

**CITY OF APPLETON – VALLEY TRANSIT  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM  
49 CFR PART 26**

Ronald McDonald, General Manager

Annual DBE Goal – FFY 2019 - 2021

For

U. S. Department of Transportation  
Federal Transit Administration

August 2018

## POLICY STATEMENT

### Section 26.1, 26.23

### Objectives/Policy Statement

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

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

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

Debra Ebben, Valley Transit Administrative Services Manager has been delegated as the DBE Liaison Officer. In that capacity, Ms. Ebben 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 Valley Transit in its financial assistance agreements with the Department of Transportation.

Valley Transit has disseminated this policy statement to the Fox Valley Transit Commission, City of Appleton Common Council, City of Appleton Mayor and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts through public notification (website advertisement).

  
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 Ronald McDonald, General Manager Valley Transit

7/24/2018  
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 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**

Valley Transit is the 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**

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

### **Section 26.7 Non-discrimination Requirements**

Valley Transit 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, Valley Transit will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

### **Section 26.11 Record Keeping Requirements**

#### Uniform Report of DBE Award or Commitments and Payments: 26.11(a)

Valley Transit will report semi-annually DBE participation to the FTA using the Uniform Report of DBE Awards or Commitments and Payments found in Appendix B to the DBE regulation.

#### Bidders List: 26.11(c)

Valley Transit will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the 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.

We will collect this information in the following ways:

Valley Transit will use the certified DBE businesses listed for the State of Wisconsin in the WI UCP Eligibility Directory available on the WISDOT web site at <https://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>.

### **Section 26.13 Federal Financial Assistance Agreement**

Valley Transit, City of Appleton has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

#### Federal Financial Assistance Agreement Assurance: 26.13(a)

Valley Transit shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration

of its DBE Program or the requirements of 49 CFR part 26. Valley Transit shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. Valley Transit's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Valley Transit of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every 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 DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since the Valley Transit receives grants equal to or greater than \$250,000 in FTA planning capital, and or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

### **Section 26.23 Policy Statement**

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

### **Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

Debra Ebben  
801 S. Whitman Ave.  
Appleton, WI 54914  
[Debra.ebben@appleton.org](mailto:Debra.ebben@appleton.org)

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.

2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Advises the CEO\governing body on DBE matters and achievement.
8. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
9. Provides outreach to DBEs and community organizations to advise them of opportunities.
10. Maintains Valley Transit's updated directory on certified DBEs.

### **Section 26.27 DBE Financial Institutions**

It is the policy of Valley Transit to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions.

We have made the following efforts to identify and use such institutions:

When quoting projects or sending out request for proposals (RFP), we run a new list of DBE vendors who provide the services or materials we are seeking, and specifically contact the DBE vendor for a quote. This is done as often as bi-weekly for fuel purchases and as rarely as a construction RFP.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

### **Section 26.29 Prompt Payment Mechanisms**

#### Prompt Payment: 26.29(a)

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contract receives from Valley Transit. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Valley Transit. This clause applies to both DBE and non-DBE subcontracts.

#### Contract Assurance: 26.26(b)

The prime contractor agrees to return retainage payments to each subcontractor within 10 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 Valley Transit. This clause applies to both DBE and non-DBE subcontracts.

#### Monitoring and Enforcement: 26.29(d)

Valley Transit will monitor and enforce prompt payment and return of retainage by auditing the contractor and subcontractor payments and receipts. Violation of specified time frames could affect future ability to contract with Valley Transit.

**Section 26.31 Directory**

Valley Transit maintains a 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. We revise the Directory each contracting opportunity. Valley Transit uses the certified DBE businesses listed for the State of Wisconsin in the WI UCP Eligibility Directory to identify DBE's for specific projects. The Directory is available on the WISDOT web site at <https://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>.

**Section 26.33 Overconcentration**

Valley Transit has not identified that overconcentration exists in the types of work that DBEs perform.

**Section 26.35 Business Development Programs**

Valley Transit has not established a business development program.

