POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

City of Hallock, owner of Hallock Municipal Airport, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. City of Hallock has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, City of Hallock has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

It is the policy of the City of Hallock to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also City of Hallock policy to engage in the following actions on a continuing basis:

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;
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to City of Hallock's of Federal financial assistance in establishing and providing opportunities for DBEs.

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

City of Hallock has disseminated this policy statement to the Hallock City Council 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. The distribution was accomplished by Kittson County Enterprise Newspaper.

_____ _____

City of Hallock's Date
City Clerk/Administrator

GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

City of Hallock is the City of Hallock of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

City of Hallock will use terms in this program that have their meanings defined in Part 26, §26.5.

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

Reporting to DOT

City of Hallock will provide data about its DBE Program to the Department as directed by DOT operating administrations.

DBE participation will be reported to FAA as follows:

City of Hallock will transmit to FAA annually, by or before December 1, the information required for the “Uniform Report of DBE Awards or Commitments and Payments”, as described in Appendix B to Part 26. *City of Hallock* will similarly report the required information about participating DBE firms. All reporting will be done

through the FAA official reporting system, or another format acceptable to FAA as instructed thereby.

Bidders List

City of Hallock will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on *City of Hallock* DOT-assisted contracts, for use in helping to set overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: - Each financial assistance agreement *City of Hallock* signs with a DOT operating administration (or a primary City of Hallock) will include the following assurance:

> The *City of Hallock* 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. The *City of Hallock* 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 of Hallock* 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 Hallock* of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR 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.*).

Contract Assurance: *City of Hallock* will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

The contractor, sub City of Hallock 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 City of Hallock deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the contractor from future bidding as non-responsible.

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

City of Hallock is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds $250,000 in FAA funds in a federal fiscal year. *City of Hallock* is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and *City of Hallock* is in compliance with it and Part 26. *City of Hallock* will continue to carry out this program until all funds from DOT financial assistance have been expended. *City of Hallock* does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBE Liaison Officer for *City of Hallock*:

Angela M. Grafstrom
City Clerk/Administrator
City of Hallock
PO Box 336
163 3rd ST
Hallock, MN 56728
PH: (218) 843-2737
agrafstrom@hallockmn.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the *City of Hallock* complies with all provision of 49 CFR Part

26. The DBELO has direct, independent access to the Mayor and City Council concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is included in Attachment 2 to this program.

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

1. Gathers and reports statistical data and other information as required by DOT.
2. Works with consultants to set overall annual goals.
3. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
4. Analyzes *City of Hallock* progress toward attainment and identifies ways to improve progress.
5. Participates in pre-bid meetings.
6. Chairs the DBE Advisory Committee.
7. Determine contractor compliance with good faith efforts.
8. Plans and participates in DBE training seminars.
9. Acts as liaison to the Uniform Certification Process in Minnesota.

The Hallock Municipal Airport consultant's duties include:

1. Participates in pre-bid meetings.
2. Reviews contractor proposal for compliance with good faith efforts. Makes recommendations on good faith efforts to the DBELO.
3. Collects and records required information for Bidder's List Collection Form.
4. Reports statistical data to DBELO.
5. Provide DBE's with information and answers questions for DBE's when they are preparing their bids.
6. Analyzes Hallock Municipal Airport progress toward goal attainment and makes recommendations to DBELO for improvements.
7. Reviews contract payments to DBEs for the actual amount paid to DBE subcontractors compared to the dollar amount stated in the schedule of DBE participation.
8. Completes and maintains bidders list.

Section 26.27 DBE Financial Institutions

It is the policy of the *City of Hallock* 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.

Section 26.29 Prompt Payment Mechanisms

City of Hallock requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the *City of Hallock* established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 10 days from the prime contractor's receipt of each payment from the *City of Hallock.*

City of Hallock ensures prompt and full payment of retainage from the prime contractor to the subcontractor within not to exceed 10 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, *City of Hallock* has selected the following method to comply with this requirement:

- Hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed.

Additionally, for Federal Aviation Administration (FAA) City of Hallock's include the following:

> To implement this measure, *City of Hallock* includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract:
>
> The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the Contractor has received a partial payment. The Owner must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime

contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Section 26.31 Directory

The *City of Hallock* uses the State of Minnesota DBE directory, maintained by the State.

