



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

PUBLIC WORKS DEPARTMENT

Rapid Transit Division

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MEMORANDUM

TO: Public Works Committee

FROM: Rich Sagen, Transit Manager

THROUGH: Dirk Jablonski, Public Works Director

DATE: July 24, 2007

RE: Disadvantaged Business Enterprise (DBE) Plan

The City of Rapid City is required to develop a DBE plan in order to receive reimbursement of Federal Transit Administration (FTA) funds (80%) for the purchase and renovation of the Rapid Transit System portion of the recently purchased Ziegler building located at 800 Centre Street. The purpose of the plan is to ensure that DBE's (as defined by federal regulation) shall not be discriminated against on the basis of race, color, national origin or sex in the award and performance of any FTA/DOT assisted contract or in the administration of its DBE Program requirements of 49CFR part 26.

The plan requires City Council approval. An electronic "DRAFT" version of the plan is provided for your review. In addition, the City is required to set and advertise an annual goal for DBE participation. This document is also attached for your review.

DRAFT

**CITY OF RAPID CITY DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM PLAN**

POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

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

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

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

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

City staff have made this policy statement available to the City Council and all other pertinent departments in the organization. In addition, this statement will be made available to DBE and non-DBE businesses that perform FTA/DOT-assisted contracts with the City. Outreach will be accomplished via the local newspaper and the City web site.

 Rich Sagen
 Division Manager, Rapid Transit System, City of Rapid City
 DBE Liaison Officer

 Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The City of Rapid City is a recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

The City of Rapid City is a recipient of federal –aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

The City of Rapid City is a recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The City of Rapid City will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The City of Rapid City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Rapid City 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 FTA/DOT: 26.11(b)

The City of Rapid City will report DBE participation to FTA/DOT as follows:

The City of Rapid City will report DBE participation on a semi-annual basis, using the Uniform Report of DBE Awards or Commitments and Payments form. These reports will reflect payments actually made to DBEs on FTA/DOT-assisted contracts.

Bidders List: 26.11(c)

The City of Rapid City will utilize the South Dakota Department of Transportation (SDDOT) Unified Certification Program (UCP) bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on FTA/DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

Information will be collected in the following way:

A contract clause that requires the bidder to supply information on DBE contractors that provided quotes.

Section 26.13 Federal Financial Assistance Agreement

The City of Rapid City has signed the following assurances, applicable to all FTA/DOT assisted contracts and their administration:

Assurance: 26.13(a)

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

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

Contract Assurance: 26.13b

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

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of FTA/DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The City of Rapid City will continue to carry out this program until all funds from FTA/DOT financial assistance have been expended. The City will provide to FTA/DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been selected as DBE Liaison Officer:

Rich Sagen
 Rapid Transit Division Manager
 333 Sixth Street
 Rapid City, SD 57702
 605 394-6631 Extension 14
 rich.sagen@rcgov.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Rapid City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

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

1. Gathers and reports statistical data and other information as required by FTA/DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress).
6. Analyzes City of Rapid City's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Mayor/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Acts as liaison to the Uniform Certification Process in South Dakota. The South Dakota Department of Transportation will certify the DBEs.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains information to access the SDDOT UCP Program updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Rapid City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on FTA/DOT-assisted contract to make use of these institutions. Each year the South Dakota Division of Banking will be contacted to determine if there are banks in South Dakota owned and controlled by socially and economically disadvantaged individuals.

If any institutions are discovered, the information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

The City of Rapid City will include the following clause in each FTA/DOT assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven calendar days from the receipt of each payment the prime contract receives from the City of Rapid City. The prime contractor agrees further to return retainage payments to each subcontractor within seven calendar days after the subcontractors' work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Rapid City. This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 Directory

The City of Rapid City will maintain access information from the SDDOT UPC directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. This Directory is updated annually. The directory may be obtained by contacting Denise Voorhes, SDDOT DBE Compliance Specialist, @ (605) 773-4906, e-mail address denise.voorhes@state.sd.us or by contacting Rich Sagen, @ (605) 394-6631, e-mail address rich.sagen@rcgov.org. More information about the Directory may be found in Attachment 2 to this program document.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

The City of Rapid City may provide for a mentor- protégé program or business development plan for DBEs who want to improve and /or expand their business. If a mentor-protégé program or business development is implemented, the City will follow the procedures outlined in 49 CFR 26.35.

Section 26.37 Monitoring and Enforcement Mechanisms

The City of Rapid City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that FTA/DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FTA/DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. Consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

3. Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by requiring a certification that the designated DBE belongs to a certified DBE program.
4. Keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program. This section of the program will be updated annually.