**Section 26.37 Monitoring and Enforcement Mechanisms**

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

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by ensuring that the provider is a registered DBE and verifying that services or materials are provided by the DBE.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

**Section 26.39 Small Business Participation**

Valley Transit has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

In an effort to foster small business participation, Valley Transit will make a reasonable effort to unbundle contracts to allow opportunities of a size that small businesses, including DBE's, can reasonably perform. Valley Transit will require prime contractors to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

**SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING****Section 26.43 Set-asides or Quotas**

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

**Section 26.45 Overall Goals**

In accordance with Section 26.45(f) Valley Transit will submit its triennial overall goal to FTA on August 1 of the year specified by FTA.

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

The process generally used by Valley Transit to establish overall DBE goals is as follows:

Valley Transit will set the overall goal as a percentage of all FTA funds (exclusive of funds for purchase of transit vehicles) that will be expended in FTA assisted contracts in the three forthcoming fiscal years. If necessary, Valley Transit will amend the goal to incorporate large projects that need an individual project goal. The base figure for the relative availability of DBE's will be calculated using the following formula:

$$\text{Base figure} = \frac{\text{Ready, willing and able DBEs}}{\text{All firms ready, willing and able}}$$

The data source for demonstrable evidence used to derive the numerator will be the certified DBE businesses listed for the State of Wisconsin in the WI UCP Eligibility Directory. The data source or demonstrable evidence used to derive the denominator will be the web site for the Census Bureau's NAICS system. NAICS codes used will include businesses with anticipated purchases in the years for which goal is being submitted, and actual purchases during the prior year.

Before establishing the overall goal triennially (as directed by the FTA), Valley Transit will consult with the City of Appleton Community Development Department to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Valley Transit's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we 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 our principal office for 30 days following the date of the notice, and informing the public that Valley Transit and DOT will accept comments on the goals for 45 days from the date of the notice. Valley Transit will publish DBE goals on its website. Normally, we will issue this notice by June 30 on the required year of goal establishment. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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

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

#### **Section 26.49 Transit Vehicle Manufacturers Goals**

Valley Transit 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, Valley Transit may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

### **Section 26.51 Meeting Overall Goals/Contract Goals**

Valley Transit will meet maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, Valley Transit will:

- Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small business' participation (e.g. unbundling large contracts to make them more accessible to small business).
- Provide technical assistance and other services.
- Ensure the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders.

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

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

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

### **Section 26.53 Good Faith Efforts Procedures**

#### Award of Contracts with a DBE Contract Goal; 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, Valley Transit will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

#### 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 DBELO is 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.

We 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))

Valley Transit 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 10 days of being informed by Valley Transit 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:

Ronald McDonald  
 801 S. Whitman Ave.  
 Appleton WI 54914  
 920-832-5800  
[Ronald.McDonald@appleton.org](mailto:Ronald.McDonald@appleton.org)

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. We 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 replace on a contract (26.53(f))

Valley Transit 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

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

#### **Section 26.55 Counting DBE Participation**

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

### **SUBPART D & E – CERTIFICATION STANDARDS**

### **Section 26.61 – 26.84 Certification Process**

Valley Transit will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

For information about the certification process or to apply for certification, firms should contact Valley Transit's DBELO or the Wisconsin Department of Transportation.

Valley Transit uses Wisconsin Department of Transportation DBE list of certified firms. The certification application forms and documentation requirements can be found on the Wisconsin Department of Transportation website at <https://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>.

WISDOT's program brochure is Attachment 4.

### **Section 26.89 Certification Appeals**

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

U.S. Department of Transportation  
Office of Civil Rights Certification Appeals Branch\  
1200 New Jersey Ave., S.E.  
West Building, 7<sup>th</sup> Floor  
Washington, DC 20590

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

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

We 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, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

