

CITY OF BATTLE CREEK

DISADVANTAGED

BUSINESS

ENTERPRISES (DBE)

PROGRAM

Plan Statement

Battle Creek Transit (BCT) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation, 49 CFR Part 26. BCT has received federal financial assistance from the Department of Transportation/Federal Transit Authority (DOT/FTA) and as a condition of receiving this assistance, BCT has signed an assurance that it will comply with 49 CFR Part 26.

It is the plan of BCT to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT/FTA-assisted contracts. This plan supersedes the state DBE plan only when BCT is a direct recipient of federal funds. It is also our plan:

1. To ensure nondiscrimination in the award and administration of DOT/FTA assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT/FTA assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs; and
5. To help remove barriers to the participation of DBEs in DOT/FTA assisted contracts;

The Grants Administrator has been designated as the DBE Liaison Officer. In that capacity, they are 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 BCT in its financial assistance agreements with the DOT/FTA. BCT has made this plan statement available to all DBE and non-DBE business communities that perform work for us on DOT/FTA assisted contracts. We have published the plan on BCT's website (www.battlecreekmi.gov/living); include reference to this plan in all solicitations; and have made the plan available through our office.

SUBPART A – GENERAL REQUIREMENTS

Objectives

The objectives are found in the Plan Statement on the first page of this program.

Applicability

BCT is the recipient of Federal Transit Administration (FTA) funds.

Definitions

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

Nondiscrimination Requirements

BCT 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 on the basis of race, color, sex, or national origin.

Federal Financial Assistance Agreement Assurance

BCT has signed all required assurances, applicable to federally assisted contracts and their administration. Such assurances are available upon request. BCT will ensure that the following clause is placed in every federally assisted contract and subcontract:

Contract Assurance 49 CFR Part 26. The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT/FTA assisted contract or in the administration if its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT/FTA assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of the contract, which may result in the termination of the contract or such other remedy as the BCT deems appropriate.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

DBE Program Updates

BCT will continue to carry out this program until it has established a new goal setting methodology or until significant changes to this DBE program are adopted. BCT will provide to the DOT/FTA overall goal and goal setting methodology and other program updates on an annual basis.

DBE Liaison Officer (DBELO)

BCT has designed the following individual as our DBE Liaison Officer (DBELO):

Grants Administrator
339 West Michigan Avenue
Battle Creek, MI 49037
Telephone 269.966.3477
Fax 269.966.3652

In that capacity, the DEBLO is responsible for implementing all aspects of the DBE program and ensuring that BCT complies with all provision of 49 CFR Part 26.

The DBELO has direct, independent access to the Transit Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program. BCT is a small urban and only has one person to administer the program. Duties and responsibilities include the following:

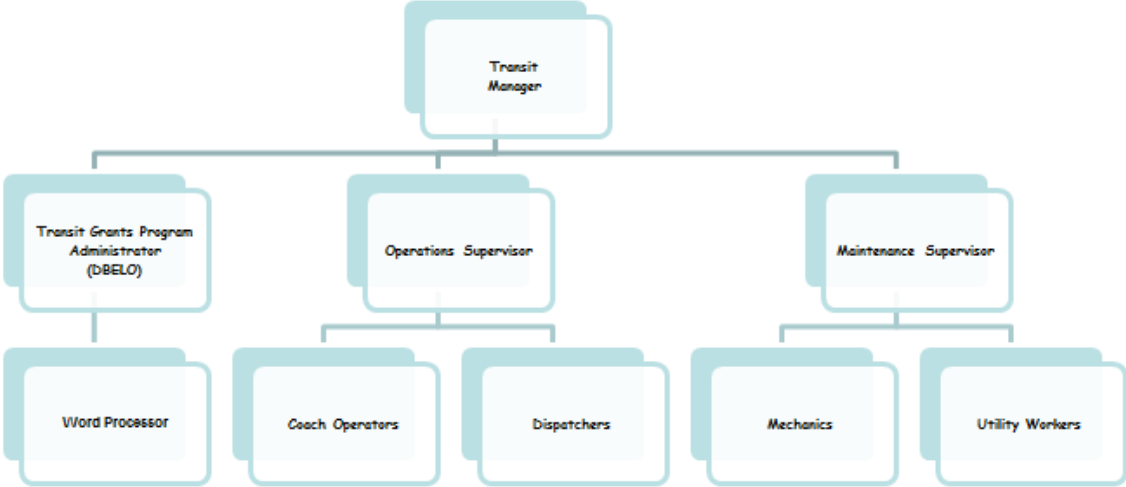
- Gather and report statistical data and other information as required by MDOT/FTA;
- Make a good faith effort to meet goals;
- Establish goals using the process in Attachment 2;
- Include clauses to insure the prime contractor pay subcontractors within 30 days after the subcontractors work is completed.

Monitoring and Enforcement Mechanisms

BCT will provide a monitoring mechanism to verify that work committed to DBEs as contract award is actually performed by the DBEs. BCT will bring to the attention of the DOT/FTA any false, fraudulent, or dishonest conduct in connection with the program, so that DOT/FTA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. BCT will also consider similar action under its own legal authorities, including but not limited to responsible determinations in future contracts and breach of contract actions.

ATTACHMENT 1

**Battle Creek Transit
Organizational Flow Chart
Current as of 12/4/14**



ATTACHMENT 2

Battle Creek Transit Disadvantaged Business Enterprise Program Goal For Fiscal Years 2016-2018

Battle Creek Transit's (BCT) has set its overall goal under the Disadvantaged Business Enterprise (DBE) participation during Fiscal Years (FY) 2016-2018 contracts funded in whole or in part with Federal Transit Administration (FTA) funds. BCT proposes a goal of 0.0156 percent Race Neutral (RN) which reflects the relative availability of DBEs to participate in contracts and procurements projected by BCT.

In accordance with 49 CFR 26.45, BCT's proposed goal was published in various media as well as on our Transit website. BCT held a public hearing to gather any citizen input. No comments received based on public announcements or hearings.

STEP 1: Determine the Base Figure for the Relative Availability of DBEs

BCT determined the number of ready, willing, and able DBEs in its marketplace from examination of the Michigan Department of Transportation (MDOT) DBE Directory. BCT next consulted the U.S. Census County Business Pattern for Calhoun County statistics to determine the total number of business establishments available in its marketplace identified by North American Industrial Classification Codes (NAIC). BCT utilized the most recent county business pattern data available in specific breakdown by NAIC's. The object is to determine how many businesses exists in the county which serves as BCT's primary marketplaces in Calhoun County and, of this amount, how many or what percentage of all available businesses are DBE's in each relevant NAIC.

Step 2: Weighting of Relative Availability

The goal-setting process involves examining available evidence in Calhoun County in order to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall, final goal.

BCT will attempt to meet its DBE goal by using race-neutral means of facilitating DBE participation (i.e. Outreach and technical assistance to DBE's when requested or required). The attainment of BCT's goals for DBE purchases is dependent upon increasing the number of certified DBE vendors within BCT's market area that can provide the products and services that BCT requires. There are a number of factors that affect BCT's ability to meet its DBE goal. These are:

- Both new and previously certified DBE's continue to certify under the language of the DBE revised program. Various reasons exist for the reluctance of previously certified DBE's to now become certified under the new DBE Revised Program. One reason is that some DBE's no longer qualify under the program's new guidelines for gross sales or personal net worth. Other minority/women owned businesses have remarked that the certification requirements of the program are too onerous or intrusive. The complexity of certification under the DBE Revised Program along with the fact that DBE certification is not a requirement to do business with BCT, has tended to suppress the certification of DBE's who had been previously certified under the old DBE program. BCT will purchase goods and services from vendors who were previously DBE certified but have chosen not to certify under the current DBE guidelines. BCT will take advantage of the Michigan Unified Certification Program for Disadvantaged Business Enterprises in order to draw upon a greater number of certified DBE's for goods and services that it procures on an annual basis. BCT further agrees to abide by the Michigan Unified Certification Program as administered by the US DOT.
- BCT used the vast majority of its DOT funds to help cover its annual operating budget. Prior year's budget analysis's have indicated that approximately only 15% of Battle Creek Transit's operating budget offers contracting opportunities to DBE's. The majority of BCT's operating budget goes toward non-contractible expenses such as wages,

fringe benefits, utilities, health care, etc. These are areas where the opportunity for DBE purchasing is nonexistent or (in the case of vehicles) is passed through to bus manufacturers.

- Within Battle Creek Transit’s market area, there are not very many certified DBE firms. In most cases, the DBE firms that do exist do not provide the types of goods or services that Battle Creek Transit is seeking. Within Calhoun County, BCT was able to identify only two certified DBEs. The total number of businesses decreased approximately 26% over the past few years. It is reasonable to assume that some of these businesses were DBE firms.

A review of median past DBE participation from FY 2013-2015 reflected zero DBE participation. Therefore, Battle Creek Transit’s DBE goal has remained relatively unchanged at 0.0156 percent.

	DBE’s in market area	34		
Base Figure =	$\frac{\quad}{\quad}$	=	$\frac{\quad}{217,494}$	= 0.0156%
	Total firms in market area			

Public Participation

BCT published a notice of its proposed overall DBE goal. This notice informs the public that the proposed goal and its rationale are available for inspection during normal business hours at our office at 339 W. Michigan, Battle Creek, MI 49037, for 30 days following the date of the notice. The notice further informs the public that Battle Creek Transit and the US Department of Transportation will accept comments on the goal for 30 days from the date of the notice.

BCT has also contacted minority and community organizations, churches and others who are expected to have information on the availability of disadvantaged businesses. This contact included an explanation of the US DOT Disadvantaged Business Enterprise program. All potential DBE’s are encouraged to contact the

agencies throughout Michigan that have been designated to certify businesses under the Michigan Unified Certification Program for DBE's.

A public hearing is held at Battle Creek Transit's conference room located at 339 W. Michigan Avenue, Battle Creek, on Wednesday, October 21, 2015. BCT will forward a summary of information and comments received during the public participation period, along with our responses, to FTA within 30 days following the closing date for the submission of comments.

Capital Budget Analysis for DBE Goal

Battle Creek Transit will be receiving \$1,167,884 (\$1,024,784 in Federal operating funds as well as a State of Michigan/MDOT funds \$143,100) for the purpose of making facility improvements and upgrades for various transit-related equipment. Of this total, approximately \$700,730 or 60% will not offer contractible opportunities to DBE firms. Reasons for this include certain projects that will be procured under existing State contracts, other projects that there are no known minority vendors, and projects that will be of a proprietary nature. The remaining \$467,154 will be used in calculating DBE contracting opportunities. Based upon a DBE goal of 0.0156%, this would result in approximately \$7,288 being available for contracting with DBE firms. When combined with the \$689 from the operating budget analysis, BCT's anticipated total expenditure with DBE firms in FY 2015 should be approximately \$7,977.

The number of potential DBE bidders determined in this analysis (34) is then divided by the total number of all potential bidders (217,494) in order to arrive at the relative availability of DBE's in Battle Creek Transit's market area, as expressed by a percentage. The results of this analysis are as follows:

FTA Procurements and Miscellaneous Transit

Projected weighted dollar value x DBE-relative availability = Weighted DBE-relative availability

Projected weighted dollar value for FTA procurements & miscellaneous transit:

Estimated FTA Procurement & Misc. \$ 143,100 = 1

Total FTA-assisted programs \$143,100

Projected DBE-relative availability in FTA procurements and miscellaneous transit:

34 DBE's in projected utilized areas = 0.000156 (0.0156%)

217,494 All vendors in market area

Weighted DBE Relative Availability in FTA procurements & misc. = 1 x .000156 = 0.000156 (.000156%)