



# **Disadvantaged Business Enterprise (DBE) Program**

**City of Healdsburg, California  
Healdsburg Municipal Airport (HES)**

Prepared  
March 2025

**DBELO - Clay Thistle**  
City of Healdsburg  
Principal Engineer  
DBE Liaison Officer  
401 Grove Street  
Healdsburg, CA 95448  
Telephone: (707) 431-3391  
Email: [cthistle@healdsburg.gov](mailto:cthistle@healdsburg.gov)

Prepared by:  
**DBE Plans & Goals Preparation Services, LLC**  
(A Certified DBE Business)  
113 Georgetown Court, Weatherford, TX 76087  
Phone: (817) 609-6004



# **Disadvantaged Business Enterprise (DBE) Program**



MARCH 2025

# DBE PROGRAM

## HEALDSBURG MUNICIPAL AIRPORT (HES)

DBE PLANS & GOALS PREPARATION SERVICES, LLC  
113 GEORGETOWN COURT, WEATHERFORD, TX 76087  
Phone: (817) 609-6004 | [lspillers@dbepplans.com](mailto:lspillers@dbepplans.com)



**Contents**

---

POLICY STATEMENT ..... 2

    Section 26.1, 26.23 Objectives/Policy Statement ..... 2

SUBPART A – GENERAL REQUIREMENTS ..... 3

    Section 26.1 Objectives ..... 3

    Section 26.3 Applicability ..... 3

    Section 26.5 Definitions ..... 3

    Section 26.7 Non-Discrimination Requirements ..... 3

    Section 26.11 Data Collection & Record Keeping Requirements ..... 3

    Section 26.13 Assurances Recipients and Contractors Must Make ..... 4

SUBPART B – ADMINISTRATIVE REQUIREMENTS ..... 5

    Section 26.21 DBE Program Updates ..... 5

    Section 26.23 Policy Statement ..... 5

    Section 26.25 DBE Liaison Officer (DBELO) ..... 6

    Section 26.27 Socially/Economically Disadvantage Financial Institutions ..... 6

    Section 26.29 Prompt Payment Mechanisms ..... 7

    Section 26.31 Directory ..... 13

    Section 26.33 Over-Concentration ..... 13

    Section 26.35 Business Development Programs ..... 14

    Section 26.37 Monitoring & Enforcement Mechanisms/Responsibilities ..... 14

    Section 26.39 Fostering Small Business Participation ..... 15

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING ..... 15

    Section 26.43 Set-asides or Quotas ..... 15

    Section 26.45 Overall Goals ..... 15

    Section 26.47 Failure to Meet Overall Goals ..... 17

    Section 26.51 Means Recipients Use to Meet Overall Goals ..... 18

    Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals ..... 20

    Section 26.55 Counting DBE Participation ..... 27

SUBPART D – CERTIFICATION STANDARDS ..... 27

SUBPART E – CERTIFICATION PROCEDURES ..... 27

SUBPART F – COMPLIANCE AND ENFORCEMENT ..... 28

ATTACHMENT INDEX ..... 31

**U.S. DEPARTMENT OF TRANSPORTATION  
DBE PROGRAM – 49 CFR PART 26**

**POLICY STATEMENT**

---

**Section 26.1, 26.23 Objectives/Policy Statement**

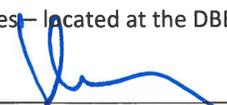
The City of Healdsburg, CA (hereafter referred to as “Sponsor”) Sponsor for Healdsburg Municipal Airport (hereafter referred to as “Airport”) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.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

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

- To ensure nondiscrimination in the award of and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To promote the use of DBEs in all types of DOT-assisted contracts and procurement activities;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To make appropriate use of the flexibility afforded to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

The City of Healdsburg, Principal Engineer\* has been designated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Sponsor in its financial assistance agreements with the Department of Transportation.

The Sponsor has disseminated this policy statement to the governing board, including the Mayor, City Council, and all components of the organization. This statement has been distributed to DBE and non-DBE business communities that may perform work for us on DOT-assisted contracts. This distribution is made through our DBE office (for DBE purposes – located at the DBELO’s office) and through plans and specifications for each project.

  
\_\_\_\_\_  
Jeff Kay, City Manager  
City of Healdsburg, CA

March 24, 2025  
Date

---

\*Refer to Section 26.25 of this DBE Program or the Organizational Chart for the name and contact information  
City of Healdsburg, CA/Healdsburg Municipal Airport  
DBE Program  
Prepared by: DBE Plans & Goals Preparation Services, LLC

## **SUBPART A – GENERAL REQUIREMENTS**

---

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

The Sponsor is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The Sponsor will use terms in this program that have their meanings defined in Part 26, §26.5.

### **Section 26.7 Non-Discrimination Requirements**

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

### **Section 26.11 Data Collection & Record Keeping Requirements**

#### **Reporting to DOT: §26.11(a) & (b)**

The Sponsor will provide data about its DBE program to the Department as directed by the DOT and its operating administrations.

DBE participation will be reported to the Federal Aviation Administration (FAA) as follows:

The Sponsor will transmit to the FAA annually, by or before December 1, the information required for the “Uniform Report of DBE Commitments and Payments,” as described in Part 26. The Sponsor will similarly report the required information about participating DBE firms. All reporting for this purpose will be done through the FAA’s designated reporting system.

#### **Bidders List: §26.11(c)**

The Sponsor will collect bidders list information as described in §26.11(c)(2) and enter it into the system designated by the DOT. The purpose of the bidders list is to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our federally assisted contracts. This data will be used to help set overall goals and to provide the Department with data for evaluating the extent to which the objectives of §26.1 are being achieved.

The Sponsor will obtain the following bidders list information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each of our federally assisted contracts:

- Firm's name;
- Firm's address including zip code;
- Firm's status as a DBE or non-DBE;
- Race and sex information for the firm's majority owner;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;
- Age of the firm; and
- Annual gross receipts of the firm. The gross receipts will be obtained by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million, etc.) rather than requesting an exact figure from the firm.

The Sponsor will collect the data from all bidders for our federally assisted contracts by requiring the information presented above to be submitted with bids or initial responses to negotiated procurements.

The Sponsor will enter this data in the Department's designated system no later than December 1<sup>st</sup> following the fiscal year in which the relevant contract was awarded.

In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to §26.53(e), the Sponsor will enter the data no later than December 1<sup>st</sup> following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

The Bidders List Collection Form is provided in Attachment 4 of this program to assist with collecting the required prime contractor and subcontractor information.

#### Records Retention and Reporting: §26.11(d)

The Sponsor will maintain records documenting a firm's compliance with the requirements of this part. These records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

#### **Section 26.13 Assurances Recipients and Contractors Must Make**

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

#### Assurance: §26.13(a)

Each financial assistance agreement the Sponsor signs with a DOT operating administration (or a primary recipient) must include the following assurance. The following language is to be used verbatim, as stated in §26.13(a).

- **Assurance: §26.13(a):** *The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Sponsor 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*

*Sponsor'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 Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).*

### Contract Assurance: §26:13(b)

The Sponsor will ensure that the following clause is included in each DOT-assisted contract it signs with a contractor and each subcontract the prime contractor signs with a subcontractor. The following language is to be used verbatim, as stated in §26.13(b).

- **Contract Assurance: §26:13(b):** *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.*

## **SUBPART B – ADMINISTRATIVE REQUIREMENTS**

---

### **Section 26.21 DBE Program Updates**

The Sponsor is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning and/or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year.

The Sponsor is not eligible to receive DOT financial assistance unless the DOT has approved this DBE program and the Sponsor is in compliance with it and Part 26. The Sponsor will continue to carry out the program until all funds from the DOT financial assistance have been expended. The Sponsor does not have to submit regular updates of the DBE program document, as long as the airport remains in compliance. However, significant changes in the DBE program, including those required by regulatory updates, will be submitted to the relevant operating administrator for approval.

### **Section 26.23 Policy Statement**

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

## **Section 26.25 DBE Liaison Officer (DBELO)**

The Sponsor has designated the following individual as the DBE Liaison Officer:

Clay Thistle - City of Healdsburg, Principal Engineer  
401 Grove Street  
Healdsburg, CA 95448  
Telephone: (707) 431-3391  
Email: [cthistle@healdsburg.gov](mailto:cthistle@healdsburg.gov)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Sponsor complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An Organizational Chart displaying the DBELO's position in the organization is found in Attachment 2 of this program.

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

- Implementing all aspects of the airport's DBE program, including actively monitoring DBE goal attainment, analyzing shortfalls, and identifying ways to improve attainment.
- Gathering and reporting statistical data and other information as required by the DOT.
- Working with all departments/consultants to set overall annual goals.
- Ensuring that bid notices and requests for proposals are available to DBEs in a timely manner.
- Reviewing prime contracts and subcontracts to confirm compliance with program requirements.
- Verifying that DBE goals (both race neutral methods and contract specific goals) are included in solicitations, bid documents, contracts, and procurement processes.
- Participating in pre-bid meetings.
- Advising the governing body on DBE matters and achievement.
- Assessing contractor compliance with Good Faith Effort in accordance with §26.53 when race conscious measures are implemented.
- Providing DBEs with information and assistance in preparing bids and obtaining bonding/insurance.
- Participating in DBE training seminars.
- Providing outreach to DBEs and community organizations to advise them of opportunities.

## **Section 26.27 Socially/Economically Disadvantage Financial Institutions**

It is the policy of the Sponsor to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and encourage prime contractors on DOT-assisted contracts to make use of these institutions.

The Sponsor searched the website of the Federal Deposit Insurance Corporation ([www.fdic.gov](http://www.fdic.gov)) for Minority Depository Institutions in the State of California. A search of the California DBE Directory was also performed for certified DBEs under NAICS code 522110 Commercial Banking and 522130 Credit Unions. There are currently no certified DBEs under the identified NAICS codes in the State of California.

The following Minority Depository Institutions were identified:

Name	City	State	Phone	Website
East West Bank	Pasadena	CA	(626) 768-6088	<a href="https://www.eastwestbank.com">https://www.eastwestbank.com</a>
Eastern International Bank	Los Angeles	CA	(213) 687-7228	<a href="http://www.easterninternationalbank.com">www.easterninternationalbank.com</a>
Evertrust Bank	City Of Industry	CA	(626) 854-9700	<a href="https://www.evertrustbank.com/Locations/Industry-Branch">https://www.evertrustbank.com/Locations/Industry-Branch</a>
First Commercial Bank USA	Alhambra	CA	(626) 300-6000	<a href="http://www.bankfcb.com">www.bankfcb.com</a>
First General Bank	Rowland Heights	CA	(626) 820-1234	<a href="http://www.fgbusa.com">www.fgbusa.com</a>
Gateway Bank FSB	Oakland	CA	(510) 268-8108	<a href="http://www.gatewayfsb.com">www.gatewayfsb.com</a>
Genesis Bank	Newport Beach	CA	(800) 797-1031	<a href="https://mygenesisbank.com">https://mygenesisbank.com</a>
Hanmi Bank	Los Angeles	CA	(213) 743-5850	<a href="https://www.hanmi.com">https://www.hanmi.com</a>
Icon Business Bank	Riverside	CA	(888) 383-1954	<a href="https://www.iconbusinessbank.com">https://www.iconbusinessbank.com</a>
Legacy Bank	Murrieta	CA	(951) 579-3177	<a href="https://www.legacybankca.com">https://www.legacybankca.com</a>
Mega Bank	San Gabriel	CA	(626) 282-3000	<a href="https://www.megabankusa.com">https://www.megabankusa.com</a>
Metropolitan Bank	Oakland	CA	(510) 834-7534	<a href="http://www.met.bank">www.met.bank</a>
Mission National Bank	San Francisco	CA	(415) 826-3627	<a href="http://www.mnbsf.com">www.mnbsf.com</a>
New Omni Bank National Assn	Alhambra	CA	(626) 284-5555	<a href="https://newomnibank.com">https://newomnibank.com</a>
Open Bank	Los Angeles	CA	(213) 443-9333	<a href="https://myopenbank.com">https://myopenbank.com</a>
Pacific Alliance Bank	San Gabriel	CA	(626) 773-8888	<a href="https://www.pacificalliancebank.com">https://www.pacificalliancebank.com</a>
PCB Bank	Los Angeles	CA	(213) 201-5600	<a href="https://www.mypcbbank.com">https://www.mypcbbank.com</a>
Preferred Bank	Los Angeles	CA	(213) 891-1188	<a href="https://www.preferredbank.com">https://www.preferredbank.com</a>
Royal Business Bank	Los Angeles	CA	(213) 627-9888	<a href="https://www.royalbusinessbankusa.com">https://www.royalbusinessbankusa.com</a>
United Pacific Bank	City Of Industry	CA	(626) 965-6230	<a href="http://www.upbnet.com">www.upbnet.com</a>
Universal Bank	West Covina	CA	(626) 854-2801	<a href="http://www.universalbank.com">www.universalbank.com</a>
US Metro Bank	Garden Grove	CA	(714) 620-8888	<a href="http://www.usmetrobank.com">www.usmetrobank.com</a>

The availability of such institutions will be investigated on an annual basis by searching the California DBE Directory using the NAICS codes 522110 Commercial Banking and 522130 Credit Unions and the website of the Federal Deposit Insurance Corporation ([www.fdic.gov](http://www.fdic.gov)) for Minority Depository Institutions and their branches in the State of California.

The Sponsor encourages prime contractors to utilize financial institutions owned and controlled by socially and economically disadvantaged individuals in the community by including a link to the Federal Deposit Insurance Corporation Minority Depository Institution List (<https://www.fdic.gov/regulations/resources/minority/mdi.html>) in solicitation documents. Sample solicitation verbiage is as follows:

- ***Socially/Economically Disadvantaged Financial Institutions:*** *The Sponsor encourages Contractors and Subcontractors to utilize the services of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. You can find a link to Minority Depository Institutions and their branches on the FDIC website: <https://www.fdic.gov/regulations/resources/minority/mdi.html>.*

## Section 26.29 Prompt Payment Mechanisms

The Sponsor requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law. Prompt payment and return of retainage requirements also apply to lower-tier subcontractors.

### Prompt Payment Contract Clause: §26.29(a)

In accordance with 49 CFR §26.29(a), the Sponsor has established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the Sponsor. If state or local prompt payment laws provide for payment in less than 30 days, any reference to "30 days" will be revised accordingly.

The Sponsor will ensure that the following prompt payment clause is included in each DOT-assisted contract it signs with a contractor and each subcontract the prime contractor signs with a subcontractor to ensure compliance with Prompt Payment Requirements.

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

### Prompt & Full Payment of Retainage: §26.29(b)

The Sponsor ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the Sponsor has selected the following method to comply with this requirement:

**Retainage Option 3:** The Sponsor will 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 the Sponsor's payment to the prime contractor.

For every airport construction project funded under Federal grant assistance programs, the Sponsor includes the applicable retainage clause from FAA Advisory Circular 150/5370-10 (Section 90-06) pertaining to the selected retainage method. The applicable clause will be included verbatim. However, if state or local prompt payment laws provide for payment in less than 30 days, any reference to "30 days" will be revised accordingly as indicated below.

The Sponsor will ensure that the following retainage clause from FAA Advisory Circular 150/5370-10 (Section 90-06) is included in each DOT-assisted contract it signs with a prime contractor and each subcontract the prime contractor signs with a subcontractor.

- **Prompt Payment of Retainage:** *From the total of the amount determined to be payable on a partial payment, [insert amount of retainage, not to exceed 10%] percent of such total amount will be deducted and retained by the Sponsor for protection of the Sponsor's interests. Unless otherwise instructed by the Sponsor, the amount retained by the Sponsor will be in effect until the final payment is made except as follows:*

- 1) *Contractor may request release of retainage on work that has been partially accepted by the Sponsor in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Sponsor for partially accepted work.*
- 2) *In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.*

*The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Sponsor evidence of prompt and full payment of retainage held by the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Sponsor. When the Sponsor 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.*

*When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Sponsor's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Sponsor may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.*

#### Satisfactorily Completed: §26.29(c)

For the purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, accepted, and documented as required by the Sponsor. When the Sponsor has made an incremental acceptance of a portion of a prime contract, the work of the subcontractor covered by that acceptance is deemed to be satisfactorily completed.

#### Proactive Payment Monitoring and Oversight: §26.29(d)

The Sponsor clearly understands and acknowledges that reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism. Therefore, the Sponsor undertakes proactive monitoring and oversight of prime contractors' compliance with subcontractor prompt payment and return of retainage requirements of 49 CFR Part 26. Such monitoring activities will be accomplished through the following method(s):

Prompt payment and return of retainage will be monitored through invoicing and payment procedures.

- **Payment Application:** Each payment application submitted by the prime contractor to the Sponsor must provide a list of all actively working subcontractors on the Airport's construction project, detailing the total contract amount and the amount to be paid from the pay application. The Payment Application form provided in Attachment 4 or similar format will be used to capture the necessary information.
- **Prompt Payment Certification:** With exception of the initial payment application each subsequent payment application must be submitted with the Prompt Payment Certification to be deemed complete, accurate,

and acceptable. The Prompt Payment Certification form provided in Attachment 4 or similar format will be used to capture the required information.