#### **Monitoring Payments to DBEs**

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

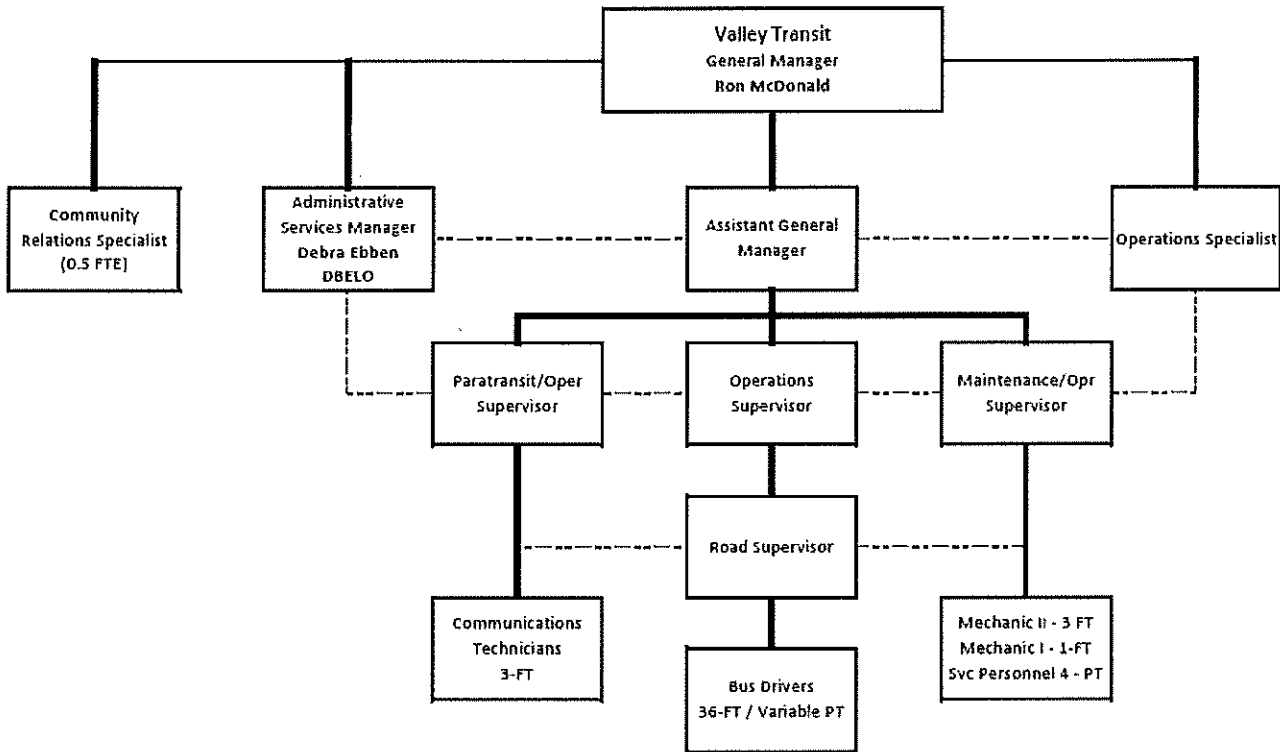
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

**ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	Overall Goal Calculation
Attachment 3	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 4	DBE Program Brochure

**Attachment 1**

**Organizational Chart**



**Attachment 2**  
**Section 26.45: Overall Goal Calculation**

Amount of Goal

1. Valley Transit has determined its overall goal for FY 2019 as 1% of the Federal Financial assistance that we will expend in DOT-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.
2. Valley Transit expects to award approximately \$1,200,000 of DOT-assisted contracts during each year beginning FY 2019 through FY 2021. We have set a goal of spending approximately \$12,000 each year with DBEs during this timeframe.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

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

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs}=130}{\text{All firms ready, willing and able}=9,323}$$

The data source or demonstrable evidence used to derive the numerator was the certified DBE businesses listed for the North Central and Northeast portions of the State of Wisconsin in the WI UCP Eligibility Directory available on the WISDOT website at <https://wisconsindot.gov/Pages/doing-business/civil-rights/dbe/certified-firms.aspx>.

The data source or demonstrable evidence used to derive the denominator was the web site for the Census Bureau's NAICS system. NAICS codes used included businesses with anticipated purchases in 2019 and actual purchases during 2017/18. The NAICS codes used were 23, 44, 48, 54, 62 and 81. We used the information for the Brown, Outagamie, Calumet, Winnebago and Fond du Lac counties for the number in the denominator.

