policy is adapted, with minor modifications, from the SBA regulations concerning social and economic disadvantage determinations as found in Title 13, Chapter I, Part 124–8(a) *Business Development/Small Disadvantaged Business Status Determinations* ([13 CFR Part 124](#)) and stated in 13 CFR Part 124.103(c) and 13 CFR Part 124.104.

a. *Social Disadvantage*

1. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:
 - i. At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged;
 - ii. Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and
 - iii. Negative impact on entry into or advancement in the business world because of the disadvantage. The NDOT will consider any relevant evidence in assessing this element. In every case, however, the NDOT will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.
 - A. *Education.* The NDOT will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.
 - B. *Employment.* The NDOT will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.
 - C. *Business history.* The NDOT will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.
2. USDOT notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The

Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities—especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments)—may be socially and economically disadvantaged.

3. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, The NDOT will look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As a public entity subject to Title II of the ADA, the NDOT will also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to thwart the access of potential applicants to the certification process or other services made available to DBEs and DBE applicants.

b. *Economic Disadvantage*

1. Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.
2. Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement and must submit personal financial information.
3. In considering diminished capital and credit opportunities, the NDOT will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. The NDOT will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that the NDOT will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.
4. *Transfers within two years*
 - i. Except as set forth below in paragraph 4.ii. below, the NDOT will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.
 - ii. The NDOT will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the

customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

- iii. In determining an individual's access to capital and credit, the NDOT may consider any assets that the individual transferred within the two-year period described above that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

Certification Procedures

The NDOT, in making DBE certification determinations, will adhere to the rules and procedures set forth in *Code of Federal Regulations, Title 49, Subtitle A, Part 26, Subpart E* (49 CFR Part 26, Subpart E).

As per the NUCP agreement (see the section Nebraska Unified Certification Program), the NDOT is the sole certifying agency for DBEs in Nebraska, responsible for reviewing and making a certification determination on all applications for DBE and/or ACDBE certification. This section details the certification procedures followed by the NDOT in making these certification decisions. Applications for DBE certification may be submitted to the NDOT DBELO. Contact information for the DBELO can be found in the section NDOT Certification Contact or in Appendix B: Organizational Charts and Directory.

What procedures does the NDOT follow in making certification decisions?

- a. The NDOT will ensure that only firms certified as eligible DBEs under this section participate in the DBE program.
- b. The NDOT will determine the eligibility of firms as DBEs consistent with the standards of 49 CFR Part 26, Subpart D (see the section Certification Standards).
- c. 1. The NDOT will take all the following steps in determining whether a DBE firm meets the standards of 49 CFR Part 26, Subpart D (see section *Certification Standards* of this NDOT DBE Program Plan):
 - i. Perform an on-site visit to the firm's principal place of business. The NDOT will interview the principal officers and review their résumés and/or work histories. The NDOT may interview key personnel of the firm if necessary. The NDOT will also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation within its jurisdiction or local area. The NDOT may rely upon the site visit report of any other recipient with respect to a firm applying for certification;
 - ii. Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to: Articles of Incorporation/Organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued Certificates of Good Standing;
 - iii. Analyze the bonding and financial capacity of the firm; lease and loan agreements; bank account signature cards;