The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The MnDOT directory may be found on the Internet Address:
https://mnucp.metc.state.mn.us/Default.aspx
and in Attachment 4 to this program document.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

City of Hallock has not established a Business Development Program.

Section 26.37 Monitoring Responsibilities

City of Hallock implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in *City of Hallock's* DBE program.

City of Hallock actively monitors participation by maintaining a running tally of actual DBE attainments (*e.g.,* payments actually made to DBE firms), including a means of comparing these attainments to commitments.

Monitoring Payments to DBEs and Non-DBEs
City of Hallock undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

- The Airport requires Prime Contractors to submit to the Airport written evidence of payment(s) made to subcontractors on a quarterly basis.

- The Airport 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 26.107.

- The Airport will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

- The Airport will monitor that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.

- The Airport will monitor actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In the reports of DBE participation to DOT, the Airport will show both commitments and attainments, as required by the DOT uniform reporting form.

- The DBE program will be enforced through prompt advertisement of project for DBE participation, construction bulletin notices, bid specification sections, specific provisions for failure of a prime contractor, failure of a DBE, contractors remedies upon failure of performance by a DBE, etc. After opening bids, DBE participation is calculated. Failure to satisfactorily obtain good faith efforts will lead to non-responsive bid determination. If low goal attainment is presented, the Airport and consultant shall investigate and determine good faith efforts as the Airport DBE Plan specifies prior to bid award.

City of Hallock requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the *City of Hallock's* financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of *City of Hallock* or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- *City of Hallock* proactively reviews contract payments to subcontractors including DBEs quarterly. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to *City of Hallock* by the prime contractor.

Prompt Payment Dispute Resolution

City of Hallock will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

1. The DBELO shall schedule a meeting within 10 business days of notice of a dispute regarding whether work has been satisfactorily completed with the DBELO, consultants, prime contractor, and impacted subcontractors.
2. The prime contractor and impacted subcontractors shall each present their evidence and the justifications that each have for determination of whether the work was completed satisfactorily.
3. The consultant shall then present their evidence, justifications and recommendations as to whether the work has been completed satisfactorily.
4. If the DBELO requests additional information or justification, that information shall be provided to the DBELO on the time table directed by the DBELO.
5. The DBELO shall review the information provided and make a determination within 5 business days as to whether or not the work has been completed satisfactorily and subsequent payment is due.

City of Hallock has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage.

(1) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

- The Airport shall withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Airport may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.

- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by *City of Hallock* to resolve prompt payment disputes, affected subcontractor may contact the responsible [*operating administration*] contact.

Enforcement Actions for Noncompliance of Participants
City of Hallock will provide appropriate means to enforce the requirements of §26.29. These means include:

The Airport 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 program, 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

City of Hallock will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites
City of Hallock reviews contracting records and engages in active monitoring of construction work sites to ensure that construction work committed to DBEs at contract award or subsequently (*e.g.,* as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by consultants. Contracting records are reviewed consultants.

Section 26.39 Fostering small business participation

City of Hallock has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The small business element is incorporated as Attachment 10 to this DBE Program. The program elements will be actively implemented to foster small business participation. **Implementation of the small business element is required in order for**

***City of Hallock* to be considered by DOT as implementing this DBE program in good faith.**

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

City of Hallock will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds $250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), *City of Hallock* will submit its Overall Three-year DBE Goal to FAA by August 1st of the year in which the goal is due, as required by the schedule established by and posted to the website of FAA.

https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/DBE%20and%20ACDBE%20Reporting%20Requirements%20for%20Airport%20Grant%20City of Hallocks.pdf

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Primary (Gas, Relievers And State DOTs)	**Alaskan, Eastern, & Great Lakes**	**August 1, 2016 (2017/2018/2019)**	**August 1, 2019 (2020/2021/2022)**

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If *City of Hallock* does not anticipate awarding prime contracts the cumulative total value of which exceeds $250,000 in DOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and *City of Hallock* will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. *City of Hallock* will use

https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml and
https://mnucp.metc.state.mn.us/Default.aspx

as a method to determine the base figure. *City of Hallock* understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not

comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the City of Hallock would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. *City of Hallock* will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the *City of Hallock* market.

In establishing the overall goal, *City of Hallock* will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by *City of Hallock* to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before *City of Hallock* is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which *City of Hallock* engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, *City of Hallock* will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on *City of Hallock's* official internet web site and may be posted in other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by FAA, the revised goal will be posted on the official internet web site.