- 1) In accordance with Section 26.45(f) the City of Rapid City will submit its overall goal to FTA/DOT on August 1 of each year. Before establishing the overall goal each year, the City of Rapid City will consult with the SDDOT, minority, women's and general contractor groups, community organizations and other officials of organizations in an effort to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Rapid City's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the City will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Rapid Transit System office, 333 Sixth Street, Rapid City, SD for 30 days following the date of the notice, and informing the public that FTA/DOT will accept comments on the goals for 45 days from the date of the notice. The City of Rapid City will advertise in the Rapid City Journal newspaper and the City web site. Normally, the City will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The City's overall goal submission to FTA/DOT will include a summary of information and comments received during this public participation process and our responses.

The City will begin using the overall goal on October 1 of each year, unless other instructions are received from FTA/DOT. If a DBE goal is established on a project basis, the City will begin using the goal at the time of the first FTA/DOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goals

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

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program. This section of the program will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The City of Rapid City will use contract goals to cumulatively result in meeting any portion of the overall goal for the City of Rapid City that is not projected to be met through the use of race-neutral means.

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

The City will express contract goals as a percentage of total amounts of a FTA/DOT assisted contracts.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Rich Sagen, DBELO.

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

Information to be submitted (26.53(b))

- 2) The City of Rapid City treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

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

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

Administrative reconsideration (26.53(d))

Within 5 working days of being informed by the City of Rapid City that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Alan Hanks, Mayor, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

The City of Rapid City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor will be required to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

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

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Rapid City to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

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

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The City of Rapid City will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in FTA/DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The City will rely on the SDDOT DBE certification process for making decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact: Denise Voorhes, SDDOT, DBE Compliance Specialist @ (605) 773-4906.

Availability of certification application forms and documentation requirements are found in Attachment 7 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City of Rapid City is a member of the SDDOT UCP at this time. We will direct all certification inquiries to the unified certification program that is already established.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

The City of Rapid City will rely on the recertification procedures outlined in 49 CFR Part 26.83 (a) & (c) for the removal of DBE's eligibility as described in the SDDOT UCP.

"No Change" Affidavits and Notices of Change (26.83(j))

The City of Rapid City will rely on the No Change Affidavits and Notices of Change procedures outlined in 49 CFR Part 26.83 (j) for notification of any change in circumstances as described in the SDDOT UPC.

Section 26.85 Denials of Initial Requests for Certification

The City of Rapid City will rely on the Denial of Initial Requests for Certification procedures outlined in 49 CFR Part 26.85 for denial of initial requests as described in the SDDOT UPC.

Section 26.87 Removal of a DBE's Eligibility

The City of Rapid City will rely on the Removal of DBE's Eligibility procedures outlined in 49 CFR Part 26.87 for removal of DBE's eligibility as described in the SDDOT UPC.

Section 26.89 Certification Appeals

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

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 2104

Washington, D.C. 20590

The City of Rapid City will promptly implement any FTA/DOT certification appeal decisions affecting the eligibility of DBEs for our FTA/DOT-assisted contracting (e.g., certify a firm if FTA/DOT has determined that our denial of its application was erroneous).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The City of Rapid City will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

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

Monitoring Payments to DBEs

The City of Rapid City will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. Any authorized representative of the City of Rapid City or FTA/DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor.

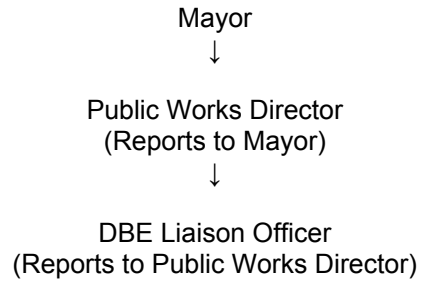
The City of Rapid City will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculation
Attachment 5	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of DBE's Eligibility

Attachment 1
Organizational Chart

Non-pertinent branches of the City of Rapid City Organization are not shown



Attachment 2

DBE Directory

Unified Certification Program List of DBE firms. Contact:

Ms. Denise Voorhes, DBE Compliance Specialist
Operations Support Office
700 East Broadway Avenue
Pierre, SD 57501
Phone 605-773-4906

City of Rapid City DBE Program. Contact:

Rich Sagen
333 Sixth Street
Rapid City, SD 57701
Phone 605-394-6631

Attachment 3**Monitoring and Enforcement Mechanisms**

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to State of South Dakota Statutes;

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

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

Attachment 4**Section 26.45: Overall Goal Calculation****City of Rapid City****Methodology for Determining Overall DBE Goal****FY 2007 FTA Goal****Goal – 1.01%****Race neutral – .51%****Race conscious – .50%****Step 1. Determining the Base Figure:**

Since a primary goal of FTA is funding construction projects such as bus maintenance/storage facilities we compared the number of South Dakota firms who could work on these projects to the number of similar certified DBE firms. According to the 2005 US Census Bureau County Business Patterns, South Dakota had 1,056 firms in the Construction of Buildings NAICS code (NAICS Industry Code 236) and 1,917 firms in the Special Trade Contracting NAICS code (NAICS Industry Code 238), a total of 2,973 firms. We used the Census Bureau data because the SDDOT does not maintain data relative to building contractors on its bidders list. We then examined the DBE directory and determined that 30 DBEs perform the types of work on FTA projects. To determine the availability of DBEs for FTA projects we divided the number of all firms in those trades (2,973) into the number of DBEs (30) ($30/2,973 = .010091$ or 1.01%).

Step 2. Adjustments to the Base Figure:

49 CFR 26.45 (d) says once we have calculated a base figure, we must examine evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at our overall goal. The City has no prior DBE history, thus no adjustment is feasible. Therefore our overall goal reflects the percentage we derived in Step 1 (1.01%).

Attachment 5

Race neutral and race-conscious means to meet the overall goal

49 CFR 26.51 (c) requires us to submit with our overall goal a projection of what we expect to meet through race-neutral means. We implement the following means to help facilitate race-neutral DBE participation:

1. Providing a DBE newsletter with business advice.
2. Developing and distributing a DBE directory with owners' photographs and business profile business which is an excellent advertising tool because it adds a face to a name.
3. One-on-one and group training and technical assistance to develop DBE business skills.
4. Arranging for DBEs to job shadow an out-of-state firm which is not considered a competitor when a DBE wants to expand their line of work into a new category.
5. Business reviews, analysis and recommendations.
6. Letting bids on small projects.

For reporting purposes, race-neutral participation includes:

1. DBE prime contract awards.
2. DBE participation on contracts without individual contract goals.

Race-conscious participation is the amount of participation we expect to receive by direct mailing all bid packages to every registered DBE firm that has indicated an interest in doing the type of work being proposed. We expect half of our goal to be met with this race-conscious effort.

To the extent possible, we will meet the overall goal through race-neutral means (with outreach and technical assistance).

Comments:

Comments are for informational purposes only and should be addressed to:

Rich Sagen, DBELO
City of Rapid City
333 Sixth Street
Rapid City, 57701

Public Participation

The City of Rapid City will publish the DBE goal information in the Rapid City Journal Newspaper.

The advertisement will read as follows:

**PUBLIC NOTICE
CITY OF RAPID CITY
FEDERAL TRANSIT ADMINISTRATION (FTA)
DBE GOAL**

In accordance with requirements of the U.S. Department of Transportation as set forth in 49 CFR Part 26, as amended, the City of Rapid City hereby notifies the public that it is recommending the following Disadvantaged Business Enterprise (DBE) goal for the applicable professional services, construction and procurement contracts during Fiscal Year 2007, beginning October 1, 2006 and ending September 30, 2007. The overall total DBE goal for FY2007 is 1.01%. Information pertaining to this goal and a description of how it was selected is available for

inspection from 8:00 a.m. to 4:30 p.m. (MDT) at the Rapid Transit Office, 333 Sixth Street, Rapid City, South Dakota 57701 for 30 calendar days following the date of publication of this notice. Written comments on this goal will be accepted for 45 calendar days from the date of publication of this notice. The comments are for information purposes only and may be sent to the DBELO, City of Rapid City, same address, or to the Regional Civil Rights Officer, Federal Transit Administration, Region 8, 12300 West Dakota Avenue, Suite 310, Lakewood, Colorado, 80228-2583.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if the City uses contract goals the City will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Attachment 7

Certification Application Forms

The City of Rapid City will use the same forms as used in the SDDOT UPC. It can be found by contacting:

Rich Sagen
DBE Liaison Officer
333 Sixth Street
Rapid City, SD 57701

Attachment 8

Procedures for Removal of DBE's Eligibility

The City of Rapid City will rely on the procedures outlined in 49 CFR Part 26.87 and described in the SDDOT UPC. These procedures can be found by contacting:

Rich Sagen
DBE Liaison Officer
333 Sixth Street
Rapid City, SD 57701

COMMENTS:

**PUBLIC NOTICE
CITY OF RAPID CITY
FEDERAL TRANSIT ADMINISTRATION (FTA)
DBE GOAL**

In accordance with requirements of the U.S. Department of Transportation as set forth in 49 CFR Part 26, as amended, the City of Rapid City hereby notifies the public that it is recommending the following Disadvantaged Business Enterprise (DBE) goal for the applicable professional services, construction and procurement contracts during Fiscal Year 2007, beginning October 1, 2006 and ending September 30, 2007. The overall total DBE goal for FY2007 is 1.01%. Information pertaining to this goal and a description of how it was selected is available for inspection from 8:00 a.m. to 4:30 p.m. (MDT) at the Rapid Transit Office, 333 Sixth Street, Rapid City, South Dakota 57701 for 30 calendar days following the date of publication of this notice. Written comments on this goal will be accepted for 45 calendar days from the date of publication of this notice. The comments are for information purposes only and may be sent to the DBELO, City of Rapid City, same address, or to the Regional Civil Rights Officer, Federal Transit Administration, Region 8, 12300 West Dakota Avenue, Suite 310, Lakewood, Colorado, 80228-2583.