Disadvantaged Business Enterprise (DBE)
Policy and Administrative Procedures
Business Diversity & Development Department

Board Approved 03-07-2013
Art Program

The DFW Airport Art Program incorporates sculptures, mosaics, terrazzo and interactive works throughout the Airport with many featured pieces located in International Terminal D. This 37-piece collection, created by local, national and international artists, is valued at more than $8 million dollars and includes four sculptures on loan from the Nasher Sculpture Center.

Visitors to DFW are invited to take a walking tour of the Art Program for an up-close look at the collection. This walking tour is free of charge and usually lasts between 60 to 90 minutes.
# Dallas/Fort Worth International Airport
## Disadvantaged Business Enterprise (DBE) Program

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Board Approved 03-07-2013
Dallas/Fort Worth International Airport Board
Disadvantaged Business Enterprise (DBE) Program
49 CFR Part 26
March 2013

Policy Statement (26.1, 26.23)

The Dallas/Fort Worth International Airport Board of Directors ("AIRPORT BOARD") has established a Disadvantaged Business Enterprise Program in accordance with U.S. Department of Transportation (DOT), regulations 49 CFR Part 26. The Airport Board receives Federal financial assistance from the DOT, and as a condition of receiving this assistance, the Airport Board signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Airport Board 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 Airport Board's 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 meet the 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; and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The Vice President of the Business Diversity & Development Department has been designated as the Airport Board's Liaison Officer for the DBE Program. The DBE Liaison Officer is responsible for implementing all aspects of the DBE Program. Implementation of the Program is accorded the same priority as compliance with all other legal obligations incurred by the Airport Board in its financial assistance agreements with the Department of Transportation.

The Airport Board has distributed this policy statement to the Board of Directors and relevant Departments. The Airport Board has also distributed this statement to DBE and non-DBE businesses that perform work for the Airport Board on DOT-assisted contracts at all pre-bid conferences.

Jeffrey P. Fegan
Chief Executive Officer
Dallas/Fort Worth International Airport

\[\text{Date}\]
\[3/26/13\]
DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD
OFFICIAL BOARD ACTION/RESOLUTION

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<td>Finance/Audit</td>
<td>Adoption of Revised Disadvantaged Business Enterprise (DBE) Policy and Program</td>
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**Action**
That the Chief Executive Officer or designee be authorized to adopt the revised Disadvantaged Business Enterprise (DBE) Policy and Program.

**Description**
- The Airport Board has established a Disadvantaged Business Enterprise program in accordance with the U.S. Department of Transportation (DOT), regulations 49 CFR Part 26. The Airport Board receives Federal financial assistance from the DOT, and as a condition of receiving this assistance, signed an assurance that it will comply with 49 CFR Part 26.
- It is the policy of the Airport Board to ensure DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in Department of Transportation (DOT)-assisted contracts.

**Justification**
- Regulatory updates released January 28, 2011 brought forth significant changes, requiring the Airport Board to update its 2003 DBE Policy and Program and submit to the Federal Aviation Administration (FAA) for review and approval.
- The Airport Board submitted its revised DBE Policy and Program to FAA on September 30, 2012 and received FAA approval on January 23, 2013.

**D/S/M/WBE Information**
- N/A

**Schedule/Term**
- N/A

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For Information contact
Tamela Lee
3-5515

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BE IT RESOLVED BY THE DALLAS-FORT WORTH INTERNATIONAL AIRPORT BOARD

That the Chief Executive Officer or designee be authorized to adopt the revised Disadvantaged Business Enterprise (DBE) Policy and Program.

Approved as to Form by
Tomme, Paul
General Counsel
Feb 26, 2013 1:36 pm

Approved as to Funding by
Underwood, Max
VP Finance
Finance
Feb 26, 2013 1:41 pm

Approved as to M/WBE by
Lee, Tamela
VP Business Diversity & Dev
Business Diversity and Development
Feb 26, 2013 8:55 am

SIGNATURE REQUIRED FOR APPROVAL

Approved by
Department Head
Small & Emerging Business
Feb 25, 2013 5:19 pm

Chief Executive Officer
Mar 7, 2013 4:36 pm
Date
January 23, 2013

Via Electronic Mail

Ms. Tamela Lee
Vice President
Business Diversity & Development Department
Dallas/Fort Worth International Airport
PO Box 619428
DFW Airport, TX  75261

Dear Ms. Lee:

This letter is in reference to the Disadvantaged Business Enterprise (DBE) program submitted for the Dallas/Fort Worth Airport. Based on our review, we have determined that the program meets the standards set forth in 49 CFR Part 26, Department of Transportation regulations.

In accordance with §26.21, regular updates of your DBE program are not required as long as you remain in compliance. However, you are required to submit significant changes for approval. Please submit an executed copy of the Policy Statement (page one) of your DBE program at your earliest convenience.

Please be reminded that per the published schedule, your next three year goal covering FY 2014-2016 is due by August 1, 2013. If you have any questions or need assistance, please call Ms. Dolores Leyva at (310) 725-3939 or e-mail at dolores.leyva@faa.gov.

Sincerely,

Michael D. Freilich, Director
Civil Rights and DBE Compliance
Western-Pacific Region

cc:  Mike Nicely, ASW 650
SUBPART A - GENERAL REQUIREMENTS

Objectives (26.1)

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

Applicability (26.3)

The Airport Board is the recipient of federal airport funds authorized by 49 U.S.C. 47101, et seq., therefore 49 CFR part 26 is applicable to airport projects funded in whole, or in part, by federal funds. A link to the regulation, 49 CFR Part 26, is included as Attachment 1 to this Program.

Definitions (26.5)

The terms used in this Program have the meanings as defined in 49 CFR 26.5.

Nondiscrimination (26.7)

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

Record Keeping Requirements (26.11)

Reporting to DOT (26.11(a))

The Airport Board will report DBE participation to DOT/FAA as follows:

The Airport Board will transmit to FAA annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form. This information will be transmitted electronically via the DBE Office Online Reporting System (DOORS). 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 Airport Board 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 work on our DOT-assisted contracts for use in helping to set our
overall goals. The bidders list will include the name, address, DBE and non-DBE status, age and a range of annual gross receipts of firms.

Bidders for all DOT-assisted contracts will be asked to submit information listing this information through surveys conducted post-contract-award. The Bidder’s List Survey is included in the document as Attachment 2.


The Airport Board has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

Assurance (26.13(a))

The Airport Board 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 Airport Board 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 Airport Board’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 Airport Board 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.).

This language will appear in the financial assistance agreement with sub-recipients.

Contract Assurance (26.13(b))

The Airport Board will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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

DBE Program Updates (26.21)

As long as the Airport Board receives FAA grants for airport planning or development and awards prime contracts exceeding $250,000 in FAA funds each Federal fiscal year, the Airport Board will utilize this Program continually until all funds from DOT financial assistance have been expended. The Airport Board will provide to DOT updates representing significant changes in the Program for approval.

Policy Statement (26.23)

The policy statement is elaborated on the first section of this Program.

DBE Liaison Officer (DBELO) (26.25)

The Airport Board’s DBE Liaison Officer is the Vice President of the Business Diversity & Development Department (BDDD), Dallas/Fort Worth International Airport, P.O. Box 619428, DFW Airport, Texas 75261, telephone number: 972 973 5500, e-mail address: dbe@dfwairport.com. The Vice-President of BDDD and staff are responsible for implementing all aspects of the DBE Program and ensuring compliance with all provisions of 49 CFR Part 26. The Vice President of BDDD has direct, independent access to the Chief Executive Officer concerning DBE Program matters.

BDDD has a staff of professional employees whose duties include support for the DBE Program. Consultant help is also used to support the DBE Program. An organization chart for the BDDD is found in Attachment 3 to this Program.

The Vice President of BDDD is responsible for developing, implementing and monitoring the DBE Program in coordination with other appropriate executives. Duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by DOT/FAA.
2. Review contracts and purchase requisitions for compliance with this Program.
3. Work with all applicable departments to set overall annual goals and contract-specific goals.
4. Ensure that notices and requests for bids/proposals are available to DBEs in a timely manner.
5. Identify contracts and solicitations so that DBE goals are included in these documents (both race-neutral methods and contract specific goals) and monitor the results.
6. Analyze Airport Board’s progress toward goal attainment and identify ways to improve progress.
7. Participate in pre-bid/proposal meetings.
8. Advise the Airport Board’s CEO and the Airport Board of DBE matters and achievements.

9. Determine/monitor contractor compliance with good faith efforts. Forms used to assist in making the determination are included in the Contract Provisions which is included as Attachment 4.

10. Provide DBEs with information for obtaining bonding and insurance.

11. Plan and participate in DBE training seminars.

12. Verifies DBE certification with The Texas Unified Certification Program.

13. Provide aggressive outreach to DBEs and community organizations to advise them of opportunities.

14. Coordinate interim and post-award compliance reviews.

**DBE Financial Institutions (26.27)**

It is the policy of the Airport Board 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. The Airport Board has made the following efforts to identify and use such institutions:

The Airport Board’s BDDD has identified minority and women owned banks located in the State of Texas through the Federal Reserve Board. A listing of these institutions is provided in Attachment 5. While these firms are not certified as DBE firms, it has been determined that all firms on the list meet the size requirements for certification and self-identify as being owned by a member(s) of one of the presumed group. These firms are therefore good candidates for participation in the Airport Board’s DBE Program. Participating firms or firms identified as potential participants in a DOT-assisted project will be encouraged to apply for certification through the Texas UCP. The BDDD updates this list annually. Information on the availability of such institutions will be made available at pre-bid conferences.

**Prompt Payment to Subcontractors (26.29)**

The Airport Board has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts within 7 days from receipt of each payment made to the prime contractor.

In addition, the Airport Board has included in the contract clause requirements for prompt and full payment of retainage from the prime contractor to the subcontractor within 7 days after the subcontractor's work is satisfactorily completed.

The Airport Board will ensure compliance with this requirement by holding retainage from prime contractors and providing for prompt and regular incremental acceptances of portions of the prime contract, paying retainage to prime contractors based on these acceptances, and requiring a contract clause obligating the prime contractor to pay all retainage owed to the
subcontractor for satisfactory completion of the accepted work within 7 days after your payment to the prime contractor.

The Airport Board 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 Airport Board. When The Airport Board 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.

The Airport Board will provide appropriate means to enforce the requirements of this section. A finding of non-payment shall be a material breach of this contract. The Airport may, withhold progress payments until the Contractor demonstrates timely payment of sums due subcontractors. The Airport also reserves the right to exercise other breach of contract remedies.

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

The Contractor agrees to submit to the Airport on a monthly basis all invoices/bills for services, labor and costs incurred by its subcontractors. The Contractor promises that it will pay its subcontractors within seven (7) days following receipt of payment from the Airport Board. The prime contractor also agrees to return any retainage withheld from subcontractors within seven (7) days after the contractor has satisfactorily completed the work. Any delay or postponement of payment may not take place without prior approval of the Airport Board. A finding of non-payment is a material breach of this contract. The Airport Board may, at its option, increase allowable retainage or withhold progress payments unless and until the Contractor demonstrates timely payment of sums due subcontractors. The Airport Board also reserves the right to exercise other breach of contract remedies. The presence of a "pay when paid" provision in a subcontract shall not preclude the Airport Board inquiry into allegations of non-payment. The remedies for non-payment of subcontractors shall not be employed when the Contractor demonstrates that failure to pay results from a bonafide dispute with its subcontractor or supplier. The Contractor shall incorporate this provision into all subcontracts that result from this contract.

Directory (26.31)

The Airport Board utilizes the Texas Unified Certification Program (TUCP) Directory to identify all firms eligible to participate as DBEs. The directory is maintained by the TUCP and lists the firm’s name, address, phone number, and the type of work the firm has been certified to perform as a DBE. The TUCP Directory is available online and contains a searchable database. The TUCP Directory website is included in bid specifications for DOT-assisted contracts. The website address is: http://www.dot.state.tx.us/apps-cg/tucp/default.htm

Over Concentration (26.33)

The Airport Board has not identified over concentration as an issue.
Business Development Programs (26.35)

The Airport Board has not established a formal business development Program.

Monitoring and Enforcement Mechanisms (26.37)

The Airport Board will implement the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

Every DOT-assisted contract is monitored to ensure that DBE subcontractors are on the job, that they are performing the work as approved, and that payments are made to DBEs consistent with previously approved work plans.

The following specific procedures are established to monitor compliance after contract award:

1. The Airport Board will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the Program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

2. The Airport Board will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

3. The Airport Board has implemented a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. The Contractor shall report DBE participation on a monthly basis in the form of a pay activity request. This mechanism will provide for a running tally of actual DBE attainment (e.g., the payment actually made to DBE firms), including a means of comparing these attainments to commitments. The BDDD will verify with the DBE at minimum on a quarterly basis the contract amount and payment to the DBE reported by the contractor. These verification forms request information to confirm scope of services, contract amount and starting date of the DBE contract. DBE subcontractors must complete and return verification forms. Appropriate follow-up is conducted to ensure that responses are received. Where no response is received, follow-up notices are issued. The BDDD will also conduct periodic site visits to ensure that work committed to DBEs is actually performed by DBEs. At the time of contract closeout, BDDD will provide written certification that the contracting records and monitored work sits have been reviewed.

4. The Airport Board shall not release the contractor's retainage until all DBE subcontractors' participation information is reported and the appropriate forms submitted to BDDD.
5. In our reports of DBE participation to DOT, The Airport Board will show both commitments and attainments, as required by the DOT reporting form.

6. The Airport Board 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 and audit upon request by any authorized representative of the Airport Board or DOT. This reporting requirement also extends to any subcontractor.

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

When the contractor is found to be in non-compliance, and informal resolution procedures have failed to demonstrate that the contractor has made every effort to resolve the issues(s) of non-compliance, the Airport Board will employ all necessary and reasonable actions under its contracting authority to ensure that the DBE requirements are enforced.

Additional monitoring and enforcement mechanisms are further described in Attachment 6.

While the Airport Board’s BDDD has overall responsibility for the DBE Program, various departments participate in the active administration and monitoring of the Program as follows.

DBE Program Responsibility

The Airport Board’s BDDD will administer, monitor, and enforce or seek to enforce the procedures for implementation of the DBE Program and will perform in a manner as may be necessary to achieve the purposes and objectives of the Program.

Each department of the Airport Board which has or shares responsibility for the awarding of DOT-funded contracts, including concessions or contract administration, has a responsibility to promote, support, and assist in carrying out the DBE Program. Such departments are to be held accountable for exercising specific functions in support of the Program, as well as any other function(s) deemed necessary by management. The following Airport Board departments have specific DBE Program implementation responsibilities as follows:

Business Diversity & Development Department (BDDD)

- Review and monitor the Airport Board’s DBE Policy and administrative procedures.

- Implement and administer the Airport Board’s DBE Policy and Administrative Procedures Manual’s policies, standards and procedures as well as govern the implementation, interpretation, and application of this Policy and Procedures Manual.
• Develop and maintain procedures to ensure that DBEs are able to compete on all federally-funded Airport construction and construction-related professional services contracts.

• Develop listings of DBEs for prime and subcontracting opportunities. These listings reflect suppliers or service providers for which the Airport Board and/or its contractors have a business use.

• Review and verify the certification status of DBEs. The Vice President of BDDD makes the final determination on appeals regarding DBE certification eligibility.

• Review bids and solicitations to ensure that DBEs have an equal opportunity to participate in federally-funded airport construction contracts, including, but not limited to reviewing the scope of work, bonding requirements, insurance requirements and the conditions in which retainage is held, etc.

• Review contract language with Legal for appropriately Program language.

• Develop and implement a contract specific goal setting methodology to apply to relevant construction and construction-related professional services contracts.

• Verify the utilization of DBEs by Airport Board contractors.

• Prepare and present periodic reports to the Airport Board of Directors on the compliance with the DBE Policy and administrative procedures.

• Assess and recommend periodically any process changes that may be necessary to improve the overall effectiveness of the DBE administrative procedures.

• Set a contract-specific DBE participation goal on all appropriate contracts, including contract modifications as defined herein.

• Monitor and report the progress of DBE and non-DBE participation in all procurements by Airport Board departments.

• Determine whether a DBE is performing a Commercially Useful Function (CUF) on an Airport Board procurement.

• Determine whether a bidder/proposer made Good Faith Efforts (GFEs) to achieve a DBE contract goal.

• Promote and educate Airport Board’s personnel and contractors about the Expedited Payment Program and identify Airport solicitations for participation per the Program requirement.
• Monitor and ensure DBE compliance for Airport Board procurements in the contract closeout process.

• Promote and conduct outreach functions to DBE community and other stakeholders.

• Determine the appropriate Program for the Contract.

• Assist all Airport Board departments and contractors with the implementation and/or application of the DBE Policy and administrative procedures.

• Participate in pre-solicitation discussions including any design review meetings to take into consideration such factors as including but not limited to DBE availability, bonding limits, and type of work capabilities available from DBEs in the development of drawing and specifications.

• Attend pre-bid/proposal and pre-construction/design conferences to explain the DBE Policy and administrative procedures and its requirements as well as respond to pertinent questions.

• Review requests for bids/proposals and other solicitation documentation including the evaluation criteria to ensure inclusion of DBE Policy and administrative procedures requirements and remove artificial barriers to potential DBE participation.

• Encourage and promote joint ventures, partnering and teaming arrangements between DBEs and non-DBEs and between two or more DBEs to enhance innovative approaches to increase DBE participation.

• Promote the DBE Policy and administrative procedures and its accomplishments through innovative initiatives such as recognition Programs and awards as well as annual reports and newsletters.

Audit Services Department

• Provide audit assistance, as necessary, to determine compliance with the policies and administrative procedures set forth in the DBE Policies and Administrative Procedures Manual.

• Assess and make recommendations when requested on the utilization of DBEs, including but not limited to compliance with DBE commitments or allegations of fraud.

Risk Management Department

• Review applicable insurance requirements with a view towards determining, if prudent and feasible, whether established risk/exposure limits may be changed to allow business enterprises, particularly DBEs and other small firms, to bid more competitively on Airport Board contracts.
• Evaluate contract insurance requirements, when feasible, commensurate with the size, duration, location and type of service provided for the contract.

• Provide technical assistance and Programs that support DBE efforts to obtain insurance and bonding.

Legal Department

• Provide legal assistance, as necessary, to ensure that the DBE policies and administrative procedures and their implementation meet legal standards.

• Review contract language for appropriate DBE policy compliance.