The Overall Three-Year DBE Goal submission to FAA will include a summary of information and comments received, if any, during this public participation process and *City of Hallock* responses.

City of Hallock will begin using the overall goal on October 1 of the relevant period, unless other instructions from FAA have been received.

Project Goals

If permitted or required by the FAA Administrator, an overall goal may be expressed as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

City of Hallock understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by *City of Hallock* for calculating goals is inadequate, FAA may, after consulting with *City of Hallock*, adjust the overall goal or require that the goal be adjusted by *City of Hallock*. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 5 to this program.

Section 26.47 Failure to meet overall goals

City of Hallock cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless *City of Hallock* fails to administer its DBE program in good faith.

City of Hallock understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

City of Hallock understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the following actions must be taken in

order to be regarded by the Department as implementing this DBE Program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;

Section 26.51 Means City of Hallock's Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

City of Hallock will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on City of Hallock mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

(5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

(7) Establishing a program to assist new, start-up firms, particularly in fields in

which DBE participation has historically been low;

(8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

(9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program.

Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established 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).

Contract goals will be expressed as a percentage of the Federal share of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

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

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

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

(1) Award of the contract will be conditioned on meeting the requirements of this section;
(2) All bidders or offerors will be required to submit the following information to the City of Hallock, at the time provided in paragraph (3) of this section:
(i) The names and addresses of DBE firms that will participate in the contract;
(ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
(iii) The dollar amount of the participation of each DBE firm participating;
(iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
(v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
(vi) If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
(3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:

No later than 5 days after bid opening as a matter of **responsibility**.

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the City of Hallock.

Administrative reconsideration

Within 5 days of being informed by *City of Hallock* that it is not responsible because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: George Hanson, Brink Lawyers, 217 Birch Ave. South, Hallock, MN 56728, 218-843-3686, geoerge.hanson@brinklawyers.com. 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 the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do. The bidder/offeror will be sent 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 procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of *City of Hallock*. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if *City of Hallock* agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

(1) The listed DBE subcontractor fails or refuses to execute a written contract;
(2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
(3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
(4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
(5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
(6) *City of Hallock* determined that the listed DBE subcontractor is not a responsible contractor;
(7) The listed DBE subcontractor voluntarily withdraws from the project and provides *City of Hallock* written notice of its withdrawal;

(8) The listed DBE is ineligible to receive DBE credit for the type of work required;
(9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
(10) Other documented good cause that *City of Hallock* has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to *City of Hallock* a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to *City of Hallock*, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise *City of Hallock* and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the prime contractor's action should not be approved. If required in a particular case as a matter of public necessity (*e.g.,* safety), a response period shorter than five days may be provided.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Each prime contract will include a provision stating:

> The contractor shall utilize the specific DBEs listed in the contractor's bid/solicitation response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of *City of Hallock* as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

City of Hallock 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. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If *City of Hallock* requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor. *City of Hallock* shall provide a

written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, the contracting office/representative of *City of Hallock* may 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

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

City of Hallock 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. *City of Hallock* makes all certification decisions based on the facts as a whole.

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

Minnesota Department of Transportation
Office of Civil Rights
395 John Ireland Blvd
St. Paul, MN 55155-1899
Phone: 651-366-3073
Fax: 651-366-3129
http://www.dot.state.mn.us/civilrights/contacts.html

The Uniform Certification Application form and documentation requirements are found in Attachment 8 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The *City of Hallock* has adopted the Minnesota Department of Transportation (MnDOT) Unified Certification Program (UCP) to verify that all contractors or subcontractors have met the requirements of this program. The UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to *City of Hallock*

City of Hallock understands that if it fails to comply with any requirement of this part, *City of Hallock* may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

Information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law will be safeguarded from disclosure to third parties.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to DOT in any certification appeal proceeding under §26.89 or to any other state to which the individual's firm has applied for certification under §26.85.

