

St. Augustine - St. Johns County Airport Authority



Disadvantaged Business Enterprise Program
for Airport FAA-Funded Projects at
Northeast Florida Regional Airport

Goal and Methodology Update
2015 – 2016 - 2017

Policy Statement:

The St. Augustine – St. Johns County Airport Authority (Authority), owner of the Northeast Florida Regional Airport (NFRA/SGJ), has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Authority has received Federal financial assistance from the U.S. Department of Transportation Federal Aviation Administration (FAA), and as a condition of receiving this assistance, the Authority has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Authority to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in FAA–assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of FAA- assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FAA-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in FAA-assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility in establishing and providing opportunities for DBEs.

The Authority’s Office Manager, Cindy K. Hollingsworth, has been delegated to be the Authority’s DBE Liaison Officer. In that capacity, she 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 Authority in its financial assistance agreements with the Department of Transportation.

The Authority has disseminated this policy statement to the Airport administrative personnel 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 FAA-assisted contracts. The distribution was accomplished by public notice and by including the DBE requirements in our Bid/Contract Documents.

Edward Wuellner, AAE, Executive Director
St. Augustine – St. Johns County Airport Authority

Date

**DBE Program Update for Airport FAA-Funded Projects at the
Northeast Florida Regional Airport (NFRA/SGJ)
2015 – 2016 – 2017**

Subpart A – General Requirements

A.1 – Objectives (Section 26.1)

The objectives of this DBE Program are found in the signed Policy Statement that precedes this page. The Authority's DBE Program Objectives are in compliance with the objectives of 49 CFR §26.1.

A.2 - Applicability (Section 26.3)

The Regulations contained in 49 CFR Part 26 apply to the Authority because it is the recipient of Federal Aviation Administration (FAA) airport funds authorized by 49 U.S.C. 47101, *et seq.* (49 CFR §26.3)

A.3 – Definitions (Section 26.5)

The Authority will use terms in this program that have the meaning defined in 49 CFR §26.5 (See Attachment 1).

A.4 - Non-discrimination Requirements (Section 26.7)

The Authority 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, the Authority 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.

A.5 - Record Keeping Requirements (Section 26.11)

Uniform Report of DEB Award or Commitments and Payments:

We will report DBE participation to DOT/FAA (49 CFR 26.11(b)) as follows:

We will transmit to FAA annually, the “Uniform Report of DBE Awards or Commitments and Payments” form, as found in Appendix B to 49 CFR §26 or as modified for use by FAA recipients.

Bidders List:

The Authority will create and maintain a Bidders List (49 CFR §26.11(c)). The purpose of the List is to provide as accurate data as possible about the DBE and non-DBE contractors and subcontractors who seek to work on our DOT/FAA-assisted contracts for use in helping to set our overall goals.

The Bidders List will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms (see Attachment 3). This information will be collected from all bidders as part of the bid process, in the format of Attachment 3.

A.6 - Federal Financial Assistance Agreement (Section 26.13)

The Authority has signed the following assurances, applicable to all DOT/FAA-assisted contracts and their administration:

Sponsor Assurances:

Each financial assistance agreement the Authority signs with a DOT operating administration (or a primary recipient) will include the assurances determined and required by the FAA Airport Improvement Program. Currently, the assurances are as follows:

Sponsor Certification for Equipment/Construction Contracts for Airport Improvement Program Grants between the Authority and DOT/FAA:

“All contracts and subcontracts contain (will contain) clauses required from Title VI of the Civil Rights Act and 49 CFR 23 and 49 CFR 26 for Disadvantaged Business Enterprises.”

Sponsor Certification for Selection of Consultants for Airport Improvement Program Grants between the Authority and DOT/FAA:

“Consultants were (or will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirement with the fees determined through negotiations.”

Contract Assurance:

The Authority will ensure that the following clause is included in each contract we sign with a contractor and in each subcontract the prime contractor signs with a subcontractor:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate.

Subpart B - Administrative Requirements

B.1 - DBE Program Updates (Section 26.21)

The Authority is required to have a DBE program meeting the requirements of 49 CFR Part 26, as it has received grants and anticipates it will receive grants for airport planning or development, and anticipates it will award prime contracts, the cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

B.2 - Policy Statement (Section 26.23)

The Authority's signed Policy Statement is presented on the first page of this DBE Program and is in compliance with 49 CFR §26.23.

B.3 - DBE Liaison Officer (Section 26.25)

The Authority, in compliance with 49 CFR §26.25, has designated the Authority's Office Manager, Cindy K. Hollingsworth, to act as the DBE Liaison Officer. Contact information:

St. Augustine – St. Johns County Airport Authority
Attn: Cindy K. Hollingsworth, Acting DBE Liaison Officer
4796 U.S. 1 North, St. Augustine, FL 32095
904-209-0090
904-209-0528 (Fax)
c/o: ckh@sgj-airport.com.

The DBE Liaison Officer is responsible for implementing all aspects of the DBE program and ensuring that the Authority complies with all provision of 49 CFR Part 26. The DBE Liaison Officer has direct, independent access to the Executive Director of the Authority, concerning DBE program matters. An organization chart displaying the DBE Liaison's position in the organization is found in Attachment 2 to this program.

The DBE Liaison Officer is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBE Liaison Officer has a Consulting Firm (Passero Associates, LLC) to assist in the administration of the program. The duties and responsibilities of the DBE Liaison Officer include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in atimely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes Authority's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the governing body on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars, if scheduled.
12. Acts as liaison to the Uniform Certification Process, asneeded.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains the agency's updated directory on certified DBEs (Bidder's List).

B.4 - DBE Financial Institutions (Section 26.27)

It is the policy of the Authority to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. At this time, there are no minority-owned banks in the northeastern region of Florida. (source: US Treasury Department Minority Bank Deposit Program). We will investigate this each time we update this program.)

B.5 - Prompt Payment Mechanisms (Section 26.29)

The Authority will include the following clause in each FAA-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than *[specify number]* days from the receipt of each payment the prime contractor receives from *[Recipient]*. The prime contractor agrees further to return retainage payments to each subcontractor within *[specify same number as above]* days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the *[Recipient]*. This clause applies to both DBE and non-DBE subcontractors.

Monitoring Payments to DBEs:

The Authority 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 the Authority or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

B.6 – Directory (Section 26.31)

The Authority uses the State of Florida 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 Florida Unified Certification Program DBE Directory is revised daily. The Directory may be found at: <http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>.

B.7 - Over-concentration (Section 26.33)

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

B.8 - Business Development Programs (Section 26.35)

The Authority has not established a business development program.