- iv. Determine the work history of the firm, including contracts it has received, work it has completed; and payroll records;
 - v. Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any;
 - vi. Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;
 - vii. Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last 3 years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service (IRS); and
 - viii. Require potential DBEs to complete and submit an appropriate application form, except as otherwise provided in 49 CFR Part 26.85 (see *Interstate Certification*).
- 2. The NDOT will use the application form provided in 49 CFR Part 26, Appendix F (a copy of which is also provided in Appendix C: Certifications Forms of this program plan), without change or revision. However, the NDOT may on a case-by-case basis as needed to ensure certification eligibility and compliance, with the written approval of the concerned USDOT operating administration, supplement the form by requesting specified additional information not inconsistent with this part.
 - 3. The NDOT will make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by State law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States (see the *Uniform Certification Application* form in *Appendix C: Certification Forms*).
 - 4. The NDOT will review all information on the form prior to making a decision about the eligibility of the firm. The NDOT may request clarification of information contained in the application at any time in the application process.
- d. When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information the NDOT has obtained about that firm (e.g., including application materials or the report of a site visit, if the NDOT has made one to the firm), the NDOT will promptly make the information available to the other recipient.
 - e. The NDOT does not charge a DBE certification application fee. However, the NDOT may at a future date, pursuant to 49 CFR Part 26.83(f), and upon approval of the concerned USDOT operating administration, impose a reasonable application fee for certification. Should the NDOT impose an application fee as part of its DBE program, fee waivers shall be made in appropriate cases.
 - f. The NDOT will safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable federal, state, and local law.
 - g. Once the NDOT has certified a DBE, it shall remain certified until and unless the NDOT has removed its certification, in whole or in part, through the procedures of 49 CFR Part 26.87 (see

What procedures does the NDOT use to remove a DBE's eligibility?), except as provided in 49 CFR Part 26.67(b)(1) (see *What rules determine social and economic disadvantage?* under the section Certification Standards).

- h. The NDOT will not require DBEs to reapply for certification or undergo a recertification process. However, NDOT may conduct a certification review of a certified DBE firm, including a new on-site review, if appropriate in light of changed circumstances (e.g., of the kind requiring notice under this part or relating to suspension of certification under 49 CFR Part 26.88 (see *Summary suspension of certification*), a complaint, or other information concerning the firm's eligibility. If information comes to NDOT's attention that leads NDOT to question the firm's eligibility, NDOT may conduct an on-site review on an unannounced basis, at the firm's offices and job sites.
- i. A DBE must inform NDOT in writing of any change in circumstances affecting the DBE's ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in the firm's application form.
 - 1. Changes in management responsibility among members of a limited liability company are covered by this requirement.
 - 2. The DBE must attach supporting documentation describing in detail the nature of such changes.
 - 3. The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. The DBE will provide the written notification within 30 days of the occurrence of the change. If the DBE fails to make timely notification of such a change, it will be deemed to have failed to cooperate under 49 CFR Part 26.109(c).
- j. A DBE must provide to NDOT, every year on the anniversary of the date of the firm's certification, an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States (see the *Nebraska Department of Transportation Annual Affidavit of No Change* found in *Appendix C: Certification Forms* of this NDOT DBE Program Plan). This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which the DBE has notified NDOT under paragraph (h.) of this section. The affidavit shall specifically affirm that the DBE continues to meet SBA business size criteria and the overall gross receipts cap, documenting this affirmation with supporting documentation of the firm's size and gross receipts (e.g., submission of Federal tax returns). If a DBE fails to provide this affidavit in a timely manner, it will be deemed to have failed to cooperate under 49 CFR Part 26.109(c).
- k. NDOT will make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. NDOT may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. NDOT may establish a different time frame for its DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. NDOT's failure to make a decision by the applicable deadline

under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to USDOT under 49 CFR Part 26.89 (see *What is the process for certification appeals to the U.S. Department of Transportation?*).

- l. As a recipient, NDOT will advise each applicant within 30 days from its receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.
- m. Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before NDOT has issued a decision on the application, the applicant can resubmit the application at any time. As a recipient, NDOT will not apply the waiting period provided under 49 CFR Part 26.86(c) (see *What rules govern NDOT's denials of initial requests for certification?*) before allowing the applicant to resubmit its application. However, NDOT may place the reapplication at the "end of the line," behind other applications that have been made since the firm's previous application was withdrawn. NDOT may also apply the waiting period provided under 49 CFR Part 26.86(c) to a firm that has established a pattern of frequently withdrawing applications before NDOT makes a decision.