- **Proof of Payment Requirement:** With the Prompt Payment Certification, the prime contractor must provide proof of payment to all actively working subcontractors on the Airport's construction projects within the aforementioned prompt payment timeline.
- **Prompt Payment Monitoring/Auditing:** The Sponsor will audit payment information by confirming payment dates and amounts with subcontractors. A minimum of one subcontractor payment per prime contract will be audited monthly to confirm compliance.
- **Final Prime Contractor Prompt Payment Certification:** Following final disbursements to subcontractors the prime contractor is required to submit a final Prompt Payment Certification to document project completion. Once again, the Prompt Payment Certification form provided in Attachment 4 or similar format will be used to capture the required information.
- **Payment Delay:** Any delay or postponement of payment among the prime and subcontractors, may take place only for good cause and must receive prior written approval from the Sponsor.

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

The Sponsor proactively reviews contract payments to subcontractors including DBEs with each payment application, typically submitted monthly by the prime contractor. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Sponsor by the prime contractor.

### Prompt Payment Dispute Resolution

The Sponsor will take the following steps to resolve disputes as to whether timely prompt payment and retainage releases are being made as required by §26.29. Prompt payment does not apply if there is a legitimate dispute over the subcontractor's performance and the performance dispute should be properly documented.

- **Dispute Initiation:** To initiate a prompt payment dispute, the subcontractor should notify the prime contractor and the DBELO of the disputed payment including details pertaining to the delayed payment. The DBELO may also initiate a prompt payment dispute when reviewing the Prime Contractor Prompt Payment Certifications.
- **Verification:** The DBELO will review the prime contractor prompt payment certification reports and gather payment information from the subcontractor. Supporting payment documentation will be requested from the prime contractor to validate payments in question during the specified timeframe. The DBELO may consult with the Resident Project Representative/Project Manager as appropriate and engage additional

individuals with authority to bind each interested party as necessary to resolve the prompt payment dispute.

- **Notification:** Written notification, including findings and proposed resolution procedures, will be sent to all parties involved. Steps taken to resolve the dispute will be monitored by the DBELO.
- **Monitoring:** During and after a valid prompt payment dispute the Sponsor will enhance prompt payment monitoring processes by confirming prompt payment from the affected subcontractor via the Prompt Payment Monitoring/Auditing process described above prior to releasing future payments to the prime contractor referenced in the dispute.

### Prompt Payment Complaints

If the prompt payment dispute does not result in effective and efficient resolution a formal prompt payment complaint will be filed. Prompt payment complaints by subcontractors regarding prompt payment requirements are handled according to the following procedure. Prompt payment does not apply if there is a legitimate dispute over the subcontractor's performance and the performance dispute should be properly documented.

- **Complaint Initiation:** If the affected subcontractor is not able to resolve a payment dispute using the proceeding dispute resolution process, the affected subcontractor should file a formal prompt payment complaint.
- **Complaint Filing:** Prompt payment complaints must be submitted in writing to the prime contractor and the DBELO using the attached Prompt Payment Complaint form or similar format to ensure accuracy and completeness. See Attachment 4 for the Prompt Payment Complaint form.
- **Complaint Verification:** The DBELO will review the prompt payment complaint for accuracy and completeness and compare the submitted documentation with the Prime Contractor Prompt Payment Certifications, requesting additional information as needed to validate and substantiate the complaint. The DBELO will consult with the Resident Project Representative/Project Manager as appropriate and engage additional individuals with authority to bind each interested party as necessary to resolve the prompt payment complaint.
- **Complaint Notification:** The DBELO will send written documentation to all parties involved documenting the meeting and required steps to resolve the prompt payment complaint.
- **Complaint Escalation:** If the above process does not efficiently and effectively resolve the prompt payment complaint the affected subcontractor/DBELO will escalate the complaint to the responsible FAA contact.
- **Complaint Reporting:** Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint, steps taken to resolve the complaint, and final resolution of the complaint.

### Enforcement Actions for Noncompliance of Participants: §26.29(e)

The Sponsor provides appropriate means to enforce the requirements of §26.29. The Sponsor will advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract.

The Sponsor can enforce contractual remedies which may result in the termination of the contract or other such remedy as the Sponsor deems appropriate, which may include, but is not limited to:

- **Withholding Payment** of the amount of funds due to the subcontractor(s) from the prime contractor's pay request until confirmation of payment is received from the subcontractor or the prime contractor provides proof of payment.
- **Issuing a Stop-Work Order** until payments are released to the subcontractor(s), specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.
- **Assessing Liquidated Damages** against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor(s).
- **Disqualify the Contractor** from future bidding opportunities as non-responsible.

The Sponsor will ensure enforcement of prompt payment by inserting the below contract clause into each DOT-assisted prime contract.

➤ **Prompt Payment Enforcement:** *Failure by the contractor to carry out the prompt payment requirements is a material breach of this contract, which may result in termination of this contract or other remedy as the recipient deems appropriate, which may include but is not limited to:*

- **Withholding Payment** of the amount of funds due to the subcontractor(s) from the prime contractor's pay request until confirmation of payment is received from the subcontractor or the prime contractor provides proof of payment.
- **Issuing a Stop-Work Order** until payments are released to the subcontractor(s), specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.
- **Assessing Liquidated Damages** against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor(s).
- **Disqualify the Contractor** from future bidding opportunities as non-responsible.

The Sponsor will actively implement the enforcement actions detailed above understanding that prompt payment and return of retainage requirements in this part apply to all lower-tier subcontractors.

### Additional Mechanisms to Ensure Prompt Payment: §26.29(g)

Pursuant to §26.29(g), the Sponsor may also establish any of the additional mechanisms to ensure prompt payment:

A contract clause that requires prime contractors to include in their subcontract language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.

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.

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

If the above actions are initiated the developed contract clauses will be in accordance with federal, state, and local law.

### **Section 26.31 Directory**

The Sponsor is a non-certifying member of the California Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs and/or ACDBEs, and it contains all the elements required by §26.31. The directory lists all firms eligible to participate as a DBE and/or ACDBE in the program. In the listing for each firm, the UCP directory includes the following details about the firm:

- Business address,
- Business phone number, and
- Firm website(s).
- The types of work the firm is certified to perform as a DBE.
- The type of work a DBE and/or ACDBE is eligible to perform is listed by using the most specific NAICS code available to describe each type of work the firm performs. Pursuant to §26.81(n)(1) and (3), the UCP directory allows for NAICS codes to be supplemented with specific descriptions of the type(s) of work the firm performs.
- The directory may include additional data fields of other items readily verifiable in state or locally maintained databases, such as state licenses held, pre-qualifications, and bonding capacity.

The UCP directory is an online system that permits the public to search and/or filter for DBEs by physical location, NAICS code(s), work descriptions, and all additional data fields of readily verifiable optional information described above.

The directory includes a prominently displayed disclaimer that states the information within the directory is not a guarantee of the DBE's capacity and ability to perform work.

### **Section 26.33 Over-Concentration**

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

## **Section 26.35 Business Development Programs**

The Sponsor has not established a Business Development Program or a Mentor-Protégé Program as described by 49 CFR Part 26.

## **Section 26.37 Monitoring & Enforcement Mechanisms/Responsibilities**

The Sponsor implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, and describes and sets forth these mechanisms in this DBE program.

The Sponsor actively monitors attainment toward overall goals by maintaining a running tally that provides for a frequent comparison of cumulative DBE awards/commitments to DOT-assisted prime contract awards to determine whether our implementation of contract goals is projected to be sufficient to meet the annual goal. The running tally for overall goal monitoring will be maintained using the prompt payment monitoring procedures as described in §26.29 and compared to the Good the Faith Efforts Form 1, 2, and 3 when contract goals are established. This mechanism to maintain a running tally of overall goal attainment will be used to inform the Sponsor's decisions to implement goals on contracts to be advertised, according to our established contract goal-setting process.

The Sponsor actively monitors participation with respect to each DBE commitment by using a running tally that provides for a frequent comparison of payments made to each listed DBE relative to the progress of work, including payments for such work to the prime contractor. The running tally for contract goal monitoring will be maintained using the prompt payment monitoring procedures as described in §26.29 compared to Resident Project Representative/Project Manager reports. These contract-specific running tallies will be used to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to address to meet the contract goal pursuant to §26.53(g).

### Monitoring Contracts and Work Sites

The Sponsor reviews contracting records and engages in active monitoring of work sites 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, and such is counted according to the requirements of §26.55. Work site monitoring is performed by the Resident Project Representative/Project Manager. The monitoring of work sites to assess commercially useful functions (CUF) will include interviews with staff members and supervisors at the job site, photographic documentation of people and equipment performing the work, reviews of invoices and supply payments, vehicle and equipment ownership or lease verification (such as registration or lease agreements), and any other supporting documents necessary to determine the business is performing a commercially useful function. A minimum of one CUF evaluation will be completed for each DBE performing work on the Sponsor's project.

Contracting records are reviewed by the DBELO with assistance of Project Managers, Consulting Engineers, and/or Consultants. The Sponsor will require prime contractors to provide copies of subcontracts for review. Reviews of contracting records will include verifying mandatory contract language is included in prime and subcontracts, verifying prohibited terms and conditions are not present, and confirm the type and amount of work described in a subcontract aligns with representations made by the prime and subcontractor in any related letters of intent.

The Sponsor will maintain written certification that contracting records have been reviewed and work sites have been monitored to ensure the counting of each DBE's participation is consistent with its function on the contract.

Tips on Evaluating Commercially Useful Function, a sample Commercially Useful Function Evaluation Form, and Contract Review Form are provided in Attachment 4 to this program.

### **Section 26.39 Fostering Small Business Participation**

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

The small business element is incorporated as Attachment 6 to this program. The program elements will be actively implemented to foster small business participation. The Sponsor acknowledges that implementation of the small business element is required for us to be considered by DOT as implementing our DBE program in good faith.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

---

### **Section 26.43 Set-asides or Quotas**

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

### **Section 26.45 Overall Goals**

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

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

#### **Step 1: Base Figure §26.45(c)**

The first step is to determine a base figure for the relative availability of DBEs in the market area. The Sponsor will use a combination of methods to include but not limited to DBE Directories and Census Bureau Data, a Bidders List, Disparity Studies if available, the goal of another DOT recipient or other alternative method as deemed appropriate as a method to determine the base figure and complies with §26.45. The Sponsor understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part §26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

## Step 2: Adjustment to Base Figure §26.45(d)

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

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

## Overall Goal Presentation: §26.45(e)(2)

Once a percentage figure is determined in accordance with paragraphs §26.45(c) and §26.45(d), the overall goal will be expressed as a percentage of all FAA funds that will be expended in FAA-assisted contracts in the three forthcoming fiscal years.

## Project Goals: §26.45(e)(3)

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

## Prior Operating Administration Concurrence: §26.45(f)

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

## Consultation & Publication: §26.45(g)

In establishing the overall goal, the Sponsor will provide for consultation and publication. This includes consultation with minority owned contracting groups, women owned contracting groups, general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the

availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by the Sponsor to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before the Sponsor is required to submit the goal methodology to the FAA for review pursuant to §26.45(f). The goal submission will document the consultation process in which the Sponsor engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

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

In addition to the website publication as stated above, the Sponsor may inform the public that the overall goal and its rationale are available for inspection during normal business hours at the office of the DBELO. The notice will provide that the Sponsor will accept comments on the goal for 30 days from the date of the notice. The notice of the comment period will include the addresses to which comments may be sent, including offices and websites where the proposal may be reviewed. The optional public comment period will not extend the August 1<sup>st</sup> deadline. As noted, this additional public comment period is completely optional and must be done in addition to the notification in the previous paragraph and is not a substitute thereof.

The overall three-year DBE goal submission to the FAA will include a summary of information and comments received, who provided the comment, and how the Sponsor considered and responded to any comments and information received before finalizing the goal.

The Sponsor will begin using the overall goal on October 1<sup>st</sup> of the relevant period, unless other instructions from the FAA have been received.

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

## **Section 26.47 Failure to Meet Overall Goals**

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

The Sponsor understands to be considered in compliance with this part, an approved DBE program and overall DBE goal, if applicable, must be maintained, and this DBE program must be administered in good faith.

### Short Fall Analysis: §26.47(c)

The Sponsor understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments form at the end of any fiscal year are less than the overall goal applicable to that fiscal

year, the following actions must be taken to be regarded by the Department as implementing this DBE program in good faith:

- 1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- 2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met; and

The Sponsor will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (1) and (2) of this section. The Sponsor will retain a copy of the analysis and corrective actions in records for a minimum of three (3) years and will make it available to the FAA upon request.

### **Section 26.51 Means Recipients Use to Meet Overall Goals**

#### Race Neutral Participation and Means: §26.51(a) & (b)

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

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

- 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;
- 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);
- Providing technical assistance and other services;
- Participating in community outreach activities for the purpose of informing potential contractors of available business opportunities;
- 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, and provision of information in languages other than English, where appropriate);
- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial/accounting capability for DBEs and other small businesses;
- 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;
- Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

- Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Breakout of Estimated Race Neutral & Race Conscious Participation: §26.51(c)

The Sponsor will include the projected portion of each DBE goal that is expected to be met through race neutral means and the basis for the project with each DBE goal submission to the FAA. The breakout of estimated race neutral and race conscious participation can be found in Attachment 5 to this program.

The Sponsor will arrange 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.

Sample Bid Specification when Employing a 100% Race Neutral DBE Program

The requirements of 49 CFR Part 26 apply to this contract. It is the policy of the Sponsor to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Sponsor encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

**Bidders List:** The Sponsor is required to obtain the following bidder information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each DOT-assisted contract. The Bidder must submit the following information with its proposal on the forms provided herein (Bidders List Collection Form):

- Firm’s name;
- Firm’s address including zip code;
- Firm’s status as a DBE or non-DBE;
- Race and sex information for the firm’s majority owner;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;
- Age of the firm; and
- Annual gross receipts of the firm.

**Small Business Participation:** The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121) to participate as subcontractors, service providers, suppliers, etc.

The Sponsor has identified work categories conducive to small business participation on the form entitled Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation. Prime contractors are encouraged to solicit small business participation for the work items referenced.

The Bidder must submit the Small Business Participation information with its proposal on the forms provided herein (Fostering Small Business Participation & Non-Certified Small Business Verification Form).

**Socially/Economically Disadvantaged Financial Institutions:** The Sponsor encourages Contractors and Subcontractors to utilize the services of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. You can find a link to Minority Depository Institutions and their branches on the FDIC website: <https://www.fdic.gov/regulations/resources/minority/mdi.html>.

### Forms to Include in Bid Specification when Employing a 100% Race Neutral Program

The following forms will be included in the Bid Specification when employing a 100% race neutral program:

- Bidders List Collection Form
- Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation (This form should be completed by the Sponsor/Consulting Engineer identifying NAICS Codes and/or Bid Line Items that are of an appropriate size that small businesses can perform.)
- Fostering Small Business Participation
- Non-Certified Small Business Verification Form

### Contract Goals: §26.51(d) - (g)

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

Contract goals will only be established on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

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

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

The provisions of the following section (§26.53) only apply when a contract goal (a race conscious measure) is established.

### Demonstration of Good Faith Efforts (Pre-Award): §26.53(a) & (c)

In cases where a DBE contract goal has been established, the contract in question will only be awarded to a bidder/offeror who makes good faith efforts to meet the established DBE contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A to Part 26 for guidance in determining the adequacy of a bidder/offeror's good faith efforts.

Link to Appendix A to Part 26: (<https://www.ecfr.gov/current/title-49/subtitle-A/part-26/appendix-Appendix%20A%20to%20Part%2026>).

The DBELO with the assistance of the consulting engineer is responsible for determining whether a bidder/offeree who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

The Sponsor will ensure that all information is complete, accurate, and adequately documents the bidder/offeree's good faith efforts before committing to the performance of the contract by the bidder/offeree.

#### Information to be Submitted: §26.53(b)

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

The Sponsor'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 responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening.

- 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) 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 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 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.

Provided that, in a negotiated procurement, such as a procurement for professional services, the bidder/offeree 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 Sponsor. This paragraph (b)(3)(ii) does not apply to a design-build procurement, which must follow the provisions in paragraph (e) of 49 CFR §26.53.

For each DBE listed as a regular dealer or distributor the Sponsor will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §§26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The preliminary determination will be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not

affirm that its participation will meet the specific requirements of either a regular dealer or distributor, the Sponsor will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

In a design-build contracting situation, in which the Sponsor solicits proposals to design and build a project with minimal project details at time of letting, the Sponsor may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance Plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information required in paragraph (b) of §26.53(b). To be considered responsible, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amounts) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, the Sponsor will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. The Sponsor and the design-builder may agree to make written revisions of the OEPP throughout the life of the project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

The Sponsor will 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, the Sponsor will 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.

When contract goals are established the Demonstration of Good Faith Efforts Form 1, 2, and 3 are provided in Attachment 4 to this DBE program to aid in capturing the required information presented above. When contract goals are not met, the Schedule of DBE Unavailability form is included in Attachment 4 to this Program to aid in documenting the bidder's good faith efforts. When a DBE contract goal is not met the bidder must demonstrate that it took all necessary and reasonable steps to achieve the DBE contract goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

#### Sample Bid Specification when Contract Goals (Race Conscious) are Established

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Sponsor to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Sponsor encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

**Bidders List:** The Sponsor is required to obtain the following bidder information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each DOT-assisted contract. The Bidder must submit the following information with its proposal on the forms provided herein (Bidders List Collection Form):

- Firm's name;
- Firm's address including zip code;
- Firm's status as a DBE or non-DBE;
- Race and sex information for the firm's majority owner;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;

- Age of the firm; and
- Annual gross receipts of the firm.

**Good Faith Efforts:** A DBE contract goal of \_\_\_ percent has been established for this contract. The Sponsor’s award of this contract is conditioned upon the Bidder satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening. (Demonstration of Good Faiths Efforts – Form 1, 2, & 3 and Schedule of DBE Unavailability):

- 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) 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 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 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.

**Small Business Participation:** The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121) to participate as subcontractors, service providers, suppliers, etc.

The Sponsor has identified work categories conducive to small business participation on the form entitled Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation. Prime contractors are encouraged to solicit small business participation for the work items referenced.

The Bidder must submit the Small Business Participation information with its proposal on the forms provided herein (Fostering Small Business Participation & Non-Certified Small Business Verification Form).

**Socially/Economically Disadvantaged Financial Institutions:** The Sponsor encourages Contractors and Subcontractors to utilize the services of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. You can find a link to Minority Depository Institutions and their branches on the FDIC website: <https://www.fdic.gov/regulations/resources/minority/mdi.html>.

## Forms to Include in Bid Specification when Contract (Race Conscious) Goals are Established

The following forms will be included in the Bid Specification when Contract Goals are established:

- Bidders List Collection Form
- Demonstration of Good Faith Efforts Form 1, 2, & 3
- Schedule of DBE Unavailability
- Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation (This form should be completed by the Sponsor/Consulting Engineer identifying NAICS Codes and/or Bid Line Items that are of an appropriate size that small businesses can perform.)
- Fostering Small Business Participation
- Non-Certified Small Business Verification Form

### Administrative Reconsideration: §26.53(d)

Within ten (10) business days of being informed by the Sponsor that it is not responsible 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:

Jeff Kay - City of Healdsburg, City Manager  
401 Grove Street  
Healdsburg, CA 95448  
Telephone: (707) 431-3452  
Email: [jkay@healdsburg.gov](mailto:jkay@healdsburg.gov)

The Administrative Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts. Furthermore, the Reconsideration Official does not report to the DBELO and is well-acquainted with the requirements outlined in Appendix A of 49 CFR part 26.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do. The bidder/offeror will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### Good Faith Efforts Procedural Requirements (Post Solicitation): §26.53(f) – (j)

The Sponsor will 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 that the Sponsor deems appropriate if the prime contractor fails to comply with the requirements of this section.

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

The Sponsor will require that a prime contractor not terminate a DBE or any portion of its work listed in response to §26.53(b)(2) (or an approved substitute DBE firm per to §26.53(g)) without our prior written consent, unless the Sponsor causes the termination or reduction. A termination includes any reduction or underrun in work listed for a DBE not caused by a material change to the prime contract by the recipient. This requirement applies to instances that include but are not limited to: when a prime contractor seeks to perform work originally designed for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The Sponsor may provide such written consent only if it agrees, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the listed DBE or any portion of its work.

Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that is 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. For purposes of §26.53(f)(3), good cause includes the following circumstances:

- The listed DBE subcontractor fails or refuses to execute a written contract;
- 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;
- The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements;
- The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- The Sponsor has determined that the listed DBE subcontractor is not a responsible contractor;
- The listed DBE subcontractor voluntarily withdraws from the project and provides to the Sponsor written notice of its withdrawal;
- The listed DBE is ineligible to receive DBE credit for the type of work required;
- A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- Other documented good cause that the Sponsor has determined compels the termination of the DBE subcontractor.

Before transmitting to the Sponsor a request to terminate a DBE subcontractor or any portion of its work, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Sponsor concurrently, of its intent to request to terminate and the reason for the proposed request. The DBE Termination Request form found in Attachment 4 to this program should be sent to the DBELO with a copy of the prime contractor's intent to terminate letter and supporting documentation. The DBE's response should also be provided to the DBELO if provided directly to the prime contractor.

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

In addition to post-award terminations, the provisions of this section apply to pre-award deletions or changes to DBEs or their listed work put forward by offerors in negotiated procurements.

When a DBE subcontractor or a portion of its work is terminated by the prime contractor as provided in § 26.53(f), or if work committed to a DBE is reduced due to overestimations made prior to award, the prime contractor must use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal. The good faith efforts shall be documented by the contractor. If the Sponsor requests documentation under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days, if necessary, at the request of the contractor. The Sponsor shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

When a contract goal is established, the Sponsor will include the following contract clause in each DOT-assisted prime contract.

- ***DBE Termination:*** *The prime contractor must not terminate a DBE subcontractor listed in the contractor's bid/solicitation response to the solicitation (or an approved substitute DBE firm) without prior written consent of the Sponsor. This includes, but is not limited to, instances in which the 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.*

*The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent from the Sponsor. Unless the Sponsor's consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.*

*The Sponsor may provide such written consent only if the Sponsor agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.*

*Before transmitting to the Sponsor 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 Sponsor, of its intent to request to terminate and/or substitute, and the reason for the request.*

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

*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.*

The provisions in the foregoing section (§26.53) only apply when a contract goal is established.

### **Section 26.55 Counting DBE Participation**

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

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

For FAA-funded projects, firms that exceed the business size standard in §26.65(b) will remain eligible for DBE certification and may be counted for DBE credit toward overall and contract goals on FAA-assisted projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

## **SUBPART D – CERTIFICATION STANDARDS**

---

### **Section 26.61 – 26.73 Certification Process**

The Sponsor is a non-certifying member of the California Unified Certification Program (UCP) and relies upon the UCP's determinations of certification eligibility. The UCP will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certifying California members make all certification decisions based on the facts as a whole.

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

California Department of Transportation

Office of Civil Rights

1823 14th Street

Sacramento, CA 95811

(916) 324-1700 TTY: 711

Email address: [DBE.Certification@dot.ca.gov](mailto:DBE.Certification@dot.ca.gov)

Website Link: <https://dot.ca.gov/programs/civil-rights/dbe-certification-information>

Link to electronic application portal: <https://californiaucp.dbesystem.com/>

The Uniform Certification Application form, Personal Net Worth statement, and documentation requirements can be reviewed at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>.

## **SUBPART E – CERTIFICATION PROCEDURES**

---

Any procedures included here are highlights only. Detailed certification procedures are enumerated in the full California UCP agreement. A copy of California’s UCP Agreement can be requested from any of the ten California certifying agencies. Links to the certifying agencies can be found at: <https://californiaucp.dbesystem.com/>.

### **Section 26.81 Unified Certification Programs**

The Sponsor is a non-certifying member of the California Unified Certification Program administered by the California Department of Transportation. The UCP will meet all certification standards and procedures requirements of Subparts D and E of Part 26.

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

---

### **Section 26.101 Compliance Procedures**

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

The Sponsor understands that, as provided in statute, it will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because it has been prevented from complying because a federal court has issued a final order in which the court found that the requirement is unconstitutional.

### **Section 26.103(b) Enforcement Actions**

Compliance Reviews: The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

### **Section 26.105 Enforcement Actions Applicable to FAA Programs**

Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The provisions of §26.103(b) and this section apply to enforcement actions in FAA programs.

Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

## **Section 26.107 Enforcement Actions Applicable to Participating Firms**

If a firm that does not meet the eligibility criteria of subpart D of this part attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

If a firm, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

The Department may take enforcement action under 49 CFR Part 31 (<https://www.ecfr.gov/current/title-49/subtitle-A/part-31>), Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 (<https://www.govinfo.gov/content/pkg/USCODE-2023-title18/pdf/USCODE-2023-title18-part1-chap47-sec1001.pdf>) or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

## **Section 26.109 Confidentiality, Cooperation and Intimidation or Retaliation**

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.

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

All participants in the Department's DBE program (including, but not limited to, 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).

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

## ATTACHMENT INDEX

---

### Attachment 1

- Electronic Code of Federal Register 49 CFR Part 26
- Uniform Certification Application
- Personal Net Worth Statement for DBE/ACDBE Program Eligibility
- State’s Unified Certification Program

### Attachment 2

- Organizational Chart

### Attachment 3

- DBE Directory

### Attachment 4

- Monitoring and Enforcement Mechanisms
- Applicable Forms
  - §26.11: Record Keeping Requirements
    - Bidders List Collection Form
  - §26.29: Prompt Payment Mechanisms
    - Payment Application
    - Prompt Payment Certification
    - Prompt Payment Complaint
  - §26.37: Monitoring & Enforcement Mechanisms/Responsibilities
    - Commercially Useful Function – Tips for Evaluating
    - Commercially Useful Function – Evaluation Form
    - Contract Review Form
  - §26.53: Good Faith Efforts Procedures in Situations where Contract Goals are Established
    - Form 1, 2, and 3 Demonstration of Good Faith Efforts
    - Schedule of DBE Unavailability
    - DBE Termination Request Form

### Attachment 5

- Overall Goal Calculation and Breakout of Estimated Race Neutral and Race Conscious Participation

### Attachment 6

- Small Business Element
- Applicable Forms
  - Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation
  - Fostering Small Business Participation
  - Non-Certified Small Business Verification Form

### Attachment 7

- Explanation of DBE Forms



# Attachment 1

## Regulations & Certification

**Electronic Code of Federal Register 49 CFR Part 26**

**Uniform Certification Application**

**Personal Net Worth Statement**

**State's Unified Certification Program**



## **ATTACHMENT 1 – REGULATIONS & CERTIFICATION**

---

### **Regulations: 49 CFR Part 26**

DBE program regulations are codified in Title 49 of the Code of Federal Regulations, Part 26. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

### **Certification Application Forms**

The DBE Certification Application Form and Personal Net Worth Statement can be found at the following link:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>

### **State's UCP Agreement**

A copy of California's UCP Agreement can be requested from any of the ten California certifying agencies. Links to the certifying agencies can be found at: <https://californiaucp.dbesystem.com/>.

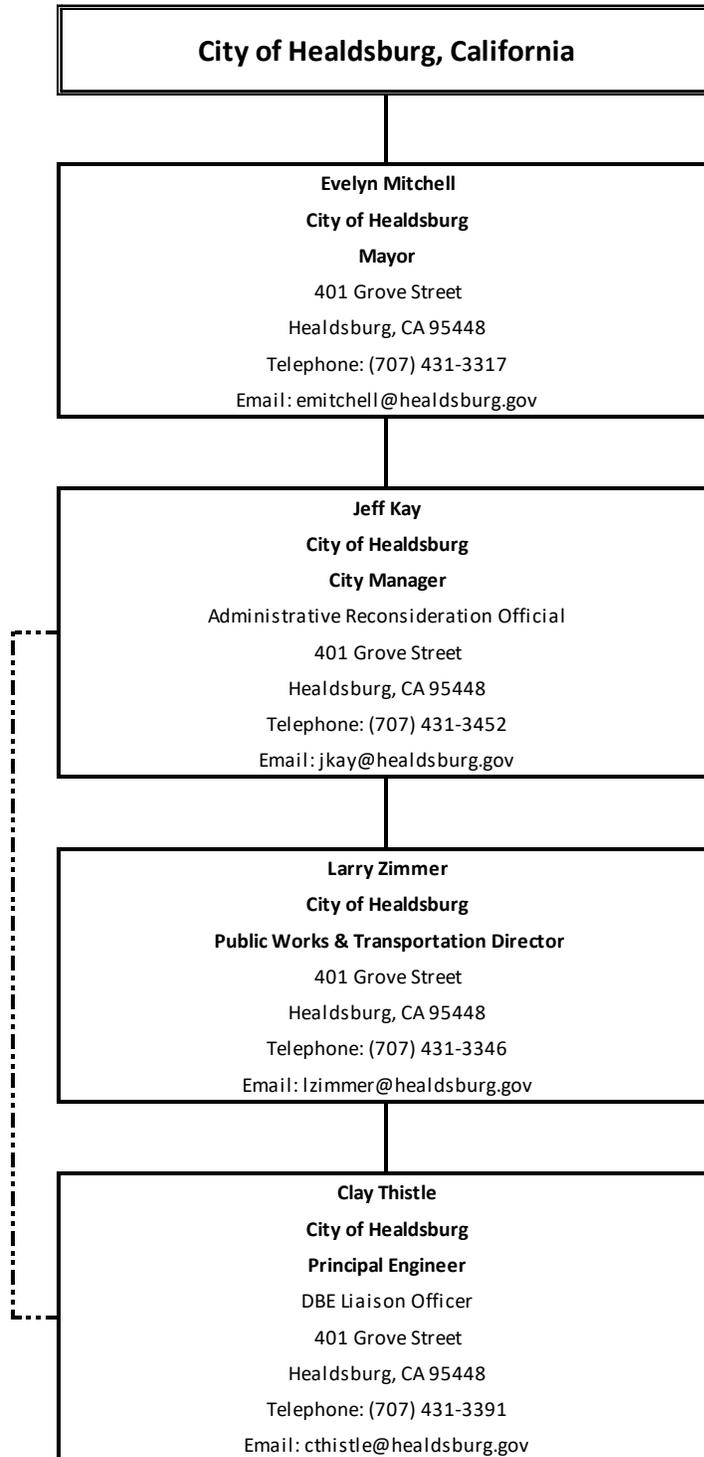


# Attachment 2

## Organizational Chart

## ATTACHMENT 2 – ORGANIZATIONAL CHART

Abbreviated for Federal Aviation Administration DBE purposes





# Attachment 3

## DBE Directory

### **ATTACHMENT 3 – DBE DIRECTORY**

---

The California UCP directory may be found at the following website: <https://californiaucp.dbesystem.com/>.

# Attachment 4

## Monitoring & Enforcement Mechanisms Attachment includes applicable forms:

### §26.11 Data Collection & Record Keeping Requirements

Bidders List Collection Form

### §26.29 Prompt Payment Mechanisms

Payment Application

Prompt Payment Certification

Prompt Payment Complaint

### §26.37 Monitoring & Enforcement Mechanisms / Responsibilities

Commercially Useful Function - Tips for Evaluating

Commercially Useful Function - Evaluation Form

Contract Review Form (Race Neutral)

Contract Review Form (Race Conscious)

### §26.53 Good Faith Effort Procedures in Situations where Contract Goals are Established

Demonstration of Good Faith Effort Form 1: DBE Utilization Form

Demonstration of Good Faith Effort Form 2: Letter of Intent

Demonstration of Good Faith Effort Form 3: DBE Regular Dealer/Distributor

Schedule of DBE Unavailability

DBE Termination Request Form

## **ATTACHMENT 4 – MONITORING & ENFORCEMENT MECHANISIMS**

---

The Sponsor 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.
  - a. Withholding of monthly progress payments
  - b. Assessing sanctions
  - c. Liquidated Damages
  - d. Disqualifying the Contractor from future bidding
  
2. Breach of contract action, pursuant to applicable State law and regulations.
  - a. California (CA): Breach of contract actions are covered under the California Civil Code, particularly in sections 3300-3400.

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

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

## BIDDERS LIST COLLECTION FORM

<b>Prime Contractor</b>			
Firm Name:	Certified DBE: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:	State:
Firm Address:		Zip Code:	
Contact Name:	Email Address:	Phone:	
<b>NAICS Code(s) associated with Bid Project</b>		<b>Race of Majority Owner</b>	<b>Age of Firm</b>
		<input type="checkbox"/> Black American <input type="checkbox"/> Non-minority <input type="checkbox"/> Hispanic American <input type="checkbox"/> Other <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American	<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
<b>Sex of Majority Owner</b>		<b>Annual Gross Receipts</b>	
<input type="checkbox"/> Male	<input type="checkbox"/> Female <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1 - \$3 million <input type="checkbox"/> \$3 - \$6 million <input type="checkbox"/> \$6 - \$10 million <input type="checkbox"/> Over \$10 million	

<b>Sub Contractor</b>			
Firm Name:	Certified DBE: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:	State:
Firm Address:		Zip Code:	
Contact Name:	Email Address:	Phone:	
<b>NAICS Code(s) associated with Bid Project</b>		<b>Race of Majority Owner</b>	<b>Age of Firm</b>
		<input type="checkbox"/> Black American <input type="checkbox"/> Non-minority <input type="checkbox"/> Hispanic American <input type="checkbox"/> Other <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American	<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
<b>Sex of Majority Owner</b>		<b>Annual Gross Receipts</b>	
<input type="checkbox"/> Male	<input type="checkbox"/> Female <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1 - \$3 million <input type="checkbox"/> \$3 - \$6 million <input type="checkbox"/> \$6 - \$10 million <input type="checkbox"/> Over \$10 million	

<b>Sub Contractor</b>			
Firm Name:	Certified DBE: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:	State:
Firm Address:		Zip Code:	
Contact Name:	Email Address:	Phone:	
<b>NAICS Code(s) associated with Bid Project</b>		<b>Race of Majority Owner</b>	<b>Age of Firm</b>
		<input type="checkbox"/> Black American <input type="checkbox"/> Non-minority <input type="checkbox"/> Hispanic American <input type="checkbox"/> Other <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American	<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
<b>Sex of Majority Owner</b>		<b>Annual Gross Receipts</b>	
<input type="checkbox"/> Male	<input type="checkbox"/> Female <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1 - \$3 million <input type="checkbox"/> \$3 - \$6 million <input type="checkbox"/> \$6 - \$10 million <input type="checkbox"/> Over \$10 million	

<b>Sub Contractor</b>			
Firm Name:	Certified DBE: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:	Zip Code:
Firm Address:		State:	Phone:
Contact Name:	Email Address:		
NAICS Code(s) associated with Bid Project	<b>Race of Majority Owner</b>	<b>Age of Firm</b>	<b>Annual Gross Receipts</b>
	<input type="checkbox"/> Black American <input type="checkbox"/> Non-minority	<input type="checkbox"/> Less than 1 year	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Hispanic American <input type="checkbox"/> Other	<input type="checkbox"/> 1 - 3 years	<input type="checkbox"/> \$1 - \$3 million
	<input type="checkbox"/> Asian-PacificAmerican	<input type="checkbox"/> 4 - 7 years	<input type="checkbox"/> \$3 - \$6 million
	<input type="checkbox"/> Subcontinent Asian American	<input type="checkbox"/> 8 - 10 years	<input type="checkbox"/> \$6 - \$10 million
	<input type="checkbox"/> Native American	<input type="checkbox"/> More than 10 years	<input type="checkbox"/> Over \$10 million
<b>Sex of Majority Owner</b>			
<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other			

<b>Sub Contractor</b>			
Firm Name:	Certified DBE: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:	Zip Code:
Firm Address:		State:	Phone:
Contact Name:	Email Address:		
NAICS Code(s) associated with Bid Project	<b>Race of Majority Owner</b>	<b>Age of Firm</b>	<b>Annual Gross Receipts</b>
	<input type="checkbox"/> Black American <input type="checkbox"/> Non-minority	<input type="checkbox"/> Less than 1 year	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Hispanic American <input type="checkbox"/> Other	<input type="checkbox"/> 1 - 3 years	<input type="checkbox"/> \$1 - \$3 million
	<input type="checkbox"/> Asian-PacificAmerican	<input type="checkbox"/> 4 - 7 years	<input type="checkbox"/> \$3 - \$6 million
	<input type="checkbox"/> Subcontinent Asian American	<input type="checkbox"/> 8 - 10 years	<input type="checkbox"/> \$6 - \$10 million
	<input type="checkbox"/> Native American	<input type="checkbox"/> More than 10 years	<input type="checkbox"/> Over \$10 million
<b>Sex of Majority Owner</b>			
<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other			

<b>Sub Contractor</b>			
Firm Name:	Certified DBE: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:	Zip Code:
Firm Address:		State:	Phone:
Contact Name:	Email Address:		
NAICS Code(s) associated with Bid Project	<b>Race of Majority Owner</b>	<b>Age of Firm</b>	<b>Annual Gross Receipts</b>
	<input type="checkbox"/> Black American <input type="checkbox"/> Non-minority	<input type="checkbox"/> Less than 1 year	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Hispanic American <input type="checkbox"/> Other	<input type="checkbox"/> 1 - 3 years	<input type="checkbox"/> \$1 - \$3 million
	<input type="checkbox"/> Asian-PacificAmerican	<input type="checkbox"/> 4 - 7 years	<input type="checkbox"/> \$3 - \$6 million
	<input type="checkbox"/> Subcontinent Asian American	<input type="checkbox"/> 8 - 10 years	<input type="checkbox"/> \$6 - \$10 million
	<input type="checkbox"/> Native American	<input type="checkbox"/> More than 10 years	<input type="checkbox"/> Over \$10 million
<b>Sex of Majority Owner</b>			
<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other			

Please copy page if you need to add more subcontractors.

## PAYMENT APPLICATION

The Sponsor requires that all Subcontractors performing work on DOT-assisted and non-DOT contracts be promptly paid for work performed pursuant to their agreements in accordance with all relevant federal, state, and local laws. Prompt payment and return of retainage requirements also apply to lower-tier Subcontractors.

The Prime Contractor agrees to promptly pay the below listed subcontractors in accordance with federal, state, and local laws.

### Prime Contractor

Firm Name \_\_\_\_\_ Payment Application No. \_\_\_\_\_

Contact Name \_\_\_\_\_ Project No. \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Total Requested Payment Amount \$ \_\_\_\_\_

### Subcontractors to be Paid from this Payment Application

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount to be Paid \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount to be Paid \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount to be Paid \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount to be Paid \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount to be Paid \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount to be Paid \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount to be Paid \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount to be Paid \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_

**Certification**

By signing this document, the applicant for payment certifies to the best of their knowledge that the information presented above is true and accurate. All work attributable to this Payment Application has been performed in a satisfactory manner. All previous payments received by the applicant were properly disbursed if required. As a result of performance in accordance with the terms of the contract documents, payment is due to the applicant as describe above.

To be considered complete, this Payment Application (excluding the initial Payment Application) should be submitted with the Prompt Payment Certification documenting all subcontractor payments. Following final payments to subcontractors a final Prompt Payment Certification will be submitted to document project completion.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Print Name \_\_\_\_\_ Title \_\_\_\_\_  
Firm Name \_\_\_\_\_

Please copy page if you need to add more Subcontractors.

## PROMPT PAYMENT CERTIFICATION

The Sponsor requires that all Subcontractors performing work on DOT-assisted and non-DOT contracts be promptly paid for work performed pursuant to their agreements in accordance with all relevant federal, state, and local laws. Prompt payment and return of retainage requirements also apply to lower-tier Subcontractors.

Prompt Payment Certification is required for all Pay Applications except the initial one.

A Final Prompt Payment Certification will be submitted following the Final Payment and Release of Retention.

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 and provides proof of payment.

### Prime Contractor

Firm Name \_\_\_\_\_ In Reference to Payment Application No. \_\_\_\_\_

Contact Name \_\_\_\_\_ Project No. \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Total Amount Paid in Referenced Pay Application \$ \_\_\_\_\_

### Subcontractors Paid from the Reference Pay Application

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_

Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Email Address \_\_\_\_\_ Phone \_\_\_\_\_  
Amount Paid in Pay Application \$ \_\_\_\_\_ Total amount Paid to date \$ \_\_\_\_\_  
Type of Work Performed \_\_\_\_\_ Final Payment  Yes  No

### Certification

By signing this document, the Prime Contractor certifies to the best of their knowledge that the information presented above is true and accurate. All work attributed to the referenced Payment Application has been performed in a satisfactory manner. The Prime Contractor has paid each Subcontractor listed in this form for satisfactory performance of its contract. Payment has been issued in accordance with Article 25 and all relevant federal, state, and local laws.

The Prime Contractor further has return retainage payments due to each Subcontractor after the Subcontractor's work is satisfactorily completed in accordance with General Provision 90-06 and all relevant federal, state, and local laws. Any delay or postponement of payment may only occur for good cause following written approval of the Sponsor.

**Proof of payment is attached to this certification for each listed Subcontractor firm.**

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Print Name \_\_\_\_\_ Title \_\_\_\_\_  
Firm Name \_\_\_\_\_

Please copy page if you need to add more Subcontractors.

**PROMPT PAYMENT COMPLAINT**

**Prior to filling out this form, ensure that you have completed the following.**

- 1. Did you verify that the work in question has been deemed satisfactorily complete by the Sponsor?  Yes  No
- 2. Did you verify that the Prime Contractor was paid by the Sponsor?  Yes  No
- 3. Did you contact the Prime Contractor to try and resolve the issue?  Yes  No
- 4. If the Prime Contractor was contacted to try to resolve the issue what was the outcome?

**Project Information**

5. Has the project been completed?  Yes  No      Project No. \_\_\_\_\_

**Subcontractor/ Complainant Information**

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

**Prime Contractor Information**

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

**Pay Items for which Payment was Not Made (be as specific as possible)**

Pay Item/Description	Quantity	Dollar Amount

**Provide and additional information that might be helpful in processing the complaint.**

**Certification**

By signing this document, the Complainant certifies to the best of their knowledge that the information presented above is true and accurate.

**Attach copies of documents to support complaint (subcontract, invoices, notes, payroll, correspondence, etc.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

## COMMERCIALLY USEFUL FUNCTION (CUF) – TIPS FOR EVALUATING

Count only DBE participation that results from a commercially useful function. As defined in Part 26, §26.55(c):

(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 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 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 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 within 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.

Guidance on evaluating commercially useful function can be found in the following locations:

<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Commercially-Useful-Function-for-Certified-Firms>

[https://www.faa.gov/sites/faa.gov/files/2021-12/Counting%20DBE%20Participation%20%20Assessing%20Commercially%20Useful%20Function%20%28CUF%29\\_Final.pdf](https://www.faa.gov/sites/faa.gov/files/2021-12/Counting%20DBE%20Participation%20%20Assessing%20Commercially%20Useful%20Function%20%28CUF%29_Final.pdf)

The following form can be utilized when evaluating Commercially Useful Function. A minimum of one CUF evaluation will be completed for each DBE performing work on the Sponsor's project.

## COMMERCIALLY USEFUL FUNCTION (CUF) EVALUATION FORM

Per 49 CFR §26.55, "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... A DBE does not perform a CUF 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..." This form is provided for the purpose of guiding reviewers in a DBE's compliance with the CUF requirements for credit and identifying red flags that might indicate non-compliance. The final determination of CUF should be based on a holistic review of on-site performance and supporting documentation. A minimum of one CUF evaluation should be completed for each DBE performing work on the Sponsor's project. Additional evaluations should be completed if uncertainty arises during the initial evaluation. This form may be modified to account for differences in your DBE program and is provided for guidance purposes only. Existing CUF forms may be substituted for this form; however, written certification that contracting records have been reviewed and work sites have been monitored is a requirement of the Sponsor's DBE program.

### Project Information

Project No. \_\_\_\_\_ Project Description \_\_\_\_\_

### DBE Contractor Information

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

### DBE Scope of Work

DBE's scope of work \_\_\_\_\_

Is the DBE's scope of work consistent with the contract?  Yes  No

If no, explain \_\_\_\_\_

DBE is performing as:

- Prime Contractor (Complete Section 1)
- Subcontractor (Complete Section 1)
- Material Supplier (Completed Section 2)
- Hauler/Trucking (Complete Section 3)

### Section 1: Prime Contractor or Subcontractor

**Management:** The DBE must manage the work that has been contracted to its firm. Management includes but is not limited to scheduling work operations, ordering equipment, preparing and submitting certified payrolls, hiring and firing employees.

- Is there a supervisor on site?  Yes  No  N/A
- Is the supervisor a full-time employee of the DBE?  Yes  No  N/A
- Does the supervisor effectively manage the job without interference from any other DBE or non-DBE contractor?  Yes  No  N/A

If the answer to any above management question is no, explain. \_\_\_\_\_

**Performance:** The DBE must be responsible for the performance, management, and supervision of a distinct element of work, in accordance with industry practice.

- Has any other contractor performed any of the DBE's work?  Yes  No

If yes, explain. \_\_\_\_\_

**Equipment:** A DBE may lease specialized equipment from a contractor, excluding the prime, if it is consistent with normal industry practices and at rates competitive for the area. The lease must specify the terms or agreement and be for a short period of time for a specialized piece of equipment to be used at the job site. The lease may include an operator for the equipment who remains on the lessor's payroll if this is a generally acceptable practice within the industry. The operation of the equipment must be subject to the full control of the DBE. The DBE is expected to provide the operator for non-specialized equipment and is responsible for all payroll and labor compliance requirements.

- Does the DBE own, lease, or N/A? (Check all applicable options).  Own  Lease  N/A
- Does the DBE use Prime Contractor's equipment?  Yes  No  N/A
- Whose name appears on the equipment? \_\_\_\_\_

If the answer to any above equipment question is yes, explain. \_\_\_\_\_

**Workforce:** In order to be considered an independent business, a DBE must keep a regular workforce. DBEs cannot share employees with non-DBE contractors, particularly the prime contractor. The DBE shall perform its work with employees normally employed by and under the DBE's control. All work must be performed with a workforce the DBE controls, with a minimum of 30% of the work to be performed by the DBE's regular employees, or those hired by the DBE for the project from a source, such as a labor union. The DBE in all instances, must have direct supervision over all of its employees.

- Does the DBE have employees on the job?  Yes  No  N/A
- Whose payroll are the employees on?  DBE  Prime

If the answer to any above workforce question is no, explain. \_\_\_\_\_

## Section 2: Material Suppliers

- Did the DBE own/lease and operate the equipment that made the delivery?  Yes  No
- Do shipping documents indicate that products were delivered directly from the DBE establishment?  
 Yes  No

If the answer to any above question is no, explain. \_\_\_\_\_

## Section 3: Hauling/Trucking

The DBE is required to own and operate at least one fully licensed, insured, and operational truck. A DBE can supplement its fleet by leasing trucks from an established equipment leasing business open to the general public. The lease must indicate that the DBE has exclusive use of and control over the truck.

- Did the DBE own and operate at least one of the trucks on this project?  Yes  No
- Were all the trucks used (or leased) by the DBE operated by the DBE and under the direct supervision of the DBE?  Yes  No
- Do the haul tickets and/or bills of lading associated with the project confirm that hauling is being performed by the DBE?  Yes  No

If the answer to any above question is no, explain. \_\_\_\_\_

## Determination

Does it appear that the DBE is performing a Commercially Useful Function? If no, please contact the project DBELO immediately.  Yes  No

Evaluator Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

## Guidance for CUF Evaluation

The CUF evaluation should be based on a holistic review of the DBE's performance through a combination of on-site observation, desk audits, and document reviews. The list below is intended to provide key areas for review and should not be treated as a comprehensive checklist. If red flags are observed, the Evaluator will immediately notify the DBELO.

### Management/Workforce

#### Potential Factors to Consider During On-Site Observation

- DBE shall be responsible for the execution of its contract (or subcontract) work
- DBE is actually performing, managing, and supervising the work involved in its contract (or subcontract)
- The work of the subcontract shall be performed by the DBE with its own workforce
- The DBE shall keep a regular workforce and has its own employees
- DBE supervisor shall be a full-time employee of the DBE
- Employees shall be supervised by the DBE supervisor
- DBE is scheduling work operations

#### Potential Factors to Consider During Desk Audit (Review of Records/Documents)

- Certified Payrolls (Is work performed by the DBE consistent with submitted payrolls?)
- Documented Communication with DBE owner and Superintendent (E-mails, memos, etc. where DBE is displaying control over schedule, work, and staff)
- Invoices

#### Red Flags

- The DBE owner/manager provides little or no supervision of the DBE's work
- The DBE manager is not a regular employee of the DBE
- Key staff and personnel are not under the control of the DBE
- DBE owner is not aware of the status of work or performance of the business
- Supervision of DBE employees by another contractor
- The DBE's work is being performed by personnel normally employed by the prime contractor or another business
- Employees are paid by the DBE and the prime contractor

### Equipment

#### Potential Factors to Consider During On-Site Observation

- The DBE shall utilize its own equipment
- Operation of the equipment shall be subject to the full control of the DBE

#### Potential Factors to Consider During Desk Audit (Review of Records/Documents)

- Written Contracts
- Daily inspection reports and project diaries
- Equipment ownership, rental, or lease documents

#### Red Flags

- Equipment used by the DBE belongs to the prime contractor or another business with no formal lease agreement
- Equipment signs and markings cover another owner's identity, usually through the use of magnetic signs
- A DBE trucking business uses trucks owned by the prime contractor

### Materials

#### Potential Factors to Consider During On-Site Observation

- DBE shall be responsible for the delivery of the materials
- DBE shall be responsible for ordering the material and invoices to indicate that DBE is the customer
- Material invoices indicate that DBE owner or Superintendent is the contact person

#### Potential Factors to Consider During Desk Audit (Review of Records/Documents)

- Invoices

- Hauling/Delivery tickets or Bills of Lading
- Material on Hand documentation
- Joint check agreement and/or Canceled checks

#### Red Flags

- Materials for the DBE are ordered or paid for by the prime contractor
- Bills of lading (or invoices) do not indicate that DBE is the customer
- Two party checks or joint checks are sent by the prime to the supplier or manufacturer, instead of sent by the DBE
- Materials necessary for the DBE's performance are delivered to, billed to, or paid by another business
- A DBE prime contractor only purchases materials while performing little or no work
- Materials/supplies come from the prime contractor's stockpiles
- Materials are delivered to the jobsite by a party separate from the DBE

## Hauling/Trucking

### Potential Factors to Consider During On-Site Observation

- DBE shall own and operate at least one fully licensed, insured, and operational truck
- DBE is responsible for the management/supervision of the entire trucking operation or a specified portion of the trucking operation to which it has been committed
- Leased trucks display the name and identification number of the DBE
- DBE trucker holds the necessary license/hauling permit where appropriate

### Potential Factors to Consider During Desk Audit (Review of Records/Documents)

- License and permits
- Insurance documents

#### Red Flags

- Leased trucks do not display the DBE's identifying information
- Operator of a leased truck is the owner of that truck
- Operator of a truck is not an employee of the DBE

## CONTRACT REVIEW (RACE NEUTRAL)

### Background 49 CFR §26.37

The FAA requires Sponsors to review prime contracts and subcontracts. The Sponsor will require Prime Contractors to provide copies of Subcontracts for review. The Sponsor will verify mandatory contract language is included in prime and subcontracts, prohibited terms and conditions are not present, and confirm the type and amount of work described in a subcontract aligns with representations made by the prime and subcontractor in any related letters of intent.

### Project Information

Project No/Description \_\_\_\_\_

### Contract Under Review

Contract # \_\_\_\_\_  Prime Contract  Subcontract

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

### Contract Clauses

Check the box corresponding to the correct contract type (prime or sub) if the clause is included in the contract. If the contract clause is not included then the contract needs to be revised to include the required contract clause.

Contract Clause Description	Prime Contract	Subcontract
Assurance: §26.13(a) - Only required with a DOT Operating Administration (FAA)	N/A	N/A
Assurance: §26.13(b) - Required in both Prime and Subcontracts	<input type="checkbox"/>	<input type="checkbox"/>
Prompt Payment: §26.29 - Required in both Prime and Subcontracts	<input type="checkbox"/>	<input type="checkbox"/>
Prompt Payment of Retainage: §26.29 - Required in both Prime and Subcontracts	<input type="checkbox"/>	<input type="checkbox"/>
Prompt Payment Enforcement: §26.29 - Required in Prime Contracts	<input type="checkbox"/>	N/A
DBE Termination: §26.53 - Required in Prime Contracts	N/A	N/A

### Prohibited Terms/Conditions Contract Language Review

- Geographical Preference: No geographic preference or state/local program goals are applied to the DOT-assisted contracts.  Agree  Disagree
- Contradictory Language: No language contradicting the requirements of 49 CFR Part 26 are present.  Agree  Disagree

### Work Scope

- Scope of work is consistent with the letter of intent.  Agree  Disagree

### Reviewer Certification

The Sponsor has reviewed the aforementioned contract as indicated above and agrees that it meets the requirements of 49 CFR Part 26.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

## CONTRACT REVIEW (RACE CONSCIOUS)

### Background 49 CFR §26.37

The FAA requires Sponsors to review prime contracts and subcontracts. The Sponsor will require Prime Contractors to provide copies of Subcontracts for review. The Sponsor will verify mandatory contract language is included in prime and subcontracts, prohibited terms and conditions are not present, and confirm the type and amount of work described in a subcontract aligns with representations made by the prime and subcontractor in any related letters of intent.

### Project Information

Project No/Description \_\_\_\_\_

### Contract Under Review

Contract # \_\_\_\_\_  Prime Contract  Subcontract

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

### Contract Clauses

Check the box corresponding to the correct contract type (prime or sub) if the clause is included in the contract. If the contract clause is not included then the contract needs to be revised to include the required contract clause.

Contract Clause Description	Prime Contract	Subcontract
Assurance: §26.13(a) - Only required with a DOT Operating Administration (FAA)	N/A	N/A
Assurance: §26.13(b) - Required in both Prime and Subcontracts	<input type="checkbox"/>	<input type="checkbox"/>
Prompt Payment: §26.29 - Required in both Prime and Subcontracts	<input type="checkbox"/>	<input type="checkbox"/>
Prompt Payment of Retainage: §26.29 - Required in both Prime and Subcontracts	<input type="checkbox"/>	<input type="checkbox"/>
Prompt Payment Enforcement: §26.29 - Required in Prime Contracts	<input type="checkbox"/>	N/A
DBE Termination: §26.53 - Required in Prime Contracts	<input type="checkbox"/>	N/A

### Prohibited Terms/Conditions Contract Language Review

- Geographical Preference: No geographic preference or state/local program goals are applied to the DOT-assisted contracts.  Agree  Disagree
- Contradictory Language: No language contradicting the requirements of 49 CFR Part 26 are present.  Agree  Disagree

### Work Scope

- Scope of work is consistent with the letter of intent.  Agree  Disagree

### Reviewer Certification

The Sponsor has reviewed the aforementioned contract as indicated above and agrees that it meets the requirements of 49 CFR Part 26.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

**DEMONSTRATION OF GOOD FAITH EFFORTS - FORMS 1, 2, and 3**

The following, Form 1: Disadvantaged Business Enterprise (DBE) Utilization and Form 2: Letter of Intent, and 3: DBE Regular Dealer/Distributor Affirmation Form, are for purposes of assessing bidders'/offerors' good faith efforts and are provided as part of the solicitation documents.

FORM 1:

FORM 1: **DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION FORM**

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

- The bidder/offeror has met the DBE contract goal.  
The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.
  
- The bidder/offeror has not met the DBE contract goal.  
The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract and has submitted documentation demonstrating good faith efforts.

---

Legal name of bidder/offeror's firm

Bidder/Offeror Representative:

---

Name & Title

---

Signature

---

Date

**FORM 2: LETTER OF INTENT FORM**

*The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm. If the bidder/offeror does not receive the award of the prime contract, any and all representations in this Letter of Intent shall be null and void. Submit this form for each DBE subcontractor.*

Name of Bidder/Offeror's Firm	
Name & Title of Firm's AR	
Phone	Email

\_\_\_\_\_  
Name of DBE Firm

\_\_\_\_\_  
Name & Title of DBE Firm's AR

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State/ Zip

*Work to be performed by DBE firm:*

Description of Work	NAICS	Dollar Amount / % <sup>1</sup>	Manufacturer/Regular Dealer/Distributor/Broker <sup>2</sup>

<sup>1</sup> Percentage is to be used only in negotiated procurements

<sup>2</sup> For DBE suppliers only, state how the DBE will perform. For dealer/distributor/broker, Form 3 must be included.

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

\_\_\_\_\_  
Signature of Bidder/Offeror's Authorized Representative

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Signature of DBE's Authorized Representative

\_\_\_\_\_  
Date

# FORM 3: DBE REGULAR DEALER/DISTRIBUTOR AFFIRMATION FORM

Link to Form: <https://www.transportation.gov/sites/dot.gov/files/2024-04/DBE%20Regular%20Dealer-Distributor%20Affirmation%20Form-Pending%20OMB%20approval%2004-17-2024.pdf>

 <p style="font-size: small;">U.S. Department of Transportation</p>	<p><b>DBE Regular Dealer/Distributor Affirmation Form</b></p>	<p>Bidder Name: <input style="width: 100%;" type="text"/></p> <p>Contract Name/Number: <input style="width: 100%;" type="text"/></p>
<p style="font-size: x-small;">Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(v)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan. <b>DISCLAIMER: This form has not yet received OMB/PRA approval and is subject to change. We are making it available for your voluntary use.</b></p>		
<p>DBE Name: _____</p>		<p>Total Subcontract/Purchase Order Amount: <input style="width: 100%;" type="text"/></p>
<p>Authorized DBE Representative (Name and Title): _____</p>		<p>NAICS Code(s) Related to the Items to be Sold/Leased: <input style="width: 100%;" type="text"/></p>
<p>1. Will <u>all</u> items sold or leased be provided from the on-hand inventory at your establishment? <input type="checkbox"/> YES <input type="checkbox"/> NO                  (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. <b>STOP here. Read and sign the affirmation below.</b> If "NO" Continue.)</p> <p>a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)? <input type="checkbox"/> YES <input type="checkbox"/> NO (If "YES," Go to Question 2. If "NO" Continue.)</p> <p>b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?  <input type="checkbox"/> YES <input type="checkbox"/> NO* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. <b>STOP here. Read and sign the affirmation below.</b>)</p> <p style="font-size: x-small;">*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)</p>		
<p>2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate? <input type="checkbox"/> YES <input type="checkbox"/> NO<sup>1</sup>                  (If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. <b>STOP here. Read and sign the affirmation below.</b>)  <sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)</p>		
<p>3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacturer's facility)? <input type="checkbox"/> YES<sup>2</sup> <input type="checkbox"/> NO<sup>3</sup></p> <p>a) Will you be using sources <u>other than</u> the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased? <input type="checkbox"/> YES<sup>2</sup> <input type="checkbox"/> NO<sup>3</sup></p> <p><sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.</p> <p><sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.</p>		
<p>I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will <u>independently</u> negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.</p> <p><b>Printed Name and Signature of DBE Owner/Authorized Representative:</b>  <input style="width: 100%; height: 20px;" type="text"/></p>		
<p>The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.</p> <p><b>Printed Name and Signature of Bidder's Authorized Representative:</b>  <input style="width: 100%; height: 20px;" type="text"/></p>		

# SCHEDULE OF DBE UNAVAILABILITY

Submit this form only if the DBE goal is NOT met

The undersigned certifies that the below DBEs were contacted, in good faith, and said DBEs were unable to submit an acceptable bid. This form should be completed and submitted within five days after bid opening. When a non-DBE subcontractor is selected over a DBE subcontractor, copies of each DBE and non-DBE subcontractor quote submitted to the bidder must be attached to the completed form. The making of a material misrepresentation of fact is grounds for disqualification.

## Project Information

Project No/Description \_\_\_\_\_

## Prime Contractor

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

## DBE Firms Contacted

DBE Firm & Address	NAICS/Type of Work	Reason Unavailable	Method of Contact

## Prime Contractor Signature

Signature \_\_\_\_\_ Title \_\_\_\_\_

Print Name \_\_\_\_\_ Date \_\_\_\_\_

Please copy page if you need to add more subcontractors.

## DBE TERMINATION REQUEST

### Background 49 CFR §26.55

If the prime contractor seeks to terminate a DBE subcontractor on a DOT-assisted project, the prime contractor must notify the DBE subcontractor in writing, with a concurrent copy to the Sponsor, of the intent to terminate and the reason. The prime contractor's written notice must give the DBE subcontractor five (5) days to respond to the notice and provide any reasons why it objects to the proposed termination and why the prime contractor's request to terminate should not be approved. If required in a particular case as a matter of public necessity (e.g., safety), the prime contractor may provide a response period shorter than five days.

### Project Information

Project No/Description \_\_\_\_\_

### Prime Contractor

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

### Previously Approved DBE Subcontractor

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Subcontractor  Manufacturer (100%)  Regular Dealer (60%)  Distributor (40%)  Trucking/Hauling

Bid Item	Work Description	Dollar Amount Complete	Remaining Dollar Amount

### Proposed Subcontractor

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Subcontractor  Manufacturer (100%)  Regular Dealer (60%)  Distributor (40%)  Trucking/Hauling

Bid Item	Work Description	Dollar Amount Complete	Remaining Dollar Amount

Will termination result in a DBE goal shortfall?  Yes  No If yes, how much? \_\_\_\_\_

Reason for termination:

- The listed DBE is no longer in business
- The listed DBE failed or refused to perform the contract or furnish the materials
- The work performed by the listed DBE was unsatisfactory and was not in accordance with the plans and specifications
- The listed DBE requested removal
- Other documented good cause. Good cause does not exist if the prime seeks to terminate the DBE relied upon to obtain the contract so that the prime can self-perform the work.

If other, explain: \_\_\_\_\_

Attach a copy of the prime's intent to terminate letter and supporting documentation.

**Prime Contractor Certification**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

**Reviewer Certification**

The Sponsor approves/disapproves this DBE termination/substitution request.  Approve  Disapprove

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

# Attachment 5

## Overall Goal Calculation and Breakout of Estimated Race Neutral & Race Conscious Participation

### DBE Goals

**FY 2025: (1) Runway 13-31 Pavement Reconstruction  
(Design)**

**(2) Rehabilitate Taxiway A and A1**

**(3) Rehabilitate Hangar Row C (Design)**

**FY 2026: Rehabilitate Hangar Row C - Less than  
\$250K (No DBE Goal Required)**

**FY 2027: Runway 13-31 Reconstruction and  
Removal of Taxiway A3**

**ATTACHMENT 5 – OVERALL GOAL CALCULATION**

---



MARCH 2025

# FY 25-27 DBE GOAL METHODOLOGY

## HEALDSBURG MUNICIPAL AIRPORT (HES)

DBE PLANS & GOALS PREPARATION SERVICES, LLC  
113 GEORGETOWN COURT, WEATHERFORD, TX 76087  
Phone: (817) 609-6004 | [lspillers@dbepplans.com](mailto:lspillers@dbepplans.com)



## Contents

Federally Assisted Contract Amount .....	2
Section 26.45 Overall DBE Goal Methodology.....	4
Section 26.45(c) Step 1: Relative Availability of DBEs.....	4
Section 26.45(d) Step 2: Adjustments to Step 1 Base Figure .....	7
Section 26.45(e) Overall Goal Presentation .....	9
Section 26.45(g) Consultation and Publication .....	9
Section 26.51 Means to Meet Overall Goals .....	13
Section 26.51(a) Race Neutral (RN) Participation .....	13
Section 26.51(b) Race Neutral (RN) Means.....	13
Section 26.51(c) Breakout of Estimated Race Neutral & Race Conscious Participation .....	14
Section 26.51(d) Contract Goals .....	14
Section 26.51(e-g) Use of Contract Goals .....	14

**DBE GOAL METHODOLOGY FOR THE CITY OF HEALDSBURG, CALIFORNIA**  
**HEALDSBURG MUNICIPAL AIRPORT**  
**FISCAL YEAR 2025-2027**

This DBE Goal Submittal for FY 2025 - 2027 is developed for the following projects: **FY 2025** – Runway 13-31 Pavement Reconstruction (Design), Rehabilitate Taxiway A and A1, & Rehabilitate Hangar Row C (Design); **FY 2026** – Rehabilitate Hangar Row C - Less than \$250K (No DBE Goal Required); **FY 2027** – Runway 13-31 Reconstruction and Removal of Taxiway A3. The overall DBE goal methodology is based on what the airport anticipates receiving for FY 2025-2027. Significant changes to the projects as stated will require an amendment to the DBE goal.

**Name of Recipient:** City of Healdsburg, CA/Healdsburg Municipal Airport

**Goal Period:** FY 2025 - FY 2027 – (October 1, 2024 through September 30, 2027)

**Federally Assisted Contract Amount**

		Dollars		
Fiscal Year 2025		Local	Federal*	Total
<i>Runway 13-31 Pavement Reconstruction (Design)</i>	Construction Dollars	\$ -	\$ -	\$ -
	Professional Services Dollars	\$ 9,435	\$ 179,265	\$ 188,700
<b>Runway 13-31 Pavement Reconstruction Total</b>		<b>\$ 9,435</b>	<b>\$ 179,265</b>	<b>\$ 188,700</b>
<i>Rehabilitate Taxiway A and A1</i>	Construction Dollars	\$ 19,050	\$ 361,950	\$ 381,000
	Professional Services Dollars	\$ 11,685	\$ 222,015	\$ 233,700
<b>Rehabilitate Taxiway A and A1 Total</b>		<b>\$ 30,735</b>	<b>\$ 583,965</b>	<b>\$ 614,700</b>
<i>Rehabilitate Hangar Row C (Design)</i>	Construction Dollars	\$ -	\$ -	\$ -
	Professional Services Dollars	\$ 2,300	\$ 43,700	\$ 46,000
<b>Rehabilitate Hangar Row C (Design) Total</b>		<b>\$ 2,300</b>	<b>\$ 43,700</b>	<b>\$ 46,000</b>
<b>Fiscal Year 2025 Total</b>		<b>\$ 42,470</b>	<b>\$ 806,930</b>	<b>\$ 849,400</b>
<b>Fiscal Year 2026</b>				
<i>Rehabilitate Hangar Row C - Less than \$250K (No DBE Goal Required)</i>	Construction Dollars	\$ 5,000	\$ 95,000	\$ 100,000
	Professional Services Dollars	\$ 5,000	\$ 95,000	\$ 100,000
<b>Fiscal Year 2026 Total</b>		<b>\$ 10,000</b>	<b>\$ 190,000</b>	<b>\$ 200,000</b>
<b>Fiscal Year 2027</b>				
<i>Runway 13-31 Reconstruction and Removal of Taxiway A3</i>	Construction Dollars	\$ 249,000	\$ 2,241,000	\$ 2,490,000
	Professional Services Dollars	\$ 27,800	\$ 250,200	\$ 278,000
<b>Fiscal Year 2027 Total</b>		<b>\$ 276,800</b>	<b>\$ 2,491,200</b>	<b>\$ 2,768,000</b>
<b>Triennial Total</b>		<b>\$ 329,270</b>	<b>\$ 3,488,130</b>	<b>\$ 3,817,400</b>

\* The DBE Goal Methodology is calculated based on the anticipated Federal Financial Assistance dollar amount.

**Three-Year DBE Goal: 5.17% (RN 5.17% RC 0.00%)**

- **FY 2025:** 5.05% (RN 5.05% RC 0.00%)
- **FY 2026:** N/A
- **FY 2027:** 5.60% (RN 5.60% RC 0.00%)

**Total Dollars to be Expended on DBEs: \$180,257**

- **FY 2025:** \$40,750
- **FY 2026:** N/A
- **FY 2027:** \$139,507

**Number and Type of Projects for this Three-Year Goal Submittal:** Please refer to the table above under subheading Federally Assisted Contract Amount. This table identifies the project type, corresponding fiscal year, construction dollars, professional service dollars, and total dollars for each project.

**Market Area:** The California counties of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma (Home County).

**Determination of Market Area:** The market area as defined is the area in which the substantial majority of the Airport’s contractors and subcontractors that seek to do business with the Airport are located and the area in which the Airport spends the substantial majority of its contracting dollars. The Airport reviewed historical participation on airport projects and will continue to utilize the market area established in the FY22-24 DBE Goal Update document. The established market area consists of the home county of Sonoma, CA and the associated California counties in Caltrans District Four. The Airport will adjust the market area in years to come as deemed appropriate.



## Section 26.45 Overall DBE Goal Methodology

---

The City of Healdsburg, CA/Healdsburg Municipal Airport is establishing an overall Fiscal Year 2025 – 2027 DBE goal in anticipation of receiving federally assisted funding of which the cumulative total value exceeds \$250,000 in DOT funds during one or more of the reporting fiscal years.

### Section 26.45(c) Step 1: Relative Availability of DBEs

**Method:** The City of Healdsburg, CA/Healdsburg Municipal Airport utilized the Certified Vendor Directory from the California Unified Certification Program (CUCP) website, the Census Bureau County Business Patterns (CBP), and the North American Industrial Classification System (NAICS).

The Airport searched the CUCP Certified Vendor Directory for certified DBE firms located throughout the market area who are ready, willing, and able to perform work under the NAICS codes enumerated below.

237310 Highway, Street, and Bridge Construction  
238210 Electrical Contractors and Other Wiring Installation Contractors  
238910 Site Preparation Contractors  
423320 Brick, Stone, and Related Construction Material Merchant Wholesalers  
423390 Other Construction Material Merchant Wholesalers  
484220 Specialized Freight (except Used Goods) Trucking, Local  
532490 Other Commercial and Industrial Machinery and Equipment Rental and Leasing  
541330 Engineering Services  
541370 Surveying and Mapping (except Geophysical) Services  
541380 Testing Laboratories  
541611 Administrative Management and General Management Consulting Services  
541620 Environmental Consulting Services

#### Links to Data Sources:

CUCP Certified Vendor Directory: <https://californiaucp.dbesystem.com/>

CBP: <https://www.census.gov/data.html>

NAICS: <https://www.naics.com/>

To calculate the base DBE availability, for each identified NAICS code the Airport divided the total number of DBEs by the total number of firms in the market area. See calculation(s) below:

NAICS	Type of Work	DBEs	All Firms	DBEs as a % of All Firms
<b>Construction</b>				
237310	Highway, Street, and Bridge Construction	1	148	0.68%
238210	Electrical Contractors and Other Wiring Installation Contractors	34	1,975	1.72%
238910	Site Preparation Contractors	20	473	4.23%
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	4	42	9.52%
423390	Other Construction Material Merchant Wholesalers	2	59	3.39%
484220	Specialized Freight (except Used Goods) Trucking, Local	42	450	9.33%
<b>Construction Total</b>		<b>103</b>	<b>3,147</b>	<b>3.273%</b>
<b>Professional Services</b>				
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	2	247	0.81%
541330	Engineering Services	96	2,352	4.08%
541370	Surveying and Mapping (except Geophysical) Services	13	93	13.98%
541380	Testing Laboratories	11	200	5.50%
541611	Administrative Management and General Management Consulting Services	139	3,671	3.79%
541620	Environmental Consulting Services	9	372	2.42%
<b>Professional Services Total</b>		<b>270</b>	<b>6,935</b>	<b>3.893%</b>
<b>Base DBE Availability</b>		<b>373</b>	<b>10,082</b>	<b>3.700%</b>

$$\text{Base DBE Availability} = \frac{\sum \text{ of DBEs}}{\sum \text{ of All Firms}} = \frac{373}{10082} = 3.700\% \quad (\text{rounded to } 3.70\%)$$

**Weighted Availability of DBE Firms:** To obtain a more accurate DBE projection, the Airport weighted the calculated Base DBE Availability figure(s) using the latest project cost estimate, DBE availability, and Census data. The weighting calculations are shown below:

For fiscal year 2025, award of the following is anticipated:

A	B	C	D	E	F	G	H	I
Project Name	NAICS	NAICS Description	Trade (\$)	DBE Directory	Census	Base Goal (%) = E/F	DBE (\$) = D x G	Adj % = H/D
<b>Runway 13-31 Pavement Reconstruction (Design)</b>								
Professional Services	541330	Engineering Services	\$ 138,035	96	2,352	4.082%	\$ 5,635	
	541370	Surveying and Mapping (except Geophysical) Services	\$ 14,250	13	93	13.978%	\$ 1,992	
	541380	Testing Laboratories	\$ 4,750	11	200	5.500%	\$ 261	
	541611	Administrative Management and General Management Consulting Services	\$ 16,435	139	3,671	3.786%	\$ 622	
	541620	Environmental Consulting Services	\$ 5,795	9	372	2.419%	\$ 140	
<b>Professional Services Total</b>			<b>\$ 179,265</b>	<b>268</b>	<b>6,688</b>		<b>\$ 8,650</b>	<b>4.825%</b>
<b>Runway 13-31 Pavement Reconstruction (Design) Total</b>			<b>\$ 179,265</b>	<b>268</b>	<b>6,688</b>		<b>\$ 8,650</b>	<b>4.825%</b>
<b>Rehabilitate Taxiway A and A1</b>								
Construction	237310	Highway, Street, and Bridge Construction	\$ 113,981	1	148	0.676%	\$ 771	
	238910	Site Preparation Contractors	\$ 65,645	20	473	4.228%	\$ 2,775	
	423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	\$ 158,004	4	42	9.524%	\$ 15,048	
	423390	Other Construction Material Merchant Wholesalers	\$ 5,320	2	59	3.390%	\$ 180	
	484220	Specialized Freight (except Used Goods) Trucking, Local	\$ 19,000	42	450	9.333%	\$ 1,773	
<b>Construction Total</b>			<b>\$ 361,950</b>	<b>69</b>	<b>1,172</b>		<b>\$ 20,547</b>	<b>5.677%</b>
Professional Services	532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$ 38,000	2	247	0.810%	\$ 308	
	541330	Engineering Services	\$ 142,738	96	2,352	4.082%	\$ 5,827	
	541370	Surveying and Mapping (except Geophysical) Services	\$ 12,350	13	93	13.978%	\$ 1,726	
	541380	Testing Laboratories	\$ 6,080	11	200	5.500%	\$ 334	
	541611	Administrative Management and General Management Consulting Services	\$ 4,512	139	3,671	3.786%	\$ 171	
	541620	Environmental Consulting Services	\$ 18,335	9	372	2.419%	\$ 444	
<b>Professional Services Total</b>			<b>\$ 222,015</b>	<b>270</b>	<b>6,935</b>		<b>\$ 8,810</b>	<b>3.968%</b>
<b>Rehabilitate Taxiway A and A1 Total</b>			<b>\$ 583,965</b>	<b>339</b>	<b>8,107</b>		<b>\$ 29,357</b>	<b>5.027%</b>
<b>Rehabilitate Hangar Row C (Design)</b>								
Professional Services	541330	Engineering Services	\$ 23,560	96	2,352	4.082%	\$ 962	
	541370	Surveying and Mapping (except Geophysical) Services	\$ 9,500	13	93	13.978%	\$ 1,328	
	541380	Testing Laboratories	\$ 4,750	11	200	5.500%	\$ 261	
	541611	Administrative Management and General Management Consulting Services	\$ 2,090	139	3,671	3.786%	\$ 79	
	541620	Environmental Consulting Services	\$ 3,800	9	372	2.419%	\$ 92	
<b>Professional Services Total</b>			<b>\$ 43,700</b>	<b>268</b>	<b>6,688</b>		<b>\$ 2,722</b>	<b>6.229%</b>
<b>Rehabilitate Hangar Row C (Design) Total</b>			<b>\$ 43,700</b>	<b>268</b>	<b>6,688</b>		<b>\$ 2,722</b>	<b>6.229%</b>
<b>Fiscal Year 2025 Total</b>			<b>\$ 806,930</b>	<b>875</b>	<b>21,483</b>		<b>\$ 40,729</b>	<b>5.047%</b>

$$\text{FY25 Weighted DBE Availability} = \frac{\sum \text{of DBE } \$}{\sum \text{of Trade } \$} = \frac{\$40,729}{\$806,930} = 5.047\% \text{ (rounded to 5.05\%)}$$

For fiscal year 2026, award of the following is anticipated: Rehabilitate Hangar Row C - Less than \$250K (No DBE Goal Required)

For fiscal year 2027, award of the following is anticipated:

A	B	C	D	E	F	G	H	I
Project Name	NAICS	NAICS Description	Trade (\$)	DBE Directory	Census	Base Goal (%) = E/F	DBE (\$) = D x G	Adj % = H/D
<b>Runway 13-31 Reconstruction and Removal of Taxiway A3</b>								
Construction	237310	Highway, Street, and Bridge Construction	\$ 524,975	1	148	0.676%	\$ 3,549	
	238210	Electrical Contractors and Other Wiring Installation Contractors	\$ 62,132	34	1,975	1.722%	\$ 1,070	
	238910	Site Preparation Contractors	\$ 498,751	20	473	4.228%	\$ 21,087	
	423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	\$ 975,727	4	42	9.524%	\$ 92,928	
	423390	Other Construction Material Merchant Wholesalers	\$ 62,940	2	59	3.390%	\$ 2,134	
	484220	Specialized Freight (except Used Goods) Trucking, Local	\$ 116,475	42	450	9.333%	\$ 10,871	
<b>Construction Total</b>			<b>\$ 2,241,000</b>	<b>103</b>	<b>3,147</b>		<b>\$ 131,639</b>	<b>5.874%</b>
Professional Services	532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$ 45,000	2	247	0.810%	\$ 365	
	541330	Engineering Services	\$ 137,493	96	2,352	4.082%	\$ 5,612	
	541380	Testing Laboratories	\$ 10,800	11	200	5.500%	\$ 594	
	541611	Administrative Management and General Management Consulting Services	\$ 2,907	139	3,671	3.786%	\$ 110	
	541620	Environmental Consulting Services	\$ 54,000	9	372	2.419%	\$ 1,306	
<b>Professional Services Total</b>			<b>\$ 250,200</b>	<b>257</b>	<b>6,842</b>		<b>\$ 7,987</b>	<b>3.192%</b>
<b>Fiscal Year 2027 Total</b>			<b>\$ 2,491,200</b>	<b>360</b>	<b>9,989</b>		<b>\$ 139,626</b>	<b>5.605%</b>

$$\text{FY27 Weighted DBE Availability} = \frac{\sum \text{of DBE } \$}{\sum \text{of Trade } \$} = \frac{\$139,626}{\$2,491,200} = 5.605\% \text{ (rounded to 5.60\%)}$$

### Section 26.45(d) Step 2: Adjustments to Step 1 Base Figure

After calculating a weighted base figure of the relative availability of DBEs, evidence was examined to determine what, if any, adjustment to the base figure was needed in order to arrive at the overall goal.

The Airport examined two factors as possible adjustments to the Step 1 base figure:

#### Past Participation

First, the Airport examined the historic overall DBE goal accomplishments in recent years specifically, the annual "Uniform Report of DBE Awards or Commitments and Payments." The research in FAA Civil Rights Connect found the information as indicated below.

#### Historical DBE Accomplishments for Federally Assisted Contracts

Fiscal Year	Total Grant Amount (\$)	DBE Goals			Accomplishments			DBE Variance	Type of Work
		RC	RN	TTL	RC	RN	TTL		
FY24	\$ -	No Federally Funded Project							
FY23	\$ 732,838	2.32%	0.00%	2.32%	2.32%	4.21%	6.53%	4.21%	Reconstruct Taxiway, Rehabilitate Taxiway Lighting
FY22	\$ -	No Federally Funded Project							
FY21	\$ 100,000	No Project Requiring a DBE Goal							Conduct or Update Miscellaneous Study
FY20	\$ -	No Federally Funded Project							

\* Approved Accomplishment Data as of 3/17/2025 (Source: FAA Civil Rights Connect)

**FY 2024 Accomplishment:** N/A – No federally funded project

**FY 2023 Accomplishment:** 6.53%

**FY 2022 Accomplishment:** N/A – No federally funded project

**FY 2021 Accomplishment:** N/A – No project requiring a DBE goal

**FY 2020 Accomplishment:** N/A – No federally funded project

Typically, the Airport would make an adjustment to the Weighted DBE Goal using the median historical DBE accomplishment. However, since there is limited accomplishment data available to base an adjustment upon the Airport has decided not to adjust the proposed DBE goal based on historical accomplishment data.

### Disparity Studies

Second, the Airport researched the market area for any disparity studies that may have been conducted recently for Sonoma County, CA. The Airport searched the Caltrans website (<https://dot.ca.gov/>), the State of California website (<https://www.ca.gov/>), and performed a web search for “construction disparity studies for California.”

While Caltrans does conduct frequent disparity studies, they are focused only on FTA and FHAW funded projects; therefore, the prepared disparity studies are not relevant to the Airport’s FAA funded projects.

### Adjustment Conclusion

Based on the finding presented above, the airport will not make an adjustment to the proposed weighted DBE goals. Based on the findings above the proposed fiscal year DBE goals are as follows:

- **FY 2025:** 5.05%
- **FY 2026:** N/A
- **FY 2027:** 5.60%

For fiscal year 2025, the Airport expects to expend approximately \$806,930 on federally assisted contracts. Since the DBE goal for fiscal year 2025 is 5.05%, this means that the Airport expects to expend approximately \$40,750 with DBEs in fiscal year 2025.

$$\text{FY25 DBE Dollars} = \$806,930 * 5.05\% = \$40,750$$

For fiscal year 2027, the Airport expects to expend approximately \$2,491,200 on federally assisted contracts. Since the DBE goal for fiscal year 2027 is 5.60%, this means that the Airport expects to expend approximately \$139,507 with DBEs in fiscal year 2027.

$$\text{FY27 DBE Dollars} = \$2,491,200 * 5.60\% = \$139,507$$

## Section 26.45(e) Overall Goal Presentation

The City of Healdsburg, CA/Healdsburg Municipal Airport will express the overall goal as a percentage of all FAA funds anticipated to be expended on FAA-assisted contracts in the three forthcoming fiscal years.

The Airport expects to expend a total of \$3,488,130 over the three-year period (FY 2025-2027) on FAA-assisted contracts of which \$180,257 is expected to be expended on DBEs. The Airport will divide the amount to be expended on DBEs by the total amount to be expended on FAA-assisted contracts to derive the three-year overall DBE goal for fiscal year 2025-2027. See Calculation below:

$$\text{FY25-27 Overall DBE Goal} = \frac{\text{Total DBE \$}}{\text{Total DOT-Assisted \$}} = \frac{\$180,257}{\$3,488,130} = 5.168\% \quad (\text{rounded to } 5.17\%)$$

Three – Year DBE Goal: 5.17%

## Section 26.45(g) Consultation and Publication

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

### Consultation Method

On March 20<sup>th</sup>, 2025, the Airport emailed community organizations including minority and women’s groups, general contractors, and DBE contractors inviting them to participate and share their comments regarding the DBE goal(s) via a conference call (the direct interactive communication) scheduled for March 28<sup>th</sup>, 2025 beginning at 9:00 AM Pacific Standard Time and ending at 9:30 AM Pacific Standard Time. The participation was not limited to the conference call. Participants also had the opportunity to participate and to share their comments via an email or a telephone call in addition to the opportunity of the scheduled conference call. Please see the below email message and distribution list for further details.

## Public Participation Message

The City of Healdsburg, CA/Healdsburg Municipal Airport is requesting Airport Improvement funds for the three-year period FY 2025-2027. In accordance with 49 CFR Part 26.45(g)(1) which states, "In establishing an overall goal, you must provide for consultation and publication. This includes: Consultation with minority, women 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."

We would like to extend the opportunity to you to comment on our proposed DBE goal. Please note that your response is strictly VOLUNTARY. Below you will find pertinent information regarding the FY 2025-2027 project(s) for Healdsburg Municipal Airport. If you would like to comment on our proposed DBE goal, please email [lspillers@dbeplans.com](mailto:lspillers@dbeplans.com) or call comments into (817) 609-6004 by 3/28/2025 or on 3/28/2025 dial into (415) 464-6800 beginning at 9:00 AM Pacific Standard Time and ending at 9:30 AM Pacific Standard Time with conference code 2180581# for direct interactive communication. Thank you for your assistance.

### Pertinent Project Information

**Name of Recipient:** City of Healdsburg, CA/Healdsburg Municipal Airport

**Goal Period:** FY 2025-2027 (October 1, 2024-September 30, 2027)

**Overall Fiscal Year 2025 – 2027 DBE Goal:** 5.17%

**Federal Fiscal Year 2025:** 5.05%

- Runway 13-31 Pavement Reconstruction (Design): 4.83%
- Rehabilitate Taxiway A and A1: 5.03%
- Rehabilitate Hangar Row C (Design): 6.23%

**Federal Fiscal Year 2026:** N/A: Rehabilitate Hangar Row C - Less than \$250K (No DBE Goal Required)

**Federal Fiscal Year 2027:** 5.60%: Runway 13-31 Reconstruction and Removal of Taxiway A3

The City of Healdsburg, CA/Healdsburg Municipal Airport's DBE goal methodology is based on what the airport anticipates receiving for FY 2025-2027. Significant changes to the projects as stated will require an amendment to the DBE goal.

The DBE Goal is a mathematical calculation derived from information obtained from the following sources: California UCP Directory, U. S. Census Bureau County Business Patterns, and U.S. Census Bureau North American Industry Classification System (NAICS).

**Market Area:** The California counties of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma (Home County).

### **Potential Work Items (NAICS Codes) Included:**

237310	Highway, Street, and Bridge Construction
238210	Electrical Contractors and Other Wiring Installation Contractors
238910	Site Preparation Contractors
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers
423390	Other Construction Material Merchant Wholesalers
484220	Specialized Freight (except Used Goods) Trucking, Local
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing
541330	Engineering Services
541370	Surveying and Mapping (except Geophysical) Services
541380	Testing Laboratories
541611	Administrative Management and General Management Consulting Services
541620	Environmental Consulting Services

Thank You,

DBE Plans & Goals Preparation Services, LLC

To solicit community participation and comments prior to advertising the DBE goal, the preceding email was sent to the following entities requesting voluntary comment regarding the goal by email, telephone, or direct interactive communication via a scheduled conference call:

#### Community & State Organizations

Company Name	City	State	Phone	Email or Fax
American Indian Chamber of Commerce of California	Los Angeles	CA	213-440-3232	tracy@adproweb.com
Association of California General Contractors	West Sacramento	CA	916-371-2422	member_services@agc-ca.org
CalAsian Chamber of Commerce	Sacramento	CA	916-446-7883	loto@calasiancc.org
California African American Chamber of Commerce	Sacramento	CA	800-791-7068	chamber@calaacc.org
California Capital Financial Development Corporation (PTAC)	Sacramento	CA	916-442-1729	ptac@cacapital.org
California Hispanic Chambers of Commerce	Sacramento	CA	916-444-2221	info@cahcc.com
Capital Corridor SCORE	Citrus Heights	CA	916-720-9990	sacinfo@scorevolunteer.org
National Association of Minority Contractors (Northern California)	Oakland	CA	877-791-1630	info@namcnc.org
NorCal Veterans Business Outreach Center	Sacramento	CA	916-527-8400	admin@vbocix.org
SBA Sacramento District Office	Citrus Heights	CA	916-735-1700	Sacramento_DO@sba.gov

#### General Contractors and DBE Contractors

Company Name	City	State	Phone	Email or Fax
A1 Trucking Services Inc	Hayward	CA	510-602-5340	goa1truckingservicesinc@gmail.com
Beci Electric, Inc.	Oakland	CA	510-635-1477	rebecca@becielectric.com
Channa Trucking Inc.	Bay Point	CA	925-567-6291	channa_trucking@yahoo.com
Cornerstone Transportation Consulting, Inc.	San Francisco	CA	415-705-7800	mbanas@cornerstoneconcilium.com
Deep Foundation Services, Inc.	Los Gatos	CA	408-656-7668	lynn@deepfoundationservices.com
E. Amezcua Trucking, Inc.	Castro Valley	CA	415-847-7522	eamezcuatrucking@yahoo.com
Frontier Engineers	Walnut Creek	CA	925-549-2600	hmagudia@frontier-engineers.com
Garden of Eden Landscapes, Inc.,	Castro Valley	CA	510-512-6055	office@groundforceenterprises.com
Golden State Trucking Services Inc.	Union City	CA	510-938-5257	inder@goldenstate.company
Hi-Voltage Splicing Co., Inc.	Danville	CA	925-838-7979	miles@hi-voltagesplicing.com
Huynh'S Trucking	Hayward	CA	408-668-5497	huynhcong tai1987@yahoo.com
JND Transportation Inc	Antioch	CA	806-471-5614	sela.o@jndtransportation.net
Johnny Toughs Truck & Pull	Benicia	CA	408-509-1670	johnnytoughs@yahoo.com
McKee and Company Electric	San Francisco	CA	415-825-5461	accounting@mckeeselectric.com
Mongoose Electric Incorporated	San Jose	CA	408-460-9094	info@mongooseelectric.com
MP Structural Engineers, Inc	San Ramon	CA	765-337-7929	ptanikella@gmail.com
NBA Engineering, Inc.	San Francisco	CA	415-202-9840	natalie@nbaeng.com
Paxon Energy & Infrastructure Services	Oakland	CA	415-710-4002	nbehroyan@paxonei.com
Quality Control Construction	Oakland	CA	510-671-1429	fmackay@qualitycontrolconstruction.com
R and G Trucking Inc.	Santa Rosa	CA	707-570-6000	office@rgtrucking.com
Radius Earthwork Inc.	Campbell	CA	408-384-8630	suneetha@radiusearthwork.com
SBS ROADLINES INC	Santa Rosa	CA	707-843-2383	sbsroadlines1@gmail.com
Shield Rentals & Sales LLC	Dixon	CA	707-631-0208	brian@shieldsvcs.com
Siteworks Construction, Inc	Lafayette	CA	925-284-1437	kdesena@linkzone.com
Stormwater Management Llc	San Jose	CA	408-832-2534	erica@stormwaterm.com
Vinh Trucking Inc	San Jose	CA	408-648-5840	vinhtran88@icloud.com
VST Engineering Inc	Oakland	CA	303-868-1448	dtafoya@vst.engineering
Western Traffic Supply, Inc.	Pleasanton	CA	925-249-1854	kmarsh@westerntraffic.com

The overall goal submission to the FAA will include a summary of information and comments received, if any, during this public participation process and the responses.

On March 28<sup>th</sup>, 2025, the Airport conducted the conference call. No one dialed into the conference call with questions or comments pertaining to the proposed goal. Furthermore, no comments were received via email or telephone call.

## Published Notice

A notice of the proposed goal was published on the Airport's official website before the methodology was submitted to FAA. A copy of the Public Notice is also presented below.

<https://healdsburg.gov/329/Municipal-Airport>

**The City of Healdsburg, California  
Healdsburg Municipal Airport  
DBE Public Notice for Airport Projects  
March 2025**



The City of Healdsburg, CA (Sponsor) as Sponsor for Healdsburg Municipal Airport hereby announces its proposed Disadvantaged Business Enterprise (DBE) participation goal of 5.17% for FAA-funded contracts/agreements in fiscal years 2025 through 2027. The Sponsor estimates that in meeting the established overall goal of 5.17%, it will obtain 5.17% from race neutral participation and 0.00% through race conscious measures.

A teleconference will be held on March 28<sup>th</sup>, 2025 from 9:00 AM Pacific Standard Time to 9:30 AM Pacific Standard Time for the purpose of consulting with stakeholders to obtain information relevant to the goal-setting process. If you would like to comment on the proposed DBE goal, please dial into the teleconference at (415) 464-6800 with conference code 2180581# or email [lspillers@dbeplans.com](mailto:lspillers@dbeplans.com).

Specific project information is as follows:

**Overall Fiscal Year 2025 – 2027 DBE Goal:** 5.17%

**Federal Fiscal Year 2025:** 5.05%

- Runway 13-31 Pavement Reconstruction (Design): 4.83%
- Rehabilitate Taxiway A and A1: 5.03%
- Rehabilitate Hangar Row C (Design): 6.23%

**Federal Fiscal Year 2026:** N/A: Rehabilitate Hangar Row C - Less than \$250K (No DBE Goal Required)

**Federal Fiscal Year 2027:** 5.60%: Runway 13-31 Reconstruction and Removal of Taxiway A3

For information pertaining to the DBE Goal please contact:

Lauren Spillers – DBE Plans & Goals Preparation Services LLC, Owner  
113 Georgetown Court  
Weatherford, TX 76087  
Telephone: 817-609-6004  
Email: [lspillers@dbeplans.com](mailto:lspillers@dbeplans.com)

City of Healdsburg, CA/Healdsburg Municipal Airport  
2025-2027 DBE Goal(s) Submittal  
Prepared by: DBE Plans & Goals Preparation Services, LLC

12  
March 2025

The Airport's public notice was also published on the following website: <https://dbeplans.com/> as well as the FAA Matchmaker System. If the proposed goal(s) changes following FAA review, the revised goal will be posted on all previous publication sites. Pursuant to §26.45(g)(ii) and §26.45(g)(2) the Airport chose not to publish the public notice in other media sources or offer a 30-day comment period.

## **Section 26.51 Means to Meet Overall Goals**

---

### **Section 26.51(a) Race Neutral (RN) Participation**

The City of Healdsburg, CA/Healdsburg Municipal Airport will meet the maximum feasible portion of the 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.

### **Section 26.51(b) Race Neutral (RN) Means**

The City of Healdsburg, CA/Healdsburg Municipal Airport uses the following race neutral means to increase DBE participation:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
- Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
- Providing technical assistance and other services;
- 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);
- Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
- Assisting DBEs and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media;
- Encouraging consultants and contractors to subcontract portions of work that they might otherwise perform with their own forces; and
- Referring DBEs and other small businesses to public agencies that provide 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.

Furthermore, DBEs and small businesses can also be facilitated through the Airport's Small Business Element.

## **Section 26.51(c) Breakout of Estimated Race Neutral & Race Conscious Participation**

The City of Healdsburg, CA/Healdsburg Municipal Airport estimates the RN and RC breakout as follows:

- **FY 2025:** 5.05% (RN 5.05% RC 0.00%)
- **FY 2026:** N/A
- **FY 2027:** 5.60% (RN 5.60% RC 0.00%)
- **FY 2025-2027:** 5.17% (RN 5.17% RC 0.00%)

The estimation of race neutral participation and race conscious participation percentages are based on past participation and established goals. As noted in the adjustments section of this document, there is no disparity study tailored to Sonoma County, CA or to Healdsburg Municipal Airport; therefore, the airport does not have sufficient evidence of discrimination or its effects on airport construction projects in the local market area. Due to the absence of adequate evidence of discrimination in the local market area the Airport is assigning the entire DBE goal to race-neutral participation.

The Airport will use race-neutral measures for airport improvement opportunities unless it can demonstrate discrimination through a disparity study. In the event that the Airport can demonstrate discrimination in its airport improvement opportunities, it will consider concession specific goals to meet any portion of the overall goals that the Airport does not project being able to meet using race-neutral means.

## **Section 26.51(d) Contract Goals**

Contract goals are a race conscious means of meeting the overall DBE goal. The Airport will use contract goals to meet any portion of the overall goal that the Airport does not anticipate being able to meet using race neutral means.

## **Section 26.51(e-g) Use of Contract Goals**

The Airport will establish contract goals only on those federally assisted contracts that have subcontracting possibilities. The percentage levels of the contract goals will be adapted to the circumstances of each such contract (e.g., type of work, location of work, availability of DBEs to perform the particular type of work). However, over the period covered by the Airport's contract goal, the Airport must set contract goals that will cumulatively result in meeting any portion of the overall goal that is not projected to be met through race neutral means. FAA approval of each contract goal is not required; however, the FAA may review and approve or disapprove any contract goal the Airport establishes. Contract goals will provide for participation by all certified DBEs and will not be subdivided into group specific goals.

In accordance with §26.51(f), the Airport will adjust its use of contract goals to ensure that the DBE program continues to be narrowly tailored to overcome the effects of discrimination. The Airport will track and report race neutral and race conscious participation separately.



# Attachment 6

**Small Business Element**  
**Attachment includes applicable forms:**

**Fostering Small Business Participation - List Defining Work  
Categories Conducive to Small Business Participation**  
**Fostering Small Business Participation**  
**Non-Certified Small Business Verification Form**

## ATTACHMENT 6 – SMALL BUSINESS ELEMENT

---

### Objective

The City of Healdsburg, CA (hereafter referred to as “Sponsor”) Sponsor for Healdsburg Municipal Airport (hereafter referred to as “Airport”), has established a Race Neutral Small Business Element (SBE) to provide for the structuring of contracting requirements and opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The SBE is designed to include all segments of the business community and is open to participation without regard to race, color, sex, religion, national or ethnic origin, age, disability, or geographic location. The Element is designed to create a level playing field on which small businesses can compete fairly.

The Sponsor has established a Small Business Element in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

### Strategy

To achieve the objective, the Sponsor will use a combination of strategies.

**Unbundling:** For contracts and agreements requiring a DBE goal, the Sponsor with assistance from the consulting engineer, will review bid documents to identify opportunities to unbundle projects. Unbundling projects entails separating large contracts into smaller contracts, making the contracting opportunity more suitable for small business participation. Examples of unbundling include but are not limited to separating site preparation from pavement work and separating surveying from engineering design. Work categories conducive to small business participation will be enumerated in the bid/solicitation documents using the form entitled, Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation, which is included with this SBE. Bidders will be encouraged to solicit small business participation for the enumerated work categories and any other work categories that the contractor deems appropriate for small business participation.

**Small Business Participation:** While there is no specific numerical goal assigned to small business participation, the prime contractor should make every effort to solicit small business concerns to participate as sub-contractors, service providers, suppliers, etc. The Sponsor encourages prime contractors to provide subcontracting opportunities to small businesses rather than self-performing all the work involved. The contract clause will encourage the participation of small businesses in the execution of the DOT-assisted contracts. The contract verbiage follows:

- ***Small Business Participation:*** *The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121) to participate as sub-contractors, service providers, suppliers, etc.*

**Bid Procurement:** As noted above, the bid procurement documents will include the form entitled, Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation, which enumerates work categories the Sponsor/Consulting Engineer believe are of the appropriate size to facilitate small business participation. The bid procurement documents will also include the form entitled, *Fostering Small Business Participation*, which is included with this SBE. The bidder/offeror will be required to submit the completed form with initial proposals under contract negotiation procedures demonstrating its ability/inability to utilize small businesses in project execution.

The Sponsor will notify small businesses in the market area of opportunities in a timely manner to encourage their participation.

The Sponsor encourages prime contractors to research certified small businesses in market area by providing links and information pertaining to where to find certified small businesses on the Fostering Small Business Participation Form.

Lastly, the Sponsor will encourage and aid in facilitating small business and DBE certification. To actively and effectively increase small business participation, the Sponsor will refer small businesses to:

- The U.S. Small Business Administration and the SBA website <https://www.sba.gov/> for information regarding numerous certifications, contracting support, loans, counseling, etc.;
- The DBE certifying authority for the State for those small businesses not yet DBE certified who might meet the eligible criteria; and
- The FAA website <https://www.faa.gov/airports/aip> for any questions they might have regarding the Airport Improvement Program.

### **Eligibility Requirements**

The Airport has reviewed the guidelines of §26.39 and developed the below eligibility requirements for participation in this Small Business Element. The requirements do not take into consideration race or sex when determining eligibility of participation. A business concern eligible to participate in this Small Business Element is a business entity which meets the following requirements:

1. Is a business 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 U.S. economy through payment of taxes or use of American products, materials or labor,
2. Is established in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.
3. And meets the size limits as defined in 13 CFR §121 (<https://www.ecfr.gov/current/title-13/chapter-I/part-121>) which corresponds to the applicable primary industry classifications (NAICS codes) when calculated in accordance with 13 CFR §121.104 and 13 CFR §121.106.

Noting that size limits include affiliate firms as defined in 13 CFR §121.103.

Consistent with the above eligibility requirements, firms that are currently certified as one of the following automatically qualify to participate in this SBE.

- By a UCP as an AC/DBE,
- By the U.S. Small Business Administration as one of the following:
  - Small Disadvantaged Business (SBD)
  - Women-Owned Small Business/Economically Disadvantaged Women-Owned Small Businesses (ED/WOSB)
  - Veteran-Owned Small Business/Service-Disabled Veteran-Owned Small Business (SD/VOSB)
  - 8(a) Small Business Development Program (8(a))
  - SBA Mentor-Protégé Program (SBA MP)
  - HUBZone Program (HUBZone)

For additional information pertaining to the Small Business Size Act and size regulations, visit the U.S. Small Business Administration website, <https://www.sba.gov/>.

## Verification

The Sponsor will diligently attempt to minimize fraud and abuse in the SBE of its DBE program by verifying program eligibility of firms. The verification will rely on information provided and verified by the Sponsor and not exclusively on local, state, Small Business Administration certification, or other programs that include race, sex, and geographical considerations. The verification will meet the race neutral requirements of §26.39. The below certifications, meet the prescribed definitions for eligibility.

Jurisdiction	Certification	Link	Bid Submission Requirements
Federal	Disadvantaged Business Enterprise (DBE)	<a href="https://californiaucp.dbesystem.com/">https://californiaucp.dbesystem.com/</a>	Provide proof of certification from the certifying agency
Federal	Airport Concessionaire Disadvantaged Business Enterprise (ACDBE)	<a href="https://californiaucp.dbesystem.com/">https://californiaucp.dbesystem.com/</a>	
Federal	Women-Owned Small Business (WOSB) Economically Disadvantaged Women-Owned Small Businesses (EDWOSB)	<a href="https://www.sba.gov/federal-contracting/contracting-assistance-programs/women-owned-small-business-federal-contract-program">https://www.sba.gov/federal-contracting/contracting-assistance-programs/women-owned-small-business-federal-contract-program</a>	
Federal	Veteran-Owned Small Business (VOSB) Service-Disabled Veteran-Owned Small Businesses (SDVOCB)	<a href="https://www.sba.gov/federal-contracting/contracting-assistance-programs/veteran-contracting-assistance-programs">https://www.sba.gov/federal-contracting/contracting-assistance-programs/veteran-contracting-assistance-programs</a>	
Federal	HUBZone	<a href="https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program">https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program</a>	
Federal	Small Business Administration 8(a) Business	<a href="https://www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program">https://www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program</a>	

Businesses not certified under any of the programs listed above but believe that their business qualifies as a small business in accordance with 13 CFR Part 121 are required to complete the Non-Certified Small Business Verification Form, which is included with this SBE. The Non-Certified Small Business Verification Form does not take into consideration race or sex in the determination of meeting the small business requirement. The Sponsor will review the Non-Certified Small Business Verification Form and provided tax returns, to make a determination if the business meets the Small Business requirements of eligibility as defined above. Firms will also be referred to the appropriate certifying agency to pursue certification.

## **Monitoring/Record Keeping**

The Sponsor will track and monitor participation by DBEs and other small businesses that result from the implementation of this SBE. Participation will be reported annually as part of the Uniform Report of DBE Participation.

The Sponsor will track and report participation by certified DBEs achieved through our Small Business Element, using the same reporting mechanisms implemented in our DBE program through 49 CFR Part §26.37. These records will be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement or a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

For those small businesses that are not DBE certified, the Sponsor will track their participation using the form entitled Fostering Small Business Participation. This form will be compared to pay applications.

## **Implementation**

The Sponsor will actively and immediately implement the SBE to foster small business participation. The Sponsor understands that doing so is a requirement of good faith implementation of the DBE program.

The Sponsor designates the DBELO as the responsible person for overseeing and implementing the SBE.

## **Assurances**

- The Small Business Element is permitted under state law;
- Certified DBEs that meet the size criteria established under the element are presumptively eligible to participate in the element;
- There are no geographic preferences or limitations imposed on any contract/concession opportunities included in this small business element;
- There are no limits on the number of contract opportunities awarded to firms participating in this element, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
- The Sponsor will take aggressive steps to encourage minority and women-owned firms eligible for DBE certification to become certified; and
- This element is open to small businesses regardless of their location. There is no local or other geographic preference as a part of this small business element.

**SMALL BUSINESS ELEMENT – FORMS**

**FOSTERING SMALL BUSINESS PARTICIPATION – LIST DEFINING WORK CATEGORIES CONDUCTIVE TO SMALL BUSINESS PARTICIPATION**

**Background 49 CFR §26.39**

The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121).

The Sponsor has identified the below work categories that are conducive to small business participation for the referenced project. As per the agreement, prime contractors are encouraged to solicit small business participation for the work items referenced below.

**Project Information**

Project No/Description \_\_\_\_\_

**Identified Work Categories Conducive to Small Business**

Work Category/Bid Line Item	NAICS Code	Estimated Total Cost of Work

**Signature of Consulting Engineer (if applicable)**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

**Signature of Sponsor's Representative**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

## FOSTERING SMALL BUSINESS PARTICIPATION

### Background 49 CFR §26.39

The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121) to participate as sub-contractors, service providers, suppliers, etc.

The Sponsor encourages small business participation, including DBE certified firms and SBA certified Small Disadvantaged Business (SBD), Women-Owned Small Business/Economically Disadvantaged Women-Owned Small Businesses (ED/WOSB), Veteran-Owned Small Business/Service-Disabled Veteran-Owned Small Business (SD/VOSB), 8(a) Small Business Development Program (8(a)), SBA Mentor-Protégé Program (SBA MP), and HUBZone Program (HUBZone).

DBE certified firms can be located through the State's UCP website and SBA certified firms can be located through the Small Business Search Tool (<https://beta-search.certify.sba.gov/advanced> and [https://dsbs.sba.gov/search/dsp\\_dsbs.cfm](https://dsbs.sba.gov/search/dsp_dsbs.cfm)).

### Prime Contractor

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

### Small Business Firms to be Utilized

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Is the firm currently certified? If yes, check the appropriate box(es) and provide proof of certification. If no, complete the non-certified small business verification form.

DBE  SBD  ED/WOSB  SD/VOSB  8(a)  SBA MP  HUBZone  No, Verification Form Attached

NAICS Code	Description of Work to be Performed	Estimated Total Cost of Work

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Is the firm currently certified? If yes, check the appropriate box(es) and provide proof of certification. If no, complete the non-certified small business verification form.

DBE  SBD  ED/WOSB  SD/VOSB  8(a)  SBA MP  HUBZone  No, Verification Form Attached

NAICS Code	Description of Work to be Performed	Estimated Total Cost of Work

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Is the firm currently certified? If yes, check the appropriate box(es) and provide proof of certification. If no, complete the non-certified small business verification form.

- DBE  
 SBD  
 ED/WOSB  
 SD/VOSB  
 8(a)  
 SBA MP  
 HUBZone  
 No, Verification Form Attached

NAICS Code	Description of Work to be Performed	Estimated Total Cost of Work

**Prime Signature**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

**Reviewer Certification (For use by Sponsor Only)**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

## NON-CERTIFIED SMALL BUSINESS VERIFICATION

### Background 49 CFR §26.39

Firms seeking to participate under the Sponsor's Small Business Element who are not certified under one of the pre-qualified certifications listed on the Fostering Small Business Participation Form but believe their firm meets the small business requirements per 13 CFR Part 121 should complete the attached form and provide the requested documentation. Firms meeting the requirements as verified by the Sponsor are eligible to participate in the Small Business Participation Plan.

### Business Information

Firm Name \_\_\_\_\_ Contact Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

### Business Profile

Primary Activities of your Firm	Associated NAICS Codes

### Number of Employees

Full Time \_\_\_\_\_ Part-time \_\_\_\_\_ Total \_\_\_\_\_

### Gross Receipts of Firm (Attach Tax Returns for the last five years)

Gross Receipts of Firm for last 5 years

Year _____	Total Receipts _____
Average Total Receipts _____	

### Gross Receipts of Affiliate Firms (Attach Tax Returns for the last five years)

Gross Receipts of Affiliate Firms for last 5 years

Year _____	Total Receipts _____
Average Total Receipts _____	

Affiliates are defined in accordance with the Small Business Administration (SBA) definition.

### Prime Signature

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Firm Name \_\_\_\_\_

**Reviewer Certification (For use by Sponsor Only)**

The Reviewer has determined that the above presented business:

- Meets the requirements of a Small Business and is eligible to participate under the Small Business Element
- Does not meet requirements of a Small Business and is not eligible to participate under the Small Business Element

Signature \_\_\_\_\_

Print Name \_\_\_\_\_ Date \_\_\_\_\_

Firm Name \_\_\_\_\_ Title \_\_\_\_\_



# Attachment 7

## Explanation of DBE Forms

**ATTACHMENT 7 – EXPLANATION OF DBE FORMS**

- *Solicitation and contract clauses are indicated throughout the Airport’s program with the preceding bullet point and italicized font.*

**SUMMARY OF REQUIRED SOLICITATION/CONTRACT CLAUSES & FORMS**

	Race Conscious		Race Neutral	
	Solicitation Documents	Contract	Solicitation Documents	Contract
<b>Solicitation Clauses</b>				
Bidders List	Required		Required	
Good Faith Efforts	Required			
Small Business Participation	Required		Required	
Socially/Economically Disadvantaged Financial Institutions	Required		Required	
<b>Solicitation Forms</b>				
Bidders List Collection Form	Required		Required	
Demonstration of Good Faiths Efforts 1, 2, & 3	Required			
Schedule of DBE Unavailability	Required			
Fostering Small Business Participation - List Defining Work Categories Conducive to Small Business Participation	Required		Required	
Fostering Small Business Participation	Required		Required	
Non-Certified Small Business Verification Form	Required		Required	
<b>Contract Clauses</b>				
Contract Assurance: §26.13(a)	Required in agreements between the Sponsor & the DOT Operating Administration (or a primary recipient)			
Contract Assurance: §26.13(b)		Required		Required
Prompt Payment		Required		Required
Prompt Payment of Retainage		Required		Required
Prompt Payment Enforcement		Required		Required
DBE Termination		Required		
<b>Contract Forms</b>				
Prime Contractor Payment Application		Required		Required
Prime Contractor Prompt Payment Certification		Required		Required
<b>Monitoring Forms</b>				
Work Site Monitoring Form	Used by the Sponsor to evaluate Commercially Useful Function (CUF). A minimum of one CUF evaluation will be completed for each DBE performing work on the project.			
Contract Review Form	Used by the Sponsor to evaluate all Prime and Subcontracts.			

## SAMPLE BID SPECIFICATIONS & REQUIRED FORMS

---

### When Employing a 100% Race Neutral DBE Program

#### Sample Bid Specification

The requirements of 49 CFR Part 26 apply to this contract. It is the policy of the Sponsor to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Sponsor encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

**Bidders List:** The Sponsor is required to obtain the following bidder information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each DOT-assisted contract. The Bidder must submit the following information with its proposal on the forms provided herein (Bidders List Collection Form):

- Firm's name;
- Firm's address including zip code;
- Firm's status as a DBE or non-DBE;
- Race and sex information for the firm's majority owner;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;
- Age of the firm; and
- Annual gross receipts of the firm.

**Small Business Participation:** The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121) to participate as subcontractors, service providers, suppliers, etc.

The Sponsor has identified work categories conducive to small business participation on the form entitled Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation. Prime contractors are encouraged to solicit small business participation for the work items referenced.

The Bidder must submit the Small Business Participation information with its proposal on the forms provided herein (Fostering Small Business Participation & Non-Certified Small Business Verification Form).

**Socially/Economically Disadvantaged Financial Institutions:** The Sponsor encourages Contractors and Subcontractors to utilize the services of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. You can find a link to Minority Depository Institutions and their branches on the FDIC website: <https://www.fdic.gov/regulations/resources/minority/mdi.html>.

## Required Forms

The following forms will be included in the Bid Specification when employing a 100% race neutral program:

- Bidders List Collection Form
- Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation (This form should be completed by the Sponsor/Consulting Engineer identifying NAICS Codes and/or Bid Line Items that are of an appropriate size that small businesses can perform.)
- Fostering Small Business Participation
- Non-Certified Small Business Verification Form

## **When Contract Goals (Race Conscious) are Established**

### Sample Bid Specification

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Sponsor to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Sponsor encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

**Bidders List:** The Sponsor is required to obtain the following bidder information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each DOT-assisted contract. The Bidder must submit the following information with its proposal on the forms provided herein (Bidders List Collection Form):

- Firm's name;
- Firm's address including zip code;
- Firm's status as a DBE or non-DBE;
- Race and sex information for the firm's majority owner;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;
- Age of the firm; and
- Annual gross receipts of the firm.

**Good Faith Efforts:** A DBE contract goal of \_\_\_ percent has been established for this contract. The Sponsor's award of this contract is conditioned upon the Bidder satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening. (Demonstration of Good Faiths Efforts – Form 1, 2, & 3 and Schedule of DBE Unavailability):

- 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) 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 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 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.

**Small Business Participation:** The Sponsor has established a Small Business Element in accordance with 49 CFR Part 26 to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation and to create a level playing field on which small businesses can compete fairly. While there is no specific numerical goal assigned to small business participation the prime contractor should make every effort to solicit small business concerns (as defined in 13 CFR Part 121) to participate as subcontractors, service providers, suppliers, etc.

The Sponsor has identified work categories conducive to small business participation on the form entitled Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation. Prime contractors are encouraged to solicit small business participation for the work items referenced.

The Bidder must submit the Small Business Participation information with its proposal on the forms provided herein (Fostering Small Business Participation & Non-Certified Small Business Verification Form).

**Socially/Economically Disadvantaged Financial Institutions:** The Sponsor encourages Contractors and Subcontractors to utilize the services of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. You can find a link to Minority Depository Institutions and their branches on the FDIC website: <https://www.fdic.gov/regulations/resources/minority/mdi.html>.

### Required Forms

The following forms will be included in the Bid Specification when Contract Goals are established:

- Bidders List Collection Form
- Demonstration of Good Faith Efforts Form 1, 2, & 3
- Schedule of DBE Unavailability
- Fostering Small Business Participation – List Defining Work Categories Conducive to Small Business Participation (This form should be completed by the Sponsor/Consulting Engineer identifying NAICS Codes and/or Bid Line Items that are of an appropriate size that small businesses can perform.)
- Fostering Small Business Participation
- Non-Certified Small Business Verification Form

## BID FORMS

---

Only include the forms that are applicable to the type of DBE program you are implementing (Race Neutral or Race Conscious).

All forms are located in Attachment 4 of the DBE program.

## REQUIRED CONTRACT CLAUSES & FORMS

---

### When Employing a 100% Race Neutral DBE Program

#### Required Contract Clauses

**Contract Assurance: §26:13(b):** 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.

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

**Prompt Payment of Retainage:** From the total of the amount determined to be payable on a partial payment, [X] percent of such total amount will be deducted and retained by the Sponsor for protection of the Sponsor's interests. Unless otherwise instructed by the Sponsor, the amount retained by the Sponsor will be in effect until the final payment is made except as follows:

- 1) Contractor may request release of retainage on work that has been partially accepted by the Sponsor in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Sponsor for partially accepted work.
- 2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than [X] days after the Contractor has received a partial payment. Contractor must provide the Sponsor evidence of prompt

and full payment of retainage held by the prime contractor to the subcontractor within [X] days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Sponsor. When the Sponsor 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.

When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Sponsor's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Sponsor may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

**Prompt Payment Enforcement:** Failure by the contractor to carry out the prompt payment requirements is a material breach of this contract, which may result in termination of this contract or other remedy as the recipient deems appropriate, which may include but is not limited to:

- **Withholding Payment** of the amount of funds due to the subcontractor(s) from the prime contractor's pay request until confirmation of payment is received from the subcontractor or the prime contractor provides proof of payment.
- **Issuing a Stop-Work Order** until payments are released to the subcontractor(s), specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.
- **Assessing Liquidated Damages** against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor(s).
- **Disqualify the Contractor** from future bidding opportunities as non-responsible.

### Required Forms

The following forms will be included in Contract documents when employing a 100% race neutral program:

- Prime Contractor Payment Application
- Prime Contractor Prompt Payment Certification

### **When Contract Goals (Race Conscious) are Established**

#### Required Contract Clauses

**Contract Assurance: §26:13(b):** 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.

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

**Prompt Payment of Retainage:** From the total of the amount determined to be payable on a partial payment, [X] percent of such total amount will be deducted and retained by the Sponsor for protection of the Sponsor's interests. Unless otherwise instructed by the Sponsor, the amount retained by the Sponsor will be in effect until the final payment is made except as follows:

- 1) Contractor may request release of retainage on work that has been partially accepted by the Sponsor in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Sponsor for partially accepted work.
- 2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than [X] days after the Contractor has received a partial payment. Contractor must provide the Sponsor evidence of prompt and full payment of retainage held by the prime contractor to the subcontractor within [X] days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Sponsor. When the Sponsor 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.

When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Sponsor's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Sponsor may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

**Prompt Payment Enforcement:** Failure by the contractor to carry out the prompt payment requirements is a material breach of this contract, which may result in termination of this contract or other remedy as the recipient deems appropriate, which may include but is not limited to:

- **Withholding Payment** of the amount of funds due to the subcontractor(s) from the prime contractor's pay request until confirmation of payment is received from the subcontractor or the prime contractor provides proof of payment.
- **Issuing a Stop-Work Order** until payments are released to the subcontractor(s), specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.

- **Assessing Liquidated Damages** against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor(s).
- **Disqualify the Contractor** from future bidding opportunities as non-responsible.

**DBE Termination:** The prime contractor must not terminate a DBE subcontractor listed in the contractor's bid/solicitation response to the solicitation (or an approved substitute DBE firm) without prior written consent of the Sponsor. This includes, but is not limited to, instances in which the 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.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent from the Sponsor. Unless the Sponsor's consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Sponsor may provide such written consent only if the Sponsor agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to the Sponsor 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 Sponsor, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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.

### Required Forms

The following forms will be included in Contract documents when Contract Goals are established:

- Prime Contractor Payment Application
- Prime Contractor Prompt Payment Certification

### **CONTRACT FORMS**

---

All forms are located in Attachment 4 of the DBE program.

Note: The DBE Termination Form may be included in the contract forms but is not a required form. The form should be utilized when a prime contractor seeks to terminate a DBE firm but can be provided to the prime if the circumstance arises.

## PROMPT PAYMENT PROCESS

---

Explanation of Prompt Payment Process: Prompt payment and return of retainage will be monitored through invoicing and payment procedures. All Prompt Payment forms are located in Attachment 4 of the DBE program.

- **Payment Application:** Each payment application submitted by the prime contractor to the Sponsor must provide a list of all actively working subcontractors on the Airport's construction project, detailing the total contract amount and the amount to be paid from the pay application. The Payment Application form provided in Attachment 4 or similar format will be used to capture the necessary information.
- **Prompt Payment Certification:** With exception of the initial payment application each subsequent payment application must be submitted with the Prompt Payment Certification to be deemed complete, accurate, and acceptable. The Prompt Payment Certification form provided in Attachment 4 or similar format will be used to capture the required information.
- **Proof of Payment Requirement:** With the Prompt Payment Certification, the prime contractor must provide proof of payment to all actively working subcontractors on the Airport's construction projects within the aforementioned prompt payment timeline.
- **Prompt Payment Monitoring/Auditing:** The Sponsor will audit payment information by confirming payment dates and amounts with subcontractors. A minimum of one subcontractor payment per prime contract will be audited monthly to confirm compliance.
- **Final Prime Contractor Prompt Payment Certification:** Following final disbursements to subcontractors the prime contractor is required to submit a final Prompt Payment Certification to document project completion. Once again, the Prompt Payment Certification form provided in Attachment 4 or similar format will be used to capture the required information.
- **Payment Delay:** Any delay or postponement of payment among the prime and subcontractors, may take place only for good cause and must receive prior written approval from the Sponsor.

## CONTRACT, WORKSITE MONITORING, & COMMERCIALLY USEFUL FUNCTION

---

### Contract Monitoring

Contracting records are reviewed by the DBELO with assistance of Project Managers, Consulting Engineers, and/or Consultants. The Sponsor will require prime contractors to provide copies of subcontracts for review. Reviews of contracting records will include verifying mandatory contract language is included in prime and subcontracts, verifying prohibited terms and conditions are not present, and confirm the type and amount of work described in a subcontract aligns with representations made by the prime and subcontractor in any related letters of intent.

The Contract Review Forms are provided in attachment 4 of the Airport's program. Pick the form that is applicable to the program the Airport is implementing (Race Neutral or Race Conscious).

## **Worksite Monitoring and Commercially Useful Function**

Work site monitoring is performed by the Resident Project Representative/Project Manager. The monitoring of work sites to assess commercially useful functions (CUF) will include interviews with staff members and supervisors at the job site, photographic documentation of people and equipment performing the work, reviews of invoices and supply payments, vehicle and equipment ownership or lease verification (such as registration or lease agreements), and any other supporting documents necessary to determine the business is performing a commercially useful function. A minimum of one CUF evaluation will be completed for each DBE performing work on the Sponsor's project.

Tips for Evaluating Commercially Useful Function and a sample Commercially Useful Function Evaluation form are provided in attachment 4 of the Airport's program.