



Missouri StateTM
U N I V E R S I T Y

Disadvantaged Business Enterprise Program
49 CFR Part 26

Issued 1999
Updated August 2005

Objectives/Policy Statement (26.1, 26.23)


Missouri State University 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 more than a decade, Missouri State University has received federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Missouri State University has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Missouri State University to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. Specifically, Missouri State University's policy is:


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

The Contracts Administrator for Missouri State University is designated as the University's DBE Liaison Officer. In that capacity, the Contracts 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 Missouri State University in its financial assistance agreements with the Department of Transportation.

Missouri State University has disseminated this policy statement by the Board of Governors for Missouri State University to all appropriate components of the University organization. Additionally, we have distributed this statement to DBE and non-DBE business communities that are eligible to perform work for the University on DOT-assisted contracts and to DBE and non-DBE financial institutions in the area that could be of financial assistance to DBEs. Distribution of this policy statement is also accomplished during the normal bidding process for all DOT-assisted contracts.



Vice President for
Administrative & Information Services



Date

Definitions (26.5)

The terms used in this program have the meanings defined in 49 CFR 26.5 and are shown below.

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

Compliance means that a recipient has correctly implemented the requirements of this part.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Department or *DOT* means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or DBE means a for-profit small business concern --

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

DOT/SBA Memorandum of Understanding or MOU, refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or *OA* means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the *North American Industry Classification Manual -- United States, 1997* which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161; by calling 1 (800) 553-6847; or via the Internet at: <http://www.ntis.gov/product/naics.htm>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or *SBA* means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is --

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

Nondiscrimination (26.7)

The intent of Missouri State University is to 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 the DBE Program, the University 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.

Record Keeping Requirements (26.11)

Reporting to DOT

Missouri State University will report DBE participation on a semi-annual basis, using the Uniform Report of DBE Awards or Commitments and Payments. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List

Missouri State University will create a bidders list consisting of information about all DBE and non-DBE firms that bid or quoted on DOT-assisted contracts. 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 of the firm, and annual gross receipts of the firms.

DBE Program Updates (26.21)

Missouri State University will continue to implement its DBE Program until all funds from DOT financial assistance have been expended. The University will provide updates to the DOT representing significant changes in its DBE Program.

Quotas (26.43)

Missouri State University does not use quotas in any way in the administration of its DBE Program.

Transit Vehicle Manufacturers (26.49)

Missouri State University 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, Missouri State University 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.

DBE Liaison Officer (DBELO) (26.25)

Missouri State University has designated the following individual as its DBE Liaison Officer:

Emily McGee, 901 South National Avenue, Springfield, MO 65804, Telephone; (417) 836-5101, Email; emilymcgee@missouristate.edu

In that capacity, Emily McGee is responsible for implementing all aspects of the DBE Program and ensuring that Missouri State University complies with all provisions of 49 CFR Part 26. Emily McGee has direct, independent access to the President of Missouri State University concerning DBE Program matters. An organizational chart displaying the DBELO's position in the organization is found in Attachment A to this document.

The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with other University officials. Specific duties and responsibilities pertaining to the DBELO function include the following:

- Gathers and reports statistical data and other information required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with the program.
- Works with all appropriate departments to set overall annual goals.
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- Participates in pre-bid meetings.
- Analyzes Missouri State University's progress towards goal attainment and identifies ways to improve progress, if necessary.
- Advises the President/Board of Governors on DBE matters and achievement.
- Participates with the reconsideration and determination officials or project manager to determine contractor compliance with good faith efforts.
- Provides DBEs with information regarding the preparation of bids, obtaining bonding and insurance.
- Maintains Missouri State University's updated directory on certified DBEs.

Federal Financial Assistance Agreement Assurance (26.13)

Missouri State University has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

"Missouri State University 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. Missouri State University shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and

administration of DOT-assisted contracts. Missouri State University's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Missouri State University of its failure to carry out its approved Program, The Department of Transportation may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matters for enforcement under 18 U.S.C. 10001 and/or Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)”

DBE Financial Institutions (26.27)

It is the policy of Missouri State University 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. To date, the University has not identified any such institutions.

Directory (26.31)

A Directory, including firm names, addresses, phone numbers and type of work the firm has been certified to perform, has been developed in cooperation with the Missouri Regional Certification Committee, specifically the Missouri Department of Transportation. The Directory is updated on a continual basis. The existing edition of the Directory can be found in Attachment B to this Program document. A DBE directory will be available at all pre-bid meetings for contracts that are partially funded by FTA.

Overconcentration (26.33)

Missouri State University has not identified an overconcentration in one or more types of work.

Business Development Programs (26.35)

Missouri State University has decided not to have a business development mentor-protégé Program.

Required Contract Clauses (26.13, 26.29)

Contract Assurance

Missouri State University will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

“The contractor or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of 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 Missouri State University deems appropriate.”

Prompt Payment

Missouri State University will include the following clause in each DOT-assisted prime contract:

“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Missouri State University. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following approval of Missouri State University. This clause applies to both DBE and non-DBE subcontractors.”

The University will apply the following noncompliance measures:

The prime contractor will not receive a final payment unless or until the prime contractor ensures that the subcontractors are properly paid for the work they have performed. The University would use the mechanism of a “DBE Payment Affidavit” to enforce this noncompliance measure.

Monitoring and Enforcement Mechanisms (26.37)

Missouri State University 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 Part 49 CFR Part 26.19. The University will also consider similar action under its own legal authorities, including responsibility determinations in future contracts.

Attachment C lists the regulations, provisions and contract remedies available to Missouri State University in the event of non-compliance with the DBE program by a participant in University procurement activities.

Overall Goals (26.45)

A description of the methodology to calculate the overall goal and the goal calculations can be found in the “Supplemental Annual Insert”.

In accordance with Section 26.45(f) Missouri State University will submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, Missouri State University will consult with known 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, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on

opportunities for DBEs and Missouri State University's efforts to establish a level playing field for participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Office of Design & Construction for 30 days following the date of the notice, and informing the public that Missouri State University and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will be published in, but not limited to, Springfield, Missouri's local newspaper. The notice will include addresses to which comments may be sent and an address where the proposal may be reviewed.

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

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT.

Amount of Goal (26.45)

Missouri State University's overall annual goal for each fiscal year is listed in the "Supplemental Annual Insert".

Method (26.45)

The methodology Missouri State University used to calculate its annual overall goal for each fiscal year is outlined in the "Supplemental Annual Insert".

Breakout of Estimated Race-Neutral & Race-Conscious Participation (26.51)

Missouri State University will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The University uses the following race-neutral means to increase DBE participation.

- Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE and other small business participation
- Provide information on contracting procedures and specific contract opportunities, e.g., making available the DBE Directory to bidders.

Missouri State University's overall goal is derived from percentages from race-neutral and race-conscious measures. Those percentages and a summary of those estimated breakouts are shown on the "Supplemental Annual Insert" enclosed in this DBE Program.

Missouri State University will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary

competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Contract Goals (26.51)

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

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

Missouri State University will express its contract goal as a percentage of the Federal share of a DOT-assisted contract.

Good Faith Efforts (26.53)

Information to be submitted

Missouri State University treats bidders' compliance with good faith efforts requirements as a matter of responsibility. The bidder shall submit DBE goals with their proposal, however, the University reserves the right to provide bidders the opportunity to submit additional information concerning DBE goals within 48 hours following a request from the University for such information.

Each solicitation for which a contract goal has been established will require the bidder to submit the following information.

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The dollar amount of the participation of each DBE firm participating;
- Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts.

Demonstration of good faith efforts

The obligation of the bidder is to make a good faith effort. The bidder can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are:

- Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled by the University to inform DBEs of contracting and subcontracting opportunities;
- Whether the contractor advertised in general circulation, trade association and minority-focus media concerning the subcontracting opportunities;
- Whether the contractor provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively;
- Whether the contractor followed up initial solicitations of interest by contracting DBEs to determine with certainty whether the DBE's were interested;
- Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- Whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- Whether the contractor negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
- Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance required by the University or contractor; and
- Whether the contractor effectively used the services of available minority community organizations; minority contractors' groups; local, state and Federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

The following personnel are responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible: University Architect, Office of Design & Construction, for Missouri State University.

Missouri State University will ensure that all information is complete and accurate and adequately documents the bidders' good faith efforts before the University commits to the performance of the contract by the bidder.

Administrative reconsideration

Within three days of being informed by Missouri State University that it is not responsible because it has not documented sufficient good faith efforts, a

bidder may request administrative reconsideration. The bidder should make this request in writing to the following reconsideration official: Associate Vice-President for Administrative Services, for Missouri State University. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or rationale concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with the University's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The University will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or made adequate good faith efforts to do so. The result of the reconsideration process may not be appealed administratively to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract

Missouri State University 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 DBE, to the extent needed to meet the contract goal. The University will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the University will require the prime contractor to obtain the University's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply within the time specified, the University'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 University's contracting office may issue a termination for default proceeding.

Counting DBE Participation (26.55)

Missouri State University will count DBE participation toward overall and contract goals as provided in 49 CFR Part 26.55.

Certification

Effective October 4, 2004, the Missouri Department of Transportation entered into a Memorandum of Understanding with four other partnering DBE certifying agencies in the State of Missouri, including the City of St. Louis, METRO, Kansas City Area Transportation Authority, and the City of Kansas City. The partnering agencies form the Missouri Regional Certification Committee.

Under the Memorandum of Understanding, the MRCC members agree that any and all firms certified as a DBE by any MRCC member shall be recognized as being certified in accordance with 49 CFR Part 26 and such certification will be accepted by all MRCC members.

Missouri State University has elected not to certify a firm as eligible to participate as a DBE for DOT-assisted contracts at this time. The University will utilize the certification provided by the MRCC.

Information, Confidentiality, Cooperation (26.109)

Confidentiality

Missouri State University will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information, consistent with federal, state and local law. Notwithstanding any contrary provisions of state or local law, the University will not release personal financial information submitted in response to the personal net worth requirements of a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

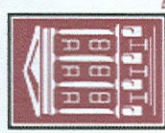
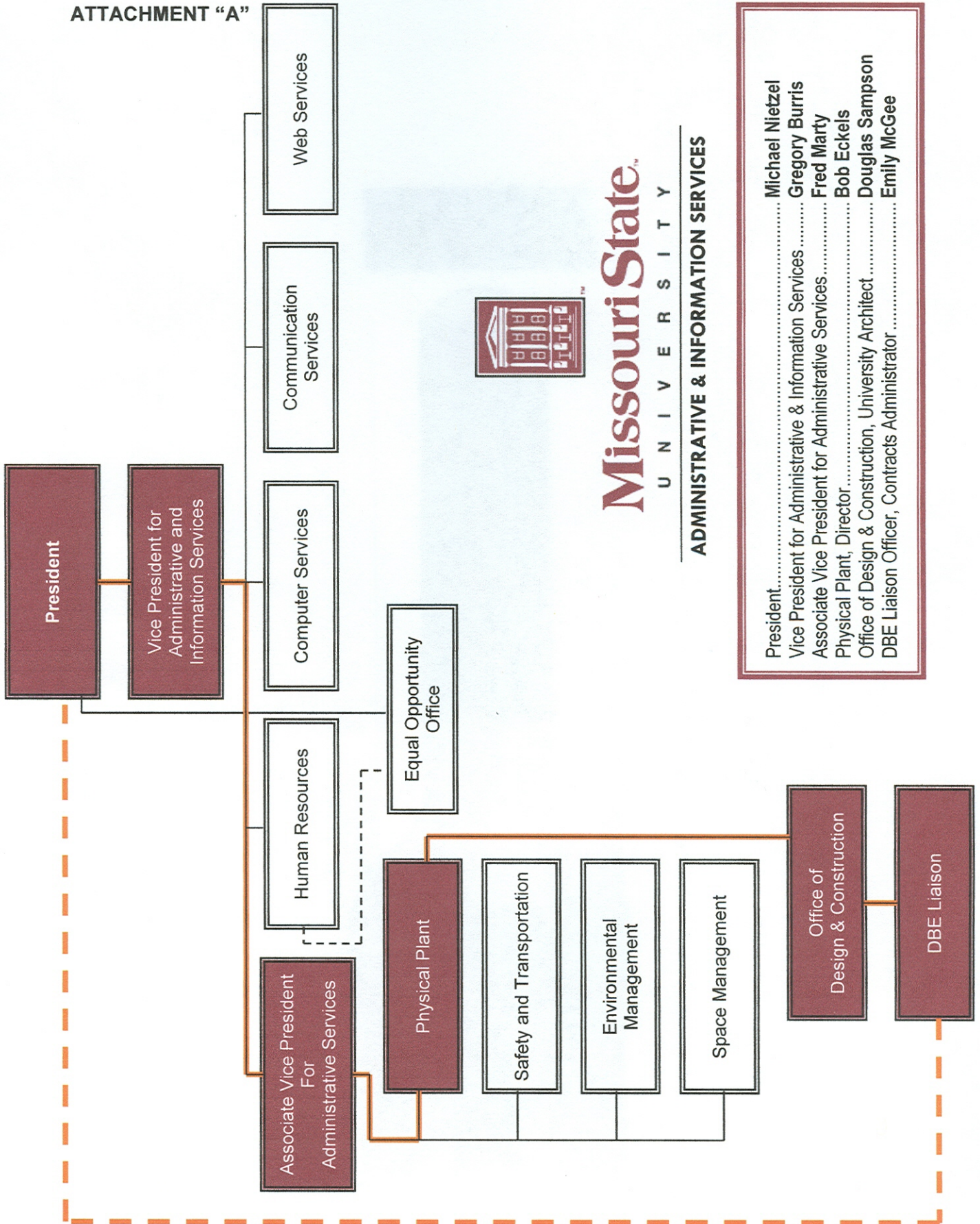
Missouri State University will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Missouri State University or DOT.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

Missouri State University will require the Prime Contractor to keep a running tally of actual payments to DBE firms for work committed to them on this contract. Missouri State University reserves the right to perform interim audits of contract payments to DBEs. This audit would review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractor equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Attachments

- A – Organizational Chart
- B – DBE Directory
- C – Enforcement Measures for Non-Compliance

ATTACHMENT "A"



Missouri State
U N I V E R S I T Y

ADMINISTRATIVE & INFORMATION SERVICES

President.....	Michael Nietzel
Vice President for Administrative & Information Services.....	Gregory Burris
Associate Vice President for Administrative Services.....	Fred Marty
Physical Plant, Director.....	Bob Eckels
Office of Design & Construction, University Architect.....	Douglas Sampson
DBE Liaison Officer, Contracts Administrator.....	Emily McGee

ATTACHMENT “B”



Effective Oct. 4, 2004, the Missouri Department of Transportation entered into a Memorandum of Understanding with four other partnering DBE certifying agencies in the State of Missouri, including the City of St. Louis, METRO, Kansas City Area Transportation Authority, and the City of Kansas City. The partnering agencies form the Missouri Regional Certification Committee.

Under the Memorandum of Understanding, the MRCC members agree that any and all firms certified as a DBE by any MRCC member shall be recognized as being certified in accordance with *49 CFR Part 26* and such certification will be accepted by all MRCC members.

Below are the links for the DBE Directories for the participating agencies:
(Contractors are able to use DBEs from any of the follow partners to participate toward DBE goals set on any MoDOT federally funded projects. Please feel free to contact the MoDOT External Civil Rights office for any questions.)

City of St. Louis

<http://www.mwdbe.org/directory.asp>

Metro

<http://www.stl-metro.org/InsideMetro/supplierdiversity-default.asp>

City of Kansas City

<http://www.kcmo.org/humrel.nsf/web/directoryaccess?opendocument>

KCATA

http://www.modot.org/business/contractor_resources/documents/KCATADirectory.pdf

MoDot DBE Directory

http://www.modot.state.mo.us/business/contractor_resources/documents/7-15-05directory.pdf

ATTACHMENT "C"

Enforcement Measures for Non-Compliance

- The contractor is bound to subcontracting not less than the percent indicated in the award contract to DBEs
- If the contractor fails to meet or maintain stated percent, he/she must satisfactorily explain why the requirement cannot be achieved and why meeting the requirement was beyond the contractor's control to the University Architect, Office of Design & Construction, at Missouri State University.
- If the University Architect at Missouri State University finds the contractor's explanation unsatisfactory, the University Architect may take any appropriate action including, but not limited to :
 - declaring the contractor ineligible to participate in DOT-assisted contracts for a period not to exceed six (6) month; and
 - directing that the contractor be declared in breach of contract.
- If a DBE is replaced during the course of the contract, the contractor shall make a good faith effort to place the DBE with another DBE. All substitutions shall be approved by the University Architect at Missouri State University.