Airport Development & Engineering Department

• In coordination with BDDD, assist in notifying DBE related organizations or associations (chambers, trade organizations, non-profit plan rooms) of the Airport Board contracts to be bid/proposed. Make plans and specifications relating to Airport Board contracts available to prospective bidders, including DBEs, in sufficient time for adequate review. In coordination with BDDD, provide copies of Airport Board construction plans and specifications to such agencies, thus enabling DBEs or other interested bidders to review the plans without purchasing or placing a deposit on them, and within sufficient notice to provide adequate response time.

• In coordination with BDDD, when feasible, include a project design criterion that includes consideration of DBE availability, bonding limits, and type of work capabilities to facilitate maximum competitive participation.

• Provide for the use of procurement methods, when feasible, that will increase potential DBE participation as well as discourage the use of specifications and plans that unduly impact opportunities for DBE or other small firm participation or requirements to specify the use of certain restrictive goods and materials.

• Divide proposed acquisitions of construction services into reasonably small lots (not less than economic production runs or economically feasible projects) to permit offers on quantities less than the total requirement or discrete portions of the construction project.

• Structure construction projects such that, if practicable, DBEs and small firms may compete for prime contracts.

• Ensure that delivery schedules are established on a practical and sensible basis that will encourage DBE participation to the extent consistent with the actual requirements of the Airport.
• Encourage prime contractors to form contractual relations with DBEs at all levels including subcontractor and joint venture relationships.

• If BDDD determines that solicitation requests/specifications prohibit or deter DBE participation, provide an explanation for the prohibitive requirements including, but not limited to,
  
  o The proposed solicitation cannot be divided into reasonably small lots (not less than economic production runs) to permit offers on quantities less than the total requirement;

  o Delivery schedules cannot be established on a realistic basis that will encourage DBE participation to the extent consistent with the Airport Board’s requirements;

  o The proposed acquisition cannot be structured so as to make it likely that DBEs can compete for the prime contract; or

  o The consolidated construction project cannot be required as separate discrete projects.

BDDD will review the proposed solicitation and any supplemental documentation to make a recommendation to the sponsoring/procuring department regarding the proposed solicitation package.

• Include BDDD representatives as part of the Airport Board’s principal selection and evaluation teams as a voting member to ensure review and consideration of DBE participation on such contracts and compliance with the DBE Policy and administrative procedures.

• Require compliance with DBE contractual clauses, including but not limited to, substitution of subcontractors, as well as reporting and counting guidelines on Airport Board projects.

• Assist and support BDDD by providing relevant contractual information such as, but not limited to, successful low bidder information, construction schedules, solicitation notices, etc., to better monitor and ensure compliance with applicable DBE Policy and administrative procedures.

• Notify BDDD when delivery orders/scopes of work are issued which may have an adverse impact on the contractor’s ability to meet its DBE commitment.

• Notify BDDD when DBE subs are substituted without proper BDDD approval.

• Provide BDDD with proper documentation (define) required to prepare official Board action in five (5) business days prior to step one approval date.
• Provide BDDD with proper documentation (define) for contract closeout.
  - Closeout Notification Memo
  - Final Pay Period Activity Report
  - Contract Status Report

• Assist as requested in the policy formulation and implementation of the DBE administrative procedures manual.

**Procurement & Materials Management Department**

• Specifically appoint a departmental representative to serve as liaison between the department and potential DBE bidders on Airport Board purchases. The representative will, in conjunction with BDDD, make known to DBEs and DBE-related associations, upcoming purchases on which bids/proposals are required and their specifications; assist them in understanding the bid procedures; and coordinate the department’s efforts with those of other Airport Board departments, and state and Federal government offices aimed at assisting DBEs;

• Ensure that all applicable provisions of the DBE Program are included in bid specifications/proposals and contracts administered by the Procurement & Materials Management Department;

• Make bid specifications available to prospective bidders on Airport Board contracts, including DBEs, in sufficient time for review. Allow, to the greatest extent feasible, sufficient time in order to facilitate the participation of DBEs. Where possible, attempt to reach DBEs by advertising for specific bids;

• Together with the user department, provided that the overall cost of a purchase is not increased and to the extent that it does not violate bid laws, develop bid packages and requests for proposals to increase potential DBE participation; e.g., using certain types of materials and methods, and breaking down large contracts into smaller ones;

• Periodically review applicable insurance and bonding requirements with a view toward determining, if prudent and feasible, whether established risk/exposure limits may be changed to allow business enterprises, including DBEs, to bid more competitively on all Airport Board contracts;

• Buyers shall identify DBE contacts in soliciting quotes for bids under $15,000 (informal bids or contracts) for those items where DBEs are known suppliers of these goods and services;
• Assist DBE Program officials in conducting surveys to determine the availability of qualified DBEs;

• Assist DBE Program officials in maintaining a listing of DBEs in the procurement area;

• Advertise purchasing-related contract opportunities via the Airport Board’s web site as an effort to maximize DBE participation; and

• Assist in compilation of purchasing data for DBE utilization determination.

Fostering Small Business Participation (26.39)

DFW has established a Small Business Program designed to structure contracting requirements to facilitate competition by small business concerns. The Small Business Program has been developed as an element of the DBE Program. The Small Business Program will operate in a race-neutral manner and will not replace the DBE Program, but will provide an additional race neutral method for achieving DBE participation. The Small Business Program was approved by the FAA in May 2012. The Program is attached hereto as Attachment 7.

SUBPART C - GOALS, GOOD FAITH EFFORT AND COUNTING

Quotas (26.43)

The Airport Board will not use set asides or quotas in any way in the administration of this DBE Program.

Overall Goals (26.45)

The Airport Board establishes overall triennial goals if we anticipate that we will award prime contracts exceeding $250,000 in FAA funds in any Federal fiscal year during the goal period. If the Airport Board does not anticipate awarding more than $250,000 in FAA funds in prime contracts within any Federal fiscal year covered by the goal period, we will not develop an overall goal; however the existing DBE Program will remain in effect and the Airport Board will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The Airport Board will establish goals in accordance with 49 CFR Part 26.45.

The Airport Board submits its overall goal to DOT on August 1 every 3 years, beginning on August 1, 2010 and continuing every 3 years thereafter. Before establishing the overall goal each three-year period, the Airport Board will review its DBE listings and consult with minority organizations and chambers regarding the proposed goal. The Airport Board will also consult with non-minority groups. These consultations will take place to obtain information concerning
opportunities for DBEs and the effectiveness of the Airport Board’s efforts to establish a level playing field for participation of DBEs.

Following these consultations, the Airport Board will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its office for thirty (30) days following the date of the notice. It will inform the public that the Airport Board and DOT will accept comments on the goals for forty-five (45) days from the date of the notice. This notice will be issued each year in newspaper of general circulation, and in minority focus media and trade publications. This notice will include the address where comments may be sent.

The Airport Board's overall goal submission to DOT will include a summary of information and comments received during this public participation process and the Airport Board's responses.

The Airport Board will begin using its overall goal on October 1 of each year, unless the Airport Board receives instructions otherwise from DOT. If the Airport Board establishes a goal on a project basis, the Airport Board 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 is included in this document as Attachment 8.

**Failure to Meet Overall Goals (26.47)**

The Airport Board will maintain an approved DBE Program and overall DBE goal and will administer the DBE Program in good faith to be considered to be in compliance with this part.

If the awards and commitments shown on the 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, the Airport Board will:

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 and to enable the goal for the new fiscal year to be met;

3. The Airport Board will submit to the FAA, within 90 days of the end of the fiscal year, the analysis and corrective actions developed.

**Means for Meeting Overall Goals (26.51)**

**Breakout of Estimated Race-Neutral and Race-Conscious Participation (26.51 (a-c))**
The Airport Board will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Race-neutral means used by the Airport Board Include:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses;

2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

3. Providing technical assistance and other services, including: offering instructions and clarification on bid specifications, procurement policy, procedures, and general bidding requirements; maintaining a file of successful bid documents from past procurements and permitting potential participants to review and evaluate such documents; and conducting debriefing sessions on each awarded contract to explain why certain bids were unsuccessful.

4. Carrying out information and communications Programs on contracting procedures and specific contract opportunities including: routinely issuing projected procurement information; providing instructions and clarification on job performance requirements; providing information and assistance on certification procedures, subcontracting practices, bonding requirements; and providing information on the Airport organization, functions and its full range of contractual needs;

5. Implementing a supportive services Program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;

6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

7. Establishing a Program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

8. Ensuring distribution of the TUCP DBE directory, through electronic means, to the widest feasible universe of potential prime contractors;

9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.
10. Conducting outreach to potential DBE firms through the use of media advertisements, distribution of Opportunity Alerts and other outreach events, promotion on the Airport Board's web site, and dissemination of information at regional trade fairs, business promotions and other events.

The breakout of estimated race-neutral and race conscious participation can be found in Attachment 8. The goals are updated triennially.

The estimated breakout of race-neutral and race-conscious participation will be adjusted as needed to meet DBE participation goals. Race-neutral and race-conscious participation will be tracked and reported separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Contract Goals (26.51 (e))

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

The Airport Board will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. It need not establish a contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the size of the contract and the availability of DBEs for the work of the particular contract.

The Airport Board will calculate goals based on the Federal share of DOT-assisted contracts but will express its contract goals as a percentage of the total amount of a DOT-assisted contract (i.e. an adjustment will be made to apply the calculated goal to the entire project). The Airport Board understands that DBE goals apply only to the federally funded portion of the contract.

Adjusting the Use of Contract Goals (26.51 (f))

To ensure that the DBE Program continues to be narrowly tailored to overcome the effects of discrimination, the Airport Board will adjust the use of contract goals as follows:

1. If the approved projection of the portion of the goal to be met through race-neutral means estimates that the entire overall goal for a given year can be met through race-neutral means, the Airport Board will implement the Program
without setting contract goals during that year, unless it becomes necessary in order meet the overall goal.

2. If, during the course of any year in which contract goals are being used, the Airport Board determines that the overall goal will be exceeded, the use of contract goals will be reduced or eliminated to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If it is determined that there will be a short fall of the overall goal, then the Airport Board will make appropriate modifications in the use of race-neutral and/or race-conscious measures to allow the overall goal to be met.

3. If the DBE participation obtained by race-neutral means alone meets or exceeds the overall goals for two consecutive years, contract goals will not be set on any contracts in the next year. Only race-neutral means will be used to meet the overall goals unless and until the overall goal is not met.

4. If DBE participation exceeds the overall goal in two consecutive years through the use of contract goals (i.e. not through the use of race-neutral means alone), the Airport Board will reduce the use of contract goals proportionately in the following year.

Good Faith Efforts (26.53)

Demonstration of Good Faith Efforts (26.53 (a) & (c))

It is the obligation of the bidder/offeror 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 Attachment A to 49 CFR Part 26.

The Airport Board's Vice President of BDDD is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

The Airport Development and Engineering (ADE) or Procurement and Materials Management (PMM) Department (depending on the project type) is responsible for determining whether a bidder/offeror has submitted the required DBE documentation to be regarded as responsive. The Airport Board will verify that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the Airport Board will enter into a contract with the apparent successful bidder/offeror.

Information To Be Submitted (26.53(b))

The Airport Board treats bidder/offeror's compliance with good faith effort requirements as a matter of responsiveness.
Each solicitation for which a contract goal has been established requires the offeror to submit the following information with the bid/proposal:

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 5 business days of being informed by the Airport Board 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:

Executive Vice President of Administration and Diversity
Dallas/Fort Worth International Airport
P.O. Box 619428
DFW Airport, Texas 75261
972 973 8888

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 the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. 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 will be sent to the bidder/offeror. 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 and g))

The Airport Board requires that a prime contractor not terminate a DBE subcontractor listed in its bid, or a previously approved substituted DBE, without the prior written consent of the Airport Board. This includes, but is not limited to, instances in which a prime contractor seeks

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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 Airport Board will only provide such written consent if it has been determined that the prime contractor has good cause to terminate the DBE firm. Good cause may include 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, nondiscriminatory 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 2 CFR Parts 180, 215 and 1,200 or applicable state law;

6. The Airport Board has determined that the listed DBE subcontractor is not a responsible contractor;

7. The listed DBE subcontractor voluntarily withdraws from the project and provides the Airport Board 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 the Airport Board determines 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 seeking approval to terminate and/or substitute a DBE, the Airport Board will require the prime Contractor to give notice in writing to the DBE subcontractor, with a copy to the Airport board, of its intent to request to terminate and/or substitute, and the reason for the request.
The prime Contractor must give the DBE five business days to respond to the prime contractor's notice and to advise the Airport Board and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Airport Board should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Airport Board may approve a response period shorter than five business days.

The Airport Board 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.

The Airport Board requires the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts to obtain a DBE replacement contractor. The Contractor shall request administrative approval of the substitution prior to making a change in the contract.

If a Contractor fails or refuses to comply with the contract's DBE provisions, the Airport Board shall impose (in accordance with Part 26) appropriate sanctions, including, but not limited to, withholding all or part of payments/work or terminating the contract, if corrective action is not taken within forty-eight (48) hours after notification by the Airport Board. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

**Potential Violations During Contract Performance and Modified Good Faith Efforts**

In the event that contractors are found to be in non-compliance with the DBE contract clauses or DBE Program during the performance of a contract, the following shall apply:

1. A contractor or consultant that has been awarded a contract based upon a given level of DBE participation shall not, at any time before or during the performance of such contract:

   (a) Fail to in fact utilize a DBE which was originally listed at bid opening or proposal submission in order to satisfy the project goal, and which submitted a timely Intent to Perform, without substituting another DBE performing the same commercially useful function and dollar amount, or demonstrating each element of modified good faith efforts, as defined in subsection (c) hereof, to substitute another DBE; or

   (b) Fail to allow a DBE functioning as a subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer's representative, or broker to perform the commercially useful function, the value of which was originally counted for that DBE in awarding the contract; or

   (c) Modify or eliminate all or a portion of the scope of work attributable to a DBE upon which the contract was awarded, unless directed by the Airport Board; or
(d) Terminate a DBE originally utilized as a subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer’s representative or broker in order to be awarded the contract without replacing such DBE with another DBE, performing the same commercially useful function and dollar amount, or demonstrating each element of modified good faith efforts, as defined in subsection (c) hereof, to substitute another DBE; or participate in a conduit relationship with a DBE scheduled to perform work on the contract; or commit any other violation of the Airport Board’s Policies, or Administrative Procedures, which constitutes a material breach of the contract, not mentioned above.

2. Any action by a contractor or consultant in violation of subsections (1) (a) through (d) hereof, shall constitute a material breach of the contract which shall entitle the Airport or to exercise all of its rights at law or equity for such material breach, in addition to exercising any of the other sanctions set out in this section. If, following contract award, a DBE has its certification terminated for reasons other than expiration of certification, or graduation from certification under, or an DBE fails to perform a commercially useful function, the value of which was originally counted for that DBE, as applicable, in awarding the contract, or a DBE voluntarily withdraws its DBE participation on the contract and the contractor or consultant can demonstrate that such termination or failure did not result from any action or inaction, whether direct or indirect, of or by the contractor or consultant, such termination of certification or failure to perform a commercially useful function shall not be deemed to affect compliance with the project goal, and shall not be deemed a breach of the contract; provided, however, that the terminated DBE is substituted with another DBE, performing the same commercially useful function and dollar amount, or that modified good faith efforts to substitute another DBE, as defined in subsection (3) hereof, are demonstrated.

3. The following modified good faith requirements shall apply to compliance with achieved project goal level required throughout the performance of the project and project change orders, amendments, and modifications. In the event that a contractor or consultant must add or replace a DBE subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer’s representative or broker or in the event that a new scope of work is added to the ongoing contract, and the contractor or consultant in such event is in non-compliance with maintenance of the original project goal upon which the contract was awarded, due to failure to utilize additional MBEs or WBEs, the following modified good faith efforts must be completed. Failure of a contractor or consultant to show good faith efforts as to any one (1) of the following categories shall render its overall good faith efforts showing insufficient; and its contract performance in non-compliance with the Airport’s Administrative Procedures.

(a) Verification in writing to the BDDD of the contractor’s or consultant’s intention to terminate or replace a DBE originally identified for participation
in the bid, proposal or competitive selection process proposal upon which the contract was awarded. The reason for the termination or replacement must be stated and the type of work or services must be identified.

(b) Verification that the contractor or consultant used the most current DBE directory from the BDDD in order to contact DBEs that are certified in the applicable area of work or supply at the time of the modified good faith effort.

(c) Verification of efforts to contact appropriate DBEs within the same identified subcontractor, subconsultant, joint venture, supplier, manufacturer, manufacturer’s representative or broker area must be documented. Facsimile transmission, e-mail and telephone communication will be acceptable. The Vice President of BDDD may verify such contacts as deemed appropriate.

(d) Documentation of the modified good faith efforts must be submitted to the BDDD prior to the payment to the contractor or consultant of the next progress or other partial payment or fund release under the contract.

Counting DBE Participation (26.55)

The Airport Board will count DBE participation toward overall and contract goals as provided in 49 CFR. 26.55. The Airport Board 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

Certification (26.61 - 26.73)

The Airport Board accepts the certification of the Texas Unified Certification Program (TUCP). New applicants expressing interest in becoming certified are directed to the North Central Texas Regional Certification Agency (“NCTRCA”), one of the TUCP certifying agencies. The TUCP and its certifying agencies follow the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E 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 the certification eligibility standards.

SUBPART E - CERTIFICATION PROCEDURES

Unified Certification Programs (26.81-26.91)

The Airport Board is a member of a Unified Certification Program (UCP) administered by the
Texas Department of Transportation (TxDOT). The Airport Board is not a certifying agency of the TUCP.

The Texas UCP consists of six certifying agencies that have signed a memorandum of agreement to perform DBE certifications for the State of Texas. All agencies receiving federal financial assistance from the federal DOT sign a letter stating their support for the Texas UCP. Those letters of support were submitted as part of the Texas UCP submission to the federal DOT for UCP approval. The TUCP Memorandum of Agreement is included as Attachment 9. Links to the UCP DBE Directory and Certification Application are included as Attachment 10.

SUBPART F - COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation (26.109)

The Airport Board will safeguard from disclosure to third parties information that may reasonably be regarded and/or is designated as confidential business information, consistent with Federal, state, and local law. The Texas Public Information Act, Texas Government Code, Section 552.001 et. seq. requires a governmental entity to disclose information subject to certain procedural and substantive exceptions.

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

The identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

Monitoring Payments to DBEs

The Airport Board 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 Airport Board or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The Airport Board 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.
49 CFR Part 26 Federal Regulation

The Department of Transportation (DOT) Disadvantaged Business Enterprise Program (DBE) is administered under 49 CFR part 26, PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS. The regulation is available at:

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl
REQUEST FOR INFORMATION - BIDDERS LIST

Our records indicate your Company recently submitted a bid on a federally-funded solicitation for DFW Airport. As a recipient of federal funds, DFW Airport is required to 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 federally funded contracts for use in helping to set DFW's overall goal. Please provide information on ALL prospective subcontractor(s) who submitted bids/quotations in support of this solicitation within five (5) calendar days from receipt of this request. Prime Contractors who are awarded a federally-funded contract will be required to complete this information prior to the contract award being approved by the Board. Attach additional copies of the form if necessary.

Description: ___________________________________________________________________

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<tr>
<th>NAME OF PRIME CONTRACTOR:</th>
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<tr>
<th>ID/IDENTIFY EVERY SUBCONTRACTOR(S)/SUBCONSULTANT(S)</th>
<th>SCOPE OF WORK TO BE PERFORMED</th>
<th>CERTIFIED D/M/WBE FIRM? (Check all that apply)</th>
<th>PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS</th>
<th>UTILIZING ON THIS BID</th>
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Name/Title of person completing this form: ____________________________________________

Signature: ___________________________ Date: ___________________________.

Form 80 Rev 03-07-2013
Business Diversity & Development Department
Organizational Chart

The DBELO has direct access to the Chief Executive Officer.
(DISADVANTAGED BUSINESS ENTERPRISE (DBE) SPECIAL CONTRACT PROVISIONS)

Notification is hereby given that a DBE contract specific goal has been established for this Contract. The Contractor/vendor has committed to percent (%) DBE participation of the total dollar value of this Contract including any change orders and/or modifications throughout the term of this contract/agreement. The commitment is a contractual commitment upon execution of the Contract.

A. GENERAL REQUIREMENTS

1. It is the policy of the Dallas/Fort Worth International Airport Board of Directors ("Board") to support the growth and development of Disadvantaged Business Enterprises ("DBEs") that can successfully compete for Airport prime contracting and subcontracting opportunities.

2. A "Contractor" is defined as one who participates, through a Contract or any other contractual agreement in a U.S. Department of Transportation- (DOT) assisted airport program. For purposes of these Provisions, a Contractor one who seeks to do business with the Board by submission of a bid or proposal on any such Contract or subcontract. A Contractor includes but is not limited to a Contractor, consultant, or vendor.

3. 49 CFR Part 26 ("Part 26") applies to the Project and will be incorporated into any agreement entered into by the Board. It is the policy of the Board to ensure non-discrimination in the award and administration of DOT-assisted Contracts financed in whole or in part with Federal funds. Consequently, the Contractor must fully comply with the Disadvantaged Business Enterprise requirements of Part 26 in proposing and performing hereunder.

4. The Contractor 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 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. The Contractor shall insert an Article containing all of the provisions of this Section, including this paragraph, in all subcontracts hereunder, except altered as necessary for the proper identification of the contracting parties and the Board under this Contract.

5. The Business Diversity & Development Department ("BDDD") is responsible to ensure compliance with the Board’s DBE Policy and Administrative Procedures. BDDD has the mission to proactively facilitate and maximize business and capacity building opportunities for DBEs by collaborating with internal customers and implementing effective innovative programs and approaches for prime and subcontracting opportunities.

6. The Contractor specifically agrees to comply with all applicable provisions of the Board’s DBE Policy and Administrative Procedures ("Policies") and any amendments thereto. DBE and Non-DBE subcontractors also agree to comply with all applicable provisions of the Board’s Policies.
7. The Contractor shall maintain records, as specified in the Audit and Records Section of the Special Provisions in the Contract, showing:
   a. Subcontract/supplier awards, including awards to DBEs;
   b. Specific efforts to identify and award such Contracts to DBEs, such as when requested copies of executed Contracts with DBEs to establish actual DBE project participation.

B. ADMINISTRATIVE REQUIREMENTS

1. All Contractors are charged with knowledge of and are solely responsible for complying with each requirement of Part 26 in making a bid and, if awarded a Contract, in performing the work described in the Contract documents. These instructions are intended only to generally assist the Contractor in preparing and submitting a compliant bid. Should any questions arise regarding specific circumstances, Contractors must consult Part 26, appropriate DOT Rules and Regulations, or contact the BDDD office at 972-973-5500.

2. The Contractor shall appoint a high-level official to administer and coordinate the Contractor’s efforts to carry out its DBE contractual commitments.

3. The Contractor agrees to submit monthly reports of payments and subcontract and/or supplier awards to DBEs and Non-DBEs in such form and manner and at such times as the Board shall prescribe.

4. The Contractor shall provide BDDD access to all books, records, accounts and personnel in accordance with the Audit and Records section of these Special Provisions. Such access will be used for, among other purposes, determining DBE participation and compliance with the Policies. All Contractors may be subject to interim and post-contract DBE audits. Audit determination(s) regarding Contractor’s compliance with the DBE Policies may be considered and have a bearing on consideration of the Contractor for award of future Contracts.

C. GOALS AND GOOD FAITH EFFORTS

1. Part 26 provides for the adoption of a DBE program, to be administered by BDDD. Each Contractor must comply with the terms and conditions of Part 26 in making its bid or proposal and, if awarded the Contract, in performing all work thereunder. A Contractor’s failure to comply with Part 26, any Rules or Regulations promulgated pursuant thereto, or any additional requirements contained herein may render a bid or proposal non-responsive and may constitute cause for rejection.

   a. Responsive; compliance with requirements. If a bid/proposal meets the contract-specific goal or shows an adequate good faith effort in accordance with the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as responsive.

   b. Non-Responsive; failure to meet requirements. If a bid/proposal subject to a contract-specific goal does not meet the goal or show an adequate good faith effort, or provide the necessary documentation or forms outlined in the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as non-responsive. Such determination shall result in no further consideration of the bid/proposal by the Airport.
1) **Informal meeting.** If BDDD finds the bid/proposal non-responsive in accordance with the above, the non-responsive bidder/proposer may request an informal meeting with the Vice President or designee within two (2) business days from the date that the Airport notifies the bidder/proposer of the inadequacy of the proposal. Such meeting shall be scheduled by BDDD. All deficiencies in the bid/proposer shall be explained to the bidder or proposer at such meeting after which the bidder/proposer shall be allowed to clarify the original documentation submitted. BDDD will at no time, however, allow additional information, documentation, certification certificates, subcontractors, joint venturers, suppliers, manufacturers, manufacturer’s representatives or brokers that may later be added to the contract or to the original participation submitted at the time of the bid or proposal to be counted toward meeting of the project goal. If after this informal meeting the Vice President still finds the bid or proposal to be non-responsive, the Vice President or designee’s decision shall stand with no further consideration.

2. Under Part 26, BDDD establishes a contract-specific goal for each Contract. The specific goal for this Contract is stated in the Advertisement and Invitation to Bid. In order to comply with the proposal requirements of Part 26, a Contractor must either meet the DBE contract-specific goal or demonstrate that the Contractor has made sufficient good faith efforts to meet the specific goal. If the Contractor will not meet the DBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to BDDD that it has made good faith efforts to meet the DBE goal. This good faith effort documentation must be submitted with the Contractor’s bid or proposal.

3. A Contractor cannot require exclusive subcontracting or teaming arrangements or agreements with subcontractors.

4. For Contracts awarded using the procurement methods of Indefinite Delivery, Job-Order-Contract, Construction Management-at-Risk or Design Build, the Vice President of BDDD may determine the requirements to address the Contract goal by means of a Compliance Plan for utilization of DBEs on such Contract, or for alternative demonstration of good faith efforts by the Proposer. The development, scope and utilization of such compliance plans shall be addressed in a separate document.

5. In evaluating a Contractor’s good faith efforts submission, BDDD will only consider those documented efforts that occurred prior to the good faith effort submission.

6. The submission of good faith efforts documentation is a matter of responsiveness and shall include a specific response to each of the following criteria with the bid or proposal, as further defined by Part 26. In addition, a Contractor may supplement its responses to include any additional information with the bid or proposal the Contractor believes may be relevant. Failure of the Contractor to demonstrate adequate good faith efforts as to any one of the following categories shall render the overall good faith showing insufficient and the bid/proposal non-responsive. The required DBE good faith efforts are set forth below:

   a. Whether the Contractor attended any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities for DBE participation
b. Whether the Contractor advertised in general circulation, trade association, and/or DBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);

c. Whether the Contractor provided written notice via email or facsimile to a reasonable number of DBEs and/or contacted a reasonable number of DBEs via telephone about the subcontracting/supplier opportunities. A “reasonable number of DBEs” is based on the number of all DBEs available in the areas of subcontracting or supplier opportunities (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email);

d. Whether the Contractor solicited the DBEs at least five (5) business days prior to bid opening, exclusive of the day the bids are opened, to allow DBEs to participate effectively. Also, whether the Contractor followed up those initial solicitations of interest by contacting DBEs at least three (3) business days prior to bid opening to determine with certainty whether the DBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt);

e. Whether the Contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals including, where appropriate, breaking down the Contract into economically feasible subcontracts to facilitate DBE participation. This includes portions of the work to be performed by DBEs the Contractor would otherwise prefer to perform with its own workforce. The ability or desire of a Contractor to perform the services of a Contract with its own workforce does not relieve the Contractor of the responsibility to meet the Contract goal or demonstrate good faith efforts to do so (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for DBEs to bid/quote);

f. Whether the Contractor provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract or adequate information about the locations of the plans, specifications, scope of work and requirements of the Contract (such access shall be provided at least five (5) business days before bid date or proposal submission);

g. Whether the Contractor fairly investigated and evaluated the interested DBEs’ regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation. Also, whether the Contractor provided verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized DBE because the DBE was not qualified. Qualifications must be based on factors other than solely the amount of the DBE’s bid. A Contractor may not reject a DBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the DBE’s
capabilities and expertise. *(Appropriate steps may be demonstrated with a summary matrix that identifies all bidders/proposers, evaluation criteria, assessments, conclusions and verifications)*;

h. Whether the Contractor negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBE firms. Also, whether the Contractor provided written documentation why the Contractor and each of the DBEs contacted did not succeed in negotiating an agreement *(Good faith negotiation shall mean scheduled meaningful discussions that demonstrably seek to find reasonable ways to utilize the DBE on the Contract)*;

i. Whether the Contractor made efforts to assist interested DBEs in obtaining Board or Contractor-required bonding, lines of credit, insurance, etc.;

j. Whether the Contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;

k. Whether the Contractor effectively used the services of available minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of DBEs *(acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email, list(s) of DBEs identified, marketing brochure or flyers)*;

l. Whether the Contractor obtained written documentation from the Board’s approved Surety Support Consultant, if applicable, or from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Contractor-required bonding. Documentation furnished by a surety company will be subject to verification by BDDD; and

m. Whether other Contractors have attained a sufficient level of DBE participation to meet the Contract goals will also be taken into consideration in determining whether the Contractor has made a good faith effort.

7. BDDD will review not only at the different kinds of efforts that the Contractor has made but also the quantity and intensity of those efforts. Efforts that are merely pro-forma are not good faith efforts to meet the goal, even if they are sincerely motivated. BDDD will also consider if, given all relevant circumstances, the Contractor’s efforts could reasonably be expected to produce a level of DBE participation sufficient to meet the goal.

8. Whether or not the established goal has been met and/or whether there were sufficient good faith efforts is considered a matter of the Contractor’s responsiveness. The requirement to submit documentation that the goal has been met or good faith documentation in the manner prescribed by BDDD is considered a matter of the Contractor’s responsiveness. The Board will only award Contracts to Contractors determined to be responsive and responsible. If a Contractor fails to submit good faith efforts documentation with the bid or proposal, it waives the right to appeal the good faith efforts decision. The Vice President of BDDD or designee shall determine whether the Contractor made the
required good faith efforts to meet the DBE Contract goal and, if not, shall recommend that the Contractor be deemed non-responsive.

9. If a Contractor desires a review of the Vice President of BDDD’s decision, it shall file a written request for final reconsideration within 5 business days after receipt of the decision to the Reconsideration Official:

Executive Vice President
Administration & Diversity
P.O. Box 619428
DFW Airport, TX 75261-9428

As part of the reconsideration, the Contractor will have the opportunity to provide written documentation or argument concerning the issue of good faith.

10. The Contractor has a continuing obligation as a covenant of performance to meet the DBE utilization to which it committed at Contract award, inclusive of change orders, amendments, and modifications. If the Contractor during Contract performance must replace a DBE for any reason, it must follow the provisions herein governing the substitution of DBEs and make documented good faith efforts to meet its original DBE contractual commitment.

a. Such good faith efforts during Contract performance must include, but are not limited to:

1) Solicitation of DBEs that are certified in the applicable area of work or specialty;

2) Providing interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract;

3) Fairly investigating and evaluating the interested DBEs’ regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation, and providing verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized DBE because the DBE was not qualified. Qualifications must be based on factors other than solely the amount of the DBEs bid;

4) Negotiating in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBEs and providing written documentation why the Contractor and any of the DBEs contacted did not succeed in negotiating an agreement; and

5) Effectively using the services of available minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of DBEs

b. A Contractor determined not to have made continuing good faith efforts to meet its DBE contractual commitments may request an administrative review and final reconsideration by the Vice President of BDDD. The Contractor may elect to meet in person to discuss whether the Contractor made continuing good faith efforts in accordance with the Policies. BDDD’s determination shall be final.
D. COUNTING DBE PARTICIPATION

1. In accordance with the requirements of Part 26, BDDD will evaluate each bid or proposal to determine the responsiveness of the bid or proposal to Part 26 requirements. In determining if a Contractor’s committed levels of participation meet or exceed the solicitation’s DBE goal, BDDD shall base its determination solely on the information provided in the bid or proposal document.

2. Unless otherwise specified in the solicitation, all bids or proposals for the provision of Indefinite Delivery or Job-Order-Contracts for a period of time and with no delineation of the dollar amount for specific on-call projects, the Contractor shall list only the anticipated percentage of DBE contractual commitment and post award, submit a completed Compliance Plan for review and approval by the Vice President of BDDD.

3. If a joint venture is proposed to meet the contract-specific goal or any portion thereof, the total value of the distinct and clearly defined portions of the work of the Contract that the DBE will perform with its own workforce; reflect its capital contribution, control, management and profits; and for which it is at risk will be counted.

4. When calculating participation levels, percentages and dollar amounts for each DBE, the Contractor cannot round up in determining whether or not the total of these amounts meets or exceeds the Contract goal.

5. A DBE must be certified as a DBE by an approved entity of the Texas Unified Certification Program at the time of bid or proposal submission to be counted towards meeting the contract-specific goal. Other certifications are not acceptable.

6. Post award, the Contractor may count towards its DBE contractual commitment a DBE that is certified during the performance of the Contract if the DBE is added to the Contract or substituted for a DBE pursuant to section herein.

7. The Contractor may not count toward its DBE contractual commitment the dollar value of work performed by a DBE after it has ceased to be certified as a DBE, except where the DBE is not longer certified because it has exceeded the size standard, pursuant to 49 C.F.R. § 26.87(j)(3) or applicable regulation.

8. DBE prime Contractors can count their self-performance toward meeting the DBE goal, but only for the scope of work and at the percentage level they will self-perform.

9. When a DBE participates in a Contract, the Contractor shall count only the value of the work actually performed by the DBE toward DBE goals.

10. A Contractor cannot count toward the goal, amounts paid to an affiliate subcontractor, as defined in 49 C.F.R. Part 16.5.

11. The Contractor shall count the entire amount of that portion of a Contract (or other Contract not covered by this section) that is performed by the DBEs own work forces. The Contractor may count the cost of supplies and materials obtained by the DBE for the work of the Contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime Contractor or its affiliate).
12. The Contractor shall count toward the DBE goals the entire amount of fees or commissions charged by a DBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of an Board Contract, provided it determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

13. When a DBE subcontracts part of the work of its Contract to another firm, the value of the subcontracted work may be counted towards the DBE goal only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goal.

14. The Contractor will count expenditures to a DBE subcontractor towards the DBE goal only if the DBE is performing a commercially useful function on the Contract.
   a. A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the materials, and installing (where applicable) and paying for the materials itself. To determine whether a DBE is performing a commercially useful function, the Contractor must evaluate the amount of the work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing, the DBE credit claimed for its performance of the work, and other relevant factors.
   b. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Contractor must examine, among other relevant factors, similar transaction, particularly those in which DBEs do not participate.
   c. 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 forces, or the DBE subcontracts a greater portion of the work of a Contract than would be expected on the basis of normal industry practice for the type of work involved, the Contractor must presume that it is not performing a commercially useful function.
   d. When a DBE is presumed not to be performing a commercially useful function as provided in this section, the DBE may present evidence to rebut this resumption. BDDD may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

15. The Contractor shall use the following factors in determining whether a DBE trucking company is performing a commercially useful function:
   a. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular
Contract, and there cannot be a contrived arrangement for the purpose of appearing to meet the DBE goal.

b. The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the Contract.

c. The DBE shall receive credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.

d. The DBE may lease trucks from another DBE, including a owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE shall receive credit for the total value of the transportation services the lessee DBE provides on the Contract.

e. The DBE may also lease trucks from a non-DBE, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to a credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

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

16. The Contractor shall count expenditures to DBEs for materials or supplies towards the DBE goal as follows:

a. DBE Manufacturer

1) If the materials or supplies are obtained from a DBE manufacturer, count one hundred percent (100%) of the cost of the materials or supplies towards the DBE goal.

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

b. DBE Regular Dealer

1) If the materials or supplies are purchased from a DBE regular dealer, count sixty percent (60%) of the cost of the materials or supplies towards the DBE goal.

2) For purposes of this section a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of
To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

3) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.

17. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commission charges for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, towards the DBE goal, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. However, the Contractor shall not count any portion of the cost of the materials and supplies themselves toward DBE goals.

18. If a DBE subcontractor is not certified at the time of the execution of the Contract, supplemental agreement or subcontract, the Contractor may not count the firm’s participation towards the DBE goal until the firm is certified. Additionally, the Contractor shall not count the dollar value of work performed under a Contract with a firm after it has ceased to be DBE certified, except where the DBE is not longer certified because it has exceeded the size standard, pursuant to 49 C.F.R. § 26.87(j)(3) or applicable regulation.

19. The Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract goal, in its sole discretion.

20. BDDD will count DBE participation where the DBE or joint venture partner performs a portion of work on the Contract and the percentage of ownership or equity of the DBE in joint venture. BDDD will allow the joint venture to count the portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the work of the Contract that the DBE joint venture partner performs with its own forces toward the DBE commitment and for which it is at risk.

21. The Contractor shall not count the participation of a DBE subcontractor toward the goal until the amount has been actually paid to the DBE.

22. The following expenditures to DBE firms may also count toward the DBE goal:

a. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or
commission is determined by the Board to be reasonable and not excessive as compared with fees customarily allowed for similar services.

b. The fees charged for delivery of material and supplies required on a job site (but not the cost of materials and supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.

c. The fees of commission charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.

E. CERTIFICATION

1. In order to count the participation of DBEs towards the Contract goal, the DBE must be certified by an approved entity of the Texas Unified Certification Program (“TUCP”). Other certifications are not acceptable.

2. The Contractor must submit a properly completed DBE certificate or letter, with all required attachments, for all DBEs proposed to be utilized as subcontractors or suppliers to meet the Contract goal at the time of bid/proposal submission. The Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract goal, in its sole discretion. Such rejection shall be in writing and state the reason(s) for the rejection. A Contractor whose proposed certified firm is rejected for goal credit may request reconsideration of the rejection to BDDD in writing. The request for reconsideration must be received by BDDD within five (5) business days of the notification of rejection. BDDD’s decision on the request shall be final.

3. A firm must be certified as a DBE by the TUCP at the time of bid or proposal submission to be counted towards meeting the goal for purposes of determining Contract award.

4. Post award, a Contractor may count DBEs certified during the performance of the Contract towards its DBE contractual commitment once documentation confirming such certification is submitted to BDDD.

5. BDDD and the Texas Department of Transportation (TxDOT) maintain a current listing of certified DBEs. Bidders and proposers must utilize these Directories to assist them in locating DBEs for the work required on the Contract. The DBE Directories are located at:
   - https://dfw.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=dfw&XID=5886

6. DBE certification does not constitute a representation or warranty as to the qualifications or capabilities of any certified firm.

F. DBE UTILIZATION FORMS AND RELATED DOCUMENTATION

1. Each Contractor must submit for all solicitations, bids or proposals, completed DBE utilization forms as outlined below.
a. Invitation for Bid (IFB) for Construction Projects:

- **Commitment to DBE Participation** must be submitted at the time of bid submission.
- **Preliminary Schedule of Subcontractors** must be submitted at the time of bid submission.
- **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Preliminary Schedule of Subcontractors.
- **Good Faith Effort Documentation.** If the Contractor fails to meet the DBE goal, this documentation must be submitted at the time of bid submission.
- **Final Schedule of Subcontractors** shall be submitted within three (3) business days from the date of the bid opening or with the bid verification.
- **Intent to Perform as a Subcontractor** A signed and executed form for each DBE subcontractor identified on the Final Schedule of Subcontractors, including information required by 49 CFR § 26.11, shall be submitted within three (3) business days from the date of the bid opening or with the bid verification. Information submitted in conformance with 49 CFR § 26.11 shall be kept confidential by BDDD.

OR

b. Request for Proposals (RFP) or Request for Qualifications (RFQ):

- **Commitment to DBE Participation** must be submitted at the time of proposal submission.
- **Preliminary Schedule of Subcontractors** must be submitted at the time of proposal submission.
- **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Preliminary Schedule of Subcontractors.
- **Good Faith Effort Documentation.** If the Contractor fails to meet the DBE goal, this documentation must be submitted at the time of proposal submission.
- **Final Schedule of Subcontractors** shall be submitted with the best and final offer.
- **Intent to Perform as a Subcontractor** A signed and executed form for each DBE subcontractor identified on the Final Schedule of Subcontractors, including information required by 49 CFR § 26.11, shall be submitted with the best and final offer. Information submitted in conformance with 49 CFR § 26.11 shall be kept confidential by BDDD.

OR

c. Request for Price Proposal for a task/delivery order under an Indefinite Delivery Contract:

- **Commitment to DBE Participation** must be submitted at the time of proposal submission.
- **Compliance Plan:** Post Contract award, submit to BDDD for review and approval.
- **Final Schedule of Subcontractors** At the time that a delivery order price proposal is requested, the Final Schedule of Subcontractors must be submitted with the price proposal submission.
• **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Final Schedule of Subcontractors.

• **Intent to Perform as a Subcontractor** A signed and executed form for each DBE subcontractor identified on the Final Schedule of Subcontractors, including information required by 49 CFR § 26.11, must be submitted with the final agreed-upon price proposal for each delivery order. Information submitted in conformance with 49 CFR § 26.11 shall be kept confidential by BDDD.

2. Any commitments to meet the DBE goal must be detailed on the **Commitment to Disadvantaged Business Enterprise (DBE) Participation** form included with the bid/proposal. This commitment includes the following:

   "The Contractor must maintain the DBE participation level to which it committed at Contract award throughout the performance of the Contract and as required in 49 CFR § 26.53 (f)(1) and (2). A Contractor may not terminate for convenience a DBE subcontractor (or an approved substitute DBE) and then perform the work of the terminated subcontract with its own workforces, those of an affiliate or any other firm, without the prior written consent from BDDD. When a DBE subcontractor is terminated, or fails to complete its work on the Contract for any reason, the Contractor is required to make good faith efforts to substitute another DBE to fulfill its DBE contractual commitment."

3. The **Schedule of Subcontractors** form must list all subcontractors the Contractor intends to use in performing the work of the project, including non-DBEs, and detail the preliminary and/or final percentage and dollar commitment of the Contractor to DBE participation. Only DBEs identified and the levels of participation listed for each at the time of bid submission will be considered in determining whether the Contractor has met the goal. All DBEs must be properly certified under the guidelines of the CERTIFICATION section. Submission of the **Intent to Perform as a Subcontractor** form for each DBE shall constitute a representation by the Contractor to the Board that it believes the DBE to be certified as a DBE to perform the work as designated. It shall also represent a commitment by the Contractor that if it is awarded the Contract, it will enter into a subcontract with the DBE for the work described at the approximate price and percentage set forth in the **Intent to Perform as a Subcontractor** form.

4. If the DBE’s information or status changes after the form has been submitted but prior to award of the Contract, the Contractor must immediately notify BDDD of the change and a written explanation for the change by submitting a **Request for Approval of Change to Final Schedule of Subcontractors** form. No change in DBE participation after bid submission, but prior to Contract award, may change, or be deemed to change, the Contractor’s submitted bid amount. The MODIFICATION OR SUBSTITUTIONS section of the Policies shall govern the modifications and substitutions of the DBEs that occur after Contract award.

5. Except as authorized by BDDD, the Contractor shall enter into formal agreements with the DBEs listed on the **Final Schedule of Subcontractors** and **Intent to Perform as a Subcontractor** forms within ten (10) business days after receipt of the Contract executed by the Board or Notice to Proceed executed by the Board. If requested, the Contractor must provide the BDDD copies of those agreements within five (5) business days of the written request.

6. **Alternative Compliance Plan**
a. When the project design is not complete or at a level of completeness allowing for final competitive pricing proposals, BDDD’s may, in its sole discretion, require bidders or proposers for a construction or construction-related professional services Contract to submit a Compliance Plan in lieu of the above forms. The Compliance Plan shall be developed in accordance with the following requirements:

1) BDDD may require separate goals for project professional services and for project construction services, or a project aggregate goal. The Compliance Plan may be required to address the project professional services goal and project the construction goal, only the project construction goal or any project aggregate goal in BDDD’s discretion.

2) The construction goal shall be expressed as a percentage of either the total amount of any lump sum construction Contract awarded to complete a project, or in the alternative, the total estimated “cost of the work” as that term is defined in any guaranteed maximum price Contract awarded to complete a project.

3) The Airport department head shall provide a good faith estimate of the construction cost upon which a construction goal shall be set and the bidder or proposer must provide a refined estimate at the time of the submission of a proposed Compliance Plan, if the amount is not reflected in an executed Contract.

4) After consultation with the Department head or a designated representative, BDDD shall establish a timetable for submittal and review of the proposed Compliance Plan.

5) At BDDD’s sole discretion, it may require submission and review of a proposed Compliance Plan during the solicitation process as a solicitation submittal requirement or after the conclusion of the solicitation process as a component of Contract negotiations and award. Failure to comply with the submittal timetable may, at BDDD’s sole discretion, result in no further consideration of the proposed Compliance Plan and rejection of the proposal.

b. At a minimum, a proposed Compliance Plan must:

1) Comply with the Policies, including affirming that BDDD shall have prompt, full and complete access to all bidder or proposer and subcontractor personnel, books and records required to monitor and assure performance of the approved Compliance Plan and acknowledging the Board’s right to withhold payment in the event of non-compliance and subject the Contractor to other sanctions pursuant to the Policies.

2) Provide a detailed program for community outreach and support to enhance DBE opportunities.

3) Provide a detailed program describing how the bidders or proposers will divide up the anticipated work into economically feasible units calculated to enhance DBE opportunities.

4) Describe in detail how the bidders or proposers will make good faith
efforts to meet the project goal, including work that the bidders or proposers would normally self-perform, and provide for review, reconciliation milestones and audit opportunities for BDDD.

5) If the proposed Compliance Plan is based upon a phased or packaged buy out of the project construction work, the bidders or proposers will describe the process by which the bidders or proposers will address the project goal on a phased/package or cumulative basis.

6) Describe how the bidders or proposers will comply with the requirements herein as part of the subcontractor buyout of the construction work, including use of commitment forms, Schedule of Subcontractors, Intent to Perform and joint venture forms to adequately document committed participation attained.

7) Contain a specific acknowledgement of the bidder’s or proposer’s continuing duty to meet the requirements of the Policies. The Compliance Plan must detail how the proposer will make good faith efforts to maintain its DBE commitments.

8) Set forth how the bidders or proposers will comply with BDDD’s online reporting system for tabulation of participation performance and plan administration and for monitoring and reporting progress and participation performance to BDDD.

9) Recommend methods for supporting BDDD administration and oversight of the Compliance Plan.

10) Set forth a detailed methodology for issuance of notice(s) of non-compliance to the bidder’s or proposer’s subcontractors with the Compliance Plan and a reasonable opportunity to cure.

11) Set forth a detailed methodology for final reconciliation of participation performance, measured against the established goal and plan close out.

7. BDDD shall approve or initially reject, with comments, the proposed Compliance Plan. If the proposed Compliance Plan is rejected, the bidder or proposer may submit a revised Compliance Plan by a date set by BDDD. BDDD in its sole discretion may meet with the proposer to discuss any deficiencies that must be addressed in the revised Compliance Plan. If BDDD determines the revised Compliance Plan is insufficient to meet the requirements of the Policies, it shall notify the department head in writing of the rejection and the reasons for the rejection. BDDD’s determination shall be final and result in no further consideration of the proposal or, in the event a Contract has been awarded, in withdrawal of the award for cause. In no event shall a Contract to construct a project be executed or continue without an approved Compliance Plan.

G. PAYMENT

1. It is Board policy that all Contractor invoices submitted to it in compliance with the Contract will be paid by it within 30 days of its receipt.

2. All Contractors must comply with the Texas Prompt Pay Act (Chapter 2251; Texas Government Code) in paying all sums, including retainage withheld from subcontractors, to subcontractors, subconsultants, vendors, materialmen,
suppliers and similar persons or entities, including paying such persons or entities within 10 days of receiving payment from the Board their appropriate share of such payment. No Contractor that has received payment of an undisputed amount from the Board may withhold from any subcontractor its undisputed appropriate share of such payment.

3. No Contractor may withhold retainage from any subcontractor at a higher percentage rate than retainage is withheld by the Board from Contractor. Except for the Texas Prompt Pay Act requirement that a Contractor release retainage to a subcontractor within 10 days of that subcontractor’s invoice for retainage, each Contractor must withhold/release retainage from/to each subcontractor in at least the same manner as retainage is withheld/released by the Board from/to Contractor (and must include provisions in its subcontracts ensuring this), including, but not limited to mirroring the Board’s treatment of retainage withheld/released to Contractor concerning the following subjects:

a. the percentage amount of retainage withheld/released;

b. the schedule for withholding/releasing retainage;

c. the phased release of retainage according to any phased completion (substantial/final) of portions of the project;

d. the optional cessation of withholding retainage prior to substantial/final completion of, or final payment for, the project (e.g. optional cessation when 50% of project is substantially complete, with an owner’s right to resume withholding retainage upon the occurrence of certain events);

e. the release of retainage prior to final payment, less an amount withheld to cover a percentage of the value of punch-list work required before final completion is certified (e.g. retention of 200% of the value of punch-list work pending certification of final completion).

4. Each Contractor must address (and implement) in its subcontracts the subject of retainage so that each subcontractor is treated by the Contractor in the same manner as Board treats Contractor. Nothing in this provision precludes a Contractor from including in its subcontracts retainage provisions that are more favorable than those contained in the Contract between Board and Contractor, including, but not limited to, provisions withholding retainage at a lesser percentage rate, releasing retainage in part/whole earlier than retainage released by Board and/or withholding less retainage than Board withholds to cover the value of punch-list work required to be completed before final completion certification.

5. DFW encourages all Contractors and their subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities to make payment of invoices submitted to them more expeditiously than required under the Texas Prompt Pay Act.

6. Payment by a Contractor in violation of the terms of the Contract or applicable law will constitute a material breach of this Contract.
7. The Board may withhold progress payments until the Contractor demonstrates compliance with the payment terms of this Contract or applicable law, including withholding progress payments solely relating to monies payable to Contractor for work it self-performs or associated retainage.

8. The Board may also exercise any other rights or remedies available to it under this Contract or applicable law if Contractor fails to comply with the payment terms of this Contract or applicable law.

9. In an effort to remove the obstacle of the length of time for subcontractor payments on Board procurements, the Board has an Expedited Payment Policy for eligible Contractors that may elect to voluntarily participate in. This policy is applicable if a Contractor has been awarded a multi-year Contract for construction and/or maintenance services of at least $10,000,000 in Contract value. The Expedited Payment program requires those eligible Contractors that voluntarily participate in the program to pay their subcontractors within seven (7) calendar days after receipt of the subcontractor’s invoice. The Board would then pay interest and provide other incentives to the Contractor on eligible expedited payments according to the Expedited Payment Process and Policy. The terms for Expedited Payment will be negotiated prior to the issuance of the Notice to Proceed.

10. To ensure that the Contractor meets all its DBE contractual commitments, BDDD will review the Contractor’s DBE utilization throughout the term of the Contract, including any term extensions of the original Contract period. If a Contract includes a DBE contractual commitment, the Contractor must report all DBE payments using the BDDD’s online reporting system and submit a **Pay Period Activity Report (PPAR) (with verifying information)** concurrent with the Contractor’s submission of payment requests with each invoice. The information reflected on the PPAR will be utilized to provide constant monitoring of the payments made to the DBE as well as non-DBE subcontractors in relation to the percentage of work performed. Failure to include a required PPAR form with the invoice utilizing the Board’s online reporting system will result in the invoice being returned to the Contractor.

11. Contract Close Out: To ensure that the Contractor meets all its DBE contractual commitments, BDDD will review the Contractor’s DBE utilization throughout the term of the Contract, including any term extensions of the original Contract period, prior to receiving final payment. If a Contract includes a DBE contractual commitment, the Contractor must report all DBE payments using BDDD’s online reporting system and submit **Final Pay Period Activity Report (with verifying information)** concurrent with the Contractor’s submission of final payment request.

12. BDDD encourages all Contractors that may have a dispute with any subcontractor to attempt to resolve such dispute through appropriate formal or informal alternative dispute resolution procedures, including, but not limited to, negotiation, mediation, collaborative law, arbitration and/or conciliation, prior to seeking BDDD’s assistance in resolving the dispute. If any Contractor or subcontractor does seek BDDD’s assistance, it may require them to first attempt to resolve their dispute through appropriate alternative dispute resolution procedures and to provide BDDD with evidence of their good faith attempts to resolve the dispute as a condition of further assistance from BDDD.
H. MODIFICATIONS OR SUBSTITUTIONS

1. This Section applies to all subcontractor modifications, changes and substitutions under this Contract. The Contractor shall comply with this Section to the extent needed to achieve its DBE contractual commitment stated in its Commitment to Disadvantaged Business Enterprise (DBE) Participation form.

2. The Contractor understands that if change orders or any other Contract modifications are issued under the Contract, the Contractor shall have a continuing obligation to immediately inform BDDD in writing of any agreed upon increase or decrease in the scope of work of such Contract, regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

3. The Contractor agrees that if change orders or other Contract modifications are issued under the Contract that include an increase in the scope of work whether by amendment, change order, force account or otherwise which increases or decreases the dollar value of the Contract, whether or not such change is within the scope of work designated for performance by a DBE at the time of Contract award, then such amendment, change order or other modification shall be contemporaneously submitted to BDDD. The Contractor must make good faith efforts to meet its DBE contractual commitment. If the Contractor is unable to meet its DBE contractual commitment, it must submit a Request for Approval of Change to Final Schedule of Subcontractors, must be approved in writing by BDDD.

4. The Contractor cannot terminate or otherwise change the terms of its Final Schedule of Subcontractors prior to or after Contract award without the prior written consent of BDDD. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE or another DBE.

5. The Contractor must demonstrate good cause to terminate the DBE to the satisfaction of BDDD. Good cause includes the following circumstances:
   
a. The listed DBE subcontractor fails or refuses to execute a written Contract.
   
b. The listed DBE subcontractor fails or refuses to meet the Contractor’s reasonable, nondiscriminatory bond requirements.
   
c. The listed DBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness.
   
d. The listed DBE 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 state law.
   
e. BDDD has determined that the listed DBE subcontractor is not a responsible contractor.
   
f. The listed DBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal.
   
g. The listed DBE subcontractor is ineligible to receive credit for the type of work required.
h. The DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the Contract.

i. Other good cause as determined in BDDD’s sole discretion,

Good cause does not include where the Contractor seeks to terminate a DBE it relied upon to obtain the Contract so that the Contractor can self-perform the work or substitute another DBE or non-DBE subcontractor to perform the work for which the DBE was engaged or listed on the **Final Schedule of Subcontractors**.

6. The Contractor must give the DBE notice in writing, with a copy to BDDD, of its intent to request to terminate and/or substitute, and the detailed reasons for the request. The Contractor and the DBE must attempt to negotiate a resolution of the situation, and if the negotiation is unsuccessful, the Contractor must document this effort before the Contractor seeks BDDD’s approval to substitute the DBE.

7. Contractors must meet the above criteria and process before requesting prior written approval of any material change in the ownership, control, duties, functions and responsibilities of any DBE. The Contractor cannot make any changes to the **Final Schedule of Subcontractors** without the prior written consent of BDDD.

8. If the Contractor proposes to terminate or substitute a DBE subcontractor for any reason, the Contractor must make good faith efforts as defined herein to find a substitute DBE subcontractor for the original DBE to meet its DBE contractual commitment. Its good faith efforts shall be directed at finding another DBE to perform or provide at least the same amount of work, material or service under the Contract as the original DBE to the extent necessary to meet its DBE contractual commitment. The Contractor may also find additional DBEs and/or adjust the current/projected DBE participation to meet its DBE contractual commitment.

9. The Contractor must submit an **Intent to Perform as a Subcontractor** form for each proposed new DBE subcontractor. BDDD will approve or disapprove the substitution based on the Contractor’s documented compliance with these provisions.

10. All changes to the **Schedule of Subcontractors** form must be submitted for review and approval through the **Request for Approval of Change to Final Schedule of Subcontractors** form when adding, changing, or deleting any subcontractor.

11. If the Contractor does not comply with these provisions relating to the modification or termination of, and/or substitution for a DBE subcontractor, the Board may elect to apply Contract remedies as described in the Board’s Policies. Additionally, the Board may order the Contractor to forfeit the profits from the terminated portion of the DBE subcontract.

I. COMPLIANCE AND ENFORCEMENT

1. These Compliance and Enforcement Provisions address the additional contractual remedies available to Board as a result of Contractor’s failure to comply with the obligations set forth in the DBE Program requirements. The
contractual remedies set forth in the DBE Program are also applicable to the Contractor’s failure to comply with the Program requirements, as well as any remedies available at law or in equity. These remedies are not intended to apply to Contractor’s failure to comply with other obligations under the Contract unrelated to the Program requirements or preclude Board’s recovery of its actual damages for such unrelated breaches.

2. The Contractor must forward all necessary documents and information during the course of performance under this Contract and to close out the Contract and must cooperate with BDDD in providing any information, including the final accounting for DBE participation on the Contract.

3. BDDD is empowered to receive and investigate complaints and allegations by DBEs, third parties or Board Staff, or to initiate its own investigations, regarding Contractor’s compliance with the Program requirements. If BDDD determines that an investigation is warranted, the Contractor must fully cooperate with the investigation and provide complete, truthful information to the Board concerning the investigation and Contractor’s compliance with the Program requirements.

4. The failure of the Contractor to meet the DBE contractual commitment or comply with any other aspect of the Program requirements will constitute a material breach of the Contract entitling the Board to exercise any remedy available in this Contract, the Program requirements or applicable law.

5. The Board may report any suspected false, fraudulent or dishonest conduct relating to the Contractor’s performance of the Program requirements to the Board’s Department of Audit Services or to any applicable enforcement agency, including the State Attorney General’s Office and appropriate federal law enforcement authorities.

6. If Contractor is in breach of any of the Program requirements, the Board may exercise any of following remedies, in addition to any other remedies available to it under this Contract or at law or in equity:

   a. withholding funds payable under this Contract, including, but not limited to, funds payable for work self-performed by the Contractor or applicable retainage;

   b. temporarily suspending, at no cost to DFW, Contractor’s performance under the Agreement/Contract;

   c. termination of the Agreement/Contract;

   d. suspension/debarment, in accordance with applicable law, of Contractor for a period of time from participating in any solicitations issued by DFW for severity of breach of Contract.

7. With respect to DBE firms, a finding of non-compliance could result in a denial of certification or removal of eligibility and/or suspension and debarment.
Commitment to Disadvantaged Business Enterprise (DBE) Participation Form
(This form is required as part of the bid/proposal submission.)

The DBE goal for Solicitation/Contract #___________________________ is_______%.

NOTE: The BDDD will only credit DBE participation that is certified by an approved certification entity at the time of bid/proposal submission. Certification certificates must be included with bid submission or bid will be deemed non-responsive.

The undersigned Contractor has satisfied the requirements of the bid/proposal specifications in the following manner (Please check (✓) the appropriate space):

____ The Contractor is committed to meeting the DBE goal by self-performing as a DBE-certified Prime Contractor.

____ The Contractor is committed to a minimum of ____% DBE utilization on this contract utilizing subcontractor participation.

____ The Contractor is unable to meet the DBE goal of _____% and is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

____ The Contractor is unable to meet the DBE goal of _____% and submits documentation demonstrating good faith efforts.

Name of Prime Contractor:__________________________________________

__________________________________________
Signature

__________________________________________
Title

__________________________________________
Printed Name

__________________________________________
Date

DBE Commit Form_Updated 11/1/2012
**SCHEDULE OF SUBCONTRACTORS**\(^1\) (PRELIMINARY)

Prime Bidder/Contractor:___________________________

□ DBE  □ DBE  □ MBE  □ WBE  □ NON-D/S/M/WBE

Contract Name:___________________________

Contract/Solicitation Number:___________________________

As part of the procedures for the submission of a completed bid/proposal, all bidders/proposers are required to identify ALL participating subcontractors applicable to the above project and include this form as part of the bid. Check all Certification Status categories that apply to each subcontractor; however, only the *shaded category shall be credited towards the established diversity goal*. The submission of this information is considered an issue of responsiveness, and the Airport Board will not award a contract to any Contractor who has not supplied this documentation. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>Name of Subcontractor(s)</th>
<th>Certification Status(^2) (check the applicable)</th>
<th>Description of Material or Service Being Provided or Performed</th>
<th>Dollar Amount ($) and Percentage (%) of Work</th>
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<td>DBE</td>
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Dollar Amount & Percentage of Work to be completed by Non-DBE Subcontractors

Dollar Amount & Percentage of Work to be completed by DBE Subcontractors

Dollar Amount & Percentage of Work to be self-performed by the Prime

Total Dollar Amount & Percentage of Work

(The Total Amount shall equal the amount proposed on summary of bid/proposal page).

**NOTE:** Certification certificate(s) MUST be attached to this form or bid/proposal will be deemed non-responsive.

**PRIME CONTRACTOR’S CERTIFICATION**

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that if awarded the contract, this certification shall be attached thereto and become a part thereof. Failure to provide accurate and complete information or exercise positive, good faith efforts (as defined by the Board’s D/S/M/WBE Program) in support of the Board’s disadvantaged/small/minority/woman-owned business intent and objective may result in being considered non-responsive to the Board’s requirements. Furthermore, it is understood and agreed that, if awarded a contract by the Airport Board, the Contractor will not make additions, deletions or substitutions to this certified list of D/S/M/WBE subcontractors without the consent of the Board’s Vice President of Business Diversity & Development Department (BDDD) or designee through the submittal of the D/S/M/WBE Form 102, *Request for Approval of Change to Final Schedule of Subcontractors* if this is determined to be the final schedule. The BDDD reserves the right to ensure compliance with the Board’s D/S/M/WBE programs as deemed necessary including but not limited to audits of submitted D/S/M/WBE information applicable to the Contractor/subcontractors participating on the contract.

Name and Title of Authorized Representative ________________________________

(Please print or type) ________________________________ Date: ________________________________

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\(^1\) Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under contract to a prime Contractor on an Airport contract at any tier.

\(^2\) In order to credit the participation of disadvantaged/small/minority and woman-owned businesses, firms must be certified as D/S/M/WBEs by a certification agency approved by the Airport Board as defined in the D/S/M/WBE Policies and Administrative Procedures.

Form 90 Updated 10/1/2012
SCHEDULE OF SUBCONTRACTORS (FINAL)

Prime Bidder/Contractor:_____________________________________________

☐ DBE  ☐ SBE  ☐ MBE  ☐ WBE  ☐ NON-D/S/M/WBE

Contract Name:____________________________________________________

Contract/Solicitation Number:_________________________________________

As part of the procedures for the submission of a completed bid/proposal, all bidders/proposers are required to identify ALL participating subcontractors applicable to the above project and include this form as part of the bid. Check all Certification Status categories that apply to each subcontractor; however, only the shaded category shall be credited towards the established diversity goal. The submission of this information is considered an issue of responsiveness, and the Airport Board will not award a contract to any Contractor who has not supplied this documentation. Use additional sheets if necessary.

| Name of Subcontractor(s) | Certification Status \(^2\)  
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Dollar Amount & Percentage of Work to be completed by Non-DBE Subcontractors

Dollar Amount & Percentage of Work to be completed by DBE Subcontractors

Dollar Amount & Percentage of Work to be self-performed by the Prime

Total Dollar Amount & Percentage of Work
(The Total Amount shall equal the amount proposed on summary of bid/proposal page).

NOTE: Certification certificate(s) MUST be attached to this form or bid/proposal will be deemed non-responsive.

PRIME CONTRACTOR’S CERTIFICATION

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that if awarded the contract, this certification shall be attached thereto and become a part thereof. Failure to provide accurate and complete information or exercise positive, good faith efforts (as defined by the Board’s D/S/M/WBE Program) in support of the Board’s disadvantaged/small/minority/woman-owned business intent and objective may result in being considered non-responsive to the Board’s requirements. Furthermore, it is understood and agreed that, if awarded a contract by the Airport Board, the Contractor will not make additions, deletions or substitutions to this certified list of D/S/M/WBE subcontractors without the consent of the Board’s Vice President of Business Diversity & Development Department (BDDD) or designee through the submittal of the D/S/M/WBE Form 102, Request for Approval of Change to Final Schedule of Subcontractors if this is determined to be the final schedule. The BDDD reserves the right to ensure compliance with the Board’s D/S/M/WBE programs as deemed necessary including but not limited to audits of submitted D/S/M/WBE information applicable to the Contractor/subcontractors participating on the contract.

Name and Title of Authorized Representative________________________________

(Please print or type)

Signature:_________________________________________________ Date:________________________

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1 Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under contract to a prime Contractor on an Airport contract at any tier.

2 In order to credit the participation of disadvantaged/small/minority and woman-owned businesses, firms must be certified as D/S/M/WBEs by a certification agency approved by the Airport Board as defined in the D/S/M/WBE Policies and Administrative Procedures.

Form 90_Updated 10/1/2012

(rev 11/01/13) DBE Page 23 of 29
INTENT TO PERFORM CONTRACT AS A D/S/M/WBE SUBCONTRACTOR\(^1\) (Rev 10/1/2012)

The Airport requires that disadvantaged, small, minority and woman-owned businesses be certified as D/S/M/WBEs by an approved certification agency as defined in the DBE, SBE, and M/WBE Policy and Administrative Procedures. Effective 10/1/12, in addition to having a valid certification, MBEs, WBEs and SBEs must have a place of business in the Airport’s market area\(^1\) at the time of bid/proposal submission for credit towards meeting a contract goal.

1. Contract / Solicitation Number: _______________________________________________________
2. Name of Prime Contractor:___________________________________________________________
3. Address, City, State and Zip: _________________________________________________________
4. E-Mail Address:________________________ Telephone:________________________
5. The Prime Contractor designates the following person as their high-level official designated to administer and coordinate the efforts to carry out the D/S/M/WBE policy on behalf of the Prime Contractor: __________________________________________________________ (Name and Title)

The undersigned D/S/M/WBE subcontractor is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):

- [ ] The undersigned S/M/WBE subcontractor has a place of business in the Airport’s market area (✓ if applicable)
  1. Name of D/S/M/WBE Subcontractor:_____________________________________________________
  2. Address, City, State and Zip: _________________________________________________________
  3. E-Mail Address:________________________ Telephone:________________________
  4. Scope of Work: _________________________________________________________________
  5. Price:  $______________________________
  6. D/S/M/WBE Certification # __________________________ Certification Agency:________________
  7. 2\(^{nd}\) Tier Subcontracting: _____% of the proposed subcontract described above will be sublet and/or awarded to Non-D/S/M/WBE contractor(s).

(Signature of Owner, President or Authorized Agent) (Name) (Date)

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that as a duly authorized representative of the Prime Contractor stated above, I have personally reviewed the material and facts set forth in this form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true and the owner or authorized agent of the D/S/M/WBE firm stated above signed this form in the place indicated, and no material facts have been omitted. The undersigned affirms that the Prime Contractor has no ownership or financial interest in the D/S/M/WBE subcontracting firm stated above. Except as authorized by the Vice President of Business Diversity & Development Department or his designee, the undersigned shall enter into a formal agreement with the listed D/S/M/WBE firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by the Airport. The undersigned will, if requested, provide said Vice President or his designee a copy of that agreement within five (5) business days of the written request. Pursuant to State Law, any person [entity] who makes a false or fraudulent statement in connection with the participation of a D/S/M/WBE in any locally funded project or otherwise violates applicable program requirements may be referred for prosecution.

(Signature of Owner, President or Authorized Agent) (Name) (Date)

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\(^1\) Any named person, firm, partnership, corporation, association or joint venture, as herein provided, identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under Contract to a Prime Contractor on an Airport Contract at any tier.

\(^1\) The Airport’s market area is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties.
GOOD FAITH EFFORT PLAN

NOTE: Complete form and attach support documentation only if the DBE goal is not achieved.

The following factors are taken into account when assessing a good faith effort response. These factors are minimally considered as good faith efforts and demonstrate specific initiatives made in attempting to achieve the contract-specific DBE goal. These factors should not be considered as a template, checklist or some quantitative formula. Proposers are required to meet all factors outlined below and provide support documentation in order for the good faith effort plan to be assessed. CHECKING THE BOXES ONLY AND NOT SUBMITTING PROPER SUPPORT DOCUMENTATION IS NOT EVIDENCE OF A PROPER DEMONSTRATION OF GOOD FAITH EFFORT. SUBMITTAL OF THE CHECKLIST, WITH NO ADDITIONAL DOCUMENTATION, WILL NOT BE CONSIDERED ADEQUATE DEMONSTRATION OF GOOD FAITH EFFORT. Proposers are not limited to these particular areas and may include other efforts deemed appropriate.

<table>
<thead>
<tr>
<th>GOOD FAITH EFFORT FACTORS</th>
<th>Yes (√)</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whether the Contractor attended any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities for DBE participation (acceptable documentation shall include copies of the meeting sign-in sheets with Contractor name noted as signed-in)</td>
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<tr>
<td>Whether the Contractor advertised in general circulation, trade association, and/or DBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);</td>
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<tr>
<td>Whether the Contractor provided written notice via email or facsimile to a reasonable number of DBEs and/or contacted a reasonable number of DBEs via telephone about the subcontracting/supplier opportunities. (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email);</td>
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<tr>
<td>Whether the Contractor solicited DBEs at least five (5) business days prior to bid opening and whether the Contractor followed up those initial solicitations of interest by contacting DBEs at least three (3) business days prior to bid opening to determine with certainty whether the DBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt);</td>
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<tr>
<td>Whether the Contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals including, where appropriate, breaking down the Contract into economically feasible subcontracts to facilitate DBE participation. (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for DBEs to bid/quote);</td>
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<tr>
<td>Whether the Contractor provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract or adequate information about the locations of the plans, specifications, scope of work and requirements of the Contract (such access shall be provided at least five (5) business days before bid date or proposal submission);</td>
<td></td>
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<tr>
<td>Whether the Contractor fairly investigated and evaluated the interested DBEs’ regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation. Also, whether the Contractor provided verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized DBE because the DBE was not qualified. (Appropriate steps may be demonstrated with a summary matrix that identifies all bidders/proposers, evaluation criteria, assessments, conclusions and verifications);</td>
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<tr>
<td>Whether the Contractor negotiated in good faith with interested DBEs regarding price, using</td>
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</tbody>
</table>

(rev 11/01/13) DBE Page 25 of 29
good business judgment and not rejecting reasonable quotes from interested DBE firms. Also, whether the Contractor provided written documentation why the Contractor and each of the DBEs contacted did not succeed in negotiating an agreement. (Good faith negotiation shall mean scheduled meaningful discussions that demonstrably seek to find reasonable ways to utilize the DBE on the Contract);

Whether the Contractor made efforts to assist interested DBEs in obtaining Board or Contractor-required bonding, lines of credit, insurance, etc.;

Whether the Contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;

Whether the Contractor effectively used the services of available minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of DBEs (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email, list(s) of DBEs identified, marketing brochure or flyers);

Whether the Contractor obtained written documentation from the Board’s approved Surety Support Consultant, if applicable, or from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Contractor-required bonding. Documentation furnished by a surety company will be subject to verification by BDDD.

Whether other Contractors have attained a sufficient level of DBE participation to meet the Contract goals will also be taken into consideration in determining whether the Contractor has made a good faith effort.

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I FURTHER UNDERSTAND AND AGREE THAT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONCESSION CONTRACT.

NAME AND TITLE OF AUTHORIZED OFFICIAL:

________________________________________

SIGNATURE: _________________________________________________________

DATE: _________________________________

FOR DFW BUSINESS DIVERSITY & DEVELOPMENT USE ONLY:

Plan Reviewed by: ______________________________________________________

Date: _________________________________

Signature of D/S/M/WBE Liaison: _________________________________________

Recommendation: Approval: ___________________ Denial: ___________________

GFE Plan_Updated 11/1/2012
REQUEST FOR APPROVAL OF CHANGE TO ORIGINAL SCHEDULE OF SUBCONTRACTORS

Contract/Solicitation Number __________________________________________________________

Project Name _____________________________________________________________

Contractor Name ____________________________________________________________, requests approval of the following addition(s) and/or deletion(s) on the SCHEDULE OF SUBCONTRACTORS (D/S/M/WBE Form No. 90), as originally submitted as part of the bid on the above named project.

### CHANGE

<table>
<thead>
<tr>
<th>ADD</th>
<th>DELETE</th>
<th>COMPANY NAME</th>
<th>TRADE</th>
<th>D/S/M/WBE STATUS</th>
<th>DOLLAR AMOUNT</th>
<th>INTENT TO PERFORM</th>
</tr>
</thead>
<tbody>
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</table>

### JUSTIFICATION

Note: the proposed change(s) must be based on good cause. The Contractor must list and explain in detail its good cause for the change. Attach additional sheets as necessary. Good cause is limited to the following circumstances: 1. The listed D/S/M/WBE subcontractor fails or refuses to execute a written contract. 2. The listed D/S/M/WBE subcontractor fails or refuses to meet the Contractor’s reasonable, nondiscriminatory bond requirements. 3. The listed D/S/M/WBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness. 4. The listed D/S/M/WBE is ineligible to work on Airport projects because of suspension and debarment proceedings pursuant to federal or state law or other applicable laws or regulations. 5. BDDD has determined that the listed D/S/M/WBE subcontractor is not a responsible contractor. 6. The listed D/S/M/WBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal. 7. The listed D/S/M/WBE subcontractor is ineligible to receive credit for the type of work required. 8. The D/S/M/WBE owner dies or becomes disabled with the result that the listed D/S/M/WBE subcontractor is unable to complete its work on the contract.

### CERTIFICATION OF AFFIDAVIT

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that this certification shall become a part of my contract with the Dallas/Fort Worth International Airport Board.

Name and Title of Signer: ____________________________________________

(Please print or type)

Signature __________________________ Date: ______________

Routed To: __________________________ Approved by: __________________________

(Check One)  
_____ Airport Development & Engineering Dept.  
_____ Procurement & Materials Management Dept.

Vice President or Designee  
Business Diversity & Development Dept.

Form 102_Updated 10/1/12

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Note: Two (2) original copies of the PPAR must be attached to each invoice submitted for payment. Failure to attach a PPAR may result in a delayed payment process.

**DISADVANTAGED/SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE (D/S/M/WBE) PROGRAM**

**Pay Period Activity Report (PPAR)**

<table>
<thead>
<tr>
<th>Reporting Period for the Month</th>
<th>20</th>
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<tbody>
<tr>
<td>Invoice Date</td>
<td></td>
</tr>
</tbody>
</table>

**Prime Contractor/Consultant Name:**

**Address:**

**Contract Number:**

**Project Title:**

**Supplemental Agreement No.:**

**Pay Request Number:**

List all Subcontractors/Subconsultants Awards and/or Purchases Made on this Project as of this Reporting Period

<table>
<thead>
<tr>
<th>Subcontractor/Consultant/Vendor Name</th>
<th>Certified</th>
<th>Description of Services</th>
<th>Committed Amount</th>
<th>$ Paid Through Reporting Date</th>
<th>Monthly Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>D/S/M/WBE</td>
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<tr>
<td>Non-M/WBE</td>
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</tbody>
</table>

(Use additional sheets if necessary)

**TOTALS**

**Prime Contractor/Consultant MONTHLY Summary**

<table>
<thead>
<tr>
<th>A. Prime Participation</th>
<th>Monthly $</th>
<th>Monthly %</th>
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</thead>
<tbody>
<tr>
<td>B. D/S/M/WBE Subs Participation &amp; Percentage Paid</td>
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<td></td>
</tr>
<tr>
<td>C. Non-D/S/M/WBE Subs Participation &amp; Percentage Paid</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Total Paid to Date for this Month</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Prime Contractor/Consultant CUMULATIVE Dollar Amount Paid Through Reporting Period**

<table>
<thead>
<tr>
<th>E. Prime Participation</th>
<th>Cumulative $</th>
<th>Cumulative %</th>
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</thead>
<tbody>
<tr>
<td>F. D/S/M/WBE Subs Participation &amp; Percentage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>G. Non-D/S/M/WBE Subs Participation &amp; Percentage</td>
<td></td>
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</tr>
<tr>
<td>H. Total Paid to Date &amp; Percentage</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Authorized Signature**

**Title**

**Date**

**Telephone No.**

**Fax No.**

**E-Mail**

(rev 11/01/13) DBE Page 28 of 29
Note: Two (2) original copies of the FINAL PPAR must be attached to the FINAL INVOICE submitted for payment. Failure to attach this document may result in a delayed payment process.

DISADVANTAGED/SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE (D/S/M/WBE) PROGRAM
FINAL Pay Period Activity Report (PPAR)

Reporting Period for the Month _________________ 20 __________ Invoice Date _______________________

Prime Contractor/Consultant Name: ____________________________ Current Contract Value: ____________________________

Address: __________________________________________________________

Contract Number: ____________________________ Project Title: ____________________________

Supplemental Agreement No.: ____________________________

Pay Request Number: ____________________________

List all Subcontractors/Subconsultants Awards and/or Purchases Made on this Project as of this Reporting Period

<table>
<thead>
<tr>
<th>Subcontractor/Subconsultant/Vendor Name</th>
<th>Certified D/S/M/WBE</th>
<th>Description of Services</th>
<th>Committed $</th>
<th>$ Paid Through Reporting Date</th>
<th>$ Projected Final Payment (Cumulative Total)</th>
</tr>
</thead>
</table>

(Use additional sheets if necessary)

TOTALS

Prime Contractor/Consultant CUMULATIVE TOTALS

Dollar Amount Paid To Date

A. Prime Participation (Inclusive of Final Payment)
B. D/S/M/WBE Subs Participation & Percentage (Inclusive of Final Payment)
C. Non-D/S/M/WBE Subs Participation & Percentage (Inclusive of Final Payment)
D. Project Contract Total Upon Receipt of Final Payment

Cumulative $    Cumulative %
100.00%

Authorized Signature: ____________________________ Title: ____________________________ Date: ____________________________
Telephone No.: ____________________________ Fax No.: ____________________________ E-Mail: ____________________________
Dallas/ Fort Worth International Airport
Business Diversity & Development Department

**SAMPLE** CONSTRUCTION CONTRACT COMPLIANCE PLAN
FOR DBE PARTICIPATION

**NAME OF CONTRACTOR**
**NAME OF PROJECT**
**CONTRACT/SUPPLEMENTAL AGREEMENT NUMBER**

SECTION 1: INTRODUCTION ................................................................. 1
SECTION 2: KEY PERSONNEL ............................................................. 2
SECTION 3: STRUCTURING BID PACKAGES FOR DBE PARTICIPATION ....... 2
SECTION 4: COMMUNITY OUTREACH EFFORTS AND ADVERTISING TO DBE CERTIFIED FIRMS: .......................................................... 6
SECTION 5: DBE PARTICIPATION; MAINTAINING COMMITMENTS ............. 6
SECTION 6: COMPLIANCE DOCUMENTS AND REPORTING ...................... 8
SECTION 7: PLAN ADMINISTRATION; MONITORING; CLOSEOUT .............. 9
SECTION 8: NON-COMPLIANCE; SANCTIONS; REMEDIATION PLAN ......... 9
SECTION 9: MEDIATION ................................................................. 11
SECTION 1: INTRODUCTION

A. [NAME OF COMPANY] (the “Contractor”) submits this Compliance Plan to the Vice President of the Business Diversity and Development Department (“Vice President”), as required by the Contract Provisions, in accordance with DBE Policy and Administrative Procedures Manual. For purposes of this Compliance Plan a Contractor is defined as a Construction Manager at Risk (CMAR), Job Order Contractor (JOC), First-tier Subcontractor, Design/Build or Design to Build Contractor, or Construction Manager/General Contractor (CM/GC) that operates as a Prime Contractor.

B. Under DFW’s Policy and Administrative Procedures (the “DBE Procedures”),

☐ the DBE participation commitment for this contract is [commitment percentage] % for construction.

The good faith solicitation level is 100%.

C. The Contractor is committed to compliance with the DBE Administrative Procedures in its performance of the Contract. The Contractor will continually pursue a level of DBE participation that equals or exceeds [commitment percentage] % of the total dollar amount under the Contract.

D. Because of the delivery method used for this Project, the work was not ready for subcontracting at the time when the Contractor was awarded the Contract. Therefore this Compliance Plan provides for the DBE solicitation and subcontracting to be performed after contract formation. The process by which the Contractor will solicit, obtain, count and maintain participation by DBE firms for this Project under this Compliance Plan will be same as the DBE Administrative Procedures requires for “typical” construction contracts.

E. This Compliance Plan describes how the Contractor will address the project goal at the point where the project work is sufficiently defined that the process of obtaining subcontractors and suppliers can begin, by committing to utilize
DBEs for the Project work, using the good faith efforts as defined by the DBE Administrative Procedures.

F. The delivery method for this project under the Contract is [design/build, CM/GC, CMAR, or JOC].

G. The Contractor [will OR will not] deliver the construction work in phases. [If the work will be delivered in phases, Section 3 below describes the Contractor’s plan to meet the project goal as it relates to such phases.]

SECTION 2: KEY PERSONNEL

[NAME], [telephone number], [email address], has been assigned as the Project Manager for this Contract. The Project Manager is responsible for the overall management of the Contractor’s performance of the Project.

Identify other key staff that will be responsible for carrying out the Compliance Plan, and for contract administration for subcontractors and suppliers, etc. The following are examples, to be tailored to the Contractor’s situation:

[NAME], [telephone number], [email address], is the [title], who reports to the [Project Manager] and is responsible for compliance with this Compliance Plan, outreach and coordination activities, and maintaining appropriate records to ensure that goals are met.

[NAME], [telephone number], [email address], is the [title], who will administer subcontracts and ensure that all documentation required by BDDD is prepared and maintained. [NAME] will coordinate the collection of BDDD documentation and monthly payroll reports from all subcontractors and suppliers, including but not limited to DBEs.

SECTION 3: STRUCTURING BID PACKAGES FOR DBE PARTICIPATION

A. The Contractor has identified preliminarily the following separate packages of work to be subcontracted:

[Display the information in chart form. Examples are provided below for your use. Customize the form so that it provides the information specific to your project. The total at bottom needs to be the contract total. Showing subtotals along the way for completely different types of work is acceptable. The overall DBE commitment is the percentage stated on page 1.]
## INDIVIDUAL BID PACKAGE - GOAL SCHEDULE CHART
### (Complete chart for each bid package)

<table>
<thead>
<tr>
<th>Supplemental Agreement No.</th>
<th>Bid Package No.</th>
<th>Package Name</th>
<th>Contract Scope Value</th>
<th>Estimated Potential DBE Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of Work Description</td>
<td>Tier</td>
<td>Estimated Value of Work $</td>
<td>Estimated Value %</td>
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### INDIVIDUAL BID PACKAGE - GOAL SCHEDULE CHART
### (Complete chart for each bid package)

<table>
<thead>
<tr>
<th>Supplemental Agreement No.</th>
<th>Bid Package No.</th>
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<th>Contract Scope Value</th>
<th>Estimated Potential DBE Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of Work Description</td>
<td>Tier</td>
<td>Estimated Value of Work $</td>
<td>Estimated Value %</td>
<td>Estimated Value of Work $</td>
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<td>Total – Potential M/WBE Construction Services</td>
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<td>%</td>
<td>$</td>
<td>%</td>
</tr>
</tbody>
</table>
### AGGREGATE PROJECTIONS - GOALS SCHEDULE CHART
(Complete chart for the aggregate Contract. Insert additional rows as needed)

<table>
<thead>
<tr>
<th>BID PACKAGE NAME &amp; NUMBER</th>
<th>APPROXIMATE TOTAL DOLLAR VALUE $</th>
<th>% OF TOTAL CONTRACT</th>
<th>ASSIGNED DBE GOAL %</th>
<th>ANTICIPATED RESULTING DBE PARTICIPATION %</th>
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<td>TOTAL</td>
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</tbody>
</table>
B. These packages will be reviewed and refined as the work for the Contract is further defined and ready for the process of subcontracting. Specifically, prior to advertising any package of work for bids or proposals, the Contractor will review the work in detail, to determine the types of work that can be performed by DBE firms, with reference to BDDD’s database and Directory of certified DBE firms, and will adjust its subcontracting packages to maximize opportunities for DBE participation in such subcontracting, within economically feasible packages.

C. The Contractor has the following preliminary schedule for issuance of each bid package:

[List]

D. [Identify any specific issues or potential issues with the contract’s scope of work and how the Contractor will address them - specialized work items, etc.]

E. [State whether the Contractor will prequalify any subcontractors. If prequalification will be used, identify all subcontracts for which the Contractor will prequalify subcontractors, and explain the prequalification process that will be used.]

F. The Contractor may pursue different percentage goals for DBE participation in each separate package of work put out for bids, based on the types of work and availability of certified DBE firms. However, the Contractor is committed to the overall [commitment percentage] % DBE participation in the total construction work amount.

G. The Contractor may consider, in order to maximize DBE participation, subcontracting the following types of work which it might ordinarily self-perform:

[List]
SECTION 4: COMMUNITY OUTREACH EFFORTS AND ADVERTISING TO DBE CERTIFIED FIRMS:

The Contractor will conduct the following outreach efforts:

A. Contractor will use the DFW DBE Directory and encourage all non-DBE subcontractors to use the Directory when soliciting any of their own subcontractors or suppliers for the project.

B. If during outreach efforts, Contractor locates a firm which appears to be eligible for DBE certification but is not so certified, Contractor will direct the firm to BDDD and encourage the firm to pursue certification if eligible.

C. When it has work packages ready for subcontracting, the Contractor will publish notices in [identify publications] and other local publications and websites, identifying the subcontracting opportunities and specifically soliciting DFW-certified DBE participation. The Contractor will also provide notice of all such solicitations to relevant DBE advocacy organizations such as, but not limited to, [identify DBE advocacy organizations]. Notices will be published or provided no less than 10 calendar days before bids are due on the work.

D. Contractor will conduct at least one pre-bid meeting, as announced in published notices, which all interested subcontractors and suppliers may attend, at which the Contractor will present information and answer questions about the work.

E. [Identify any additional efforts or initiatives the Contractor will carry out.]

F. [Describe the bid/proposal process that will be used.]

G. The Contractor will send to each bidder/proposer, a Notice of Selection for each subcontract for which it solicited DBE participation, no later than 30 days after it has entered into the subcontract, so that unsuccessful bidders/proposers are aware of the result of the bid/proposal process.

SECTION 5: DBE PARTICIPATION; MAINTAINING COMMITMENTS

A. When issuing each work package for bid under the Contract, the Contractor will make a good faith effort to meet or exceed the goal percentage of DBE participation which it has identified for that package. The minimum level of these efforts is specified in Good Faith Efforts section of the Policy and Administrative Procedures Manual. They may include, but will not be limited to, the outreach activities identified in Section 4 above.
B. When requested by BDDD, the Contractor will submit bid packages to BDDD for review and comment. When requested by BDDD, the Contractor will submit bid tabulation sheets to BDDD for review.

C. The Contractor will report to BDDD the total DBE participation obtained for each bid package. No later than 5 days after issuing Notice to Proceed for such work, the Contractor will submit to BDDD, for each DBE subcontractor or supplier with whom it contracts, an Intent to Perform and other documentation, in accordance with Section 6 below.

D. The Contractor will document its efforts to obtain DBE participation for each work package, and submit such documentation to BDDD upon request by BDDD at any time. The Contractor acknowledges that it may meet or exceed a percentage goal for DBE participation on one or more work packages, but fall short of meeting the participation goal for the total construction contract amount. Therefore the Contractor must be able to demonstrate its good faith effort, consistent with the DBE Policy and Administrative Procedures Manual to obtain DBE participation for each bid package under the contract, except for bid packages which are subject to a “modified good faith effort” in which case the Contractor must be able to demonstrate its compliance with the requirements described therein. Section IX of the DBE Policy and Administrative Procedures Manual (Good Faith Efforts to Meet Contract Goals) is attached to this Compliance Plan as Attachment 1, for convenient reference.

E. The DBE participation percentage will be calculated by dividing the total value of the DBE participation by the total contract amount for the project, including all change orders. The Contractor will count DBE participation according to the Preliminary or Final Schedule of Subcontractor.

F. As required by BDDD Policy and Procedures Manual, the Contractor shall immediately inform the BDDD in writing of any agreed-upon increase or decrease in the scope of work of the Contract, regardless of whether it has been reduced to writing at the time of notification. Any increase in the scope of work which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MBE or WBE under any subcontract, shall be contemporaneously submitted to the BDDD. Those changes to the scope of work that cannot be performed by existing project participants (the Contractor, subcontractors, suppliers, etc.) shall be subject to a goal for DBEs equal to the original committed goal. The Contractor shall satisfy the goal for the changed scope of work by soliciting new DBEs in accordance with BDDD Policy and Procedures Manual, and it must show each element of modified good faith that is stated in the BDDD Policy and Procedures Manual. The Contractor shall provide to the Vice President the necessary documentation with respect to the increased dollar value of the contract.
G. The Contractor will comply with the provisions of Section XII as to the replacement of a DBE on the Project.

H. The Contractor acknowledges that it has a continuing duty, under BDDD Policy and Procedures Manual as it relates to Compliance with achieved project goal level required throughout the performance of the contract, project change orders, amendments, and modifications, to maintain, throughout the duration of the contract, compliance with the level of DBE participation committed to under any approved compliance plan, and that such commitment is a material condition of the Contract. Contractor also acknowledges it thoroughly understands and agrees to Section XIII (Compliance and Enforcement) of the DBE Administrative Procedures Manual.

SECTION 6: COMPLIANCE DOCUMENTS AND REPORTING

A. The Contractor will submit the following documentation, properly completed and submitted monthly or when otherwise required by BDDD.

1. Final Schedule of Subcontractors*
2. Certification Certificates
3. Intent to perform
4. B2G online payment verification

(*due at NTP + 5 days; revisions as required)

B. The Contractor will document its progress in seeking and obtaining DBE participation as required by BDDD. Records of the Contractor’s efforts to solicit DBE subcontractor and supplier participation, will be maintained and reported monthly to BDDD, or as otherwise required, including:

1. Dates of solicitation
2. Names, addresses and telephone numbers of all DBE firms contacted.
3. Description of efforts made to contact DBE firms.
4. Description of information provided to DBE firms.
5. Description of the process and outcome.
6. Advertisements soliciting bids from DBE firms in local community publications or construction industry related publications.
7. Schedules of pre-bid meetings to inform DBE and non-DBE subcontractors and suppliers of opportunities to participate.
8. Evidence that the Contractor provided DBE subcontractors and suppliers necessary access to and adequate time to review all project documents.
9. All other documentation required to establish the Contractor’s compliance with the good faith efforts requirements.
SECTION 7: PLAN ADMINISTRATION; MONITORING; CLOSEOUT

A. BDDD shall have prompt, full and complete access to all Contractor and subcontractor personnel, books and records required to monitor and assure performance of this Compliance Plan.

B. The Contractor’s personnel identified in Section 2 above will be responsible for administering and monitoring the Contractor’s performance of this Compliance Plan.

C. Actual DBE participation will be calculated in accordance with the DBE Administrative Procedures. The Contractor will submit to BDDD a monthly tracking report demonstrating the DBE participation that has been achieved.

D. The following milestones for review and reconciliation of DBE participation will be observed during the contract:

[Outline Milestones]

E. The Contractor acknowledges that DFW may impose monetary sanctions and/or withhold payment in the event of Contractor’s non-compliance with the DBE Administrative Procedures and this Compliance Plan.

F. The Contractor will use the following methodology for final reconciliation of DBE participation performance achieved during the Contract term, measured against the established project goal. The Contractor will present copies of all signed BDDD Final Lien Release forms for DBE firms utilized for participation on the Contract. BDDD will compare the Final Monthly Participation Report submitted by the Contractor to determine if the Final Lien Release dollar figures match what is contained within the Final Monthly Participation Report. Final Compliance shall be achieved when the Contractor establishes to the Vice President’s satisfaction, that it has remitted payments to DBE firms utilized on the Project; that it utilized DBE firms in accordance with each such firm’s Intent to Perform; and that the amount of payments to DBE firms equals or exceeds the assigned DBE goal for the total amount of the Contract. Failure of the Contractor to meet the DBE contractual commitment or comply with any other aspect of the DBE Program requirements will constitute a material breach of the Contract entitling the Board to exercise any remedy available in this Contract, the Program requirements or applicable law.

SECTION 8: NON-COMPLIANCE; SANCTIONS; REMEDIATION PLAN

A. At all times, BDDD shall monitor the Contractor’s compliance with this Plan and the DBE Administrative Policy and Procedures. The Contractor shall fully
cooperate with BDDD’s compliance monitoring and auditing efforts, including BDDD’s investigation of any alleged or suspected non-compliance by the Contractor.

B. If the Vice President has reason to believe that the Contractor is not in compliance with this Plan or with the DBE Administrative Procedures, the Vice President shall give the Contractor written notice of non-compliance, citing the reasons why the Contractor is not in compliance, and giving the Contractor thirty (30) days in which to submit a remediation plan for the Vice President’s review and acceptance. The remediation plan shall demonstrate how the Contractor will cure such non-compliance, and if such non-compliance consists of failure to obtain or maintain DBE participation at the committed level, that the Contractor’s DBE participation level will again achieve the committed level, and that the Contractor will ultimately achieve the committed participation goal for the contract.

C. The Contractor shall, within such thirty (30) day period, deliver to the Vice President a written remediation plan for the Vice President’s review and approval.

D. The Vice President may issue a written determination of non-compliance and the sanction which the Vice President has elected to impose as a consequence:

1. If the Contractor does not respond within the time allowed; or
2. If the Contractor fails to submit a satisfactory remediation plan; or
3. If a Contractor submits an acceptable remediation plan but thereafter fails to comply with the plan.
SECTION 9: MEDIATION

The Contractor will provide a process to resolve disputes that occur between a DBE and any non-DBE subcontractors or suppliers under the Contract. The Contractor will document such disputes and inform BDDD of the steps the Contractor plans to take to resolve the dispute. The Contractor may ask BDDD to assist in the resolution process it has developed. The Contractor will document and notify BDDD if those disputes have been resolved and inform BDDD of any disputes it was unable to resolve. BDDD will notify the Contractor of any complaints received by BDDD from DBE firms regarding a dispute they are experiencing with either a subcontractor or the Contractor.
SECTION IX. GOOD FAITH EFFORTS TO MEET CONTRACT GOALS

A. Determining Good Faith Efforts

1. Each Contractor must comply with the terms and conditions of the Policies in making its bid or proposal and, if awarded the Contract, in performing all work thereunder. A Contractor’s failure to comply with any Rules or Regulations promulgated pursuant thereto, or any additional requirements contained herein may render a bid or proposal non-responsive and may constitute cause for rejection.

a. Responsive; compliance with requirements. If a bid/proposal meets the contract-specific goal or shows an adequate good faith effort in accordance with the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as responsive.

b. Non-Responsive; failure to meet requirements. If a bid/proposal subject to a contract-specific goal does not meet the goal or show an adequate good faith effort, or provide the necessary documentation or forms outlined in the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as non-responsive. Such determination shall result in no further consideration of the bid/proposal by the Airport.

1) Informal meeting. If BDDD finds the bid/proposal non-responsive in accordance with the above, the non-responsive bidder/proposer may request an informal meeting with the Vice President or designee within two (2) business days from the date that the Airport notifies the bidder/proposer of the inadequacy of the proposal. Such meeting shall be scheduled by BDDD. All deficiencies in the bid/proposer shall be explained to the bidder or proposer at such meeting after which the bidder/proposer shall be allowed to clarify the original documentation submitted. BDDD will at no time, however, allow additional information, documentation, certification certificates, subcontractors, joint venturers, suppliers, manufacturers, manufacturer's representatives or brokers that may later be added to the contract or to the original participation submitted at the time of the bid or proposal to be counted toward meeting of the project goal. If after this informal meeting the Vice President still finds the bid or proposal to be non-responsive, the Vice President or designee’s decision shall stand with no further consideration.
2. Under the Policies, BDDD establishes a contract-specific goal for each Contract. The specific goal for this Contract is stated in the Advertisement and Invitation to Bid. In order to comply with the bid/proposal requirements of the Policies, a Contractor must either meet the DBE Contract Specific Goal or demonstrate that the Contractor has made sufficient good faith efforts to meet the Contract Specific Goal. If the Contractor will not meet the DBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to BDDD that it has made good faith efforts to meet the DBE goal. This good faith effort documentation must be submitted with the Contractor’s bid or proposal.

3. A Contractor cannot require exclusive subcontracting or teaming arrangements or agreements with subcontractors.

4. For Contracts awarded using the procurement methods of Indefinite Delivery, Construction Management-at-Risk or Design Build, the Vice President of BDDD may determine the requirements to address the Contract goal by means of a Compliance Plan for utilization of DBEs on such Contract, or for alternative demonstration of good faith efforts by the Proposer. The development, scope and utilization of such compliance plans shall be addressed in a separate document.

5. In evaluating a Contractor’s good faith effort submission, BDDD will only consider those documented efforts that occurred prior to the good faith efforts submission.

6. The submission of good faith efforts documentation is a matter of responsiveness and shall include a specific response to each of the following criteria with the bid or proposal. Checking the boxes for each criterion on the Good Faith Effort Plan with no additional support documentation is not evidence of a proper good faith effort. A Contractor shall supplement its responses to include any additional information with the bid or proposal the Contractor believes may be relevant. Failure of the Contractor to demonstrate adequate good faith efforts as to any one of the following categories shall render the overall good faith showing insufficient and the bid/proposal non-responsive. The required DBE good faith efforts are set forth below:

   a. Whether the Contractor attended any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities for DBE participation (acceptable documentation shall include copies of the meeting sign-in sheets with Contractor name noted as signed-in);

   b. Whether the Contractor timely advertised in general circulation, trade association, and/or DBE-focused media concerning
subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);

c. Whether the contractor provided written notice via mail or facsimile no fewer than 5 business days before the bid or proposal is due to a reasonable number of DBEs and/or contacted a reasonable number of DBEs via telephone about the subcontracting/supplier opportunities. A “reasonable number of DBEs” is based on the number of DBEs available in the areas of subcontracting or supplier opportunities (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email);

d. Whether the Contractor solicited the DBEs at least 5 business days prior to bid submission, exclusive of the day the bids are opened, to allow DBEs to participate effectively. Also, whether the Contractor followed up those initial solicitations of interest by contacting DBEs at least three (3) business days prior to bid opening to determine with certainty whether the DBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt);

e. Whether the Contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal, including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate DBE participation. This includes portions of the work to be performed by DBEs the Contractor would otherwise prefer to perform with its own workforce. The ability or desire of a Contractor to perform the services of a contract with its own workforce does not relieve the Contractor of the responsibility to meet the contract goal or demonstrate good faith efforts to do so (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for DBEs to bid/quote);

f. Whether the contractor provided interested DBEs with the adequate information about the plans, specifications, scope of work and requirements of the contract or adequate information about the locations of the plans, specifications, scope of work and requirements of the contract (such access shall be provided at least five (5) business days before bid date or proposal.
g. Whether the Contractor fairly investigated and evaluated the interested DBEs' regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation. Also, whether the Contractor provided verification, including a statement giving the Contractor's reasons for its conclusion, that it rejected each non-utilized DBE because the DBE was not qualified. Qualifications must be based on factors other than solely the amount of the DBE's bid. A Contractor may not reject a DBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the DBE's capabilities and expertise (Appropriate steps may be demonstrated with a summary matrix that identifies all bidders/proposers, evaluation criteria, assessments, conclusions and verifications);

h. Whether the Contractor negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBEs. Also, whether the Contractor provided written documentation why the Contractor and each of the DBEs contacted did not succeed in negotiating an agreement (Good faith negotiation shall mean scheduled meaningful discussions that demonstrably seek to find reasonable ways to utilize the DBE on the contract);

i. Whether the Contractor made efforts to assist interested DBEs in obtaining Board or Contractor-required bonding, lines of credit, insurance, etc.;

j. Whether the Contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;

k. Whether the Contractor effectively used the services of available minority and women community organizations; chambers and contractor groups; local, state, and federal business assistance offices; and other organizations that provide assistance in identifying DBEs (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email, list(s) of DBEs identified, marketing brochure or flyers);

l. Whether the Contractor, if applicable, obtained written documentation from the Board’s approved Surety Support Consultant or a bona fide surety company indicating that bonding was denied prior to the DBEs being rejected as a potential submission);
subcontractor for failing to obtain Contractor-required bonding. Documentation furnished by a surety company will be subject to verification by BDDD; and

m. Whether other Contractors have attained a sufficient level of DBE participation to meet the Contract Goal will also be taken into consideration when determining whether the Contractor in question has made a good faith effort.

7. BDDD will review not only the different kinds of efforts the Contractor has made but also the quantity and quality of those efforts. Efforts that are merely pro forma are not good faith efforts to meet the goal, even if they are sincerely motivated. BDDD will also consider if, given all relevant circumstances, the Contractor’s efforts could reasonably be expected to produce a level of DBE participation sufficient to meet the Goal.

8. Whether or not the Contract Goal has been met and/or whether there were sufficient good faith efforts is considered a matter of the Contractor’s responsiveness. The requirement to submit documentation that the Goal has been met or good faith efforts documentation has been submitted in the manner prescribed by BDDD is considered a matter of the Contractor’s responsiveness. The Board will only award contracts to Contractors determined to be responsive and responsible. If a Contractor fails to submit good faith efforts documentation with the bid or proposal, it waives the right to appeal the good faith efforts decision. The Vice President of BDDD or designee shall determine whether the Contractor made the required good faith efforts to meet the Contract Goal and, if not, shall recommend that the Contractor be deemed non-responsive.

9. If a contractor desires a review of BDDD’s decision, it must file a written request for final reconsideration within 5 business days after receipt of the decision to the following Reconsideration Official:

Executive Vice President
Administration and Diversity
DFW Airport, 3200 East Airfield Drive
P.O. Box 619428, DFW Airport
Texas 75261-9428

10. As part of the reconsideration, the Contractor will have the opportunity to provide written documentation or argument concerning the issue of good faith.

11. The Contractor has a continuing obligation as a covenant of performance to meet the DBE utilization to which it committed at contract award,
inclusive of change orders, amendments, and modifications. If the Contractor during contract performance must replace a DBE for any reason, it must follow the provisions herein governing the substitution of DBEs and make documented good faith efforts to meet its original DBE contractual commitment. Such good faith efforts during contract performance must include, but are not limited to:

a. Solicitation of DBEs that are certified in the applicable area of work or specialty;

   1) Providing interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract;

   2) Fairly investigating and evaluating the interested DBEs’ regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation, and providing verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized DBE because the DBE was not qualified;

   3) Negotiating in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBEs and providing written documentation why the Contractor and any of the DBEs contacted did not succeed in negotiating an agreement; and

   4) Effectively using the services of available minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of DBEs

b. A Contractor determined not to have made good faith efforts to meet its DBE contractual commitments may request administrative review and final reconsideration by the Vice President of BDDD. The Contractor may elect to meet in person to discuss whether the Contractor made good faith efforts in accordance with the Policies. BDDD’s determination shall be final.
## Minority Owned Banks – State of Texas

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Monitoring and Enforcement Mechanisms

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

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.
Dallas/Fort Worth International Airport

Small Business Program
Developed as an Element of the Disadvantaged Business Enterprise (DBE) Program
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I. SMALL BUSINESS PROGRAM POLICY

Dallas/Fort Worth International Airport (DFW) has a long history of supporting small businesses, including small businesses owned by minority, women and disadvantaged individuals. This Small Business Program is designed to be implemented as an element of the Airport’s Disadvantaged Business Enterprise (DBE) Program with the goal of fostering participation by small businesses in contracting and procurement opportunities at DFW. The Program shall allow DFW to more effectively target small business participation and create opportunities relating to the Airport’s contracting and procurement.

DFW’s Small Business Program, as described herein, applies to certain federally funded contracts and expenditures. The program does not replace the DBE Program or otherwise operate as a substitute for the DBE Program. It operates as a race-and gender-neutral tool that may assist small businesses, including DBEs, to more fully participate in contracting opportunities at the Airport.

The Small Business Program shall not be used to discriminate against any company or groups of companies. Based on the recent Disparity Study, the Airport recognizes that special efforts must be made to include Small Businesses, Minority and Women Owned Businesses and Disadvantaged Businesses in the Airport’s contract and procurement activities. This Small Business Program is designed to create a level playing field on which small businesses can compete fairly.

The Small Business Program 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 Small Business Program shall utilize procedures that promote inclusion and opportunity, while maintaining race and gender neutral measures in their operations.

DFW is committed to ensuring that small businesses are offered an opportunity to participate equitably in the contracting and procurement process.

II. AUTHORIZATION

In accordance with the regulations governing the U.S. Department of Transportation (DOT) Disadvantaged Business Enterprise (DBE) Program, DFW is required to set triannual overall DBE goals for contracts that are funded in whole or in part with federal funds. DFW is obligated to meet the maximum feasible portion of its overall goal through race and gender neutral means of facilitating DBE participation. (49 CFR § 26.51).

In January, 2011, 49 CFR part 26 was amended and a section entitled “Fostering Small Business Participation” was added as follows:
§ 26.39 Fostering small business participation.

(a) Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

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

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

(2) In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”) requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

(3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

(4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

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

This Small Business Program has been developed in compliance with the above stated sections of 49 CFR part 26 and further guidance issued by DOT in December 2011.

III. NON-DISCRIMINATION

It is the policy of DFW, that the Airport, its contractors and subcontractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and
performance of contracts and subcontracts and to remove barriers for small businesses, including businesses owned by minority, women and disadvantaged individuals, to compete for contracts and subcontracts awarded by the Airport.

It is the policy of the DFW to support the growth and development of small businesses, including those owned by minority, women and disadvantaged individuals, that can successfully compete for prime contracting opportunities at the Airport.

This Small Business Program has been developed in furtherance of these policies.

IV. SMALL BUSINESS ENTERPRISE DEFINITION

For purposes of this Small Business Program, a Small Business Enterprise (SBE) shall be defined as follows:

An SBE, with respect to firms seeking to participate as SBEs in DFW’s Small Business Program, is 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 49 CFR part 26, §26.65(b).

The SBA size standards may be found at:

www.sbaonline.sba.gov/contractingopportunities/officials/size/table/index.html

V. SMALL BUSINESS ENTERPRISE CERTIFICATION

A firm who wishes to participate as an SBE on a project at DFW Airport and is not currently certified as a DBE or SBE by the Texas Department of Transportation (TxDOT) or one of the other certifying agencies of the Texas Unified Certification Program may apply for certification as an SBE by filing a SMALL BUSINESS ENTERPRISE (SBE) APPLICATION with TxDOT. Applications may be found on the Texas Department of Transportation website at:


VI. SMALL BUSINESS ENTERPRISE DIRECTORY

The Texas Department of Transportation currently maintains an SBE Directory on its website, www.TxDOT.gov. These firms are eligible to participate as SBEs in DFW’s Small Business Program.

The Texas Unified Certification Program Disadvantaged Business Enterprise (TUCP) DBE Directory may also be found on the TxDOT website and includes firms certified as
DBEs by any of the TUCP certifying agencies. These firms are also eligible to participate as SBEs in this Small Business Program.

**VII. SCOPE OF THE PROGRAM**

The intent of DFW’s Small Business Program is to provide full and fair opportunities for equal participation by small businesses in federally-funded Airport contracting and procurement opportunities.

The Small Business Program requires contractors to make good faith efforts to use small businesses in certain contracting and procurement opportunities determined by DFW Airport. Good faith efforts shall be measured utilizing guidance provided in 49 CFR part 26, Appendix A.

Every contract funded in whole or in part with federal funds is evaluated by the Airport’s Business Diversity & Development Department (BDDD) to determine the appropriate method for achieving DBE participation to count towards overall goals. For contracts determined to be appropriate for race neutral DBE participation (i.e. those contracts without DBE contract goals), various race neutral methods may be employed in an attempt to meet the race neutral portion of the overall goal. DFW may determine that an SBE goal is an appropriate race neutral measure to be used for certain contracts. The criteria used to set a race neutral SBE goal shall include small business capacity, small business availability, nature of the contract, past experiences with small business participation in similar contracts, price competitiveness, and subcontracting opportunities. SBE goals do not replace DBE goals, but merely provide an alternative race neutral method for achieving race neutral goals.

Procedures for implementation, including good faith efforts requirements, information submitted with bid and reporting procedures shall be consistent with procedures utilized in the Airport’s DBE Program under a race neutral environment. Good faith efforts to achieve a race neutral goal shall apply only when an SBE goal has been set for a project. Other race neutral methods, including those listed in 49 CFR part 26, §26.51, are not subject to good faith efforts on the part of the bidder.

The program also requires airport staff to consider unbundling of contracts when feasible. DFW seeks to avoid unnecessary and unjustified bundling of contract requirements that preclude small business participation in procurements as prime contractors. To achieve this, multi-trade projects estimated to exceed $5 million shall be reviewed for potential unbundling to provide for a reasonable number of opportunities available to facilitate participation by small businesses. The BDDD, in coordination with the airport department managing the federally funded project shall provide a recommendation for unbundling based on its determination that there are a sufficient number of qualified SBE firms available to compete to perform the contract(s) which would result from unbundling. The airport department managing the federally funded project shall have the opportunity to review the recommendation for unbundling to validate that the recommendation provides a viable economic opportunity for potential
bidders and to assess the impact on the overall project cost. If the recommendation is determined to be cost prohibitive or does not represent viable opportunities to potential bidders, the airport department managing the federally funded project may request a reassessment of the recommendation.

VIII. TRACKING SBE PARTICIPATION

DFW shall monitor and track participation by SBEs in federally-funded projects. Only small businesses that are also certified as DBEs shall be counted, as race-neutral participation, towards the Airport’s overall DBE goal. Participation by SBEs who are not certified as DBEs shall be tracked, but not reported to the FAA. Race- and gender-neutral DBE participation obtained through the Small Business Program shall be included in the Airport’s annual Report of Accomplishments and shall be calculated by dividing the total dollars to DBEs achieved through the small business program by the total federal dollars.

IX. COMPLIANCE PROCEDURES

Monitoring and enforcement procedures applicable to a race neutral environment for this element of the DBE Program shall be implemented as indicated in the Airport’s DBE Program as they pertain to a race neutral environment.

X. TECHNICAL ASSISTANCE/BUSINESS DEVELOPMENT RESOURCES

DFW offers a wide range of technical assistance and business development resources to small businesses, including:

- A free two-day ‘Increasing Your Bond Worthiness & Capacity’ course
- Technical Assistance Educational Workshops offered monthly. Topics vary, including:
  - Business Planning & Management for Contractors
  - Construction Accounting & Financial Management
  - Access to Capital & Credit: Bank Underwriting & Loan Packaging
  - Banking & Finance for Contractors
  - Understanding Your Financial Statements to Grow Your Business
  - Project Management & Field Operations
  - Claims & Dispute Resolution
  - Estimating & Bidding
- Bonding applications assistance. This includes acting as a liaison between applicants and bonding companies and, if necessary, providing assistance
to “denied” bond applicants in identifying reasons for denial or to develop a strategy to address other alternations and solutions.

- Support resources (offered through a 3rd party consultant) to provide guidance with general administrative, personnel management, invoicing, preparation of change orders and project budgets. Assistance with developing business plans is also provided. and administrative procedures.

The listing above may be amended from time to time or be provided by other resource providers. In addition, to services offered or funded directly by DFW, numerous assistance programs are offered to small businesses through the TxDOT.

XI. ASSURANCES

DFW provides the following assurances regarding the development and implementation of the Small Business Program described herein:

1) The development of this Small Business Program is not prohibited by state law.

2) Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the Airport’s Small Business Program.

3) There shall be no geographic preferences or limitations imposed on any federally assisted procurement included in the Airport’s Small Business Program.

4) There shall be no limits on the number of contracts awarded to firms participating in the program.

5) The Airport shall make every effort to avoid creating barriers to the use of new, emerging, or untried businesses.

6) The Airport’s Small Business Program is open to small businesses regardless of their location. There shall be no local or other geographic preference.
Attachment 1: Implementation Timeline

The Dallas/Fort Worth International Airport’s Small Business Program will be fully implemented within 9 months of final approval by the FAA. Implementation will be phased as follows:

| Month 1 | • Revise DBE Program to include small business element  
|         | • Submit Updated DBE Program to FAA |
| Month 2 | • Finalize certification forms  
|         | • Finalize database structure |
| Month 3 | • Certification staff training, procedures documentation |
| Month 4 | • Informational seminars  
|         | • Outreach |
| Month 5 | • Technical assistance with certification application  
|         | • Build database |
| Month 6 | • Develop standard bid language to be used for projects with SBE goals |
| Month 7 | • BDDD Staff Training - When and how to use SBE Goals  
|         | • BDDD Staff Training - Unbundling |
| Month 8 | • Identify potential projects for SBE goal implementation  
|         | • Project management training |
| Month 9 | • Full program implementation |
Date: 07/12/2012
Committee: Finance/Audit
Subject: Adoption of Small Business Enterprise (SBE) and Disadvantaged Business Enterprise (DBE) Policy and Procedures Manual
Resolution #: 2012–07–239

Action
That the Chief Executive Officer or designee be authorized to adopt the Small Business Enterprise (SBE) component to the Disadvantaged Business Enterprise (DBE) program.

Description
- Pursuant to 49 CFR Part 26, a final rule was issued on January 28, 2011, requiring a DBE program to have a small business element
- On February 4, 2012, this element was presented to the DFW Board
- On May 16, 2012, FAA reviewed and determined that DFW's submission meets the requirements set forth in the regulation
- The intent of the DFW's Small Business Program is to provide full and fair opportunities for equal participation by small businesses in federally-funded Airport contracting and procurement opportunities
- The program requires contractors to make good faith efforts to use small businesses in certain contracting and procurement opportunities. Good faith efforts will be measured utilizing the guidance

Justification
- In accordance with the regulations governing the U.S. Department of Transportation (DOT) DBE program
- On February 16, 2013, DFW must implement the SBE component for the DBE Program
- The SBE Program was created as a supplement to the DBE program to foster participation by small businesses in contracting and procurement opportunities at DFW
- The race and gender neutral DBE participation on federally-funded projects that occurs through this Small Business element must be reported to FAA.

D/M/WBE Information
N/A

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For Information contact
Tamela Lee
3–5515

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BE IT RESOLVED BY THE DALLAS–FORT WORTH INTERNATIONAL AIRPORT BOARD

That the Chief Executive Officer or designee be authorized to adopt the Small Business Enterprise (SBE) component to the Disadvantaged Business Enterprise (DBE) program.

Approved as to Form by
Rodriguez, Elaine
General Counsel
Jun 28, 2012 2:21 pm

Approved as to Funding by
Underwood, Max
VP Finance
Finance
Jun 28, 2012 3:02 pm

Approved as to M/WBE by
Lee, Tamela
VP Business Diversity & Dev
Business Diversity and
Development
Jun 28, 2012 2:35 pm

SIGNATURE REQUIRED FOR APPROVAL

Approved by

Department Head
Small & Emerging Business
Jun 28, 2012 11:29 am

Chief Executive Officer
Jul 16, 2012 10:25 am
Date
May 16, 2012

Ms. Tamela Lee  
Vice-President  
Business Diversity & Development  
Dallas/Fort Worth International Airport  
P.O. Box 619428  
DFW Airport, TX 75261-9428

Re: Small Business Element Requirement

Dear Ms. Lee:

This letter is in reference to Dallas/Fort Worth International Airport (DFW) Small Business element submitted for review. Based on our review, we have determined that the submission meets the requirements set forth in 49 CFR Part 26, Department of Transportation Regulations.

You may proceed to implement your Small Business element to actively foster small businesses. The proposed timeline included in your submission is approved. That being said, the Small Business element component of your DBE program must be fully implemented no later than February 16, 2013.

The race and gender neutral DBE participation on federally-funded projects that occurs through this Small Business element must be reported in the “Uniform Report of DBE Awards or Commitments and Payments” for the corresponding fiscal year. Accomplishments can be submitted through the DOT’s electronic DBE Office Online Reporting System (DOORS) found at http://osdubu.dot.gov/DOORS/Application/logon.aspx.

Thank you for your continued attention to and support of the very important DBE Program. If you have any questions or need assistance, please contact Ms. Dolores Leyva, DBE Compliance Specialist, at (310) 725-3939 or dolores.leyva@faa.gov.

Sincerely,

Michael D. Freilich, Director  
Civil Rights and DBE Compliance  
Western-Pacific Region

cc: ASW-650
FY 2014-2016 Disadvantaged Business Enterprise (DBE) Goal

The FY2014 – 2016 Disadvantaged Business Enterprise (DBE) Goal methodology can be found online at:

http://www.dfwairport.com/bdd/P1_047772.php
TEXAS

MEMORANDUM OF AGREEMENT

for a

DISADVANTAGED BUSINESS
UNIFIED CERTIFICATION PROGRAM

U.S. DEPARTMENT OF TRANSPORTATION PARTNERS

♦

Texas Department of Transportation
City of Houston
City of Austin
Corpus Christi Regional Transportation Agency
North Central Texas Regional Certification Agency
South Central Texas Regional Certification Agency
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STATE OF TEXAS
MEMORANDUM OF AGREEMENT

I  UNIFIED CERTIFICATION PROGRAM

This Memorandum of Agreement (MOA) establishes a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in the State of Texas in accordance with Title 49 Parts 26 and 23 of the Code of Federal Regulations (49 CFR Parts 26 and 23). The TUCP Certifying Partners are the Texas Department of Transportation (TxDOT), City of Houston, City of Austin, Corpus Christi Regional Transportation Authority (CCRTA), North Central Texas Regional Certification Agency (NCTRCA), and South Central Texas Regional Certification Agency (SCTRCA). Each Certifying Partner in Texas is required to administer a DBE Certification Program in accordance with 49 CFR Part 26 and Part 26.81. Each TUCP Certifying Partner agrees to commit sufficient resources and expertise to carry out the requirements of 49 CFR Part 26.

A. Definitions

1. TUCP Certifying Partner

The TUCP Certifying Partners are the Texas Department of Transportation (TxDOT), City of Houston, City of Austin, Corpus Christi Regional Transportation Authority (CCRTA), North Central Texas Regional Certification Agency (NCTRCA), and South Central Texas Regional Certification Agency (SCTRCA).

2. Non-certifying TUCP Partner

A State of Texas recipient, sub-recipient or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency or via a TxDOT Letter of Agreement an entity that agrees to utilize the DBEs listed in TUCP Directory for purposes of their program for certification and or compliance purposes. A Non-Certifying Partner can neither issue nor revoke DBE certification.

3. Recipient

Any public entity which receives direct USDOT financial assistance.

4. Sub-recipient
Any public entity receiving USDOT financial assistance through another recipient.

5. Grantee

Any public entity that has received USDOT assistance.

B. Organization

The TUCP shall establish an Executive Committee consisting of representatives from each of the Certifying Partner agencies, who shall be designated by the signatories to this MOA Agreement. The Executive committee will also be responsible for resolving any conflicts between certification actions between its members. The Standard Operating Procedures of the TUCP Section III-Agency Compliance, outlines the process for dealing with matters regarding the compliance with certification requirements. Nothing in this agreement should be construed to contravene the sovereignty of each participant. The contact person for the TUCP is the Texas Department of Transportation, DBE/HUB/SBE Section.

A Certifying TUCP Partner may terminate its responsibilities under this Agreement and become a Non-Certifying TUCP Partner upon a 30 day written notice to all TUCP Partners.

C. Purpose

The objectives of the Texas UCP are as follows:

- To follow the certification procedures and standards and the non-discrimination requirements of 49 CFR Parts 26 and 23.

- To cooperate fully with all oversight, review and monitoring activities of the United States Department of Transportation (USDOT) and its operating administrations.

- To provide directives and guidance on DBE certification matters.

- To make all certification and decertification decisions on behalf of all TUCP Partners with respect to participation in the U.S. DOT DBE Program. Certification decisions by the TUCP shall be binding on all TUCP Certifying Partners.
To provide a single DBE certification that will be honored by all TUCP Partners.

To maintain a unified DBE directory containing at least the following information for each firm listed: address, phone number and approved NAICS codes. The TUCP shall make the directory available to the public electronically on the Internet as well as in print. TxDOT shall update the electronic version of the directory by including additions, deletions and other changes upon notification by the DBE and/or Certifying Partner.

The TUCP Partners will commit adequate resources and expertise to carry out this agreement. The partners will continue to individually bear the costs of training staff, certifying firms and sharing DBE files, i.e. postage and copying costs. Travel to and from meetings will be the responsibility of individual partners.

II TUCP PROGRAM DESCRIPTION

A. Partners’ Roles, Responsibilities & Obligations

All TUCP Partners agree to maintain DBE certification application files, conduct site visits, make certification decisions and handle appeals and complaints. The Certifying TUCP Partners agree to utilize the USDOT Uniform Certification Application and Affidavit.

All decisions related to eligibility and certification must comply with 49 CFR Parts 26 and 23.

The TUCP Certifying Partners who are recipients or sub-recipients of federal funds must have an approved DBE Program. Additionally, each Certifying Partner must have clearly defined and written processes and procedures related to the administration of its DBE Program and certification decisions.

Each TUCP Certifying Partner must adhere to the processes and procedures as set forth in the Standard Operating Procedures.

If a TUCP Certifying Partner is no longer able or willing to uphold procedures outlined in this MOA and in the TUCP SOP, then that partner shall notify each partner in writing and submit to TxDOT all certification files within 30 days to maintain proper certification coordination.
• TUCP certifying partners agree to assist and comply with FHWA in conducting partner reviews outlined in the TUCP SOP.

- 3 -

• Any request received by a TUCP Partner by organizations and entities to become certifying members of the TUCP will be forwarded to each TUCP Partner for review. The TUCP Certifying partners will make a recommendation and forward the request to USDOT for review and a recommendation.

• Any changes or additions to the TUCP Certifying Partners will require an amendment to this agreement. Parties to this MOA cannot add another member to the TUCP without the organization signing the MOA. The other TUCP partners will also need to sign the updated MOA acknowledging the new partner.

B. DBE Directory Management:

TxDOT has agreed to manage the TUCP Directory and shall designate a Database Manager as agreed by signature of this MOA. Upon approval of a firm for DBE certification by the UCP Certifying Partners, the originating Certifying Partner shall submit the firm’s information for inclusion in the electronic database directly to the DBE Database Manager. This information shall include at a minimum:

• Name, Street Address, P.O. Box, City, County, State, Telephone and Fax Number, E-mail address and Federal Tax Identification Number/SSN;

• Name, Sex, Ethnicity, Race and Country of Origin of qualifying DBE owner(s);

• Type of work performed by the DBE using the North American Industry Classification System (NAICS) adopted by the SBA on October 1, 2000, as amended;

• Original Certification Date;

• Name of TUCP Certifying Partner;

• Annual Review Date;

The DBE Database Manager shall assume the following responsibilities:
• Input all data and make any corrections, additions and/or deletions upon receipt of information from the Certifying TUCP Partners;

• Maintain and keep the electronic DBE database current;

• Make the electronic DBE database available to all TUCP Partners and other interested parties;

• Maintain the TUCP Website.
C. DBE Directory & Internet Access

The DBE Directory will be located on the TUCP website. In accordance with 49 CFR §26.31 and §23.31(b), the DBE Directory will include the following minimum information for each firm:

- Name, address and telephone number of firm;
- Contact person
- Types of work performed by the firm with appropriate six (3) digit NAICS code and description.

The TUCP DBE Directory may contain additional information, including but not limited to the following:

- Geographic Location of the Firm (i.e., county)
- Website Address of the Firm
- Fax Number & E-Mail Address of the Firm
- Annual Review Date
- Gender and Ethnicity

Each TUCP Partner by signature of this agreement agrees to submit the above information.

III TUCP PROGRAM COSTS AND FUNDING

The cost of creating and establishing the TUCP website and the electronic DBE Directory will be the responsibility of the Texas Department of Transportation. Each TUCP Partner has agreed to coordinate responding to information request or open records request for certification list or copies of the data base as appropriate.

A. Training and Resources

The TUCP Partners will conduct ongoing in-service training. The TUCP Partners will agree to rotate the duties of hosting, planning and conducting training sessions amongst the TUCP Partners.
IV CERTIFICATION PROCEDURES AND PROCESS

In addition to the following procedures, the TUCP will follow all certification procedures and standards of 49 CFR Part 26, and will implement USDOT directives and guidance concerning DBE certification matters. A Standard Operating Procedure (SOP) has been developed and will be utilized by all Certifying TUCP Partners. The SOP may be modified as needed and agreed upon by majority consensus of the Certifying TUCP Partners. If consensus can not be reached, the issue will be forwarded to FHWA – Texas Division for further guidance.

- The TUCP will utilize the USDOT approved Uniform Certification Application and other related certification documents to facilitate “one-stop shopping” for applicants.

A. Geographic & Industry Considerations

The TUCP Certifying Partners have agreed to perform the certification process for DBE program applicants within the State of Texas by geographical location and by industry. If a DBE applicant/firm works only in the highway construction industry, TxDOT agrees to process the application and/or have certification responsibility for the DBE firm. Therefore, the certifying TUCP partner to whom application is made will ascertain the geographical area of the applicant firm and/or its primary work type or industry, and take the appropriate action to either process the application or forward the application within three to five business days to the appropriate TUCP certifying partner. If a firm is an applicant interested in airport DBE certification, the TUCP certifying partner agrees to forward the application to the appropriate TUCP agency based on geographical location or process within three to five business days.

City of Austin: Geographical: Bastrop, Caldwell, Hays, Travis and Williamson
City of Houston: Geographical: Counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.
Corpus Christi Regional Transportation Authority: Geographical: Counties of Aransas, Bee, Goliad, Jim Wells, Karnes, Kleberg, Live Oak, Nueces, Refugio, and San Patricio.
South Central Texas Regional Certification Agency: Geographical: Counties of Atascosa, Bandera, Bexar, Comal, Frio, Guadalupe, Kendall, Kerr, McMullen, Medina, and Wilson.
Texas Department of Transportation: Geographical: All other remaining counties in Texas and all heavy highway construction categories in which an applicant indicate and or request TxDOT as the certification agency for processing.

B. Quality Assurance (New Certifications)

The SOP has been created to ensure consistent application of UCP program requirements among the Certifying TUCP Partners. Uniform documents have been developed for use by the Certifying TUCP Partners so that consistent information is obtained and used in certification determinations. At a minimum, there will be annual training of certification staff in order to maintain consistency in determinations.

C. Annual Review Process

By signature of this agreement, DBEs certification updates will be conducted annually using the TUCP Annual Update “No Change” Affidavit as required in the SOP and following procedures outlined in 49 CFR §26.87. The TUCP Partner has agreed to conduct annual reviews of certified DBEs, conduct a DBE on-site review every three years in conjunction with the DBE firm’s submittal of the Annual Update Affidavit per 49 CFR §26.83(h) or every five (5) years for corporations and partnerships and ten (10) years for sole proprietorships.

D. Decertification Procedures

The TUCP Partner agrees to process decertifications in compliance to 49 CFR §26.87. Provisions exist in the TUCP Standard Operating Procedure for the Certifying TUCP Partners to accept written complaints from a third party alleging the ineligibility of a currently certified firm. The TUCP SOP outlines how those complaints will be coordinated by the receiving partner.

E. Appeals Process and Procedures

An appeals procedure has been established as part of the TUCP SOP for appeals of denial of original certification, and decertification that provides due process to the affected firm in accordance with 49 CFR Part 26.

- Denials of Original Certifications and Decertification: The DBE applicant has the opportunity to appeal to USDOT in accordance with 49 CFR §26.89. Firms that are decertified will have due process in accordance with 49 CFR §26.87.
F. Staff Training

Each TUCP Partner agrees to:

- Participate in annual staff training; assist with the development and coordination of training modules that support the SOP.
- Recruit instructors and determine locations for training workshops.
- Schedule joint training sessions.
- Conduct staff training to assure that all staff are knowledgeable of certification regulations and procedures as updates and changes are made to the regulations.

G. Unified DBE Directory

By signature of this MOA the TUCP Partners agree to:

- Develop and complete parameters for Unified DBE Directory.
- Compare UCP Certifying Partners databases.
- Remove duplicate DBE firms.
- Develop common databases however nothing in this agreement excludes the certifying partners from creating and maintaining separate databases for other programmatic needs.
- Develop procedures for electronic submission of DBE firms for inclusion in the Unified DBE Directory.
- Develop and issue press release on public access to online DBE Directory (information will be maintained on TXDOT Website).

V. CHANGES TO THE MOA

This MOA can be amended by approval of the majority of the TUCP Partners. Changes to this MOA shall require a majority agreement by the TUCP Certifying Partners. In cases where there is not a majority agreement, the issue will be forwarded to USDOT for resolution and the partners agree to execute the decision of USDOT by signature of this MOA.
VI. SUMMARY

As a result of the requirements set forth in 49 CFR Parts 26 and 23, we the undersigned, agree to participate in the STATE OF TEXAS’S Unified Certification Program in accordance with the provisions of this MOA and agree to abide by its contents.

EXECUTED AND DELIVERED by and between the TUCP Partners as of the effective date of this MOA.
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