

**Disadvantaged Business
Enterprise Program
2008**

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MARC 2008 DBE Program

(1) Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR §26.5.

(2) Objectives/Policy Statement (§26.1, §26.23)

It is the policy of the Mid-America Regional Council (MARC) to encourage all qualified businesses to actively participate in the procurement of all MARC sponsored contracts. MARC does not discriminate based on race, color, sex, national origin, age, military status, or disability.

MARC has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR, part 26. MARC has received federal financial assistance from the USDOT, and as a condition of receiving this assistance; MARC has signed an assurance that it will comply with 49 CFR, part 26.

It is the policy of MARC to ensure that all businesses have an equal opportunity to receive and participate in USDOT assisted contracts. It is also MARC'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 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 USDOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

MARC has designated Darryl E. Fields, as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Other MARC staff will assist the DBELO, as needed, with DBE requirements and compliance. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by MARC in its financial assistance agreements with the USDOT.

MARC has disseminated this policy statement to MARC's Board of Directors and all components of our organization. MARC has published and distributed notice of this document and the DBE goal in general circulation publications and on the MARC website.

David A. Warm
Executive Director

Date: _____

(3) Nondiscrimination. (§26.7)

MARC 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, MARC 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.

(4) Noncompliance Complaints (§26.103)

Any person who believes that MARC or its subrecipient has failed to comply with the obligations of 49 CFR Part 26 may file a written complaint with the Federal Highway Administration Office of Civil Rights in Washington, D. C. The written complaint must be filed within 180 days after the occurrence of the alleged violation or the date on which the person learned of an ongoing violation. The person may also request an extension of time to file beyond the 180 days by stating a reason in the interest of justice for so doing.

(5) DBE Program Updates (§26.21)

MARC will continue to carry out this program until all funds from USDOT financial assistance have been expended. MARC will provide to USDOT updates representing significant changes in the program.

(6) Quotas (§26.43)

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

(7) DBE Liaison Officer (DBELO) (§26.45)

MARC has designated the following individual as its DBE Liaison Officer:

Darryl E. Fields
Mid-America Regional Council
600 Broadway; Suite 300
Kansas City, MO 64105 – 1554
(816) 474-4240
dblo@marc.org

In this capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that MARC complies with all provisions of 49 CFR, part 26. The DBELO has direct, independent access to MARC's Executive Director concerning DBE program matters. One other employee who will devote a portion of his or her time to the program will assist the DBELO in

administering the DBE Program. An organizational chart displaying the DBELO's position in the organization is found in Attachment A to this program.

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

1. Gathers and reports statistical data and other information as required by USDOT.
2. Reviews third party contracts utilizing Federal USDOT funds for compliance with this program.
3. Works with all departments using Federal USDOT funds 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 so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes MARC's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director/MARC's Board of Directors on DBE matters and achievement.
9. Participates with the legal counsel and project director to determine contractor compliance with "good faith efforts."
10. Provides DBEs with information and assistance in preparing bids.
11. Attends national and state DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Reviews directories of certified DBEs compiled by local agencies.

(8) Federal Financial Assistance Agreement Assurance (§26.13)

MARC has signed the following assurance, applicable to all USDOT assisted contracts and their administration:

MARC shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR, part 26. MARC shall take all necessary and reasonable steps under 49 CFR, part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. MARC's DBE Program, as required by 49 CFR, part 26 and as approved by USDOT, 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 MARC of its failure to carry out its approved program, the Department may impose sanctions 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.).

(9) DBE Financial Institutions (§26.27)

It is the policy of MARC 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 USDOT assisted contracts to make use of these institutions. MARC has made the following efforts to identify such institutions: data search among minority and women associated business organizations, chambers of commerce and, regional business journals. To date MARC has identified the following such institution: Douglas National Bank, Kansas City, KS and MO.

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

(10) Directory (§26.25)

MARC uses the DBE directories published by the following agencies to identify firms recognized as eligible to participate as DBEs:

<u>Agency</u>	<u>Internet Address</u>
➤ Kansas Department of Transportation (KDOT)	http://www.ksdot.org/burProgProjMgmt/DBEDirectory/dbedir.aspx
➤ Kansas City, Missouri	http://www.kcmo.org/humrel.nsf/web/home
➤ Missouri Department of Transportation (MoDOT)	http://www.modot.org/business/contractor_resources/externalcivilrights.htm
➤ Kansas City Area Transportation Authority (KCATA)	http://www.modot.org/business/contractor_resources/documents/KCATADirectory.pdf

The individual directories are available at the listed Internet addresses.

Based upon these directories, MARC was able to determine the relative availability of DBEs in the area, as described in (15) *Overall Goals*.

(11) Over-concentration (§26.33)

MARC has not identified any areas of over-concentration. MARC will continue to monitor DBE participation and usage, and will take appropriate actions to address any identified over-concentrations.

(12) Business Development Programs (§26.35)

MARC will not have a business development or mentor – protégé program.

(13) Required Contract Clauses (§§26.13, 26.29)

Contract Assurance

MARC will ensure that the following clause is placed in every USDOT assisted contract and subcontract:

The contractor 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 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.

Prompt Payment

MARC will include the following clause in each USDOT assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from MARC. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's 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 MARC. This clause applies to both DBE and non-DBE subcontractors.

(14) Monitoring and Enforcement Mechanisms (§26.37)

One of the key requirements of the DBE program is that a "commercially useful function" be performed. This is defined as:

"Being responsible for execution of a contract or a distinct element of the work by actually performing, managing, and supervising the work involved."

MARC's project administrator and/or project manager will monitor the performance of work to be performed by DBE firms on all USDOT assisted projects. MARC will review all elements of the work to be performed including supervision of employees, employee payroll, and equipment (if applicable) used by the DBE firm. Contractors, DBE, and all employees are required to cooperate with MARC or its designate conducting investigations.

Failure of a DBE firm to perform a commercially useful function will result in the dollar amount of the work not being credited toward the sub-recipient's or prime contractor's DBE goal on the project. This can result in MARC withholding payment from the prime contractor or agency for that amount, or could result in removal of the DBE. In cases of deliberate attempts to circumvent

the intent of the DBE program, or fraud, these actions may lead to criminal prosecution of both the prime contractor and the DBE firm.

Situations that may trigger investigations include, but are not limited to, shared employees, supervision of DBE employees by another contractor, or an item of work being done jointly by the DBE firm and another contractor.

The DBE must manage the work that has been contracted. Management includes, but is not limited to, scheduling work operations, preparing and submitting certified payrolls, and hiring and firing employees. All work must be performed with a workforce the DBE firm controls, with a minimum of 30% of the work to be performed by the DBE firms regular employees, or those hired by the DBE firm for the project from sources other than the prime contractor.

The DBE owner must supervise daily operation, either personally or with a full time, skilled and knowledgeable manager. The manager must be under the DBE owner's direct supervision. The DBE owner must make all operational and managerial decisions of the firm. Mere performance of administrative duties is not supervision of daily operations.

Requests for Proposals (RFP) and Bid Specifications:

Requests for Proposals (RFP) and bid specifications using USDOT assisted funds will include MARC's DBE goal requirement and the requirement that all bidders/respondents, to be considered as responsive, must submit with their bids/proposals written assurance that they will meet the proposed DBE goal noted in the bid specification or RFP, and in the Joint Venture Agreement if a DBE is to joint venture on the project. Price alone will not be an acceptable basis for rejecting DBE bids or proposals unless it is determined that no reasonable price can be obtained from a DBE.

Bid and RFP Evaluation:

Bid and RFP submittals will be reviewed by the DBELO and the project administrator or manager to evaluate proposals on DBE participation. Reasonableness of price and overall responsiveness of the apparent awardee will be evaluated by an appropriate staff member from the project's originating department and the project's administrator or manager. The apparent awardee is advised of MARC's schedule for an anticipated contract award and the contractor's need, to enclose with each bid and RFP submittal, an Intent to Perform as a DBE (Attachment D) for each proposed DBE subcontractor and each joint venture involving a DBE.

Fraudulent Acts:

MARC will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. MARC also will consider similar action under local and state legal authorities, including responsibility determinations in future contracts.

(15) Overall Goals (§26.45)

Amount of goal

MARC has established an overall goal of 9.0 percent for DBE participation in USDOT assisted contracts. The goal is based upon evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and available to participate on USDOT assisted contracts. The goal reflects the level of DBE participation anticipated, absent the effects of discrimination.

Method

In accordance with §26.45, MARC has employed a two-step process to calculate its DBE program goal. Step 1 involves determining a “base figure” for the relative availability of DBEs in the area. The base figure is a percentage calculated as the ratio of available and potentially eligible DBEs to all available firms. (Attachment B)

- The data sources used to derive available DBEs and “all available” firms was as follows:
 1. “Available DBEs” is derived from the total number of certified DBEs in the KCATA, MoDOT, KCMO, and KDOT DBE directories with the North American Industry Classification (NAICS) of 238210, 541820, 541910, 541330, 485310, 541511, 541990 or whose work type was listed as electrical contractors, public relations, public opinion polling, consulting engineers, taxis, software developers or meteorological services for the eleven (11) counties within the Metropolitan Statistical Area (MSA). The FY 2008 DBE program limited the search to these fields based on the types of contracts anticipated for the upcoming year.
 2. “All available” firms is derived from the total number of firms with the NAICS of 238201, 541820, 541910, 541330, 485310, 541511, found in Census Bureau’s CBP and the April to June 2007 Dunn & Bradstreet database for the eleven (11) counties within the Metropolitan Statistical Area (MSA).
 3. “Potentially eligible” DBEs were determined based upon the Missouri Regional Certification Committee DBE Directory. Listed firms’ functions were evaluated to determine their eligibility to bid for proposed contracts (as listed above), and the resulting list was checked to ensure that no firms listed in the certified DBE list was repeated.

The method identified above resulted in a base figure of 4.56 percent and a weighted base figure of 6.32 percent. Documentation of the process is included in Attachment B. The second step involved examining available evidence to determine what adjustment, if any, was needed to the base figure in order to arrive at the overall goal that reflects as accurately as possible the DBE participation MARC would expect in the absence of discrimination.

To determine what types of adjustments, if any, were needed to the base figure, one additional source of evidence was examined:

1. We examined the percentage of contract award amounts that were paid to DBE contractors for the years 2005 through 2007, and determined the historical median, in accordance with 49 CFR Part 26. This number is 7 percent (Attachment C).

To calculate the MARC DBE goal, the base figure (6.32% weighted) calculation was averaged with the historical median of contract award amounts that were paid to DBE contractors between 2005 and 2007 (7%). The average of the two measures yielded 7.0 percent.

Reporting Process

MARC submits its overall goal to USDOT on August 1 of each year.

Before establishing the overall goal each year, MARC will provide the opportunity to consult with women, minority, DBE, non-DBE business communities and organizations; cities of Blue Springs, Independence, Kansas City, MO, Lee's Summit, Overland Park; counties of Cass, Clay, Jackson, Johnson, Leavenworth, Platt, Ray, the Unified Government of Wyandotte County/Kansas City, KS; Kansas City Area Transit Authority (KCATA); and Kansas and Missouri Departments of Transportation to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MARC's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, MARC has published and distributed notice of this document and the DBE goal in general circulation publications and the MARC website. Public inspection of the proposed goal and its rationale are available for inspection during normal business hours at MARC's office for 30 days following the date of the notice. Both MARC and the Federal Transit Administration (FTA) will accept comments on the goal for 45 days from the date of the notice.

Normally, MARC will issue this notice by May 1 of each year. Comments may be sent to:

DBE Liaison Officer
Mid-America Regional Council
600 Braodway 200 Rivergate Center
Kansas City, MO 64105 – 1554
dblo@marc.org

or

Thomas C. Harris
Region 7 Civil Rights Officer
Federal Transit Administration
901 Locust Street Rm. 404
Kansas City, MO 64106
thomas.harris@dot.gov

Edward Frazier, CPM
Civil Rights Program Manager
Federal Highway Administration
3220 W. Edgewood, Suite H
Jefferson City, MO 65109
edward.frazier@fhwa.dot.gov

MARC's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and MARC's responses.

MARC will begin using our overall goal on October 1 of each year, unless MARC has received other instructions from USDOT.

(16) Transit Vehicle Manufacturers Certification (§26.49)

MARC shall require any transit vehicle manufacturers to certify that they have established an overall annual DBE participation goal that has been approved by FTA before they can bid on any MARC contracts. Expenditures for FTA-assisted transit vehicle procurements are not included in the finding base to which the overall annual goal for other FTA-assisted contract expenditures applies.

(17) Process To Meet Overall Goal (§26.51)

Race-Neutral and Race-Conscious Participation

MARC will meet the overall program goals through the use of race-neutral measures and by establishing contract goals. MARC is committed to meeting its overall program goal of 9 percent DBE participation with 2 percent race-neutral measures and 7 percent race-conscious measures. This division is based upon MARC's previous experience in attracting DBE firms for contracts, while acknowledging both underperformance in attracting DBE firms in FY 2007 and that the contracts being released for bid in FY 2008 include projects involving types of work which MARC has not previously undertaken.

MARC will use race-neutral measures including, but not limited to the following:

1. DBE participation on a prime contract that a DBE obtains through customary competitive bidding procedures.
2. DBE participation on a subcontract through a prime contract that does not have a DBE goal.
3. DBE participation on a prime contract exceeding a contract goal.
4. DBE participation on a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

MARC will use race-conscious measures including, but not limited to the following:

1. DBE participation goals will only be used on USDOT-assisted contracts that have subcontracting possibilities.
2. DBE participation goals will not be required for every USDOT-assisted contract.
3. DBE participation goals are not required to be the same as the overall program goal. The goal for a specific contract may be higher or lower than the percentage level of the overall goal.

4. DBE participation goals must provide for participation by all certified DBE's and must not be subdivided into group-specific goals.

(18) “Good faith Efforts” (§26.53)

Information to be submitted

- MARC treats bidder/respondent's 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/respondents 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 participation;
 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 contractor's commitment;
 6. If the contract goal is not met, evidence of “good faith efforts.”

Demonstration of “good faith efforts”

The bidder/respondent can demonstrate that it has made “good faith efforts” either by meeting the contract goal or documenting “good faith efforts.” MARC will insure that the information is complete and accurate and will adequately document the bidder's/respondent's “good faith efforts” before committing to the performance of the contract by the bidder/respondent.

“Good faith efforts” may include, but are not limited to:

- Verification of bidder/respondent's advertisement soliciting bids from DBEs for three (3) consecutive days in general circulation, trade, minority, and female-focused media. Such advertisements should begin at least fifteen days prior to bid/proposal submittal date.
- Verification of bidder/respondent's efforts to provide written notice to a reasonable number of appropriate DBEs listed in the most recent DBE listings of DBE certifying agencies listed below:
 - Kansas Department of Transportation
 - Missouri Department of Transportation
 - Kansas City Area Transit Authority
- Verification of bidder/respondent's efforts to subcontract, consistent with industry practices, with contacted DBEs, or those DBEs who have contacted the bidder; verification will include:

- Names, addresses, and telephone numbers of all contacts made;
 - Description of effort made;
 - Description of the information provided to DBEs concerning the plans and specifications for portions of the work to be performed by subcontractors and/or members of a joint venture;
 - Description of the outcome of the contact
- Verification that the bidder/respondent attempted to solicit DBEs from at least the same geographical area from which it attempted to solicit other subcontractors or joint ventured prospects;
 - Verification that the bidder/respondent, consistent with industry standards, gave DBEs the appropriate access and adequate time to review all necessary project plans, scopes, drawings, specifications, and other pertinent documents, as well as sufficient time to prepare subcontract bids and/or negotiate joint venture arrangements;
 - A statement verifying reasons the bidder/respondent and the DBE did not succeed in reaching a subcontracting or joint venture agreement, for each DBE the bidder/respondent contacted, attempted to contact, or who contacted the bidder/respondent;
 - Verification the bidder/respondent made an effort to assist DBEs in obtaining bonds, lines of credit, or insurance, if any were required;
 - Verification that the bidder/respondent rejected DBEs because they were unable to achieve a mutually agreeable price based upon “good faith” negotiations, or was not qualified. Such verification should include a verified statement of the amounts of all bids received from potential subcontractors on the project.
 - Verification the bidder/respondent used the services of business, minority, and female organizations that have knowledge of available DBEs.

The following personnel are responsible for determining whether a bidder/respondent who has not met the contract goal has documented sufficient “good faith efforts” to be regarded as responsive:

- MARC’s project manager and DBELO.

MARC will ensure that all information is complete and accurate and adequately documents the bidder/respondent’s “good faith efforts” before MARC will commit to the performance of the contract by the bidder/respondent.

Administrative reconsideration

The bidder must make a written request for administrative reconsideration within seven (7) working days of the notification on lack of “good faith efforts.” That notice must be faxed, mailed, or emailed to:

DBELO
Mid-America Regional Council
600 Broadway 200 Rivergate Center
Kansas City, MO 64105 – 1554
Telephone: (816) 474 – 4240
Fax: (816) 421 – 7758
E-Mail: dblo@marc.org

The Administrative Review Committee is the Executive Director, Director of Financial Affairs, and the Department Director in which the project was developed (though if any of these persons participated in the original decision pertaining to “good faith efforts,” he or she will be ineligible to cast a vote in the administrative review). The DBELO will process the request, including providing documentation of the determination, and notify the Administrative Review Committee of the request for reconsideration determination.

As part of the reconsideration, the bidder will have the opportunity to provide written documentation or argument to the Administrative Review Committee, concerning the issue of whether they met the goal or made adequate “good faith efforts.” MARC will notify the bidder, in writing of the decision on reconsideration, explaining the basis of finding that the bidder did or did not meet the goal, or make adequate “good faith efforts” to do so. The bidder may chose to meet in person with the Administrative Review Committee to discuss the findings. The result of the reconsideration process is **not** administratively appealable to the USDOT.

“Good Faith Efforts” when a DBE is replaced on a contract

Termination, Removal, or Substitution of DBE Firm:

A contractor cannot terminate, release, or substitute any DBE firm without the written consent of MARC. The contractor must provide documentation to MARC’s project manager that the DBE firm is unwilling or unable to perform within five (5) working days of notice of the inability to perform by the DBE firm. MARC’s project manager will forward the notice to the DBELO for approval. If the removal is approved, or a DBE withdraws, the contractor must make a “good faith effort” to find a replacement DBE firm. The contractor must make an effort to replace the dollar value of work to be performed not merely finding a replacement for the work that was to be performed by the DBE firm being replaced. If MARC finds the contractor did not make a “good faith effort,” the contractor is entitled to an administrative reconsideration. If the administrative review concurs in the original finding of no “good faith efforts,” the contractor is subject to administrative remedies upon final verification of DBE participation.

If the substitution is approved, the prime contractor must provide the MARC project manager and DBELO copies of new or amended subcontracts. If the contractor fails or refuses to comply in the time specified, MARC will issue an order stopping all or part of payment until satisfactory action has been taken. If the contractor remains in non-compliance MARC may issue a termination for default proceeding.

(19) Counting DBE Participation (§26.55)

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

(20) Certification (§§26.61 – 26.91)

It is the policy of MARC to accept DBE certifications from agencies or jurisdictions that have reviewed and certified the submitting firms' DBE request in accordance with 49 CFR, part 26 (issued March 4, 1999 or later).

In accordance with the development of statewide Unified Certification Programs (UCP), the UCP will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 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. As MARC is not a certifying agency, the following directories have been used to determine eligible DBEs:

- KCATA
- KDOT
- MoDOT
- Kansas City, Missouri

For information about the certification process or to apply for certification, firms should contact one of the following agencies:

KCATA	Denise Bradshaw, DBE Manager 1200 E. 18th Street Kansas City, MO 64108 (816) 346-0224 http://www.kcata.org/dbe_info.html
KDOT	Sandra Greenwell Docking State Office Building Topeka, KS 66612-1568 (785) 296-7940 http://www.ksdot.org/offengsupp/dbe.htm
MoDOT	Lester Woods, Jr., External Civil Rights Administrator PO Box 270 Jefferson City, MO 65102 (573) 751-2859 http://www.modot.state.mo.us/business/externalcivilrights.htm
Kansas City, MO	Deborah Y. Chen MWDDBE Program Division Manager Human Relations Department City of Kansas City, MO (816) .513-1814 http://www.kcmo.org/humrel.nsf/web/directoryaccess?opendocument

(21) De-certification (§26.87)

The de-certification of firms as DBEs will be conducted by the certifying agencies listed above.

(22) Unified Certification Program

MARC is a participant in the Unified Certification Program (UCP). The development of both the Kansas and Missouri UCPs is complete. MARC’s participation has included the development of:

- Unified certification guidelines
- UCP review committee
- Appeals and process

Certification Appeals

Any firm or complainant may appeal certification decision to USDOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights 1200
New Jersey Ave., SE W – 35th
Washington, DC 20590

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

(23) Information Collection and Reporting

Bidders List

MARC will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT assisted contracts. The purpose of this requirement is to allow the use of a bidders list approach to aid in calculating future overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

MARC will collect this information in the following ways:

- MARC will require all prime submitters on MARC sponsored projects to report the names, addresses, phone numbers, and DBE/non-DBE status who quote to them for subcontracting status.

Monitoring Payments to DBEs

MARC 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 MARC or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

MARC will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

MARC 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 stated in the schedule of DBE participation.

Reporting to USDOT

MARC will report DBE participation to USDOT as follows:

- MARC will annually submit USDOT Form 4630, as modified for use by FAA recipients.
- MARC will report DBE participation to FTA and FHWA semiannually on June 1st and December 1st, using USDOT Form 4630. These reports will reflect payments actually made to DBEs on USDOT assisted contracts.

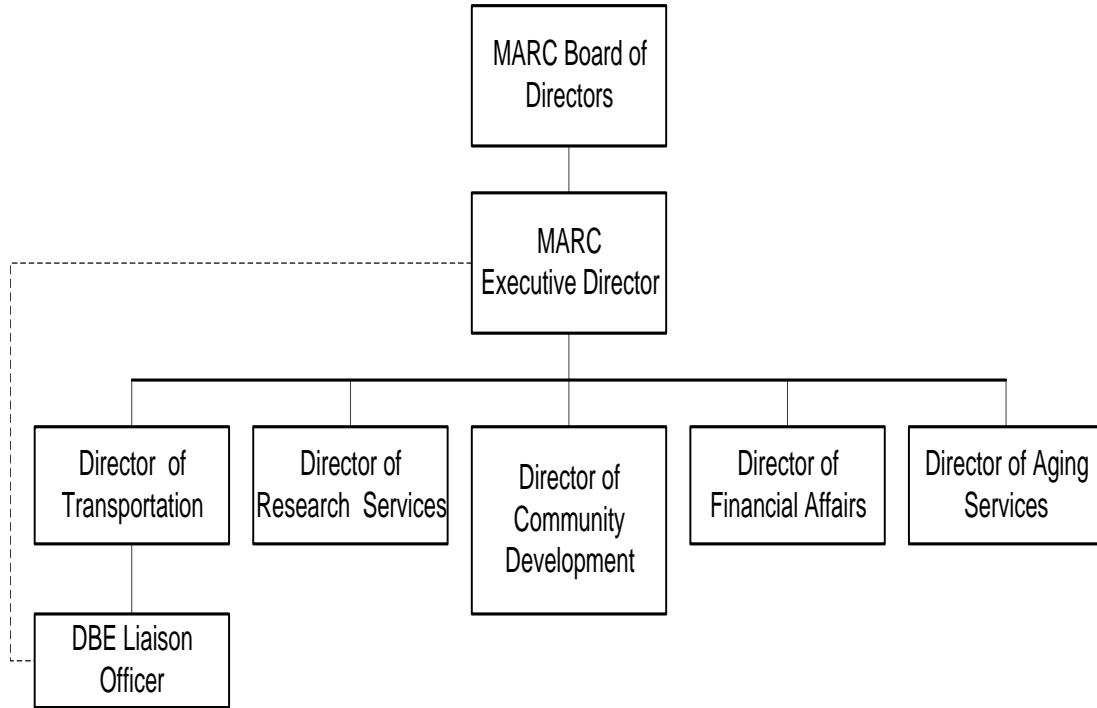
Confidentiality

MARC will safeguard from disclosure 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, MARC will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.

(24) Attachments

Attachment A

MARC Organizational Chart



Attachment B

Base Figure Methodology

Total number of available minority and women owned businesses (NAICS of 238210, 541820, 541910, 541330, 485310, 541511, 541990) in the Kansas City region ready, willing, and able to do work for MARC is **119**

Total number of available businesses (NAICS of 238210, 541820, 541910, 541330, 485310, 541511, 541990) in the Kansas City region ready, willing, and able to do work for MARC is **3813**

DBE Base Figure =

For each type of contract opportunity, the following is calculated:

$$\frac{\text{Total number of available minority and women owned businesses}}{\text{Total number of available businesses}} = \text{Base Percentage}$$

The base percentage for each type of contract opportunity is then multiplied by the percent of total contract dollar opportunities that that contract type represents. The figures for each type of contract opportunity are then added together to calculate the Base 1 figure. (See chart below for calculations).

FY2008 Anticipated Contract Opportunities

Type of Firm	Contract \$	% of Total Contracts	# of Firms Available*	# of DBE Firms Available **	Unweighted %	Weighted %	# of Potential DBE
Electrical Contractors:	\$ 100,000	3.84%	538	37	6.88%	0.26%	0
Public Relations/Management Consulting:	\$ 336,253	12.93%	1563	27	1.73%	0.22%	27
Planning & Engineering Consultant:	\$ 840,000	32.29%	762	91	11.94%	3.86%	91
Taxi Service	\$ 5,000	0.19%	31	0	0.00%	0.00%	0
Software Developers	\$ 1,310,000	50.36%	357	14	3.92%	1.97%	0
Meteorological Services	\$ 10,000	0.38%	562	5	0.89%	0.00%	1
Total:	\$ 2,601,253	100.00%	3813	174	4.56%	6.32%	119

Unweighted base DBE figure – 4.56%

Weighted base DBE figure – 6.32%

Attachment C DBE Goals for years 2004-2006

Last 3 Year	Goals***
2005 Goal	8%
2006 Goal	7%
2007 Goal	7%

* Total number of firms derived from April to June 2007 Dunn & Bradstreet for the Kansas City MSA

** Total DBE Firms derived from the 2007 MRCC Directory

***Goals were rounded to the nearest whole number.

Attachment D

Intent To Perform As A DBE

Project Title and Description:

The undersign intends to perform work in connection with the above project as (check one):

_____ a prime contractor _____ a subcontractor

_____ a joint venture _____ other (please

specify) _____

If applicable, name of prime contractor or joint venture partner:

The disadvantaged status of the undersigned is confirmed on (check one):

— The attached documentation (submit copy of certification papers; MARC may require additional documentation).

The undersign is prepared to perform the following described work in connection with the above project,

at the following price _____

(Date)

(Name of Disadvantaged Contractor)

By: _____

(Signature & Title)

Appendix 1

DBE Firms with NAICS of 23531, 54131, 54182, or 54919 in the eleven counties within the Metropolitan Statistical Area. For the listing of certified DBE firms the 2007 Missouri Regional Certification Committee (MRCC) DBE Directory is attached by reference. Current DBE firm listings may also be found at the following web site http://www.modot.mo.gov/business/contractor_resources/External_Civil_Rights follow the like to MRCC DBE Directory.