B.9 - Monitoring and Enforcement Mechanisms (Section 26.37)

The Authority will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We 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.
2. We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs. This mechanism will include written

certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished in conjunction with monitoring contract performance for other purposes, e.g., approval of pay applications and project / contract closeout reviews and approvals.

3. We will implement a method that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT Uniform Reporting Form.

B.10 - Fostering Small Business Participation (Section 26.39)

The Authority takes all reasonable steps to eliminate obstacles that may prevent or preclude small business participation in competitive bidding on airport projects as prime contractors or subcontractors, such as having wide-distribution/dissemination of bid announcements, providing easily obtained bid documents, plans and technical specifications, conducting pre-bid meetings, receiving potential-bidder questions concerning technical and non-technical aspects, answering all questions in published addenda, conducting public bid-openings.

Subpart C – Goals, Good Faith Efforts, And Counting

C.1 - Set-asides or Quotas (Section 26.43)

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

C.2 - Overall Goals (Section 26.45)

The Authority will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f) the Authority will submit its Overall Three-year DBE Goal to FAA, as required by the established schedule below.

Airport Type	Region	Next Goal Due (Goal Period)
Non-Primary (GAs, Relievers and State DOTs)	Southern	August 1, 2017 (2018/2019/2020)

C.2.1 Methodology

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

The first step, as outlined in 49 CFR 26.45(c)(1), is to determine the “Base Figure”, which is the relative availability of DBEs in the relevant Geographic Market Area. See Attachment 5: Overall

Goal Calculations, which states the Authority's 2015 – 2017 Overall DBE Goal and details the following methodology used to calculate it.

- a. We began by determining all FAA-Assisted possible contracting opportunities (based on the Capital Improvement Plan Summary for the Northeast Florida Regional Airport) and assigned appropriate North American Industry Classification System (NAICS) Codes to those possible opportunities.
- b. We determined that our relevant Geographic Market Area (GMA) continues to be FDOT District 2, as stated in the Authority's 2012-2014 DBE Program document (i.e., Analyses of the Authority's FAA-AIP funded projects, discussions with Airport staff and consultants, and a review of the list of Bidders revealed that FDOT District 2 is most logically defined as the Authority's relevant GMA.), and expanded the relevant GMA for this period to include the three northern counties located in FDOT District 5.
- c. We used the State of Florida Unified Certification Program DBE Directory to calculate the number of ready, willing-and-able DBEs in our GMA that perform work in the same NAICS codes.
- d. We used the U.S. Census Bureau's County Business Patterns Data to determine the number of all ready, willing and able businesses available in our GMA that perform work in the same NAICS codes.
- e. Our Base Figure for the relative availability of DBEs in our GMA = the number of DBEs from step "c." directly above divided by the number of all businesses from step "d." directly above.

The second step is to adjust the "Base Figure" percentage resulting from Step 1 so that it reflects as accurately as possible the DBE participation expected in the absence of discrimination.

In accordance with Step 2 outlined in 49 CFR §26.45(d), examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made. The overall goal will be expressed as a percentage FAA funds expended. (See Attachment 5.)

C.2.2 Consultation and Public Notice

In establishing the updated overall goal, the Authority will provide, in accordance with 49 CFR §26.45(g), for consultation and publication. In establishing the previous period's overall goal, the Authority provided for consultation and publication. No comments were received. The Authority intends to submit its proposed updated overall three-year DBE goal to the FAA March 1, 2017.

Consultation: For this plan update, the Authority consulted with the Airport Minority Advisory Council, the Florida Hispanic Construction Association, the National Association of Minority Contractors – NE Florida Chapter, and the North Florida Small Business Development Office, without limiting consultation to these persons or groups, by forwarding the public notice to them and inviting their comments and input concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and the Authority's efforts to establish a level playing field for the participation of DBEs. (See Attachment 6.)

Public Notice: The Authority published a Public Notice announcing the proposed update to its overall DBE goal before submission to the FAA operating administration. The Notice was published

in The St. Augustine Record on January 13, 2017 and on the Authority's website (see Attachment 6). The Notice informs the public that the proposed updated overall DBE goal and rationale is available for inspection during normal business hours at our principal office and that the Authority will accept written comments on the goals for 30 days from the date of the notice. Notice of the comment period includes the address to which comments may be sent and where the proposal may be reviewed.

The Authority's updated Overall Three-Year DBE Goal and Methodology submission to the FAA will include a summary of information and comments received, if any, during this public participation process and our responses. (See Attachment 6 for discussion of comments.) The submission to the FAA will be published on the Authority's official website, <http://www.flynf.com/>.

We will begin using our updated overall goal on for the current reporting period, unless we receive other instructions from the FAA. If the proposed goal changes following review by the FAA operating administration, the revised goal will be published on the Authority's official website, <http://www.flynf.com/>.

C.3 - Overall Goals (Section 26.45 (e)(2))

The overall goal will be expressed as a percentage of the FAA funds that the Authority will expend in FAA/AIP-assisted contracts in the stated three fiscal years.

C.4 - Prior Operating Administration Concurrent (Section 26.45(f))

The Authority understands that we may adjust our three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances, and that we are not required to obtain prior operating administration concurrence with our overall goal. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate the operating administration may, after consulting with us, adjust our overall goal or require that we do so.

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

C.5 - Failure to meet overall goals (Section 26.47)

The Authority will maintain an approved DBE Program and overall DBE goal, if applicable, as well as administer our DBE Program in good faith to be considered to be in compliance with this Part.

If the Authority's awards and commitments shown on our 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, we will do the following in order to be regarded by the Department as implementing our DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year.

C.6 - Breakout of Estimated Race-Neutral (RN) & Race-Conscious (RC) Participation (Section 26.49(e))

The Authority will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation by:

- (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 of this part;

(2) Carrying out information and communications programs on contracting procedures and specific contract opportunities;

(3) Promoting DBE participation through a subcontract on a prime contract that does not carry a DBE goal;

(4) DBE participation on a prime contract exceeding a contract goal;

(5) DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The Authority expects to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. We estimate that, in meeting our overall goal of 8.34 percent, we will obtain 3.11 percent from race-neutral participation. This estimate is based upon the Authority's prior period's finding of DBE participation in excess of DBE Goals on AIP construction projects (See Attachment 5).

An adjustment in this breakdown for the current period cannot be supported at this time. However, the Authority 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.

C.7 - Contract Goals (Section 26.51(d-g))

The Authority will use contract goals to meet any portion of our overall goal we do 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 our overall goal that we do not project being able to meet through the use of race-neutral means.

The Authority will establish contract goals only on those DOT/FAA-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals may 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 shall be used to meet 5.23 percent of the Authority's overall goal (see Attachment 5 for calculation); and such goals can only be used on contracts that present subcontracting opportunities. However, contract goals shall not be utilized for Part 26 Federally-funded projects beyond the attainment of the annual overall goal. This requirement applies to both construction and non-construction (i.e., architectural, Landscaping, other professional services, equipment, etc.).

The appropriate goal will be included in each AIP solicitation. Individual contract goals may vary from the overall goals. A contract goal is established by determining that portion of the overall goal that the Authority cannot meet by race-neutral means. The Authority will express our contract goals as a percentage of the total amount of an FAA-assisted contract.

C.8 - Good Faith Efforts Procedures (Section 26.53)

C.8.1 Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.

The Authority is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

The Authority will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror. (See Attachment 7.)

C.8.2 Information to be submitted (26.53(b))

The Authority treats bidder's/offer's compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established, we will require all bidders/offerors to meet the requirements of this section and to submit the following information at the time of bid, under sealed bid procedures, as a matter of responsiveness:

- (1) The names and addresses of DBE firms that will participate in the contract;
- (2) A description of the work that each DBE will perform. 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;
- (3) The dollar amount of the participation of each DBE firm participating;
- (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
- (5) 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; and
- (6) If the contract goal is not met, evidence of good faith efforts.

C.8.3 Administrative reconsideration (26.53(d))

Within seven (7) business days of being informed by the Authority that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration.

Bidder/offerors should make this request in writing to the following reconsideration official: Ms. Cindy K. Hollingsworth, Acting DBE Liaison Officer, 4796 US 1 North, St. Augustine, FL 32095. 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 our reconsideration official and Authority staff to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror 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.

C.8.4 Good Faith Efforts procedures in situations when there are contract goals (26.53(f)(g))

The Authority will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our 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 in the time specified, we 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.

Note 1. If a contract goal has been established, a bidder may not meet the requirements of the bid specification by stating that he/she will accomplish all work of the contract using his/her own employees. First, he/she must demonstrate, to the Authority's satisfaction, that he/she made good faith efforts to meet the goal, and despite those efforts, was unable to subcontract any of the work to DBEs.

Note 2. The good faith effort requirements of 26.53 shall be required in every instance where a contract goal has been established.

The Authority will include in each bid solicitation and subsequent prime contract a provision stating:

- “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 the recipient deems appropriate.”
- “By submitting this Bid the Bidder acknowledges that the Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53. As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with their proposal on the forms provided herein:
 - (1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
 - (2) A description of the work that each DBE firm will perform;
 - (3) The dollar amount of the participation of each DBE firm listed under (1)
 - (4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
 - (5) If Bidder or Offeror cannot meet the advertised project DBE goal; evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26.

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in their commitment. This Bidder or Offeror must submit the DBE's written confirmation of participation within 5 days of receiving the Owners notice of award."

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.

C.9 - Counting DBE Participation (Section 26.55)

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract 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.

If a firm is not currently certified as a DBE at the time of the execution of the contract, we will not count the firm's participation toward any DBE goals, except as provided for in 26.87(j).

Subpart D – Certification Standards

D.1 – (Sections 26.61, 63, 65, 67, 71, 73 do not apply)

The Authority does not determine the eligibility of firms to participate as DBEs in DOT assisted contracts. DBE Certification is obtained and maintained through the State of Florida.

Subpart E – Certification Procedures

E.1 - Unified Certification Programs (Section 26.81 does not apply)

The Authority is not a member or Certifying Agency of the Unified Certification Program (UCP) administered by the State of Florida.

Subpart F – Compliance and Enforcement

F.1 - Information, Confidentiality, Cooperation and intimidation or retaliation (§ 26.109)

The Authority 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 provision of Federal or state law, the Authority will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information.

The Authority, in accordance with 49 CFR §26.109, will cooperate fully and promptly with DOT and recipient compliance reviews, investigations, and other requests for information.

The Authority, in accordance with 49 CFR §26.109(d), 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.

Attachments to the DBE Program document follows this page.

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 and website link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Forms
- Attachment 4 Link to DBE Directory
- Attachment 5 Overall Goal Calculations
- Attachment 6 Public Participation
- Attachment 7 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms
- Attachment 8 DBE Enforcement Mechanisms

ATTACHMENT 1 - REGULATIONS

49 CFR Part 26

Link to complete regulations:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

Sections Referenced in Program Document form:

Title 49: Transportation

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN
DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

Subpart A—General

§26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- (f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
- (g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

§26.3 To whom does this part apply?

- (a) If you are a recipient of any of the following types of funds, this part applies to you:

(1) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

(2) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

- (3) Airport funds authorized by 49 U.S.C. 47101, *et seq.*

- (b) [Reserved]

(c) If you are letting a contract, and that contract is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands, this part does not apply to the contract.

(d) If you are letting a contract in which DOT financial assistance does not participate, this part does not apply to the contract.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

§26.5 What do the terms used in this part mean?

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.*).

Assets mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

Business, business concern or business enterprise means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

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

Contingent Liability means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

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.

Days mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

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.

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.

Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State 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.

Liabilities mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

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 most current North American Industry 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, which is available on the Internet at the U.S. Census Bureau Web site: <http://www.census.gov/eos/www/naics/>.

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. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

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 has been subjected to racial or ethnic

prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(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 enrolled members of a federally or State recognized Indian tribe, Alaska Natives, 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), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, 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.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Spouse means a married person, including a person in a domestic partnership or a civil union recognized under State law.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale "off the lot" are not considered transit vehicle manufacturers.

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).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]

§26.7 What discriminatory actions are forbidden?

(a) You must 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 this part on the basis of race, color, sex, or national origin.

(b) In administering your DBE program, you must 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 program with respect to individuals of a particular race, color, sex, or national origin.

§26.9 How does the Department issue guidance and interpretations under this part?

(a) Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this part 26 and issued after March 4, 1999 express the official positions and views of the Department of Transportation or any of its operating administrations.

(b) The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA, and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid, and express the official positions and views of the Department of Transportation or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

[72 FR 15617, Apr. 2, 2007]

§26.11 What records do recipients keep and report?

(a) You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

(c) You must create and maintain a bidders list.

(1) The purpose of this list is to provide you as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

(2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts:

(i) Firm name;

(ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) rather than requesting an exact figure from the firm.

(3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after the bid due date. You can conduct a survey that will result

in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (e.g., collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information).

(d) You must maintain records documenting a firm's compliance with the requirements of this part. At a minimum, you must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records must be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

(e) The State department of transportation in each UCP established pursuant to §26.81 of this part must report to the Department of Transportation's Office of Civil Rights, by January 1, 2015, and each year thereafter, the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

(1) Women;

(2) Socially and economically disadvantaged individuals (other than women); and

(3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 76 FR 5096, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

§26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance: The recipient 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 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-assisted contracts. The recipient'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 the recipient 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.).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, 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.

[79 FR 59593, Oct. 2, 2014]

§26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

- (1) All FHWA primary recipients receiving funds authorized by a statute to which this part applies;
- (2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a Federal fiscal year;
- (3) FAA recipients receiving grants for airport planning or development who will award prime contracts the cumulative total value of which exceeds \$250,000 in FAA funds in a Federal fiscal year.

(b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 79 FR 59593, Oct. 2, 2014]

§26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

§26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

§26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

§26.29 What prompt payment mechanisms must recipients have?

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to 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 30 days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

(c) For purposes of this section, 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 recipient. When a recipient 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.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) 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.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

[68 FR 35553, June 16, 2003]

§26.31 What information must you include in your DBE directory?

(a) In the directory required under §26.81(g) of this Part, you must list all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE.

(b) You must list 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. You must make any changes to your current directory entries necessary to meet the requirement of this paragraph (a) by August 26, 2011.

[76 FR 5096, Jan. 28, 2011]

§26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

(a) If you determine that DBE firms are so over concentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.

(b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to the extent consistent with §26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

§26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a “mentor-protégé” program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

§26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that 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. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

(c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 76 FR 5097, Jan. 28, 2011]

§26.39 Fostering small business participation.

(a) Your DBE program must include an 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.

(b) This element must be submitted to the appropriate DOT operating administration for approval as a part of your DBE program by February 28, 2012. As part of this program element you may include, but are not limited to, the following strategies:

(1) Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).

(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.

(c) You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your DBE program.

[76 FR 5097, Jan. 28, 2011]

§26.41 What is the role of the statutory 10 percent goal in this program?

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

§26.43 Can recipients use set-asides or quotas as part of this program?

(a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.

(b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

§26.45 How do recipients set overall goals?

(a)(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.

(2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market. When using this approach, you must establish a mechanism (documented in your goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on your DOT-assisted contracts.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) *Alternative methods.* Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must 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 your market. The exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section, is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the “but for” factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.

(2) If you are an FTA or FAA recipient, as a percentage of all FT or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the three forthcoming fiscal years.

(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit or require you to express your overall goal 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.

(i) A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals.

(ii) A project goal covers the entire length of the project to which it applies.

(iii) The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal.

(iv) The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

(f)(1)(i) If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site.

(ii) You may adjust your three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. You must submit such an adjustment to the concerned operating administration for review and approval.

(iii) The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(iv) While you are required to submit an overall goal to FHWA, FTA, or FAA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

(v) You may make, for informational purposes, projections of your expected DBE achievements during each of the three years covered by your overall goal. However, it is the overall goal itself, and not these informational projections, to which the provisions of section 26.47(c) of this part apply.

(2) If you are a recipient and set your overall goal on a project or grant basis as provided in paragraph (e)(3) of this section, you must submit the goal for review at a time determined by the FHWA, FTA or FAA Administrator, as applicable.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (see 26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the operating administration will be guided by goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

(6) Timely submission and operating administration approval of your overall goal is a condition of eligibility for DOT financial assistance.

(7) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive DOT financial assistance.

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

(i) 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 your efforts to establish a level playing field for the participation of DBEs. The consultation must 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 must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in

your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site.

(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30-day comment period. Notice of the comment period must include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

(h) Your overall goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003; 75 FR 5536, Feb. 3, 2010; 76 FR 5097, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

§26.51 What means do recipients use to meet overall goals?

(a) You must meet the maximum feasible portion of your 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.

(b) 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 of this part.

(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 recipient 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 your 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.

(c) Each time you submit your overall goal for review by the concerned operating administration, you must also submit your projection of the portion of the goal that you expect to meet through race-neutral means and your basis for that projection. This projection is subject to approval by the concerned operating administration, in conjunction with its review of your overall goal.

(d) You must establish contract goals to meet any portion of your overall goal you do not project being able to meet using race-neutral means.

(e) The following provisions apply to the use of contract goals:

(1) You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means.

(3) Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any contract goal you establish.

(4) Your contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

(f) To ensure that your DBE program continues to be narrowly tailored to overcome the effects of discrimination, you must adjust your use of contract goals as follows:

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through race-neutral means, you must implement your program without setting contract goals during that year, unless it becomes necessary in order to meet your overall goal.

Example to paragraph (f)(1): Your overall goal for Year 1 is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year 1. However, if part way through Year 1, your DBE awards or commitments are not at a level that would permit you to achieve your overall goal for Year 1, you could begin setting race-conscious DBE contract goals during the remainder of the year as part of your obligation to implement your program in good faith.

(2) If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of race-neutral and/or race-conscious measures to allow you to meet the overall goal.

Example to paragraph (f)(2): In Year II, your overall goal is 12 percent. You have estimated that you can obtain 5 percent DBE participation through use of race-neutral measures. You therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, you have already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, you use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if you determine in September that your participation for the year is likely to be only 8 percent total, then you would increase your use of race-neutral and/or race-conscious means during the remainder of the year in order to achieve your overall goal.

(3) If the DBE participation you have obtained by race-neutral means alone meets or exceeds your overall goals for two consecutive years, you are not required to make a projection of the amount of your goal you can meet using such means in the next year. You do not set contract goals on any contracts in the next

year. You continue using only race-neutral means to meet your overall goals unless and until you do not meet your overall goal for a year.

Example to paragraph (f)(3): Your overall goal for Years I and Year II is 10 percent. The DBE participation you obtain through race-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether you obtained additional DBE participation through using contract goals in these years.) In Year III and following years, you do not need to make a projection under paragraph (c) of this section of the portion of your overall goal you expect to meet using race-neutral means. You simply use race-neutral means to achieve your overall goals. However, if in Year VI your DBE participation falls short of your overall goal, then you must make a paragraph (c) projection for Year VII and, if necessary, resume use of contract goals in that year.

(4) If you obtain DBE participation that exceeds your overall goal in two consecutive years through the use of contract goals (*i.e.*, not through the use of race-neutral means alone), you must reduce your use of contract goals proportionately in the following year.

Example to paragraph (f)(4): In Years I and II, your overall goal is 12 percent, and you obtain 14 and 16 percent DBE participation, respectively. You have exceeded your goals over the two-year period by an average of 25 percent. In Year III, your overall goal is again 12 percent, and your paragraph (c) projection estimates that you will obtain 4 percent DBE participation through race-neutral means and 8 percent through contract goals. You then reduce the contract goal projection by 25 percent (*i.e.*, from 8 to 6 percent) and set contract goals accordingly during the year. If in Year III you obtain 11 percent participation, you do not use this contract goal adjustment mechanism for Year IV, because there have not been two *consecutive* years of exceeding overall goals.

(g) In any year in which you project meeting part of your goal through race-neutral means and the remainder through contract goals, you must maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. You must report this data to the concerned operating administration as provided in §26.11.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

§26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?

(a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeree who makes good faith efforts to meet it. You must determine that a bidder/offeree has made good faith efforts if the bidder/offeree does either of the following things:

(1) Documents that it has obtained enough DBE participation to meet the goal; or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeree does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeree failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeree's good faith efforts.

(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

(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 recipient, at the time provided in paragraph (b)(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/offeree'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 (see Appendix A of this part). 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)(i) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section—

(A) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or

(B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.

(ii) 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 (b)(2) of this section before the final selection for the contract is made by the recipient.

(c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.

(d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

(1) As part of this reconsideration, the bidder/offeror must 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.

(2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.

(3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(4) You must send the bidder/offeror 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.

(5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

(e) In a "design-build" or "turnkey" contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.

(f)(1)(i) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. 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 with another DBE firm.

(ii) You must include in each prime contract a provision stating:

(A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and

(B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

(2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) 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;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;

(vi) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vii) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

(viii) The listed DBE is ineligible to receive DBE credit for the type of work required;

(ix) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

(x) Other documented good cause that you determine 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.

(4) Before transmitting to you its 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 you, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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

(g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original 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 you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation 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, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) You must include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

(i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

(j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

§26.55 How is DBE participation counted toward goals?

(a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

(2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

(1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is

commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

(2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

(3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

(4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

Example to paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks equipped with drivers from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

(6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph (d)(6): DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

(7) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(e) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1)(i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(2)(i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(B) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(C) Packers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

(4) You must determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expeditor) on a contract-by-contract basis.

(f) 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, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i).

(g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.

(h) Do not count the participation of a DBE subcontractor 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.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 79 FR 59595, Oct. 2, 2014]

§26.87 What procedures does a recipient use to remove a DBE's eligibility?

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011; 79 FR 59599, Oct. 2, 2014]

§26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

(a) *Availability of records.* (1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

(2) Notwithstanding any provision of Federal or state law, you must not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other state to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Confidentiality of information on complainants.* Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

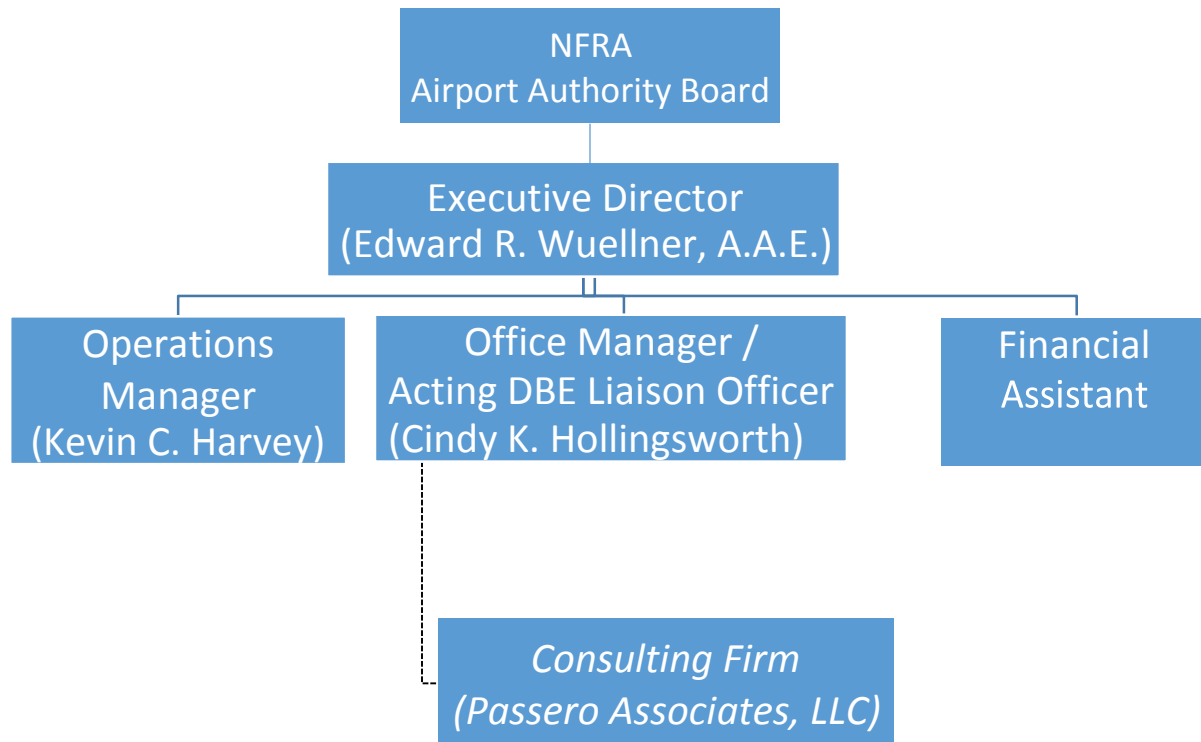
(c) *Cooperation.* All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient 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 recipients, 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).

(d) *Intimidation and retaliation.* If you are a recipient, contractor, or any other participant in the program, you must 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. If you violate this prohibition, you are in noncompliance with this part.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011]

ATTACHMENT 2 – ORGANIZATIONAL CHART

St. Augustine – St. Johns County Airport Authority



ATTACHMENT 3 – Bid Document and Contract Forms

Bidder's List Collection Forms FAA and FDOT Assisted Airport Projects

(49 CFR Part 29 Section 26.11(c))

Name of Bidder's Firm	Firm Address/ Phone #	DBE or Non-DBE Status (will be verified)	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

Bidder's List Collection Form – Subcontractor Information

Name of Subcontractor's Firm	Firm Address/ Phone #	DBE or Non-DBE Status (will be verified)	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

(Bidders shall duplicate this Form, as necessary, to include all Subcontractors listed for this Bid.)

DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. A Disadvantaged Business Enterprise (DBE) contract goal of **X.X %** percent has been established for this contract.

All bidders must submit an assurance stating the percentage of Disadvantaged Business Enterprises they intend to employ on this project.

The successful bidder must submit the following information within 15 business days of being notified that they are the successful bidder, but before the contract is executed:

1. The names and addresses of DBE **AND** non-DBE firms that will participate in the contract, including:
 - Firm's status as a DBE or non-DBE
 - Age of the firm
 - Annual gross receipts of the firm (use categories below)
[] < \$500,000 [] \$500,000-\$1 million [] \$1-2 million [] \$2-5 million [] > 5 million
 - Description of the work the firm will perform
 - Dollar amount of the work the firm will perform
2. Written documentation of the commitment to use a DBE firm whose participation is submitted to meet the contract goal
3. Written confirmation from the DBE firm that it is participating in the contract
4. If the contract goal is not met, evidence of good faith efforts as defined in 49 CFR Part 26

CERTIFICATION:

This firm assures that it will utilize not less than _____% of DBE participation.

Bidder's Name: _____

Address: _____

Bidder's Status: _____ DBE _____ Non-DBE

Age of Firm: _____

Annual gross receipts of the firm (check category):

[] < \$500,000 [] \$500,000-\$1 million [] \$1-2 million [] \$2-5 million [] > 5 million

Signature and Title

Date

DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

The successful bidder must submit the following information for **each subcontractor/supplier** they intend to employ on this project within 15 business days of being notified that they are the successful bidder, but before the contract is executed.

Prime Contractor's Name: _____

Subcontractor/Supplier's Name and Address:

Subcontractor/Supplier's Status: ___DBE___non-DBE Age of the Company: _____

Annual Gross Receipts of the Subcontractor/Supplier (use categories below):

[] < \$500,000 [] \$500,000-\$1 million [] \$1-2 million [] \$2-5 million [] > 5 million

Description and estimated dollar amount of the work to be performed by subcontractor/supplier:

Work Item	Estimated \$ Amount
Total:	

=====DBE AFFIRMATION BELOW=====

DBE Affirmation

The above-named DBE affirms that it will perform the work for the estimated dollar value described above.

Name: _____ Title: _____

Signature: _____ Date: _____

Prime Contractor Affirmation

We are committed to utilizing the above-named DBE for the work and estimated dollar value described above.

Name: _____ Title: _____

Signature: _____ Date: _____

ATTACHMENT 4 – LINK TO DBE DIRECTORY

Link to: Florida Department of Transportation Disadvantaged Business Enterprise (DBE) Directory

<http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

ATTACHMENT 5 – OVERALL DBE THREE-YEAR GOAL & METHODOLOGY

49 CFR Part 26 Section 26.45

Name of Recipient: St. Augustine – St. Johns County Airport Authority, Owner
of the Northeast Florida Regional Airport (NFRA/SGJ)

Goal Period: FY 2015-2016-2017 (October 1, 2014 through September 30, 2017)

Subpart C: C.2.1: Methodology: Step Number 1: Determine the “Base Figure”.

C.2.1.a. – Possible FAA-Assisted Contracting Opportunities (Source: Airport Capital Improvement Plan Summary for SGJ) :

Anticipated Contracts: Fiscal Year 2015

1. Install Approach Lighting to Runway 31(Construction) - \$1,150,000.00
2. Runway 13-31 Marking Rehabilitation - \$150,000.00

Anticipated Contracts: Fiscal Year 2016

1. Airport Master Plan - \$720,000.00
2. Transient Aircraft Parking Apron Rehabilitation (Design) - \$180,000.00

Anticipated Contracts: Fiscal Year 2017

1. Taxiway D Pavement Rehabilitation (Design) - \$180,000.00
2. Transient Apron Rehabilitation (Construction) - \$2,500,000.00

C.2.1.a. – North American Industry Classification System (NAICS) Codes assigned to the anticipated FAA-Assisted Contracting Opportunities:

NAICS	Type of Work
237310	Airport & Runway Construction, includes runway line painting (e.g., striping)
238210	Electrical Contractors
238910	Site preparation contractors, includes equipment (except crane) rental, construction, with operator
541330	Engineering services, includes consulting svcs.
541380	Geotechnical investigation & material / environmental testing
541370	Topographic / Land survey & mapping services
541360	Geophysical surveying & mapping services
541320	Landscape architectural services
541620	Environmental Consultants – Wildlife/Plants, Site/Wetlands
541611	Strategic Planning Consulting Services
541820	Public Relations Consulting Services

C.2.1.b. – Relevant Geographic Market Area (GMA):

All Counties in Florida Department of Transportation (FDOT) District 2 (Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, LaFayette, Levy, Madison, Nassau,

Putnam, St. Johns, Suwannee, Taylor, and Union) and the three northern Counties in FDOT District 5 (Flagler, Marion, and Volusia).

C.2.1.c. – Data source used to derive the number of ready, willing and able DBE’s in our GMA that perform work in the same NAICS codes (“Data Column 1” in Table C.2.a.e., below):

The State of Florida Unified Certification Program DBE Directory:

<http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>.

C.2.a.d. – Data source used to derive the number of all ready, willing and able businesses available in our GMA that perform work in the same NAICS codes (“Data Column 2” in Table C.2.a.e, below):

The U.S. Census Bureau’s County Business Patterns Data:

<http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

C.2.a.e. – Calculation of our Base Figure for the relative availability of DBE’s in our GMA:

Table C.2.a.e.

	Planning / Design / Construction Projects	Data Column 1 (Numerator)	Data Column 2 (Denominator)
NAICS	Type of Work pertaining to Airports	GMA’s DBE’s	All Firms in GMA
237310	Airport & Runway Construction, includes runway line painting (e.g., striping)	33	76
238210	Electrical Contractors	8	626
238910	Site preparation contractors, including equipment (except crane) rental, construction, with operator	37	240
541330	Engineering services, includes consulting svcs.	57	536
541380	Geotechnical investigation & material / environmental testing	9	53
541370	Topographic / Land survey & mapping services	3	112
541360	Geophysical surveying & mapping services	0	3
541320	Landscape architectural services	10	61
541620	Environmental Consultants – Wildlife/Plants, Site/Wetlands	30	97
541611	Strategic Planning Consulting Services	18	694
541820	Public Relations Consulting Services	6	33
Total		211	2531

Base Figure = Total of Data Column 1 divided by Total Data Column 2.
= 211 divided by 2531.
= **8.34%** = relative availability of all ready, willing and able DBE’s in our GMA.

Subpart C: C.2.1: Methodology: Step Number 2: Adjustment to the Base Figure so that it reflects, as accurately as possible, the DBE participation expected in the absence of discrimination.

After calculating a base figure of the relative availability of DBEs (8.34%) in Step 1, an evaluation of the methodology used to determine the previous period’s overall goal was made, as well as an examination of anticipated FAA contract awards for each fiscal year in this reporting period and a

weighted average calculation was performed – all in order to more accurately reflect the relative availability of the GMA's DBE's and to determine what adjustment (if any) is needed to the base figure to arrive at an overall goal for this three-year period.

The type and number of NAICS codes used in the prior three-year period's methodology have been increased for this period in an attempt to fully reflect the type of work required for projects we anticipate will be awarded. Also, in the prior DBE program only development projects were anticipated. In this three-year period, we anticipate development and planning projects to be funded under the FAA-AIP Grant program.

An examination of the anticipated FAA contract awards for fiscal years 2015 – 2017 resulted in an overall (weighted) average DBE percentage participation of 10.00% for all anticipated projects, regardless of the award amount anticipated. When adjustments were made to only consider the anticipated awards that would be over \$250 thousand, the overall (weighted) average DBE percentage of participation was 8.43%. Adjusting both with the applicable median DBE percentage resulted in adjusted weighted means of 7.31% and 6.87%, respectively. (see Table C.2.1 on the following page.

There is no relevant historical DBE data to reference to make a reasonable adjustment to the Step 1 base figure; therefore, the Airport Authority is adopting its Step 1 base figure of 8.34% as its overall goal for this three-year goal period.

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

26.51(b) (1-9)

Calculation of Estimated RN percentage:

(Prior period's DBE overall goal/Prior period's RN) x (Current periods DBE overall goal/"x") = Race and Gender Neutral (RN) estimated participation percentage.

$(10.57\% / 3.94\%) (8.34\% / x) = \text{Estimated RN participation.}$

$$10.57\%x = (8.34\%) (3.94\%)$$

$$x = (8.34\%) (3.94\%) / 10.57\%$$

$$x = 3.11\% = \text{Estimated RN participation.}$$

Calculation of Estimated Contract Goal:

Estimated Contract Goal = Overall DBE Goal minus Estimated RN Participation

$$= 8.34\% - 3.11\%$$

Estimated Contract Goal = 5.23%.

Table C.2.1 Anticipated FAA-Assisted Projects

Anticipated FAA-Assisted Projects FY 2015 - 2017		NAICS Codes	GMA DBE's	GMA All Firms	Anticipated FAA Funds	% Value	Expected DBE Participation	
FY 2015 Development								
Install RW 13-31 Vertical/Visual Guidance System (Construction)	238210	8	626					
	541330	57	536					
		65	1162	\$ 1,146,301.00	88.43%	4.95%		
Rehabilitate Runway 13-31	237310	33	76					
	541330	57	536					
	541380	9	53					
	541370	3	112					
		102	777	\$ 150,000.00	11.57%	1.52%		
				1,296,301.00	100.00%	6.47%	6.47%	
FY 2016 Development								
Transient Apron Reconstruction (Design)								
	541330	57	536					
	541380	9	53					
	541370	3	112					
	541320	10	61					
	541620	30	97					
		109	859	\$ 180,000.00	20.00%	2.54%		
Planning								
Airport Master Plan	541330	57	536					
	541370	3	112					
	541360	0	3					
	541620	30	97					
	541611	18	694					
	541820	6	33					
		114	1475	\$ 720,000.00	80.00%	6.18%		
				\$ 900,000.00	100.00%	8.72%	8.72%	
FY 2017 Development								
Taxiway D Pavement Rehabilitation (Design)								
	541330	57	536					
	541380	9	53					
	541370	3	112					
		69	701	\$ 180,000.00	6.72%	0.66%		
Transient Apron Rehabilitation (Construction)	237310	33	76					
	541330	57	536					
	541380	9	53					
	541370	3	112					
	541320	10	61					
	541320	30	97					
		142	935	\$ 2,500,000.00	93.28%	14.17%		
				\$ 2,680,000.00	100.00%	14.83%	14.83%	
Wt. Mean 30.01% 10.00%								
Awards anticipated over \$250K		Median:						
4.95%		0.66% 1						
6.18%		1.52% 2						
14.17%		2.54% 3						
Weighted Mean 25.30%		4.95% 4						
8.43%		6.18% 5						
6.18% Median		14.17% 6						
8.43% Wt. Mean		Base Figure Adjustment:						
14.61%		10.00% Wt. Mean						
7.31% Adj. Wt. Mean		3.75% Median						
		13.75%						
		6.87% Adj. Mean						
Base Figure Adjustment:		Base Figure Adjustment:						
8.34% Base Figure		8.34% Base Figure						
6.18% Median		3.75% Median						
14.52%		12.09%						
7.26% Adj. Base		6.05% Adj. Base						

ATTACHMENT 6 – PUBLIC PARTICIPATION

Consultation: Section 26.45(g)(1)(i).

An email was sent to each of the following:

- Airport Minority Advisory Council: Anthony.barnes@amac-org.com.
- Florida Hispanic Construction Association: floridahca@gmail.com.
- National Association of Minority Contractors – NE FL Chapter:
deborah@dkiconsultants.com.
- North Florida Small Business Development Office: Wilfredo.gonzalez@sba.gov.

The body of the email follows:

“The St. Augustine – St. Johns County Airport Authority is updating its Disadvantaged Business Enterprise Program’s Goal and Methodology for Airport FAA-Funded Projects at the Northeast Florida Regional Airport in St. Augustine, Florida (see attached Draft).

“The Authority invites you to provide comments concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Authority’s efforts to establish a level playing field for the participation of DBEs.

“Please feel free to forward this email to those who you believe will be interest in commenting.

“The Authority will be publishing a notice in the St. Augustine Record on January 13, 2017 that the draft update of the DBE Program goals and methodology will be available for public inspection on our website, www.flynf.com and at the Airport Administration Office during normal business hours for a period thirty days – through February 13, 2017. Written comments from the public will be accepted during that time.

“If you would like to meet or speak to me directly, please do so. If possible, please submit any comments you have prior to publication or by February 13, 2017. All written comments received by February 13, 2017 will be discussed in the final draft submission to the FAA.

“Thank you.

“Sincerely,

Cindy K. Hollingsworth

Office Manager, DBE Liason Officer
St. Augustine St. Johns County Airport Authority
4796 US 1 North
St. Augustine, FL 32095
Office: 904-209-0090
Fax: 904-209-0528

Public Notice: Section 26.45(g)(2).

The Authority published the following notice in the St. Augustine Record: (Confirmation of its publication follows this page.)

The St. Augustine – St. Johns County Airport Authority (Authority) has proposed an overall DBE goal of 8.34% for Airport Improvement Projects awarded over \$250,000.00 during FY 2015-2017. The proposed goal and methodology are available for public inspection at <https://www.flynf.com/p54-Policy-Documents.aspx> and at the Airport Administration Office during normal business hours for a period of thirty (30) days, beginning January 13, 2017. Written comments will be accepted for a period of thirty (30) days beginning January 13, 2017 and ending February 13, 2017. Please send all written comments to:

St. Augustine St. Johns County Airport Authority

Attn: Ms. Cindy K. Hollingsworth, DBELO

4796 U.S. 1 N

St. Augustine, FL 32095

or

ckh@SGJ-airport.com

ATTACHMENT 7 – DEMONSTRATION OF GOOD FAITH EFFORTS

These forms are to be included in and a part of the Contract/Bid Documents for each project.

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____The bidder/offeror is committed to a minimum of _____% DBE utilization on this contract.

_____The bidder/offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and should submit documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$_____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and that the firm is DBE certified to perform the specific trades.

By _____
 (Signature)

Date: _____

 (Title)

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

Submit this form for each DBE subcontractor.

FORM 3 - Bidder's List Collection Forms for FAA and FDOT Assisted Airport Projects (49 CFR Part 29 Section 26.11(c))

Name of Bidder's Firm	Firm Address/ Phone #	DBE or Non-DBE Status (will be verified)	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

Bidder's List Collection Form – Subcontractor Information

Name of Subcontractor's Firm	Firm Address/ Phone #	DBE or Non-DBE Status (will be verified)	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
--	--	--	--	---

(Bidders shall duplicate this Form, as necessary, to include all Subcontractors listed for this Bid.)

FORM 4 - DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. A Disadvantaged Business Enterprise (DBE) contract goal of **X.X** % percent has been established for this contract.

All bidders must submit an assurance stating the percentage of Disadvantaged Business Enterprises they intend to employ on this project.

The successful bidder must submit the following information within 15 business days of being notified that they are the successful bidder, but before the contract is executed:

- The names and addresses of DBE **AND** non-DBE firms that will participate in the contract, including:
 - Firm's status as a DBE or non-DBE
 - Age of the firm
 - Annual gross receipts of the firm (use categories below)
 [] < \$500,000 [] \$500,000-\$1 million [] \$1-2 million [] \$2-5 million [] > 5 million
 - Description of the work the firm will perform
 - Dollar amount of the work the firm will perform
- Written documentation of the commitment to use a DBE firm whose participation is submitted to meet the contract goal
- Written confirmation from the DBE firm that it is participating in the contract
- If the contract goal is not met, evidence of good faith efforts as defined in 49 CFR Part 26

CERTIFICATION:

This firm assures that it will utilize not less than _____% of DBE participation.

Bidder's Name: _____

Address: _____

Bidder's Status: _____ DBE _____ Non-DBE

Age of Firm: _____

Annual gross receipts of the firm (check category):

[] < \$500,000 [] \$500,000-\$1 million [] \$1-2 million [] \$2-5 million [] > 5 million

 Signature and Title

 Date

FORM 5 - DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

The successful bidder must submit the following information for **each subcontractor/supplier** they intend to employ on this project within 15 business days of being notified that they are the successful bidder, but before the contract is executed.

Prime Contractor's Name: _____

Subcontractor/Supplier's Name and Address:

Subcontractor/Supplier's Status: ___DBE___non-DBE Age of the Company: _____

Annual Gross Receipts of the Subcontractor/Supplier (use categories below):

[] < \$500,000 [] \$500,000-\$1 million [] \$1-2 million [] \$2-5 million [] > 5 million

Description and estimated dollar amount of the work to be performed by subcontractor/supplier:

Work Item	Estimated \$ Amount
Total:	

=====DBE AFFIRMATION BELOW=====

DBE Affirmation

The above-named DBE affirms that it will perform the work for the estimated dollar value described above.

Name: _____ Title: _____

Signature: _____ Date: _____

Prime Contractor Affirmation

We are committed to utilizing the above-named DBE for the work and estimated dollar value described above.

Name: _____ Title: _____

Signature: _____ Date: _____

FORM 6 - FAA REPORT OF CERTIFIED DBE CONTRACTORS USED ON AWARDED AND COMMITTED FAA-ASSISTED CONTRACTS (as required)

Name of
 Airport:

Name of
 Recipient:

City/State/Zip:

Goal Period
 Dates:

Preparer's
 Name:

Email address
 and Telephone
 No:

Date Prepared:

DBE Firm:

Address:

City/State/Zip:

Telephone No.:

Type of Work and NAICS:

Dollar Amount of Work:

AIP Grant #s:

Disadvantaged Group (check one):

Black American <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>	Hispanic American <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>	Native American <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>	Subcontinent Asian American <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>
Asian Pacific American <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>	Non-Minority <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>	Other (not of any group listed here) <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>	

(Add additional pages as necessary)

ATTACHMENT 8 – DBE MONITORING AND ENFORCEMENT MECHANISMS

The Authority will use the Uniform Report of DBE Awards or Commitments and Payments form that follows this page and report annual DBE Achievements/Accomplishments via the FAA DBE-Connect Online reporting system.

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

1. Breach of contract action, pursuant to the terms of the contract.

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001.

General Reporting

UNIFORM REPORT OF DBE COMMITMENTS/AWARDS AND PAYMENTS					
Please refer to the Instructions sheet for directions on filling out this form					
1 Submitted to (check only one): <input type="checkbox"/> FHWA <input type="checkbox"/> FAA <input type="checkbox"/> FTA--Recipient ID Number					
2 AIP Numbers (FAA Recipients); Grant Number (FTA Recipients):					
3 Federal fiscal year in which reporting period falls:					
4. Date This Report Submitted:					
5 Reporting Period		<input type="checkbox"/> Report due June 1 (for period Oct. 1-Mar. 31)		<input type="checkbox"/> Report due Dec. 1 (for period April 1-Sept. 30)	
6 Name and address of Recipient:					
7 Annual DBE Goal(s):		Race Conscious Projection		Race Neutral Projection	
				OVERALL Goal	

Awards/Commitments this Reporting Period

A	AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts committed during this reporting period)	A	B	C	D	E	F	G	H	I
		Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
8	Prime contracts awarded this period									
9	Subcontracts awarded/committed this period									
10	TOTAL									

B	BREAKDOWN BY ETHNICITY & GENDER	Contracts Awarded to DBEs this Period					
		A	B	C	D	E	F
		Total to DBE (dollar amount)			Total to DBE (number)		
		Women	Men	Total	Women	Men	Total
11	Black American						
12	Hispanic American						
13	Native American						
14	Asian-Pacific American						
15	Subcontinent Asian Americans						
16	Non-Minority						
17	TOTAL						

Payments Made this Period

	A	B	C	D	E	F	
C	PAYMENTS ON ONGOING CONTRACTS (report activity of ongoing contracts)	Total Number of Contracts	Total Dollars Paid	Total Number of Contracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs
18	Prime and sub contracts currently in progress						
D	A	B	C	D			
	TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	Number of Contracts Completed	Total Dollar Value of Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percent to DBEs	
19	Race Conscious						
20	Race Neutral						
21	Totals						
22	Submitted By:	24. Signature:			25. Phone Number:		

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