All participants in the Department's DBE program (including, but not limited to, City of Hallocks, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and City of Hallock compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to City of Hallock's, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant,

dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

City of Hallock, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. [*City of Hallock*] understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

Attachment 1 Regulations: 49 CFR Part 26 or website link
Attachment 2 Organizational Chart
Attachment 3 Bidder's List Collection Form
Attachment 4 DBE Directory or link to DBE Directory
Attachment 5 Overall Goal Calculations
Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
Attachment 7 DBE Monitoring and Enforcement Mechanisms
Attachment 8 DBE Certification Application Form
Attachment 9 State's UCP Agreement
Attachment 10 Small Business Element Program

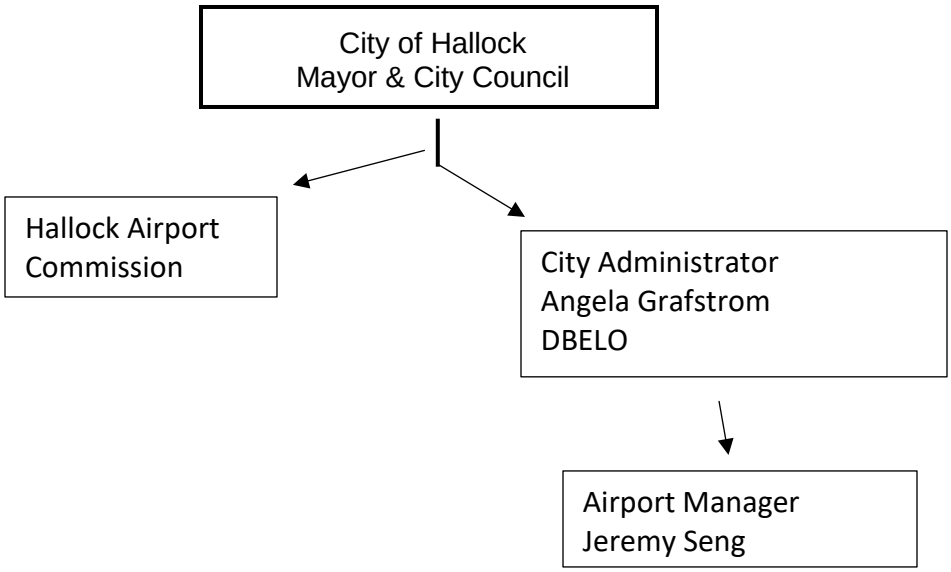
ATTACHMENT 1

Regulations: 49 CFR Part 26, or link to website

https://www.fhwa.dot.gov/civilrights/programs/dbess.cfm

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3
Bidder's List Collection Form

(SAMPLE BIDDERS LIST COLLECTION FORM)

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than $500K ☐ $500K - $1 million ☐ $1-2 million ☐ $2-5 million ☐ Greater than $5 million
			☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than $500K ☐ $500K - $1 million ☐ $1-2 million ☐ $2-5 million ☐ Greater than $5 million
			☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than $500K ☐ $500K - $1 million ☐ $1-2 million ☐ $2-5 million ☐ Greater than $5 million
			☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than $500K ☐ $500K - $1 million ☐ $1-2 million ☐ $2-5 million ☐ Greater than $5 million
			☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than $500K ☐ $500K - $1 million ☐ $1-2 million ☐ $2-5 million ☐ Greater than $5 million
			☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than $500K ☐ $500K - $1 million ☐ $1-2 million ☐ $2-5 million ☐ Greater than $5 million

ATTACHMENT 4

Minnesota DBE Directory

https://mnucp.metc.state.mn.us/Default.aspx

ATTACHMENT 5

Overall DBE Three-Year Goal Methodology

Name of City of Hallock: City of Hallock owner of Hallock Municipal Airport

Goal Period: FY-2018-2019-2020 – October 1, 2018 through September 30, 2020

DOT-assisted contract amount:	FY-2018	$ 990,000.00
	FY-2019	$ 0.00
	FY-2020	$ 0.00
	Total	**$ 990,000.00**

Overall Three-Year Goal: 2.67%, to be accomplished through 2.67% RC and 0% RN

Total dollar amount to be expended on DBEs: $26,397.00 [*multiply goal % x DOT-assisted amount*]

Describe the Number and Type of Contracts that the airport anticipates awarding:

Contracts Fiscal Year #1
1. Construct Hangar and Hangar Taxilanes - $990,000.00

Contracts Fiscal Year #2
1. None

Contracts Fiscal Year #3
1. None

Market Area: The market area is the area in which most of the Airport's contractors and subcontractors that seek to do business with the Airport are located and the area in which the Airport spends the majority of its contracting dollars. For the type of work proposed, this market area consists of counties in Minnesota and North Dakota. There is also a DBE one DBE in Wisconsin that works in the area.

Step 1. Actual relative availability of DBEs

The data source or demonstrable evidence used to derive the numerator was:
https://mnucp.metc.state.mn.us/Default.aspx

The data source or demonstrable evidence used to derive the denominator was:
https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t.

Base Figure Weighting

An examination of the anticipated contracts for each fiscal year, the availability of the DBE firms by trade classification and the volume of work performed by DBE firms over previous years.

Fiscal Year #1 - award of the following is anticipated

Contract Name	*Trade Description*	*NAICS Description*	*NAICS*	*Trade ($)*	*Census*	*Directory*	*DBE (%)*	*DBE ($) (= Trade $ x DBE %)*
Construct hangar and hangar taxilanes	*Asphalt Paving*	*Highway, street and bridge construction*	*237310*	*$180,000*	*88*	*11*	*12.50*	*22,500*
	Electrical	*Electrical*	*238210*	*45,000*	*250*	*2*	*0.80*	*360*
	Excavation, earthmoving and land clearing	*Site Preparation*	*238910*	*45,000*	*250*	*15*	*6.00*	*2,700*
	Building footings and foundations	*Poured concrete foundation and structure contractors*	*238110*	*90,000*	*108*	*1*	*0.93*	*837*
	Structural steel construction	*Structural steel and precast concrete contractors*	*238120*	*630,000*	*11*	*0*	*0.00*	*0.00*
			Total Project 1	***$990,000***			***2.67%***	***$26,397.00***

The base goal projection after weighting is as follows:

- Total Weighted DBE Availability:
- Total for All Trades:

Dividing the weighted DBE totals by the total estimate for all trades gives a base DBE availability figure for the projects anticipated during the goal-setting period. This figure is expressed as a percentage and serves as the basis for the three-year overall goal.

Possible Amount Expended to DBEs on Projects
2018 = $26,397
2019 = 0.00
2020 = 0.00
Total = $26,397

Total Project Costs
2018 = $990,000
2019 = 0.00
2020 = 0.00
Total = $990,000

Weighted DBE 3-year Goal = DBE on Projects ÷ Total Project Costs **2.67%** = 26,397 ÷ 990,000

Weighted DBE 3-year Goal: 2.67 %

Not enough historical data on DBE participation is available to reference to make an adjustment to the Step 1 base figure; therefore, City of Hallock is adopting the Step 1 base figure as the overall goal for this three-year goal period.

Furthermore, there are no applicable disparity studies for the local market area or recent legal case information from the relevant jurisdictions to show evidence of barriers to entry or competitiveness of DBEs in the market area that is sufficient to warrant making an adjustment to the base goal.

Breakout of Estimated "Race and Gender Neutral" (RN) and "Race and Gender Conscious" (RC) Participation.

City of Hallock will meet the maximum feasible portion of the overall goal by using RN means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
9. Assist DBEs and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and

City of Hallock estimates that in meeting the established overall goal of 2.67%, it will obtain 2.67% from RN participation and 0.0% through RC measures.

The City of Hallock will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation (see Section 26.51(f)) and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

City of Hallock will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation [*see §26.51(f)*] and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal, and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

PUBLIC PARTICIPATION

Consultation:

In establishing the overall goal, *City of Hallock* provided for consultation and publication. This process included consultation with minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the *City of Hallock's* efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows.

A notice of the proposed goal was published on the *City of Hallock* official before the methodology was submitted to FAA.

Following the consultation, a notice was published in the Kittson County Enterprise regarding the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City of Hallock offices for 30 days following the date of the notice, and informing the public that the City of Hallock will accept comments on the goals for 30 days from the date of the notice.

If the proposed goal changes following review by the FAA, the revised goal will be posted on *City of Hallock* official website.

Notwithstanding paragraph (f)(4) of §26.45, *City of Hallock* proposed goals will not be implemented until this requirement has been met.

PUBLIC NOTICE

City of Hallock hereby announces its proposed Disadvantaged Business Enterprise (DBE) participation goal of 2.67% for FAA-funded contracts/agreements. The proposed goal pertains to federal fiscal years 2018 through 2020.

The proposed goal and its attendant methodology are available for inspection between 8:00 a.m. and 5:00 p.m. Monday through Friday at Hallock City Hall, 163 S. 3rd Street, Hallock, MN 56728 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 30 days from the date of this publication and can be sent to the following:

Angela M. Grafstrom
City Clerk/Administrator
City of Hallock
PO Box 336
163 3rd ST
Hallock, MN 56728
PH: (218) 843-2737
agrafstrom@hallockmn.org

AND

Nancy Cibic
FAA Compliance Specialist/COR
2300 E. Devon Avenue, Room 440
Des Plaines, IL 60018
Nancy.Cibic@faa.gov

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner:

□ Bidder/offeror has met the DBE contract goal
The bidder/offeror is committed to a minimum of ____ % DBE utilization on this contract.

□ Bidder/offeror has not met the DBE contract goal
The bidder/offeror is committed to a minimum of ____% DBE utilization on this contract and has submitted [*or "will submit," if City of Hallock made compliance a matter of responsibility*] documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm: _____

Bidder/Offeror Representative:

_____
Name & Title

_____ _____
Signature Date

FORM 2: LETTER OF INTENT

Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.

Name of bidder/offeror's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of DBE firm: _____

Name & title of DBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Work to be performed by DBE firm:

Description of Work	*NAICS*	*Dollar Amount / %**	*Dealer/Manufacturer***

**Percentage is to be used only in negotiated procurements, including design-build contracts*
***For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is $ _____. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

_____ Date: _____
Signature of Bidder/Offeror's Authorized Representative

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

_____ Date: _____
Signature of DBE's Authorized Representative

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

Submit this page for each DBE subcontractor.

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract
2. MnDOT Equal Employment Opportunity Policy
3. Sexual Harassment Policy
4. Americans with Disabilities Act Policy
5. Title VII of the Civil Rights Act of 1964
6. Title VI of the Civil Rights Act of 1964
7. Title 49 Minnesota Code Annotated

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 8
DBE Certification Application Form
(New form October 2, 2014)

For information about the certification process or to apply for certification, firms should contact: the MnDOT Office of Civil Rights (http://www.dot.state.mn.us/civilrights/dbe.html):

ATTACHMENT 9

Minnesota's State UCP Agreement can be found at the below location.

https://mnucp.org/About/About-the-MNUCP.aspx

For in-depth details about the MNUCP DBE Program, you may read our DBE Program document.

ATTACHMENT 10
Small Business Element

1. Objective/Strategies

As part of this program element you may include, but are not limited to, the following strategies:

(1) Prime contracts under [a stated amount (e.g., $1 million)] will be set-aside for small businesses. Only those firms meeting the definition of a small business, as described below, will be eligible for award of these contracts.

(2) In multi-year design-build contracts or other large contracts (e.g., for "megaprojects") requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

(3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

(4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

2. Definition

- DBE firms should be identified in the Small Business element of the City of Hallock's DBE program as eligible for the program unless there is a DBE micro-Small Business Program element in place.
- Size standard should be consistent with 49 CFR 26.5 and must be no larger than the Small Business Administration's size standards. DBE firms and small firms eligible for the program should be similarly sized to reduce competitive conflict between DBE and non-DBE firms.
- Personal Net Worth standards (optional) – should be consistent with 49 CFR Part 26 thresholds.
- Definitions must clearly state that clearly state that all businesses meeting the criteria outlined in this element will be considered to be small businesses, without regard to race or gender.]

3. Verification

The Sponsor must diligently attempt to minimize fraud and abuse in the small business element of its DBE program by verifying program eligibility of firms. Verification does not necessarily involve creating a new certification category, though that is one option. Any verification procedure must allow for participation of all small businesses (relying exclusively on local/state M/WBE certification, SBA 8(a) certification, or other programs that include race/gender/geographical considerations as a condition of the certification is

not an acceptable means of verifying eligibility, and is not compliant with the race-neutral requirements of §26.39).

4. Monitoring/Record Keeping

The Sponsor will track and report any race-neutral participation by certified DBEs achieved through their small business element or program in the same way they report race-neutral DBE participation obtained through the uniform reporting methods under 49 CFR §26.11(a).

The Sponsor will collect data on small business participation obtained through their bidder's lists.

5. Assurance

1. The program is authorized under state law;
2. Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;
3. No limits are placed on the number of contracts awarded to firms participating in the program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
4. Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
5. The program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference).