

City of Springfield DBE Program for Springfield City Area Transit (SCAT)

Policy Statement

(Note: Sections refer back to 49 CFR Part 26)

Section 26.1, 26.23 Objectives/Policy Statement

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

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

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

The City's MBE Contract Development Coordinator (MBE Coordinator) has been designated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO 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 in its financial assistance agreements with the Department of Transportation.

The City has disseminated this policy statement to the City Commission and relevant operations within the organization. The City will distribute this statement to DBE and non-DBE business communities that perform work on DOT-assisted SCAT contracts. This program has been placed on our website, www.springfieldohio.gov/SCAT.



Jim Bodenmiller, City Manager

03/30/18

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 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

The City will adopt the definitions contained in 49 CFR Part 26 Section 5 for the SCAT program.

Section 26.7 Non-discrimination Requirements

The City will not 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, or as otherwise covered by local Codified Ordinance.

In administering its DBE program, the 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, or as otherwise covered by local Codified Ordinance.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

The City will report DBE participation to DOT on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts in the SCAT program.

Section 26.11(c) Bidders List

The City will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts for the SCAT program. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The

bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

The City will collect this information in the following ways: the prime bidder is required to report names/address.

Section 26.13 Federal Financial Assistance Agreement

The City has signed the following assurances, applicable to all DOT-assisted contracts for the SCAT program and its administration:

Section 26.13(a) Assurance

The City 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 this DBE Program Policy or the requirements of 49 CFR part 26 for the SCAT program. The City shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The City's SCAT 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 the 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 financial assistance agreements with sub-recipients.

Section 26.13(b) Contract Assurance

The City will ensure that the following clause is placed in every DOT-assisted contract and subcontract for the SCAT program:

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 City has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, it will continue to carry out this program until

all funds from DOT financial assistance have been expended. The City 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)

The City has designated the following individual as our DBE Liaison Officer:

Cheryl DeGroat Dover
76 East High Street
Springfield, Ohio 45502
P: (937) 324-7380
F: (937) 328-3489
cdovder@springfieldohio.gov

In this capacity, the DBELO is responsible for implementing the SCAT DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An organizational 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 no additional staff to assist in the administration of the program. The duties and responsibilities of the MBE Coordinator who serves as DBELO 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. Analyzes the City's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\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. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Ohio.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the City's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the 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 DOT-assisted contracts to make use of these institutions. However, there are none in this area.

Section 26.29 Prompt Payment Mechanisms

The City will include the following clause in each DOT-assisted prime SCAT 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 the City. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the prime contractor receives retainage payments from the City. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 Directory

The City will develop and maintain 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. The City will revise the Directory annually and will make the Directory available in hard copy by request in the MBE Coordinator's office located at 76 Each High Street, Second Floor, Community Development Department; and electronically on the city's website at <https://springfieldohio.gov/springfield-services/human-relations/minority-business/>. The Directory may be found in Attachment 2 to this program document.

Section 26.33 Overconcentration

The City has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.37 Monitoring and Enforcement

The City will take the following monitoring and enforcement actions 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 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. Consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available 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.

Each contractor who is awarded a contract under terms of this DBE Program shall include in its bid or response either a certified MBE/DBE subcontractor utilization plan in which the bidder or respondent commits to utilize certified MBEs and/or DBEs in a percentage that equals or exceeds the applicable contract goals or a waiver or reduction request. The subcontractor utilization plan will include the following information

- (a) The name of each certified MBE/DBE to which the bidder or respondent intends to award a subcontract;
- (b) Whether the subcontractor is a certified MBE or DBE;
- (c) The dollar value of each subcontract;
- (d) The scope of work to be performed under that subcontract; and
- (e) Any other information the Purchasing Agent requires in order to determine whether the certified MBE or DBE will be performing a commercially useful function or whether the contract participation goals have been satisfied.

During the term of the contract, any failure to comply with the levels of certified MBE/DBE participation identified in the bid or response that is not approved by the Purchasing Agent is a material breach of the contract. Contractors shall make good faith efforts to replace a MBE subcontractor that is unable to perform successfully with another MBE subcontractor and replace a DBE subcontractor that is unable to perform successfully with another DBE subcontractor. The City Manager has discretion to decide whether each contractor has exercised its best efforts to meet the individual contract goal.

To count DBE participation, the City will carry out the following analysis in partnership with the MBE Coordinator:

- (a) Once a firm is determined to be an eligible MBE/DBE in accordance with this chapter, the total dollar value of the contract awarded to the MBE/DBE is counted toward the applicable MBE goals.
- (b) The total dollar value of a contract to a MBE/DBE owned and controlled by minorities is counted toward the goals for minorities in proportion to the percentage of ownership and control of each group in the business.
- (c) A contractor may count toward its MBE/DBE goals a portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and controls of the MBE/DBE partner in the joint venture.
- (d) A contractor may count toward its MBE/DBE goal sixty percent (60%) of its expenditures for materials and supplies required under a contract and

obtained from an MBE/DBE regular dealer, twenty-five percent (25%) of the payment to a certified MBE or DBE supplier that is a wholesaler warehousing goods supplied, and one hundred percent (100%) of such expenditures to an MBE manufacturer.

- (e) A contractor may count toward its MBE goals the following expenditures to MBE firms that are not manufacturers or regular dealers:
 - (1) The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (2) The fees charged for delivery of materials and supplies required on a job site, but not the cost of the materials and supplies themselves, when the hauler, trucker or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

The City will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. This will be reviewed by the MBE Coordinator and considered for reporting, as required by the SCAT DBE Program.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The 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 by the City Manager in coordination with the MBE Coordinator.

In accordance with Section 26.45(f) the City will submit its overall goal to DOT for the SCAT DBE Program on August 1 of each year. Before establishing the overall goal each year, the City will consult with the MBE Coordinator to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City's efforts to establish a level playing field for the participation of DBEs. Data gathered by the MBE Coordinator will include, but not be limited to knowledge of minority, women's and general contractor groups, community organizations, and other officials or organizations with information pertaining to MBE and DBE firms in the region.

By June 30 of each year, the Community Development Director, in consultation with the MBE Coordinator, shall review MBE and DBE participation on all contracts and procurements covered by this program to determine the city's progress toward meeting the annual goals. The director shall report the findings to the City Manager and Purchasing Agent. The purpose of the annual review is to aid the City in its evaluation of the effectiveness of the MBE/DBE program and to identify areas in which the program may need to be modified in order to meet the stated purpose of the program.

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 our principal office for 30 days following the date of the notice, and informing the public that the City and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will be published in the newspaper of general circulation. Normally, the City will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

No later than July 15 of each year, the Community Development Director, in consultation with the MBE Coordinator, Purchasing Agent, and the SCAT project manager, shall review and recommend to the City Manager participation goals for MBEs and DBEs in SCAT Contracts. The City Manager shall make a report to the City Commission no later than the first regularly scheduled meeting following July 30 of each year, notifying the commission of the established participation goals. The annual participation goals are not and may not be treated as mandatory quotas.

The City Manager shall establish appropriate MBE/DBE participation goals on each specific contract covered under 49 CFR Part 26 or Part 23 as applicable for the SCAT program requiring such participation goals. The City Manager shall consider the known availability of qualified MBEs and DBEs in establishing each individual contract goal.

In developing a recommendation for specific goals, the City will consider each of the following elements:

- (a) The availability in the particular industry classification and industry of the MBE/DBE that are qualified and willing to provide goods, expertise and services required by the contract;
- (b) The level of utilization of MBEs/DBEs in past contracts awarded by the city;
- (c) The contract specifications;
- (d) The extent of any adverse impact on non-MBEs and/or non-DBEs; and
- (e) Any other factor deemed by the director to be relevant to the determination.

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

The City will begin using our overall goal on October 1 of each year, unless having received other instructions from DOT. If the City establishes a goal on a project basis, it will begin using said goal by the time of the first solicitation for a DOT-assisted contract for the specific SCAT project.

Section 26.49 Transit Vehicle Manufacturers Goals

The 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 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 City of Springfield works to attain contract goals without using race-conscious means.

Section 26.51(d-g) Contract Goals

The City manager will establish appropriate MBE/DBE participation goals on each specific SCAT contract eligible for goal setting under 49 CFR Part 26. The City Manager, along with identified staff will consider the known availability of qualified MBEs and DBEs in establishing each individual contract goal. Contract goals will be expressed as a percentage of the total amount of the DOT-assisted contract in the SCAT program or the federal share of the DOT-assisted contract in this program. Most SCAT program participation goals will come from contracts that have subcontracting possibilities. Goal attainment will be tracked through the year, and a cumulative goal attainment will be reported. This attainment will be used as information for the City Manager in setting future goals, and will become a part of the City's Shortfall Analysis if one is needed in a given reporting period.

Section 26.53 Good Faith Efforts Procedures

If the MBE Coordinator determines that a contractor has failed to attain a goal established under this program, the MBE Coordinator shall report that finding to the City Manager and the Finance Director and the contractor. The MBE Coordinator shall then determine whether the contractor used good faith efforts to attain the applicable goal.

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

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 by documenting good faith efforts.

Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

The MBE Coordinator 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.

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

Section 26.53(b) Information to be submitted

The 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.

Section 26.53(d) Administrative reconsideration

Within fifteen (15) days of being informed by the 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:

City of Springfield
Attn: City Manager
76 East High Street
Springfield, OH 45502
P: (937) 324-7300

Any vendor taking exception to a determination of the MBE Coordinator that the vendor has not exercised good faith shall first attempt to reconcile the situation with the MBE Coordinator. A good faith attempt to achieve informal reconciliation is a prerequisite to the contractor filing a written objection with the City Manager.

If, after attempting to reconcile the violation by informal means, the situation is not alleviated, a contractor may file a written objection with the City Manager within fifteen days of the receipt by the contractor of the MBE Coordinator's written determination. The objection must contain a full explanation of the basis upon which the vendor objects to the determination of the MBE Coordinator. The contractor may file a request for a hearing before the City Manager when filing the written objection.

If the vendor has requested a hearing, the City Manager shall afford a reasonably prompt hearing. Within 45 days of the close of the hearing, or if no hearing has been requested,

within 45 days of receipt of the vendor's written objection, the City Manager shall make a final determination of whether the vendor has exercised best efforts and otherwise complied with this program.

If the vendor objects to the decision of the City Manager, the vendor may pursue an appeal under Chapter 2506 of the Revised Code.

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

The 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 City will require the prime contractor to notify the MBE Coordinator 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 from the City Manager of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

Noncompliance remedy: 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 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 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. The City will make its certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

Cheryl DeGroat Dover
76 East High Street
Springfield, Ohio 45502
P: (937) 324-7380
F: (937) 328-3489
cdovder@springfieldohio.gov

SUBPART E - CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City is the member of a Unified Certification Program (UCP) administered by the State of Ohio granted under Ohio Administrative Code Chapter 123:2-15 as establishing qualification as MBE and/or DBE status for purposes of this program and Chapter 153 of the Springfield Codified Ordinances.

Section 26.83 Procedures for Certification Decisions

Section 26.83(a) & (c) Re-certifications

The City will review the eligibility of DBEs that it certified under former part 23, to make sure that they will meet the standards of Subpart E of Part 26. The City will complete this review no later than three years from the most recent certification date of each firm. Our schedule for this review process will be:

For firms that the City has certified or reviewed and found eligible under part 26, it will again review their eligibility every five (5) years.

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

The City requires all DBEs to inform it, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the City's application for certification.

The City also requires all owners of all DBEs it has certified to submit, on the anniversary date of their certification, a "no change" affidavit. The text of this affidavit shall read as follows:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the City under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.

The City requires DBEs to submit with this affidavit, documentation of the firm's size and gross receipts.

The City will notify all currently certified DBE firms of these obligations annually. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Denials of Initial Requests for Certification

If the City denies a firm's application or decertify it, it may not reapply until 6 months have passed from our action.

Section 26.87 Removal of a DBE's Eligibility

In the event the City proposes to remove a DBE's certification, it will follow procedures consistent with 26.87. To ensure separation of functions in a de-certification, the City has determined that the City Manager's Office will serve as the decision-maker in de-certification proceedings. The City has established an administrative "firewall" to ensure that the City Manager's Office will not have participated in any way in the de-certification proceeding against the firm (including in the decision to initiate such a proceeding).

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
Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (202) 366-4754
TTY: (202) 366-9696
Fax: (202) 366-5575

The City 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

The 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 DOT) without the written consent of the submitter.