Using this information, we determined that the base figure for Valley Transit's overall goal is 1.4%.

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the DBE participation expected in the absence of discrimination, the base figure has been adjusted by 0%.

The data used to determine the adjustment to the base figure is as follows:

- Adjusting the Step One Base with the Median Past Participation: The 5-year history of Valley Transit DBE goal achievement is used for this calculation. The median goal achieved was 1.0%. This median was added to the base goal of 1.4% and divided by 2 = 1%. Past participation is relatively indicative of contracting opportunities expected for the period covered by this goal. We are a small transit system whose budget remains relatively flat with the exception of annual salary adjustments. Contracting opportunities are small prime contracts (no sub-contracts) consisting of printing, small amount of landscaping, a part-time security guard, etc. Our larger contracts are paratransit contracts that we advertise the opportunity as Requests for Proposals (RFP) in which we are unable to attract any DBE participation to date.
- Disparity Studies: We were unable to find any disparity studies for our area.
- Analysis of Bidder's List: Valley Transit's bidder's list was reviewed to determine the number of DBEs that have bid or quoted on our DOT-assisted prime contracts or subcontracts in the past year. The analysis reflects no further adjustment to the DBE goal.

From this data, we have established our adjusted goal as 1%.

### **Attachment 3**

#### Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation

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

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses' participation (e.g., unbundling large contracts to make them more accessible to small businesses).
- Providing technical assistance and other services.
- Ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders.

The only way we have been successful in attracting DBE's in the past is to use race conscious measures. Most of our contracts are prime contracts without sub-contracting opportunities and tend to be for small amounts such as printing and flower planting. We have not been successful in drawing DBE's from around the State to participate in our small contracts. Our larger contracts are paratransit contracts that we advertise the contracting opportunity as Requests for Proposals (RFP) in which we are unable to attract any DBE participation to date. With very few DBE's in the local area, we estimate that the 2019/21 overall goal of 1% will be met between 0% and 100% from race-neutral participation and 0% through race-conscious measures.

In summary, the basis of our estimated breakout of race-neutral and race-conscious DBE participation is from the DBE participation of DBEs in local procurement programs in which there are no DBE contract goals.

In the event we are in the position to execute a large contract, and in order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, we will use contract goals will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and we 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
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status making the award


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

#### **Proposed DBE Plan and Goals – Public Notice**

See attached. Please note there was no response from the public as a result of the publishing of the goal.

**Attachment 4**

**DBE Program Brochure**



**Office of Business Opportunity and Equity Compliance**

# DBE Program

**Doing Business with WisDOT**


Typical Subcontracting Opportunities:

**Highway Construction**

- Clearing & Grubbing
- Concrete: Flatwork, Retaining Walls
- Equipment & Material Suppliers
- Fencing
- Grading
- Landscaping: Erosion Control
- Sewer/Utility
- Traffic Control: Signing, Pavement Marking
- Trucking

**Professional Services**

- Archaeology Survey & Study Assistance
- Design Engineering
- Geotechnical Services
- Public Information/Relation
- Real Estate Acquisition
- Storm Water Management



## DBE Policy

*WisDOT Disadvantaged Business Enterprise (DBE) Program is embodied in the Code of Federal Regulations 49 CFR Part 26.*

*WisDOT will take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of DOT-assisted contracts.*

*WisDOT shall not discriminate on the basis of race, color, national origin, gender in the award and performance of any USDOT-assisted contracts in the administration of its DBE program or requirements 49 CFR part 26.*

**The DBE Program is a federal requirement legally enforced through Title VI of the Civil Rights Act of 1964 and authorized in each Transportation Bill from ISTEA to FAST ACT.**

**Who's Who in WisDOT DBE Unit**

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OBOEC Director  
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DBE Program Chief  
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**DEBORAH ALBRIGHT**  
Good Faith Analyst  
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**OLUYEMI FALOMO**  
DBE Technical Advisor  
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**VINCENT FISHER**  
DBE Certification Specialist  
(608) 266-8216

**JENNA FOGARTY**  
EEO Compliance Specialist  
(414) 438-2157

**JOHN FRANKLIN**  
Senior Certification Analyst  
(608) 264-8721

**SUKI HAN**  
Central Office DBE Liaison  
(608) 267-3849

**PAUL NDON**  
Business Automation Specialist  
(414) 438-4564

**ROSALIND ROBERSON**  
DBE Support Services Liaison  
(414) 438-2154

**DBE Support Services Office**  
6150 W. Fond du Lac Ave  
Milwaukee, WI 53218  
(414) 438-2154

Website:  
<http://wisconsinstate.gov/Pages/dbe/dbes/evilrights/cdb/default.aspx>

*"I encourage DBE firms to continue to vigorously pursue opportunities that will help build your company's capacity so you can WIN contracts and EXCELUTE your contractual commitment at a high level."*  
*-U.S. Congresswoman Gwenifyn Moore*

# DBE qualifiers

## Who can be a DBE?

A small for profit business that is at least 51% owned & controlled by socially and economically disadvantaged individual (s).

- ◊ Asian-Indian Americans
- ◊ Asian-Pacific Americans
- ◊ Black Americans
- ◊ Hispanic Americans
- ◊ Native Americans
- ◊ Women

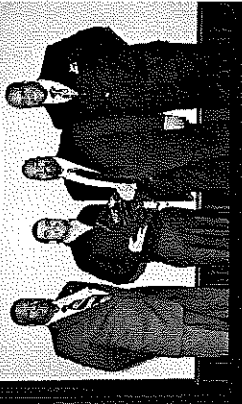
◊ Any individual deemed as socially disadvantaged resulting from circumstances beyond his control per 49 CFR part 29 appendix E.

## Eligibility Criteria

Annual Gross Receipts of the business are less than \$23.98 million

Applicant must prove:

- \*51% Ownership of Business.
- \*Personal Net Worth is less than \$1.32M
- \*Operational & Managerial Control
- \*Technical Competence in Work Area



*"The firm seeking certification has the burden of demonstrating by a preponderance of evidence that it meets the DBE requirements."*

~49 CFR part 26.61

# DBE certification

1. Go to <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/obtaining-certification> to obtain the Uniform Certification Program (UCP) DBE Application (Pgs. 1-14)

2. Send the completed UCP application with supporting documents to DBE\_Alert@dot.wa.gov  
SUBJECT LINE: Certification Application

3. Certification Specialist annotates missing documents required per UCP instructions and supporting documents checklist.

4. Certification Specialist contacts applicant to schedule an onsite review.

5. Certification Analyst conducts a preliminary review of application submission.

6. Certification Specialist conducts the onsite visit using the WI UCP DBE Onsite Review Form.

7. Certification Analyst reviews all documents submitted to evaluate whether the firm meets the burden of proof for a certification decision.

8. Firm is sent a letter of approval or denial listing the decision per the federal regulations.

9. Applicant can appeal denial decision with USDOT.

10. Approved firms are published in the WI UCP DBE Directory which primes are required to use for contracts with assigned DBE goals.

# DBE support

## DBE Support Services

WisDOT DBE Program offers legal, financial and engineering services at no cost to WI DBE firms.

Support Services are provided by professional consultants which consist of a licensed CPA, a contract attorney, and professional engineers.

Consulting Services include but are not limited to:

- ◊ Annual DBE Workshop and Awards Conference
- ◊ Business Automation
- ◊ Business Plan Consultation
- ◊ Capacity Building Business Assessment
- ◊ Mentor Protégé Programs
- ◊ Mobilization Loan for Working Capital
- ◊ One-on-one Business Consultation
- ◊ Subscription to Bid Express Small Business Network
- ◊ Tailored Technical Training



## Documents Required\*

Complete:

1. Uniform Certification Application
2. Signed & Notarized Affidavit of Certification (Pg. 15)

Submit:

1. Personal Net Worth Statement
2. Requested Work (Geographic Area Summary)
3. Contractor Statement of Experience
4. Three (3) years of tax returns

\*Refer to the Supporting Documentation Checklist (P. 14)