NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS DIVISION

Policy 3-1 DBE

Original Date: August 1, 2014
Revision Date: October 25, 2019

DISADVANTAGED BUSINESS ENTERPRISE POLICY STATEMENT (49 CFR §26.23)

The North Dakota Department of Transportation (Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Parts 23 and 26. The Department receives federal financial assistance from USDOT. As a condition of receiving this assistance, the Department has signed an assurance that it complies with 49 CFR Parts 23 and 26.

The DBE requirements of 49 CFR Parts 23 and 26 and the Department's DBE program apply to all federally-aided highway construction contracts and to any assignments made to subcontractors, subconsultants or sub recipients.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USD 2000d states that "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." In addition to Title VI, there are other Nondiscrimination statutes which include: Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/ADA of 1990 (disability). Taken together, these requirements define an over-arching Title VI/Nondiscrimination and ADA Program. Title VI and the additional Nondiscrimination requirements are applicable to programs receiving federal financial assistance due to the Civil Rights Restoration Act of 1987.

In regard to the DBE Program, the Department, its sub recipients, contractors, subcontractors, consultants, and subconsultants shall not discriminate on the basis of race, color, national origin, or sex. It is Department policy to ensure that DBEs, as defined in 49 CFR Parts 23 and 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also Department policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.

- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The Department will disseminate the policy when any updates are made to all Department staff as well as DBEs and non-DBEs. The policy will be disseminated to the broadest possible audience. We will:

- Broadcast the updated statement to all DBE and non-DBE firms through the Department's electronic notification email system (Listserv)
- Publish the updated policy in the next upcoming DBE newsletter
- Publish the updated policy on the Department DBE bid information web site at http://www.dot.nd.gov/divisions/civilrights/docs/dbe/dbepolicystmt.pdf

Each sub recipient, contractor, subcontractor, consultant, or subconsultant that fails to carry out the requirements set forth in 49 CFR Parts 23 and 26 may constitute a breach of contract, and after notification by the Department, may result in termination of the agreement or contract, or such remedy as the Department deems appropriate.

As the Department Director, I am charged with the overall responsibility for assuring compliance with 49 CFR Parts 23 and 26, including DBE programs delegated to sub recipients such as Metropolitan Planning Organizations and other political subdivisions. I have appointed the Civil Rights Division Director as the Department's DBE Liaison Officer. The DBE Liaison Officer is responsible for developing, coordinating, and monitoring the implementation of the Department's DBE program on a day-to-day basis. Division Directors and District Engineers are responsible for carrying out applicable facets of the DBE program within their areas.

Ramona Bernard is the Department's DBE Liaison Officer. She is responsible for implementing all aspects of the DBE program. Implementation of the DBE program has the same priority as compliance with all other legal obligations incurred by the Department in its financial assistance agreements with USDOT.

NDDOT Director

10-25-19

Date