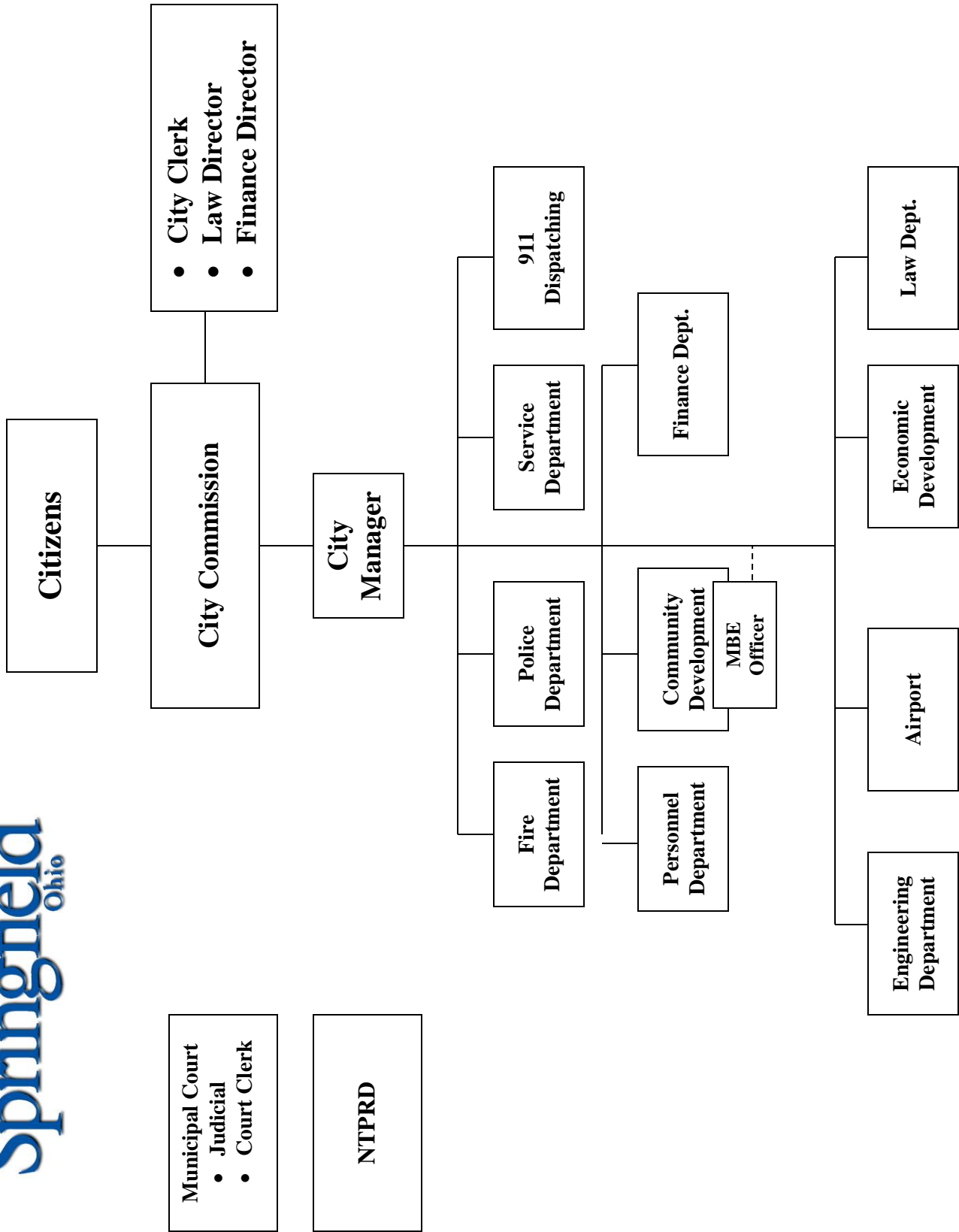
Monitoring Payments to DBEs

The City 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 make available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement also extends to any certified DBE subcontractor working under this program.

The 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 stated 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 Form 1 & 2 for Demonstration of Good Faith Efforts
- Attachment 6 Regulations: 49 CFR part 26



Attachment 2

DBE Directory

The City does not currently maintain a DBE directory. A directory will be developed during calendar year 2018.

Attachment 3

Monitoring and Enforcement Mechanisms

The Transit Authority 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;

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

Amount of Goal

1. The City's overall goal for FY 2018 is the following: 4.6% of the Federal Financial assistance we will expend in DOT-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

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 DBE's was calculated as follows:

Ready, willing, and able DBEs
Base figure = _____
All firms ready, willing and able

The data source or demonstrable evidence used to derive the numerator was:

The data source or demonstrable evidence used to derive the denominator was:

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was

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 we would expect in the absence of discrimination we have adjusted our base figure by ___%.

The data used to determine the adjustment to the base figure was:

The reason we chose to adjust our figure using this data was because:

From this data, we have adjusted our base figure to:

Public Participation

We published our goal information in these publications:

We received comments from these individuals or organizations:

Summaries of these comments are as follows:

Our responses to these comments are:

Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

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 _____
(Signature)

Title

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 6

Regulations: 49 CFR Part 26

Note: A copy of 49 CFR Part 26 will be included with the policy on file at the Springfield, Ohio City Manager's Office.