Interstate Certification

- a. This section applies with respect to any firm that is currently certified in its home state.
- b. When a firm currently certified in its home state (State A) applies to NDOT for DBE certification, NDOT may, at its discretion, accept State A's certification and certify the firm, without further procedures. To obtain certification in this manner, the firm must provide to NDOT a copy of its certification notice from State A. Before certifying the firm, NDOT will confirm that the firm has a current valid certification from State A. NDOT can do so by reviewing State A's electronic directory or obtaining written confirmation from State A.
- c. In any situation in which NDOT chooses not to accept State A's certification of a firm as described in part (b.) of this section, the applicant firm NDOT will provide the following information to NDOT:
 1. The applicant firm will provide to NDOT a complete copy of the application form, all supporting documents, and any other information the firm has submitted to State A or any other state related to the firm's certification. This includes affidavits of no change and any notices of changes (see *What procedures does NDOT follow in making certification decisions?*) that the firm may have submitted to State A, as well as any correspondence applicant has had with State A's UCP (Unified Certification Program) or any other recipient concerning the firm's application or status as a DBE firm.
 2. The applicant will also provide to NDOT any notices or correspondence from states other than State A relating to the firm's status as an applicant or certified DBE in those states. For example, if a firm has been denied certification or decertified in State C (a state other than State A), or subject to a decertification action there, the applicant must inform NDOT of this fact and provide all documentation concerning this action to NDOT.
 3. If the applicant has filed a certification appeal with USDOT, the applicant will inform NDOT of the fact and provide the letter of appeal and USDOT's response.

4. The applicant must submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States (see the NDOT DBE Interstate Certification Affidavit form in Appendix C: Certification Forms).
 - i. This affidavit must affirm that the firm has submitted all the information required by 49 CFR Part 26.85(c); the information is complete; and, in the case of the information required by 49 CFR Part 26.85(c)(1), is an identical copy of the information submitted to State A.
 - ii. If the on-site report from State A supporting the applicant's certification in State A is more than three years old, as of the date of their application to NDOT, NDOT may require that applicant's affidavit also affirm that the facts in the on-site report remain true and correct.
- d. When NDOT has received from an applicant firm all the information required by part (c.) of this section, it will take the following actions:
 1. Within 7 days contact State A and request a copy of the on-site review report for the firm, any updates to the site visit review, and any evaluation of the firm based on the site visit. State A, as per 49 CFR Part 26.85(d)(1), is required to transmit this information to NDOT within 7 days of receiving the request. A pattern by NDOT of not making such requests in a timely manner, or by "State A" or any other State of not complying with such requests in a timely manner, is noncompliance with 49 CFR Part 26.
 2. Determine whether there is good cause to believe that State A's certification of the firm is erroneous or should not apply in Nebraska. Reasons for making such a determination may include the following:
 - i. Evidence that State A's certification was obtained by fraud;
 - ii. New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;
 - iii. State A's certification was factually erroneous or was inconsistent with the requirements of this part;
 - iv. State law of Nebraska requires a result different from that of the State law of State A;
 - v. The information provided by the applicant firm did not meet the requirements of part (c.) of this section.
 3. Unless NDOT has determined that there is good cause to believe that State A's certification is erroneous or should not apply in Nebraska, NDOT will, no later than 60 days from the date on which it received from the interstate applicant firm all the information required by part (c.) of this section, send to the applicant firm a notice that it is certified and place the firm on the NDOT directory of certified DBE firms.
 4. If NDOT has determined that there is good cause to believe that State A's certification is erroneous or should not apply in Nebraska, NDOT will, no later than 60 days from the date on which it received from the applicant firm all the information required under c. of this section, send to the applicant firm a notice stating the reasons for its determination.

- i. This notice will state with particularity the specific reasons why NDOT believes that the firm does not meet the requirements of DBE eligibility under 49 CFR Part 26 and will offer the firm an opportunity to respond to NDOT with respect to these reasons.
 - ii. The firm may elect to respond in writing, to request an in-person meeting with NDOT's decision maker to discuss NDOT's objections to the firm's eligibility, or both. If the firm requests a meeting, NDOT will schedule the meeting to take place within 30 days of receiving the firm's request.
 - iii. The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of DBE eligibility under 49 CFR Part 26 with respect to the particularized issues raised by NDOT's notice. The firm is not otherwise responsible for further demonstrating its eligibility to NDOT.
 - iv. The decision maker for NDOT will be an individual within NDOT who is thoroughly familiar with the provisions of the NDOT DBE program concerning certification and who did not make the determination to which the firm is responding.
 - v. NDOT will issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.
 - vi. The firm's application for certification is stayed pending the outcome of this process.
 - vii. A decision under d.4. of this section may be appealed to USDOT's Departmental Office of Civil Rights (DOCR) under 49 CFR Part 26.89 (see *What is the process for certification appeals to the U.S. Department of Transportation?*).
- e. If NDOT has not received from the firm's home state a copy of the on-site review report by a date 14 days after having made a timely request for it, NDOT may hold actions required by part d. of this section in abeyance pending receipt of the on-site review report. In this event, NDOT will, no later than 30 days from the date on which it received from an applicant firm all the information required by part (c.) of this section, notify the firm in writing of the delay in the process and the reason for it.
- f. 1. When NDOT denies a firm's application, rejects the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of part (d.) of this section, or decertifies a firm, in whole or in part, NDOT will make an entry in the U.S. Department of Transportation Office of Civil Rights' Ineligibility Determination Online Database. NDOT will enter the following information:
- i. The name of the firm;
 - ii. The name(s) of the firm's owner(s);
 - iii. The type and date of the action;
 - iv. The reason for the action.
2. NDOT will check the DOCR web site at least once every month to determine whether any firm that is applying for certification or that is already certified in Nebraska is on the list.
3. For any such firm that is on the list, NDOT will promptly request a copy of the listed decision from the Unified Certification Program (UCP) that made it. The UCP receiving such a request is

required under 49 CFR Part 26.85(f)(3) to provide a copy of the decision to NDOT within 7 days of receiving the request. Upon receiving the decision, NDOT will then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

What rules govern NDOT's denials of initial requests for certification?

- a. When NDOT denies a request by a firm, which is not currently certified with the NUCP, to be certified as a DBE, NDOT will provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based will be made available to the applicant, on request.
- b. When a firm is denied certification, NDOT will establish a time period of twelve (12) months that must elapse before the firm may reapply to NDOT for certification. The time period for reapplication begins to run on the date the explanation required by part (a.) of this section is received by the firm. An applicant's appeal of NDOT's decision to USDOT pursuant to 49 CFR Part 26.89 (see *What is the process for certification appeals to the U.S. Department of Transportation?*) does not extend this period.
- c. When NDOT makes an administratively final denial of certification concerning a firm, the firm may appeal the denial to USDOT under 49 CFR Part 26.89 (see *What is the process for certification appeals to the U.S. Department of Transportation?*).

What procedures does NDOT use to remove a DBE's eligibility?

- a. *Ineligibility complaints.* 1. Any person may file with NDOT a written complaint alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. NDOT is not required to accept a general allegation that a firm is ineligible or an anonymous complaint (49 CFR Part 26.87(a)). The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities will be protected as provided in 49 CFR Part 26.109(b).
2. NDOT will review its records concerning the firm, any material provided by the firm and the complainant, and other available information. NDOT may request additional information from the firm or conduct any other investigation that it deems necessary.
3. If NDOT determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, it will provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If NDOT determines that such reasonable cause does not exist, it will notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause will specifically reference the evidence in the record on which each reason is based.
- b. *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to NDOT's attention, NDOT determines that there is reasonable cause to believe that a currently certified firm is ineligible, it will provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the

proposed determination. The statement of reasons for the finding of reasonable cause will specifically reference the evidence in the record on which each reason is based.

- c. *USDOT directive to initiate proceeding.* 1. If the concerned operating administration determines that information in NDOT certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm NDOT certified does not meet the eligibility criteria of this part, the concerned operating administration may direct NDOT to initiate a proceeding to remove the firm's certification.
 - 1. The concerned operating administration will provide NDOT and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information. NDOT will immediately commence and prosecute a proceeding to remove eligibility.
- d. *Hearing.* When NDOT notifies a firm that there is reasonable cause to remove its eligibility, as provided in parts (a.), (b.), or (c.) of this section, NDOT will give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.
 - 1. In such a proceeding, NDOT bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.
 - 2. NDOT will maintain a complete audio recording of the hearing. If there is an appeal to USDOT under 49 CFR Part 26.89 (see *What is the process for certification appeals to the U.S. Department of Transportation?*), NDOT will provide a transcript of the recorded hearing to USDOT and, on request, to the firm, in either electronic or printed form. NDOT will not charge the firm for the cost of providing a copy of the transcript. NDOT will retain the original record of the hearing for a period of five (5) years.
 - 3. The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, NDOT bears the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as it would during a hearing.
- e. *Separation of functions.* 1. NDOT will ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.
 - 2. The decision-maker will be an individual who is knowledgeable about the certification requirements of 49 CFR Part 26.
 - 3. The decision-maker in a proceeding to remove a firm's eligibility will be a DBE officer from another member of the NUCP. (See the section *Signatory Partners* in the *Nebraska Unified Certification Program* for a list of NUCP members.)
- f. *Grounds for decision.* NDOT may base a decision to remove a firm's eligibility only on one or more of the following grounds:
 - 1. Changes in the firm's circumstances since the certification of the firm by NDOT that render the firm unable to meet the eligibility standards of this part;

2. Information or evidence not available to NDOT at the time the firm was certified;
 3. Information relevant to eligibility that has been concealed or misrepresented by the firm;
 4. A change in the certification standards or requirements of USDOT since NDOT certified the firm;
 5. NDOT's decision to certify the firm was clearly erroneous;
 6. The firm has failed to cooperate with NDOT as required under 49 CFR Part 26.109;
 7. The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program as per 49 CFR Part 26.73(a)(2)) (see *What are other rules affecting certification?* in the section *Certification Standards*); or
 8. The firm has been suspended or debarred for conduct related to the DBE program. The notice required by part (g.) of this section will include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in part (d.) of this section.
- g. *Notice of decision.* Following its decision, NDOT will provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice will inform the firm of the consequences of NDOT's decision and of the availability of an appeal to USDOT under 49 CFR Part 26.89 (see *What is the process for certification appeals to the U.S. Department of Transportation?*). NDOT will send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed NDOT to initiate the proceeding. Provided that, when sending such a notice to a complainant other than a USDOT operating administration, NDOT will not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.
- h. *Status of firm during proceeding.* 1. A firm remains an eligible DBE during the pendency of NDOT's proceeding to remove its eligibility.
2. The firm does not become ineligible until the issuance of the notice provided for in part (g.) of this section.
- i. *Effects of removal of eligibility.* When NDOT remove a firm's eligibility, it will take the following action:
1. When a prime contractor has made a commitment to using the ineligible firm, or NDOT has made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before NDOT issued the decertification notice provided for in part (g.) of this section, the ineligible firm will not count toward the contract goal or overall goal. NDOT will direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to NDOT that it has made a good faith effort to do so.
 2. If a prime contractor has executed a subcontract with the firm before NDOT has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where NDOT has let a prime contract to the DBE that was later ruled ineligible, the portion of

the ineligible firm's performance of the contract remaining after NDOT issued the notice of its ineligibility shall not count toward NDOT's overall DBE goal, but may count toward the contract goal.

3. *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, NDOT will continue to count its participation on that contract toward overall and contract goals.
- j. *Availability of appeal.* When NDOT makes an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to USDOT under 49 CFR Part 26.89 (see the section *What is the process for certification appeals to the U.S. Department of Transportation?*).

Summary suspension of certification

- a. NDOT will immediately suspend a DBE's certification without adhering to the requirements in 49 CFR Part 26.87(d) (see *What procedures does NDOT use to remove a DBE's eligibility?*) when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.
- b.
 1. NDOT may immediately suspend a DBE's certification without adhering to the requirements in 49 CFR Part 26.87(d) (see *What procedures does NDOT use to remove a DBE's eligibility?*) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify NDOT in writing of any material change in circumstances as required by 49 CFR Part 26.83(i) or fails to timely file an affidavit of no change under 49 CFR Part 26.83(j) (see *What procedures does NDOT use to remove a DBE's eligibility?*).
 2. In determining the adequacy of the evidence to issue a suspension under 49 CFR Part 26, NDOT shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.
- c. The concerned USDOT operating administration may direct NDOT to take action pursuant to part (a.) or (b.) of this section (see 49 CFR Part 26.88(a) and (b)) if it determines that information available to it is sufficient to warrant immediate suspension.
- d. When a firm is suspended pursuant to parts (a.) or (b.) of this section, NDOT will immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.
- e. Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under 49 CFR Part 26.87 (see *What procedures does NDOT use to remove a DBE's eligibility?*) to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.
- f. While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward NDOT's overall DBE goal. The DBE may continue to perform under an existing contract executed

before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

- g. Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to NDOT information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, NDOT will either lift the suspension and reinstate the firm's certification or commence a decertification action under 49 CFR Part 26.87 (see *What procedures does NDOT use to remove a DBE's eligibility?*). If NDOT commences a decertification proceeding, the suspension remains in effect during the proceeding.
- h. The decision to immediately suspend a DBE under part a. or b. of this section is not appealable to the USDOT (see 49 CFR Part 26.88(h)). The failure of NDOT to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by paragraph g. of this section, is appealable to USDOT under 49 CFR Part 26.89, as a constructive decertification (see *What is the process for certification appeals to the U.S. Department of Transportation?*).

What is the process for certification appeals to the U.S. Department of Transportation?

- a. A firm that is denied certification or whose eligibility is removed by NDOT, including SBA-certified firms, may make an administrative appeal to the USDOT. A complainant in an ineligibility complaint to NDOT, including the concerned operating administration in the circumstances provided in 49 CFR Part 26.87(c) (see *What procedures does NDOT use to remove a DBE's eligibility?*), may appeal to USDOT if NDOT does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

Send appeals to the following address:

U.S. Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Avenue SE
Washington, DC 20590-0001.

- b. Pending USDOT's decision in the matter, NDOT's decision remains in effect. USDOT will not stay the effect of NDOT's decision while it is considering an appeal (see 49 CFR Part 26.89(b)).
- c. A firm or complainant wishing to file an appeal must send a letter to USDOT within 90 days of the date of the NDOT's final decision, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact that NDOT failed to consider, or what provisions of 49 CFR Part 26 NDOT did not properly apply. USDOT may accept an appeal filed later than 90 days after the date of the decision if it determines that there was good cause for the late filing of the appeal or in the interest of justice.
- d. When it receives an appeal, USDOT requests a copy of NDOT's complete administrative record in the matter. NDOT will provide the administrative record, including a hearing transcript, within 20

days of USDOT's request. USDOT may extend this time period on the basis of a NDOT's showing of good cause. To facilitate USDOT's review of NDOT's decision, NDOT will ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements will not be acceptable and will be returned to NDOT to be corrected immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

- e. USDOT makes its decision based solely on the entire administrative record as supplemented by the appeal. USDOT does not make a de novo review of the matter and does not conduct a hearing. USDOT may also supplement the administrative record by adding relevant information made available by USDOT's Office of Inspector General; Federal, State, or local law enforcement authorities; officials of a USDOT operating administration or other appropriate USDOT office; a recipient; or a firm or other private party.
- f. When NDOT provides supplementary information to USDOT, it shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. USDOT will make available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.
 - 1. USDOT affirms NDOT's decision unless it determines, based on the entire administrative record, that NDOT's decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of 49 CFR Part 26 concerning certification.
 - 2. If USDOT determines, after reviewing the entire administrative record, that NDOT's decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of 49 CFR Part 26 concerning certification, USDOT reverses NDOT's decision and directs NDOT to certify the firm or remove its eligibility, as appropriate. NDOT will take the action directed by USDOT's decision immediately upon receiving written notice of it.
 - 3. USDOT is not required to reverse NDOT's decision if USDOT determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.
 - 4. If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, USDOT may remand the record to NDOT with instructions seeking clarification or augmentation of the record before making a finding. USDOT may also remand a case to NDOT for further proceedings consistent with USDOT instructions concerning the proper application of the provisions of 49 CFR Part 26.
 - 5. USDOT does not uphold NDOT's decision based on grounds not specified in NDOT's decision.
 - 6. USDOT's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.
 - 7. USDOT provides written notice of its decision to NDOT, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record or decision has been involved in the proceeding (see part (d.) of this section). USDOT will also notify the SBA in writing when USDOT takes an action on an appeal

that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for USDOT's decision, including specific references to the evidence in the record that supports each reason for the decision.

8. USDOT's policy is to make its decision within 180 days of receiving the complete administrative record. If USDOT does not make its decision within this period, USDOT provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.
- g. All decisions under this section are administratively final, and are not subject to petitions for reconsideration (see 49 CFR Part 26(g)).

What actions does NDOT take following USDOT certification appeal decisions?

- a. If NDOT is the recipient from whose action an appeal under 49 CFR Part 26.89 (see *What is the process for certification appeals to the Department of Transportation?*) is taken, the decision is binding. It is not binding on other recipients.
- b. If NDOT is the recipient to which a USDOT determination under 26.89 (see *What is the process for certification appeals to the Department of Transportation?*) is applicable, NDOT will take the following action:
 1. If USDOT determines that NDOT erroneously certified a firm, NDOT will remove the firm's eligibility on receipt of the determination, without further proceedings on NDOT's part. Effective on the date of NDOT's receipt of USDOT's determination, the consequences of a removal of eligibility set forth in 49 CFR Part 26.87(i) (see *What procedures does NDOT use to remove a DBE's eligibility?*) take effect.
 2. If USDOT determines that NDOT erroneously failed to find reasonable cause to remove the firm's eligibility, NDOT will expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in 49 CFR Part 26.87 (see *What procedures does NDOT use to remove a DBE's eligibility?*).
 3. If USDOT determines that NDOT erroneously declined to certify or removed the eligibility of the firm, NDOT will certify the firm, effective on the date of its receipt of the written notice of USDOT's determination.
 4. If USDOT determines that NDOT erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, NDOT will take appropriate corrective action as determined by USDOT.
 5. If USDOT affirms NDOT's determination, no further action is necessary.
- c. Where USDOT has upheld NDOT's denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under 49 CFR Part 26.87 (see *What procedures does NDOT use to remove a DBE's eligibility?*). Such recipients will not remove the firm's eligibility absent such a proceeding. Where USDOT has reversed NDOT's denial of certification to or removal of eligibility from a firm, other recipients will take the USDOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the USDOT decision. (See 49 CFR Part 26.91.)

Certification of ACDBEs

The NDOT, in determining whether to certify a firm as eligible to participate in the DBE program as an ACDBE, will apply the standards set forth in 49 CFR Part 23, Subpart C.

What certification standards and procedures do recipients use to certify ACDBEs?

- a. NDOT will use, except as provided in 49 CFR Part 23, the procedures and standards of 49 CFR Part 26 for certification of ACDBEs. The NDOT DBE program incorporates the use of these standards and procedures and provides that certification decisions for ACDBEs will be made by the NUCP.
- b. The NUCP's directory of eligible DBEs will specify whether a firm is certified as a DBE for purposes of 49 CFR Part 26, an ACDBE for purposes of 49 CFR Part 23, or both.

What size standards do recipients use to determine the eligibility of ACDBEs?

- a. NDOT will, except as provided in paragraph b. of this section, treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years, do not exceed \$56.42 million.
- b. The following types of businesses have size standards that differ from the standard set forth in paragraph a. of this section:
 1. Banks and financial institutions: \$1 billion in assets;
 2. Car rental companies: \$75.23 million average annual gross receipts over the firm's three previous fiscal years, as adjusted by the Department for inflation every two years from April 3, 2009.
 3. Pay telephones: 1,500 employees;
 4. Automobile dealers: 350 employees.
- c. USDOT adjusts the numbers in paragraphs a. and b.2. of this section using the U.S. Department of Commerce price deflators for purchases by state and local governments as the basis for this adjustment. USDOT publishes a Federal Register document informing the public of each adjustment.

What is the personal net worth standard for disadvantaged owners of ACDBEs?

The personal net worth standard used in determining eligibility for purposes of 49 CFR Part 23 is \$1.32 million. Any individual who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual for purposes of 49 CFR Part 23, even if the individual is a member of a group otherwise presumed to be disadvantaged.

Are firms certified under 49 CFR Part 26 eligible to participate as ACDBEs?

- a. NDOT will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. By meeting the size, disadvantage (including personal net worth), ownership and control standards of 49 CFR Part 26, the firm will have also met the eligibility standards for 49 CFR Part 23.
- b. However, before certifying such a firm, NDOT will ensure that the disadvantaged owners of a DBE certified under 49 CFR Part 26 are able to control the firm with respect to its activity in the

concessions program. In addition, NDOT is not required to certify a 49 CFR Part 26 DBE as a 49 CFR Part 23 ACDBE if the firm does not do work relevant to the airport's concessions program.

What other certification requirements apply in the case of ACDBEs?

- a. The provisions of 49 CFR Part 26.83(c)(2) through (c)(6) do not apply to certifications for purposes of 49 CFR Part 23. Instead, in determining whether a firm is an eligible ACDBE, NDOT will take the following steps:
 1. Obtain the resumes or work histories of the principal owners of the firm and personally interview these individuals;
 2. Analyze the ownership of stock of the firm, if it is a corporation;
 3. Analyze the bonding and financial capacity of the firm;
 4. Determine the work history of the firm, including any concession contracts or other contracts it may have received;
 5. Obtain or compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive;
 6. Obtain a statement from the firm of the type(s) of concession(s) it prefers to operate or the type(s) of other contract(s) it prefers to perform.
- b. In reviewing the affidavit required by 49 CFR Part 26.83(j), NDOT will ensure that the ACDBE firm meets the applicable size standard in 49 CFR Part 23.33.
- c. For purposes of 49 CFR Part 23, the term prime contractor in 49 CFR Part 26.87(i) includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient.
- d. With respect to firms owned by an Alaska Native Corporation (ANC), the provisions of 49 CFR Part 26.73(i) do not apply under 49 CFR Part 23. The eligibility of ANC-owned firms for purposes of 49 CFR Part 23 is governed by 49 CFR Part 26.73(h).
- e. When NDOT removes a concessionaire's eligibility after the concessionaire has entered a concession agreement, because the firm exceeded the small business size standard or because an owner has exceeded the personal net worth standard, and the firm in all other respects remains an eligible DBE, NDOT or other recipient may continue to count the concessionaire's participation toward DBE goals during the remainder of the current concession agreement. However, NDOT or other recipient will not count the concessionaire's participation toward DBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).
- f. The NDOT as the certifying member of the NUCP, rather than individual recipients, certifies firms for the ACDBE concession program.
- g. NDOT will use the Uniform Application Form found in Appendix F to 49 CFR Part 26 (a copy of which is also provided in Appendix C of this DBE program plan). However, NDOT will instruct applicants to take the following additional steps:

1. In the space available in section 2(B)(7) of the form, the applicant must state that it is applying for certification as an ACDBE.
 2. With respect to section 4(C) of the form, the applicant must provide information on an attached page concerning the address/location, ownership/lease status, current value of property or lease, and fees/lease payments paid to the airport.
 3. The applicant need not complete section 4(I) and (J). However, the applicant must provide information on an attached page concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession.
- h. Car rental companies and private terminal owners or lessees are not authorized to certify firms as ACDBEs. As a car rental company or private terminal owner or lessee, you must obtain ACDBE participation from firms which a recipient or UCP have certified as ACDBEs.
- i. NDOT will use the certification standards of 49 CFR Part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires.