

## POLICY STATEMENT

### **Section 26.1, 26.23**

### **Objectives/Policy Statement**

Cuyahoga County (COUNTY) shall ensure that a Disadvantaged Business Enterprise (DBE), in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed all or in part with Federal funds. The COUNTY has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, they have signed an assurance that it will comply with 49 CFR Part 26.

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

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

The Prevailing Wage Coordinator, Celia Jenkins, has been delegated as the DBE Liaison Officer. In that capacity, Celia 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 COUNTY in its financial assistance agreements with the Department of Transportation.

The DBE Liaison Officer has disseminated this policy statement to Cuyahoga County (COUNTY) and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. This was accomplished by posting a notice on the Cuyahoga County Airport web site: <http://publicworks.cuyahogacounty.us/en-US/County-Airport.aspx>.



Dan DiGiammarino, Airport Manager

4-20-15

Date

## **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 COUNTY is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The COUNTY will use terms in this program that have the meaning defined in Section 26.5.

### **Section 26.7 Non-discrimination Requirements**

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

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT: 26.11**

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

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in Appendix B to this part. We will also report the DBE Contractor firms contact information either on the FAA DBE Contractor's Form or other similar format.

#### **Bidders List: 26.11(c)**

The COUNTY will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address and DBE and non-DBE status and be collected from bid proposals we receive during the bid process of our projects and through recipient-directed surveys.

The Bidder's List is found in Attachment 3 to this program.

### **Section 26.13 Federal Financial Assistance Agreement**

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

**Assurance: 26.13(a)** - Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The COUNTY 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 COUNTY 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 COUNTY'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 COUNTY of its failure to carry out its approved program, the Department may impose sanctions as provided for under 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: 26.13b**

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

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

**SUBPART B - ADMINISTRATIVE REQUIREMENTS**

**Section 26.21 DBE Program Updates**

The COUNTY will receive grant(s) for airport planning or development totaling \$250,000 in a Federal fiscal year. We will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program for approval.

The COUNTY is not eligible to receive DOT financial assistance unless DOT has approved our DBE Program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended.

**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)**

We have designated the following individual as our DBE Liaison Officer:

Celia Jenkins, Prevailing Wage Coordinator  
Cuyahoga County Department of Public Works  
2079 East 9<sup>th</sup> Street, 5<sup>th</sup> Floor  
Cleveland, Ohio 44115  
216-348-3826  
E-mail: [cjenkins@cuyahogacounty.us](mailto:cjenkins@cuyahogacounty.us)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the COUNTY complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the COUNTY Director of Procurement and Diversity concerning DBE program matters. An

organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

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

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes COUNTY's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Ohio.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the COUNTY's updated directory on certified DBEs.

#### **Section 26.27 DBE Financial Institutions**

It is the policy of the COUNTY to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. At the present time no minority owned financial institutions have been located.

#### **Section 26.29 Prompt Payment Mechanisms**

The COUNTY has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 10 days from receipt of each payment you make to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. We will use one of the following methods to comply with this requirement:

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

The COUNTY will consider 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 COUNTY. When the COUNTY 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.

COUNTY will provide appropriate means to enforce the requirements of this section. These means include:

The COUNTY will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from COUNTY. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the COUNTY. This clause applies to both DBE and non-DBE subcontractors.

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

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

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

### **Section 26.31 Directory**

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

The State of Ohio revises the Directory periodically. The Directory may be found at: <https://www.ohiocup.org/reports>

### **Section 26.33 Over-concentration**

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

### **Section 26.35 Business Development Programs**

The COUNTY has not established a business development program.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

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

1. After evaluating all proposals or construction bids: The DBE Liaison Officer will investigate or make "good faith effort" to verify that each submitted proposals or construction bids meets the contractual goal.
2. After awarding the contract, the DBE liaison Officer will only credit DBE participation upon payments to the subcontractor
3. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the

Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

4. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities include referral to the Cuyahoga County Prosecutor's Office for criminal prosecution, revocation, or suspension of the contract, debarment, and/or civil action.
5. We will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism 49 CFR Part 26 will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished by requiring the contractor to submit signed affidavits from both the General Contractor and all Sub-contractors verifying that payments have been made, the amount and dates payments were made. No additional payments will be released to the General Contractor until all Sub-contractors have verified their payments.
6. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT reporting form.

**Section 26.39 Fostering small business participation.**

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

The COUNTY's small business program element is incorporated as Attachment 9 to this DBE Program. We will actively implement the program elements to foster small business participation, doing so is a requirement of good faith implementation of our DBE program.

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

**Section 26.43 Set-asides or Quotas**

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

**Section 26.45 Overall Goals**

The COUNTY will establish an overall DBE goal covering a five-year federal fiscal year period if we anticipate awarding FAA funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the five-year goal period. In accordance with Section 26.45(f) the COUNTY will submit its Overall Five year DBE Goal to FAA by August 1 as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Large & Medium Hub Primary	All Regions	August 1, 2010 (2011/2012/2013)	August 1, 2013 (2014/2015/2016)
Small Hub Primary	All Regions	August 1 2011 (2012/2013/2014)	August 1, 2014 (2015/2016/2017)
Non-Hub Primary	All Regions	August 1 2012 (2013/2014/2015)	August 1, 2015 (2016/2017/2018)

Non-Primary (GAs, Relievers and State DOTs)	Alaskan, Eastern, & Great Lakes	August 1 2010 (2011/2012/2013)	August 1, 2013 (2014/2015/2016)
Non-Primary (GAs, Relievers and State DOTs)	New England, Northwest Mountain, & Southern	August 1 2011 (2012/2013/2014)	August 1, 2014 (2015/2016/2017)
Non-Primary (GAs, Relievers and State DOTs)	Central, Southwest, and Western- Pacific	August 1 2012 (2013/2014/2015)	August 1, 2015 (2016/2017/2018)

DBE goals will be established for those fiscal years we anticipate awarding DOT-assisted prime contracts exceeding \$250,000 during the five-year period. The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the COUNTY does not anticipate awarding more than \$250,000 in DOT-assisted prime contracts during any of the years within the five-year reporting period, we will not develop an overall goal; however this DBE Program will remain in effect and the COUNTY will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, "base figure". The second step is to adjust 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 based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

In establishing the overall goal, COUNTY will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the COUNTY's efforts to establish a level playing field for the participation of DBEs, if available.

We will then publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at 1500 County Road 220, Clyde, OH 43410 for 30 days following the date of the notice, and informing the public that the COUNTY and DOT/FAA will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority-focus media and trade publications, websites. Normally, we will issue this notice by June 1 of the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our Overall Five-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

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

**Section 26.47 Failure to meet overall goals.**

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

If the COUNTY awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will

do the following in order to be regarded by the Department as implementing your DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;
- (3) COUNTY will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c) (1) and (2) of this section to the FAA for approval.

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

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

**Section 26.51(d-g) Contract Goals**

The COUNTY 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..

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

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

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

**Section 26.53 Good Faith Efforts Procedures**

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

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

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

Information to be submitted (26.53(b))

COUNTY treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.



Responsiveness - Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

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

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by COUNTY that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Dan DiGiammarino, 26300 Curtiss Wright Pkwy, Richmond Heights, OH 44143, (216) 289-4111, [ddigiammarino@cuyahogacounty.us](mailto:ddigiammarino@cuyahogacounty.us). The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

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

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

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

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

Before transmitting to us 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 us, 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 us and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why we should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), we 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.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

**Sample Bid Specification:**

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the COUNTY to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of \_\_\_ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of 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 participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

**Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

## **SUBPART D – CERTIFICATION STANDARDS**

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

COUNTY 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. We will make our certification decisions based on the facts as a whole.

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

Ohio Department of Transportation  
DBE Services Section  
Office of Contracts, 1<sup>st</sup> Floor  
Columbus, OH 43223  
1-800-459-3778

Our certification application forms and documentation requirements are found in Attachment 8 to this program.

## **SUBPART E – CERTIFICATION PROCEDURES**

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

The COUNTY is a member of a Unified Certification Program (UCP) administered by the State of Ohio. The UPC will meet all of the requirements related to procedures for certification decisions, denials of initial requests for certifications, removal of a DBE's eligibility and certification appeals.

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

### **Section 26.109 Information, Confidentiality, Cooperation**

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

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

#### **Monitoring Payments to DBEs**

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

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

## **ATTACHMENTS**

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

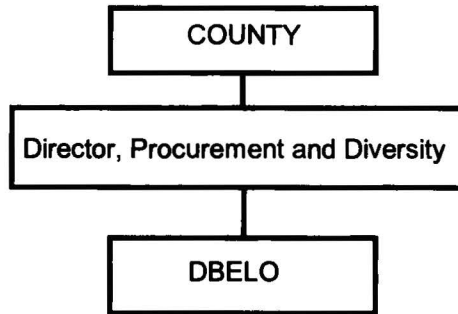
## **ATTACHMENT 1**

**Regulations: 49 CFR Part 26**

**The electronic Code of Federal Regulations (eCFR), Title 49 (Transportation) Part 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs) can be found at [ecfr.gov/cgi-bin/text-idx?c=/ecfrbrowse/Title 49/49cfr26\\_main\\_02.tpl](http://ecfr.gov/cgi-bin/text-idx?c=/ecfrbrowse/Title%2049/49cfr26_main_02.tpl)**

**ATTACHMENT 2**

**Organizational Chart**



**ATTACHMENT 3**  
**Sample Bidder's List Collection Form**

**SAMPLE BIDDER'S LIST**

<b>NAME</b>	<b>ADDRESS</b>		<b>DBE</b>	<b>NON-DBE</b>	<b>TYPE OF WORK</b>
Carron Asphalt Paving, Inc.	7615 Bond Street	Solon, OH 44139		X	general
Trimore	8530 Boyle Pkwy	Twinsburg, OH 44087		X	general
Perk Co.	8100 Grand Ave. Suite #300	Cleveland, OH 44104		X	general
American International	1073 W. Bagley Road	Berea, OH 44107		X	general
Great Lakes Crushing	35650 Lakeland Blvd.	Eastlake, OH 44095		X	general
Burton Scot Contractors LLC	11330 Kinsman Road	Newbury, OH 44065		X	general
Independence	5720 E. Schaaf Road	Independence, OH 44131		X	general
Kokosing Construction Co.	6235 Westerville Road, Suite 200	Westerville, Ohio 43081		X	general
Allega	5585 Canal Road	Cleveland, OH 44125		X	general



## **ATTACHMENT 4**

### **Ohio DBE Directory**

The DBE directory is maintained by the Ohio Department of Transportation. This Directory is periodically updated and can be found on their website at the following address: <https://www.ohioucp.org/reports>

**ATTACHMENT 5**

Section 26.45: Overall DBE Five-Year Goal Methodology

**Name of Recipient:** COUNTY

**Goal Period:** October 1, 2014 through September 30, 2018

<b>DOT-assisted contract amount:</b>	FY-2015 \$9,566,989
	FY-2016 \$8,126,045
	FY-2017 \$5,045,305
	FY-2018 \$11,564,592
<b>Total</b>	<b>\$34,302,931</b>

**Overall Five-Year Goal:** 11.95%, to be accomplished through 11.95% RC.

**Total dollar amount to be expended on DBE's:** \$4,098,502.91

**Describe the Number and Type of Projects that the airport anticipates awarding:**

Projects Fiscal Year 2015

1. Runway 6/24 Safety Area Improvement – Final Design
2. Runway 6/24 Safety Area Improvement – Phase 1 Construction
3. Runway 6/24 Safety Area Improvement – Phase 1 Construction Administration

Projects Fiscal Year 2016

1. Runway 6/24 Safety Area Improvement – Phase 2 Construction
2. Runway 6/24 Safety Area Improvement – Phase 2 Construction Administration

Projects Fiscal Year 2017

1. Runway 6/24 Safety Area Improvement – Phase 3 Construction
2. Runway 6/24 Safety Area Improvement – Phase 3 Construction Administration

Projects Fiscal Year 2018

1. Runway 6/24 Safety Area Improvement – Phase 4 Construction
2. Runway 6/24 Safety Area Improvement – Phase 4 Construction Administration

**Market Area:** The market area was determined to be the counties of Lake, Stark, Richland, Ashland, Huron, Wayne, Medina, Lorain, Cuyahoga, Summit, Geauga, Portage, Ashtabula, Trumbull, Mahoning, Holmes, Columbiana, Tuscarawas, Carroll

**Step 1. Analysis:** Actual relative availability of DBE's

Method: Use DBE Directories <http://osdbu.dot.gov/DBEProgram/StateDOTDBESites.cfm>

and Census Bureau Data <http://www.census.gov/econ/cbp/index.html>

**FY 2015 – Runway 6/24 Safety Area Improvement – Design & Phase 1 Construction**

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Construction	20	141
238210	Electrical	20	766
238320	Paint	11	440
561730	Erosion Control	7	1610

541380	Testing	4	92
541370	Surveying	4	77
541330	Engineering	17	677
Total		83	4701

Weighted Construction Percentage

Item #	Total Cost	NAICS Codes	DBE Firms	All Firms	DBE Availability	% of Project	Weighted Total of Availability
1	\$6,581,898.80	237310	20	141	14.2%	81.4%	11.5%
2	\$1,272,367.00	238210	20	766	2.6%	15.7%	0.4%
3	\$20,000.00	238320	11	440	2.5%	0.2%	0.0%
4	\$213,202.20	561730	7	1610	0.4%	2.6%	0.0%
<b>Total</b>	<b>\$8,087,468.00</b>		<b>58</b>	<b>2957</b>	<b>2.0%</b>	<b>100.0%</b>	<b>12.0%</b>

FY 2016 – Runway 6/24 Safety Area Improvement – Design & Phase 2 Construction

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Construction	20	141
238210	Electrical	20	766
238320	Paint	11	440
561730	Erosion Control	7	1610
541380	Testing	4	92
541330	Engineering	17	677
Total		79	4624

Weighted Construction Percentage

Item #	Total Cost	NAICS Codes	DBE Firms	All Firms	DBE Availability	% of Project	Weighted Total of Availability
1	\$6,967,890.96	237310	20	141	14.2%	93.5%	13.3%
2	\$133,745.25	238210	20	766	2.6%	1.8%	0.0%
3	\$76,500.00	238320	11	440	2.5%	1.0%	0.0%
4	\$273,986.79	561730	7	1610	0.4%	3.7%	0.0%
<b>Total</b>	<b>\$7,452,123.00</b>		<b>58</b>	<b>2957</b>	<b>2.0%</b>	<b>100.0%</b>	<b>13.4%</b>

FY 2017 – Runway 6/24 Safety Area Improvement – Design & Phase 3 Construction

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Construction	20	141
238210	Electrical	20	766
238320	Paint	11	440
561730	Erosion Control	7	1610
541380	Testing	4	92
541330	Engineering	17	677
Total		79	4624

Weighted Construction Percentage

Item #	Total Cost	NAICS Codes	DBE Firms	All Firms	DBE Availability	% of Project	Weighted Total of Availability
1	\$4,345,017.24	237310	20	141	14.2%	94.6%	13.4%
2	\$11,551.80	238210	20	766	2.6%	0.3%	0.0%
3	\$78,000.00	238320	11	440	2.5%	1.7%	0.0%
4	\$160,735.96	561730	7	1610	0.4%	3.5%	0.0%
<b>Total</b>	<b>\$4,595,305.00</b>		<b>58</b>	<b>2957</b>	<b>2.0%</b>	<b>100.0%</b>	<b>13.5%</b>

**FY 2018 – Runway 6/24 Safety Area Improvement – Design & Phase 4 Construction**

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Construction	20	141
238210	Electrical	20	766
238320	Paint	11	440
561730	Erosion Control	7	1610
541380	Testing	4	92
541330	Engineering	17	677
<b>Total</b>		<b>79</b>	<b>4624</b>

**Weighted Construction Percentage**

Item #	Total Cost	NAICS Codes	DBE Firms	All Firms	DBE Availability	% of Project	Weighted Total of Availability
1	\$9,852,835.60	237310	20	141	14.2%	90.9%	12.9%
2	\$451,978.70	238210	20	766	2.6%	4.2%	0.1%
3	\$79,500.00	238320	11	440	2.5%	0.7%	0.0%
4	\$451,978.70	561730	7	1610	0.4%	4.2%	0.0%
<b>Total</b>	<b>\$10,836,293.00</b>		<b>58</b>	<b>2957</b>	<b>2.0%</b>	<b>100.0%</b>	<b>13.0%</b>

**Step 2. Analysis:** Adjustments to Step 1 base figure.

For the FY 2015 project, the 237310 NAICS is expected to comprise approximately 85% of the total work, 541380 is approximately 1%, 541370 is approximately 1%, and 541330 is approximately 13% of the total. These percentages were applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$[(12\%) \times .85 + (4/92) \times .01 + (4/77) \times .01 + (17/677) \times .13] \times 100 = 10.60\% \text{ weighted base figure.}$$

For the FY 2016 project, the 237310 NAICS is expected to comprise approximately 92% of the total work, 541380 is approximately 1%, and 541330 is approximately 7% of the total. These percentages were applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$[(12.5\%) \times .92 + (4/92) \times .01 + (17/677) \times .07] \times 100 = 12.50\% \text{ weighted base figure.}$$

For the FY 2017 project, the 237310 NAICS is expected to comprise approximately 91% of the total work, 541380 is approximately 1%, and 541330 is approximately 8% of the total. These percentages were

applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$[(13.5\%) \times .91 + (4/92) \times .01 + (17/677) \times .08] \times 100 = 12.51\% \text{ weighted base figure.}$$

For the FY 2018 project, the 237310 NAICS is expected to comprise approximately 94% of the total work, 541380 is approximately 1%, and 541330 is approximately 5% of the total. These percentages were applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$[(13.0\%) \times .94 + (4/92) \times .01 + (17/677) \times .05] \times 100 = 12.43\% \text{ weighted base figure.}$$

Past History Participation. The COUNTY has had similar goals in previous years.

2011: 14.05%  
2012: 1.59%  
2013: 11.97%

Although a disparity study was completed several years ago for the City of Cleveland, the State of Ohio has concerns regarding the validity of the study. Therefore, no adjustments were made.

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

26.51(b) (1-9)

The COUNTY will meet the maximum feasible portion of its overall goal by using RC means of facilitating DBE participation. The COUNTY does not have a current history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, we are applying the entire goal of 6.8% to race-conscious participation. The COUNTY will use the following to increase DBE participation through RN means:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;

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

## PUBLIC PARTICIPATION

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

The COUNTY will publish the Policy Statement and Program at: <http://publicworks.cuyahogacounty.us/en-US/County-Airport.aspx>. The program and the proposed overall goals and rationale are available for inspection during normal business hours at the airport terminal building for 30 days following the date of the notice, and informing the public that the COUNTY and DOT will accept comments on the goals for 45 days from the date of the notice.

The goal will also be announced at the pre-bid meeting for each of the projects.

A consultation meeting was held on April 20, 2015. Those invited to the meeting included Great Lakes Construction, Independence Excavating, Chagrin Valley Paving, Burton Scott Contractors, Shelly Company, Allega, Kravo Paving, Kokosing Construction, Perk Construction, Highway Paving and Shelly & Sands. Those in attendance included Karla Price, Dan Ford and Mark Heckroth with CHA, Dan DiGiammarino, County Airport Manager, and Justin King with Independence Excavating.

### **PUBLIC NOTICE**

The COUNTY hereby announces its fiscal years 2014, 2015, 2016, 2017, and 2018 goal of 11.95% for Disadvantaged Business Enterprise (DBE) airport construction projects. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at the Cuyahoga County Airport terminal building, 26300 Curtiss Wright Parkway, Richmond Heights, OH 44143 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 45 days from the date of this publication and can be sent to the following:

Dan DiGiammarino, Airport Manager  
Cuyahoga County Airport  
26300 Curtiss Wright Parkway  
Richmond Heights, OH 44143  
216-289-4111  
ddigiammarino@cuyahogacounty.us

or

Federal Aviation Administration  
Office of Civil Rights Staff  
2300 E. Devon Ave., Ste. 440  
Des Plaines, IL 60018

### **Contract Goals**

The COUNTY will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the recipient's overall goal that is not projected to be met through the use of RN means.

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

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

**ATTACHMENT 6**

**Demonstration of Good Faith Efforts - Forms 1 & 2**

*[Forms 1 and 2 should be provided as part of the solicitation documents.]*

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

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

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

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

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_ Title \_\_\_\_\_  
(Signature)

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

-----  
-----  
-----  
-----

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

**Affirmation**

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

By \_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Title)

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



## **ATTACHMENT 7**

### **DBE Monitoring and Enforcement Mechanisms**

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

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

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

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

**ATTACHMENT 8**  
DBE Certification Application Form

The DBE Certification Application Form can be found at: <http://www.in.gov/idoa/2489.htm>

**ATTACHMENT 9**  
Small Business Element Program

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

The Madison Board of Aviation Commissioners (BOAC) has created an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. For clarification purposes, 49 CFR Part 26.5 states, "*Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b)." 13 CFR 121.402 defines "What size standards are applicable to Federal Government Contracting programs?"

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the BOAC seeks to implement a small business element into its current DBE policy in accordance with applicable law. The BOAC is including this element to facilitate competition by and expand opportunities for small businesses. The BOAC is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The BOAC will meet its objectives using a combination of the following methods and strategies:

1. **Set asides:** Where feasible, the BOAC will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A "set-aside" is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the BOAC and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.
2. **Unbundling:** The BOAC, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The BOAC will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. Similarly, the BOAC will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

### Definitions

1. **Small Business:**  
A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the

definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the Indiana Department of Transportation (INDOT) in accordance with 49 CFR 26.

For the purposes of the small business element of the BOAC's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

Certification and Verification Procedures

The BOAC will accept the following certifications for participation in the small business element of the BOAC's DBE Program with applicable stipulations:

1. (State) DOT DBE Certification (through the Unified Certification Program) – DBE Certification by the (State) DOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the (State) DOT.
2. (State) DOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the (State) DOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

Implementation Schedule

The BOAC will implement this small business element within nine months of the FAA's approval of this document describing the element. In order to actively implement the BOAC's program elements to foster small business participation and to comply with the requirement of good faith implementation of our DBE program, the BOAC will require that the Prime Contractor(s) for Construction Work Items and for Professional Services Work Items complete the form entitled, *Fostering Small Business Participation* (sample attached). The Special Conditions of the Contract will indicate the amount of small business participation as determined by the BOAC.

## **Assurances**

The BOAC makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.

## Fostering Small Business Participation

<b>Sponsor's Name:</b>	
<b>Airport Name:</b>	
<b>City, State:</b>	
<b>AIP Number:</b>	
<b>Federal Fiscal Year:</b>	

In accordance with Section 26.39 the following detailed list shall be completed by Prime Contractor(s) for Construction Work Items as well as by Prime Contractor(s) for Professional Services Work Items. Note: The firms listed below may or may not be certified DBEs.

Small Business Firms to be Utilized (Name, Address, Phone)		<i>Work to be Performed</i>	Total Estimated Cost of Work
<b>Name</b>			
<b>Address</b>			
<b>City, St, Zip</b>			
<b>Telephone</b>			
<b>Is the firm a Certified DBE?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Name</b>			
<b>Address</b>			
<b>City, St, Zip</b>			
<b>Telephone</b>			
<b>Is the firm a Certified DBE?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Name</b>			
<b>Address</b>			
<b>City, St, Zip</b>			
<b>Telephone</b>			
<b>Is the firm a Certified DBE?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Name</b>			
<b>Address</b>			
<b>City, St, Zip</b>			
<b>Telephone</b>			
<b>Is the firm a Certified DBE?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		

<b>Name</b>			
<b>Address</b>			
<b>City, St, Zip</b>			
<b>Telephone</b>			
<b>Is the firm a Certified DBE?</b>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>		
<b>Name</b>			
<b>Address</b>			
<b>City, St, Zip</b>			
<b>Telephone</b>			
<b>Is the firm a Certified DBE?</b>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>		

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_