



GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

FOR

ASHEVILLE REGIONAL AIRPORT, FLETCHER NORTH CAROLINA

AUGUST 2018

Table of Contents

Page

Table of Contents	2
General Program Requirements	3-5
Administrative Requirements	5-9
Goals, Good Faith Efforts and Counting	9-15
Verification Standards	15-16
Compliance and Enforcement	16-17

Attachments

1. Administrative Directive
2. Organizational Chart
3. Bidder's List Form
4. Demonstration of Good Faith Efforts Forms
5. DBE and Non-DBE Subcontractors Form
6. DBE 3 Year Goal and Methodology
7. Small Business Participation Program

I GENERAL PROGRAM REQUIREMENTS

- a. **Objectives.** The objectives are found in the policy statement of this program.
- b. **Applicability.** The GARAA is the recipient of Federal airport funds authorized by 49 U.S.C. 47101 and State funds according to the Federal transit laws in Title 49 sections.
- c. **Definitions and Terms.** The terms used in this program have the meanings defined in Part 26.
- d. **Non-discrimination.** The GARAA will not exclude or deny any person from participation in, the benefits of, or otherwise discriminate, relating to the award and performance of any contract covered by Part 26 based on race, color, sex, or national origin.

In administering its DBE Program, the GARAA 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 any race, color, sex or national origin.

- e. **Record Keeping Requirements.** The DBELO will submit reports on DBE participation to FAA/NC DOT operating administrations when federal/state funding is included as part of a project. The GARAA will provide annual data, by the deadline established, required for the Uniform Report of DBE Awards or Commitments and Payments, as described in Appendix B to Part 26. All reporting will be done through the FAA official reporting system, or another format acceptable to FAA as instructed on any Federally assisted funded projects.
- f. **Bidders List.** The GARAA will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT/FAA assisted contracts. The purpose of the list is to provide as accurate data as possible about the use of DBE and non-DBE contractors and subcontractors who seek work on the GARAA DOT/FAA assisted contracts. This is to allow flexibility to use the bidders list approach for calculating and set overall goals. The bidder list will include the name, address, DBE/non-DBE status, age of firm and estimated annual gross receipts (based on 4 basic levels of income).

The GARAA will collect this information in the following ways:

1. Contract clause requiring prime bidders to report the names/address, and possible other information, of all firms who quote to them on sub-contracts;

2. A notice in solicitations of bids or otherwise widely disseminated on the airport website; and
3. Request to firms quoting on sub-contracts to report information directly to the GARAA.

g. Records Retention and Reporting. The GARAA is not a certifying member of the NC state Unified Certification Program (UCP) and will not retain records documenting a firm's application package submitted to the state or documenting compliance with the requirements of this part. A report will be generated and submitted to the NC State DOT Office of Civil Rights and FAA each year, if applicable. Documents required to be retained, according to the financial assistance agreement for compliance, will be a minimum of three (3) years unless otherwise required.

h. Federal Financial Assistance Agreement. The GARAA has signed the following assurances, applicable to all DOT/FAA assisted contracts and their administration. This language is to be used verbatim, as it is stated in 49 CFR Part 26.13(a) and 26.13(b), which read;

(a) *“Each financial assistance agreement signed with a FAA/DOT operating administration (or a primary recipient) must include the following assurance: The GARAA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA/DOT-assisted contract or in the administration of its DBE program or the requirements 49 CFR part 26. The GARAA shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of FAA/DOT-assisted contracts. The GARAA’s DBE program, as required by 49 CFR part 26 and as approved by FAA/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 GARAA of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).*

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

- (1) *Withholding monthly progress payments;*
- (2) *Assessing sanctions;*

- (3) *Liquidated damages; and/or*
- (4) *Disqualifying the contractor from future bidding as non-responsible.”*

II ADMINISTRATIVE REQUIREMENTS

- a. **DBE Program Updates.** Upon receipt of DOT/FAA assisted funding, the GARAA will continue to carry out this program until all funds from DOT/FAA financial assistance have been expended. The GARAA will provide DOT/FAA updates when applicable or significant changes in the program occur for approval.
- b. **Policy Statement.** The policy statement is elaborated on the first page of this DBE program.
- c. **Disadvantaged Business Enterprise Liaison Officer (DBELO).** The following individual has been appointed as the DBELO for the GARAA:

Development Coordinator
61 Terminal Drive, Suite 1
Fletcher, NC 28732
(828) 654-3252
ryanz@flyavl.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the GARAA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the GARAA Executive Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is included in Attachment A.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has the assistance of the GARAA staff and engineering consultants to assist in the administration of the program. The DBELO carries out the following responsibilities:

1. Gather and report statistical data and other information as required by DOT/FAA.
2. Assess individual projects to set an overall goal with assistance of the GARAA staff and/or engineering consultants.
3. Ensure that bid notices and requests for proposals are available to DBEs.
4. Identify contracts and procurements so that DBE goals are included in solicitations, both race-conscious and race-neutral specific goals.
5. Analyze the GARAA progress toward attainment and identify ways to improve progress.
6. Participate in pre-bid meetings.

7. Advise the GARAA Executive Director on DBE matters and achievements.
8. Review contractor compliance with good faith efforts.
9. Research certification of DBEs according to the criteria set by DOT/FAA listed on the DOT website for the State of North Carolina, to ensure DBE compliance.
10. Participate with local government/private entities to provide outreach to DBEs and community organizations to advise them of opportunities.

- d. **DBE Financial Institutions.** The GARAA may investigate the extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. If requested, the GARAA may make reasonable efforts to seek out the use these institutions, and to advise the prime contractor of the availability of these institutions.
- e. **Prompt Payment Mechanisms.** The GARAA requires that all subcontractors performing work on a DOT/FAA-assisted contract shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state and local laws.

In accordance with 49 CFR § Part 26, the GARAA established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the GARAA.

The GARAA will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 consecutive days after the subcontractor's work is satisfactorily completed. The following mechanisms will be in place to ensure prompt payment.

- f. **Prime Contract.** The GARAA will include the following clause in each DOT/FAA assisted prime contract:

"The Prime Contractor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract within, but not later than, thirty (30) days from the receipt of each payment the prime contractor receives from the GARAA. The Prime Contractor agrees to return retainage payments to each sub-contractor within thirty (30) days after the sub-contractor's work is satisfactorily completed. Any delay or postponement of payment, from the above referenced time frame, may result in held retainage from prime contractor until subcontractor payments are resolved or paid following written approval of the GARAA. Other actions the GARAA has in place may be enforced with a potential of liquidated damages, work-stop order or contract termination. This clause applies to both DBE and non-DBE sub-contractors."

- g. Subcontracts.** The GARAA 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 GARAA. When the GARAA has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by the acceptance is deemed to be satisfactorily completed.

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

1. The GARAA will hold additional payment applications from prime contractor until/unless payment arrangements between prime and subcontractors can be resolved for work performed/satisfactorily completed.
 2. Any delay or postponement of payment from the prime contractor to the subcontractor(s) must have good cause and be approved by the GARAA, submitted in writing and copied to the subcontractor(s) involved.
 3. Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.
- h. Directory.** The GARAA is a non-certifying member of the North Carolina Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31. Directory Link is <https://www.ebs.nc.gov/VendorDirectory/default.html>.
- i. Over-concentration.** The GARAA has not identified that over-concentration exists in the types of work that DBEs perform.
- j. Business Development Programs.** The GARAA has established a Small Business Development Program, which is explained in Attachment 7.
- k. Monitoring Responsibilities.** The GARAA requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the GARAA financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the GARAA, FAA or NCDOT. This reporting requirement extends to all subcontractors, including DBEs.

The GARAA monitors each monthly payment application provided by the prime contractor, which will include a form indicating what subcontractor, DBE or non-DBE, work is being paid for, that is included during that pay period and the percentage of the contract completed.

The GARAA may perform interim audits to review payments to DBE subcontractors to ensure payments were made in the amount indicated, either equal to or exceeding the dollar amount listed in the payment application.

- I. Prompt Payment Dispute Resolution.** The GARAA will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

A meeting between prime and subcontractors, either in person or over conference call, along with a Resident Project Representative (RPR) and/or Project Manager (PM) will take place to resolve any payment disputes for the purpose of resolution. Individuals present, representing the GARAA, have the authority on behalf of the GARAA to take appropriate action.

- m. Prompt Payment Complaints.** Complaints by subcontractors, including DBEs, regarding the prompt payment requirements are handled according to the following procedure.

1. Subcontractor affected by the non-payment should contact the RPR or PM regarding prompt payment to resolve any discrepancies with the Prime Contractor.
2. The subcontractor, if not seeing any resolve, can contact the DBELO to resolve the prompt payment dispute.
3. If the subcontractor does not see resolve by the GARAA, the affected subcontractor may contact the responsible Deputy Executive Director.

- n. Enforcement Actions for Noncompliance of Participants.** The GARAA will provide appropriate means to enforce the requirements of Part 26 and these means include:

1. In accordance with the contract, assess liquidated damages against the prime contractor for each day beyond the required time period that the prime contractor fails to pay the subcontractor.
2. Issue a stop-work order until payments are released to subcontractors, which would be considered unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.
3. If no resolve can be reached after the stop-work order, Contract termination for failure to comply with contract terms and conditions will be the last resort. This could also affect future work on airport property for being unresponsive or not responsible.

(Contract language: See example provided in paragraph II.j. above.)

- o. Monitoring Contracts and Work Sites.** The GARAA reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (i.e. as the result of modification to the contract) is performed by the DBEs to which the work was committed. Work site monitoring is performed by the DBELO, Consultants, Project Managers or other GARAA staff. The GARAA will maintain written certification that contracting records have been reviewed and work sites have

been monitored for this purpose.

- p. Fostering Small Business Participation.** The GARAA has a Small Business Program to structure contract requirements or facilitate competition by small businesses. The GARAA does take reasonable steps to eliminate obstacles to the participation of small businesses, including unnecessary bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

Implementation of the small business program is required in order for the GARAA to be considered by DOT/FAA as implementing this DBE program in good faith. This program is further described in Attachment 7 as part of this document.

III GOALS, GOOD FAITH EFFORTS, AND COUNTING

- a. Set-asides or Quotas.** The GARAA does not use quotas, in any way, in the administration of this DBE program.
- b. Overall Goals.** The GARAA will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT/FAA funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the GARAA will submit its Overall Three-Year DBE Goal to FAA by August 1st of the year in which the goal is due, as required by the schedule established by and posted to the website of FAA.

A description and procedure of the methodology to calculate the overall goal and the goal calculations can be found in the GARAA's current 3-year DBE Goal. The overall goal will include a summary of information and comments received during the public participation process and any responses. The Three-Year DBE Goal will be posted on the airport website for comment/review, as well as, a public notice provided to allow the GARAA and the FAA 30 days to accept comments on the goal. The Notice will include the addresses where comments may be sent, including websites and physical address where the proposal may be reviewed. The public comment period will not extend the deadline to submitting the document to the FAA. If the proposed goal changes following review by FAA, the revised goal will be posted on the official internet web site. If we establish a goal on a project basis, we will begin using our goal at the time of the first solicitation for a DOT/FAA assisted contract for the project. The overall Three-Year DBE Goal submission to FAA will include a summary of information and comments received, if any, during this public participation process and the GARAA responses.

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

If the goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT/FAA assisted contract for the project.

d. Prior Operating Administration Concurrence. The GARAA understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the GARAA for calculating goals is inadequate, FAA may, after consulting with the GARAA, adjust the overall goal or require that the goal be adjusted by the GARAA.

The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the DOT/FAA will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

e. Failure to Meet Overall Goals. The GARAA can't be penalized or treated by the Department as being in non-compliance with Part 26, because DBE participation falls short of an overall goal, unless the GARAA fails to administer its DBE program in good faith. To be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained and this DBE Program must be administered in good faith.

The GARAA understands that 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 following actions must be taken in order to be regarded by the DOT/ FAA as implementing this DBE Program in good faith:

1. Analyze the reason for the difference between the overall goal and the awards and commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met; and
3. The GARAA will submit, within 90 days of the end of the fiscal year, the analysis and correction actions developed under paragraphs 1 and 2 above to the FAA for approval.

f. **Race Neutral & Race Conscious Participation.** The following is a definition for each participation category:

Race Neutral: A method used to assist all small businesses which include:

1. DBE wins a prime contract through customary competitive procurement procedures.
2. DBE is awarded a subcontract on a prime contract that did not have a DB contract goal.
3. DBE participation achieved in excess of the DBE race-conscious goal.

Race Conscious: A method that is focused specifically on assisting only DBEs, a conscious action to achieve DBE participation, an example is a DBE contract goal for a project.

The GARAA utilizes race-conscious goals for participation for all DOT/FAA assisted funded projects. This allows any company, DBE, Small Business or Non-DBE companies to bid on a project for the GARAA. We bid projects based on the NC State requirement to accept the lowest responsive and responsible bidder. The breakout of estimated race-neutral and race-conscious participation can be found in the three-year DBE Goal document.

g. **Contract Goals.** If the approved projection of the three-year DBE goal estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order to meet the overall goal.

The GARAA will set contract goals to meet any portion of the overall goal the GARAA does not project being able to meet using race-neutral means. Contract goals are established so that, if race-neutral means is not possible, the DBE goal can be met for that FY or overall goal.

The GARAA establishes DBE goals on contracts that have DOT/FAA funding assistance and have sub-contracting possibilities. The GARAA will not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract. The GARAA will express its contract goals as a percentage of the total amount of the DOT/FAA assisted contract.

- h. Certification.** Written certification is received by the GARAA by the Engineering firm associated with the project. The Engineering firm reviews all bid documents, including DBE certifications, to ensure the DBE goal for the project has either been met or the good faith efforts by the prime contractor is responsive and responsible. The Engineering firm's written recommendation to the GARAA is viewed as certification of bidder responsible achievement and DBE goal. The Engineer RPR assists the GARAA to monitor the Contractor and sub-contractors working on the project to ensure compliance with the DBE program.
- i. Good Faith Efforts Procedures.** Good Faith procedures are as follows:
- 1. Demonstration of Good Faith Efforts.** The obligation of the bidder is to make good faith efforts. The bidder can demonstrate by either meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26. The DBELO or the GARAA Representative will be responsible for determining whether a bidder who has NOT met the contract goal has documented sufficient good faith efforts to be regarded as responsive and/or responsible. Information provided will be verified to be complete, accurate, and adequately documents the bidder's good faith efforts before we commit to the performance of the contract by the bidder.
 - 2. Information to be submitted.** The GARAA treats a bidders' compliance with good faith efforts requirements as a matter of responsiveness and/or responsibility. Each solicitation for which a contract goal has been established will require the bidders to submit the following information:
 - a)** The names, addresses, phone number, point of contact, title, email address, category and if male or female, of DBE firms that will participate in the contract;
 - b)** A description of the work that each DBE will perform with correct NAICS codes;
 - c)** The dollar amount of the participation of each DBE firm participating;
 - d)** Written and signed documentation of commitment to use a DBE Sub-Contractor whose participation it submits to meet a contract goal;
 - e)** Written and signed confirmation from the DBE that is participating in the contract as provided in the prime contractors' commitment; and
 - f)** If the contract goal is not met, evidence of good faith efforts.
 - 3. Contracts.** All contracts will be reviewed for completeness and compliance in meeting DBE goals. All DBE certifications will be verified. Sub-Contractors list with area of work is included in bid and part of overall contract. Once the prime contract is accepted, it's executed and returned.

The GARAA will require the contractor that is awarded the contract to make available, upon request, a copy of all DBE subcontractors. DBE subcontractors must supply labor and/or materials required for the work and all lower tier subcontractors be performed in accordance with this provision.

Prime Contractors will be required to obtain the GARAA's approval of any substitution of a DBE company and to provide copies of a new/amended subcontract or document good faith efforts. Approval from the GARAA must be received before the prime contractor terminates any subcontracts. This includes instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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

- a)** The listed DBE subcontractor fails or refuses to execute a written contract;
- b)** The listed DBE firm fails or refused 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;
- c)** The listed DBE firm fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements;
- d)** The listed DBE firm becomes bankrupt, insolvent, or exhibits credit unworthiness;
- e)** The listed DBE firm is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to applicable state law;
- f)** Determined that the listed DBE firm is not a responsible contractor;
- g)** The listed DBE firm voluntarily withdraws from the project and provides written notice of the withdrawal;
- h)** The listed DBE firm is ineligible to receive DBE credit for the type of work required;
- i)** A DBE owner dies or becomes disabled with the result that the listed DBE firm is unable to complete its work on the contract;
- j)** Other documented good cause that we have determined compels the termination of the DBE firm. Provided, that the good cause does not exist if the prime contractor seeks to terminate a DBE firm it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE firm was engaged or so that the prime contractor can substitute another DBE or non-DBE firm after contract award.

The prime contractor must provide notice in writing to the DBE subcontractor, with a copy to the GARAA of its intent to request to terminate and/or substitute with the reason for the request.

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

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

The GARAA 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. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated. To the extent needed to meet the contract goal that is established for the procurement. The good faith efforts shall be documented by the contractor. If the GARAA request documentation from the contractor under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the contractor. The GARAA will provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

The GARAA will include in each prime contract, the contract clause stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section that the GARAA deems appropriate if the prime contractor fails to comply with the requirements of this section.

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

- 4. Administrative Reconsideration.** Within 10 days of being informed by the GARAA that the bid is not responsive/responsible because the bidder has not documented sufficient good faith efforts, a bidder may request administration reconsideration.

Bidder will make this request in writing to the following Reconsideration Official: Executive Director, 61 Terminal Drive, Suite 1, Fletcher, NC 28732 (828) 684-2226 or lbleiweis@flyavl.com. The Reconsideration Official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of the reconsideration process, the bidder 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 may have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or made adequate good faith efforts to do so.

The GARAA's Reconsideration Official will send the bidder 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. The result of the reconsideration process is not administratively appealable to the NCDOT.

- 5. DBE Fraud.** Any fraud discovered by the Prime Contractor or the GARAA staff will be reported to the DBELO, who will notify the Executive Director and all other appropriate agencies immediately. Work associated with the DBE in question will cease and placed on hold to be investigated. If found negligible, the Prime Contractor will be notified that the DBE Sub-Contractor will be removed from the project without payment. A potential DBE replacement will need to be sought and contracted with to keep work on schedule.

The GARAA will report any fraudulent activity to Airport Legal Counsel and follow procedures recommended if any legal action is required.

- 6. Counting DBE Participation.** The GARAA will count DBE participation towards overall and contract goals as provided in 49 CFR Part 26 (26.55). The GARAA will not count the participation of a DBE subcontractor toward a prime contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE firm. If the firm is not currently certified as a DBE at the time of the execution of the contract, the GARAA will not count the firm's participation toward the DBE goal.

IV VERTIFICATION STANDARDS

- a. Certification Process.** The GARAA is not qualified or certified to review, process or certify DBE firms. NCDOT and UCP website database of certified DBE firms are accessible and relied upon for completeness and verification purposes. Any DBE firm requesting to become certified will be directed to the NCDOT/ UCP websites and/or provided phone numbers to obtain all the required

information to apply and register their company. The certification standards for DBE firms are outlined in 49 CFR Part 26, as well as the websites for the NCDOT and UCP, which are updated as required. To be certified as a DBE firm, the firm must meet all certification eligibility standards. The current version of the regulations is available online in the Electronic Code of Federal Regulations: <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

Appeals or complaints in the certification process are asked to be submitted to the US Department of Transportation, Departmental Office of Civil Rights, External Civil Rights Programs Division (S- 33), 1200 New Jersey Avenue, SE, Washington DC 20590 or <http://www.civilrights.dot.gov> or Phone {202} 366-4648, TTY (202) 366-9696 or Fax (202) 366-5575.

The GARAA requires Contractors and Sub-contractors to inform and keep an updated status of DBE certification during any contract period that is DOT/FAA assisted. The GARAA also requires notification of any changes of DBE status or circumstances affecting the ability to meet contract obligations.

V COMPLIANCE AND ENFORCEMENT

- a. **Compliance Procedures Applicable to the GARAA.** The GARAA understand that if it fails to comply with any requirement of this part, the GARAA may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied.
- b. **Information, Confidentiality, Cooperation and Intimidation or Retaliation.** The GARAA will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information, consistent with Federal, State and Local laws.

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

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

certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

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

Attachment

1

OBJECTIVE

The Greater Asheville Regional Airport Authority (GARAA) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The GARAA receives Federal financial assistance from the DOT and Federal Aviation Administration (FAA). As a condition of receiving this financial assistance, the GARAA has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

POLICY

The GARAA will ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT/FAA assisted contracts. Within our program we will:

- a. Ensure non-discrimination in the award and administration of DOT/FAA assisted contracts;
- b. Provide opportunities in which DBEs can compete fairly for DOT/FAA assisted contracts;
- c. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- d. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- e. Promote the use of DBEs in all types of federally assisted contracts and procurement activities;
- f. Help remove barriers to the participation of DBEs in state and federal assisted contracts; and
- g. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

GENERAL

The GARAA will designate, from its staff, a DBE Liaison Officer (DBELO), who will be responsible for implementing all aspects of the DBE Program at the Asheville Regional Airport, including maintenance and revisions to the DBE Program as required, on those schedules required. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the GARAA in its financial assistance agreements with the State and Federal Government.

The GARAA has disseminated this policy statement to all relevant components of the GARAA Board of Directors, the GARAA staff and post this program on the airport website. The GARAA will publicize this statement on the airport website to reach the registered companies, and both DBE and non-DBE business communities, that perform work for the Airport on State and Federal assisted contracts.

**APPROVAL AND
UPDATE HISTORY**

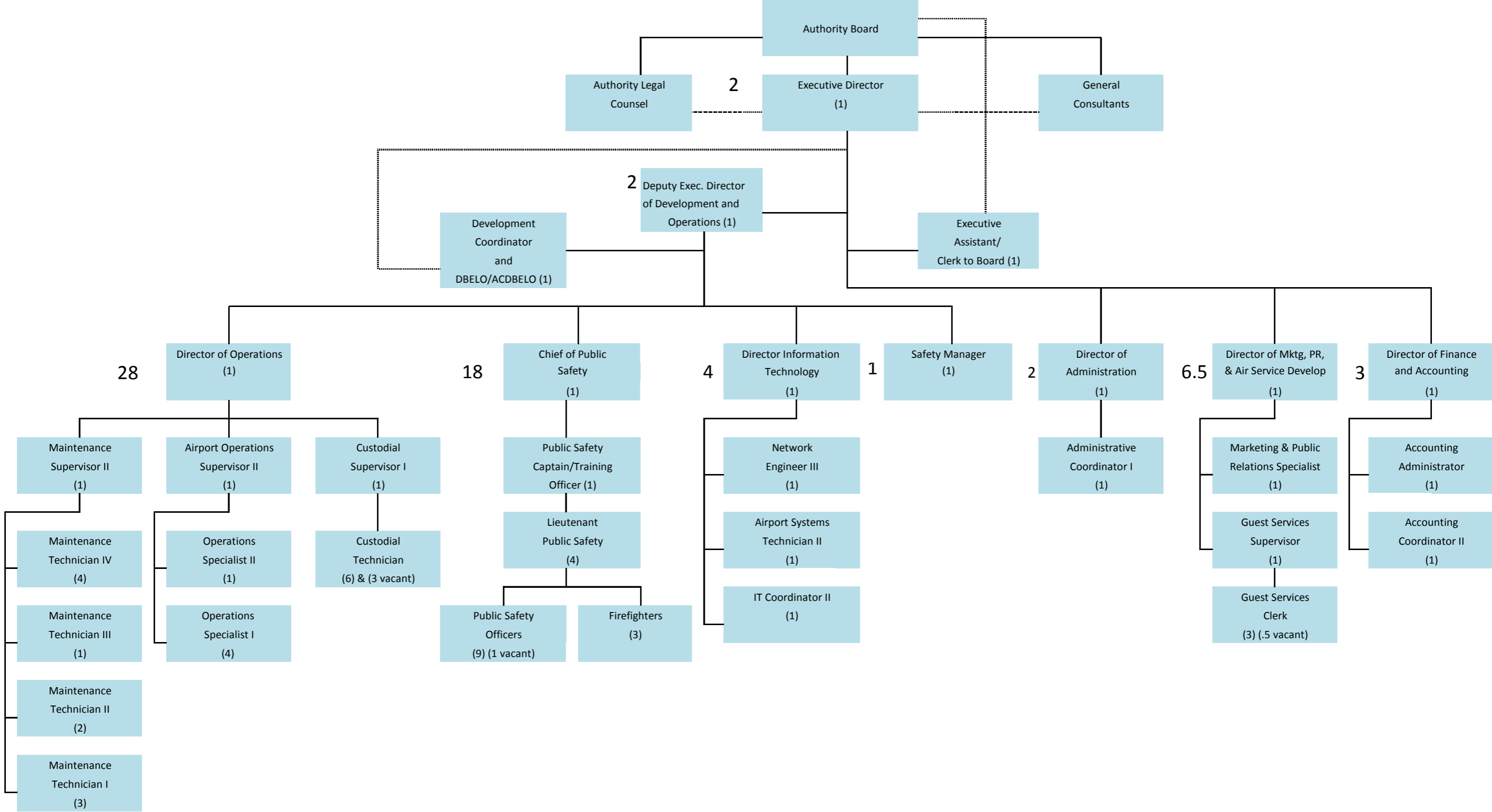
APPROVAL August 10, 2018

Attachment

2

Greater Asheville Regional Airport Authority (Organizational Chart)

Total Staffing - 66.5 FTEs
FY 2018



Attachment

3

**FAA REPORT OF CERTIFIED DBE CONTRACTORS USED ON
AWARDED AND COMMITTED FAA-ASSISTED CONTRACTS**

Enter the firm's and information for all data that is entered in Sections A/B of the DBE Uniform Form for the FY being reported. Enter online at <https://faa.dbeconnect.com/FAA/login.asp?>

Name of Airport: _____

Name of Recipient: _____

City/State/Zip: _____

Goal Period Dates: _____

Preparer's Name: _____

Email address and Telephone No: _____

Date Prepared: _____

DBE Firm:	_____
Address:	_____
City/State/Zip:	_____
POC Name/Phone#:	_____
Type of Work (NAICS):	_____
Dollar Amount of Work:	_____
AIP Grant #s:	_____

Disadvantaged Group (check one):

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

DBE Firm: _____

Address: _____

City/State/Zip: _____

POC Name/Phone#: _____

Type of Work NAICS: _____

Dollar Amount of Work: _____

AIP Grant #s: _____

Disadvantaged Group (check one):

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

DBE Firm: _____

Address: _____

City/State/Zip: _____

POC Name/Phone#: _____

Type of Work NAICS: _____

Dollar Amount of Work: _____

AIP Grant #s: _____

Disadvantaged Group (check one):

Black American <input type="checkbox"/>	Hispanic American <input type="checkbox"/>	Native American <input type="checkbox"/>	Subcontinent Asian American <input type="checkbox"/>
Male <input type="checkbox"/>	Male <input type="checkbox"/>	Male <input type="checkbox"/>	Male <input type="checkbox"/>
Female <input type="checkbox"/>	Female <input type="checkbox"/>	Female <input type="checkbox"/>	Female <input type="checkbox"/>

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

DBE Firm:	_____
Address:	_____
City/State/Zip:	_____
POC Name/Phone#:	_____
Type of Work NAICS:	_____
Dollar Amount of Work:	_____
AIP Grant #s:	_____

Disadvantaged Group (check one):

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

(Add additional pages as necessary)

Attachment

4

Disadvantaged Business Enterprise (DBE) Utilization

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

_____ The Bidder/Offeror is committed to a minimum of _____ % DBE utilization on this contract.

_____ The Bidder/Offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts.

Name of Bidder/Offeror's firm: _____

State Registration Number: _____

By _____
Signature

Title

Date

Demonstration of Good Faith Efforts

Letter of Intent and Affirmation

Name of Bidder/Offeror's Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm: _____

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

Affirmation:

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above. The undersigned will enter into a formal agreement for the above work with the Prime Contractor conditioned upon execution of a contract with the Greater Asheville Regional Airport Authority. As a DBE Contractor, I will cooperate with the certificate and monitoring process set forth by the Greater Asheville Regional Airport Authority for the referenced project.

By: _____
(Signature of DBE) Title

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

(Submit this for each DBE Subcontractor)

DBE Subcontractor Contact Record

Date ___ / ___ / ___

** Complete and submit along with bid/ proposal IF DBE goal is not met per the project goal set and/or in the event of a DBE subcontractor replacement requested and approved by the Greater Asheville Regional Authority.*

Project Name _____ Prime Contractor Company _____ Bid Opening Date ___ / ___ / ___

Contact Name _____ Telephone (____) _____

Date Contacted	Name of Firm	Person Contacted	Telephone Number	Subcontractor Response
	Work Item to Be Performed (NACIS)		Price Quoted	
			\$	
Date Contacted	Name of Firm	Person Contacted	Telephone Number	Subcontractor Response
	Work Item to Be Performed (NACIS)		Price Quoted	
			\$	
Date Contacted	Name of Firm	Person Contacted	Telephone Number	Subcontractor Response
	Work Item to Be Performed (NACIS)		Price Quoted	
			\$	
Date Contacted	Name of Firm	Person Contacted	Telephone Number	Subcontractor Response
	Work Item to Be Performed (NACIS)		Price Quoted	
			\$	

I hereby certify that the subcontractors listed above were contacted by my firm, and requested to submit quotes on the above-referenced project. All interested subcontractors were negotiated with in good faith efforts. Fill in and submit as many forms needed.

Signed: _____ Title: _____

Print Name: _____ Telephone: _____

Attachment

5

List of DBE and Non-DBE Subcontractors

(*Submitted with Payment Applications) FORM 5

Date: _____

Page ____ of ____

Name of Prime Contractor: _____

AIP Grant # or Project #: _____

Project Name: _____

Contract Amount: \$ _____

DBE Goal: _____% Total DBE Sub Contracts: \$ _____

Total Non-DBE Sub Contracts: \$ _____

Period Covered for Services: _____ to _____ (XX Month / XX Day / XX Year)

Company Name	Physical Address of Company	DBE (Yes/No)	Description of Work	\$ Contract Amount	\$ Earned This Period	\$ Earned to Date	% DBE Work
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
				\$	\$	\$	%
Percentage of Overall Contract Complete: _____%			Total Amounts:	\$	\$	\$	%

The undersigned hereby affirms and declares that the above listed companies were actually employed and performed work/services under this contract and further that each listed company earned and has been paid the stated amount for their respective efforts. If DBE is Supplier count 60% and Manufacturers count 100%.

Preparer's Signature: _____ Title: _____

(Seal)

Sworn and subscribed before me, this _____ day of _____, 20 ____.

:
:

Notary Public Signature: _____

My Commission Expires: _____

**** Contractor shall attach a typewritten explanation of any differences in DBE participation, including any changes in DBE and Non-DBE Subcontractor companies employed. THIS FORM MUST BE COMPLETED AND SUBMITTED WITH CONTRACTORS REQUEST FOR MONTHLY AND FINAL PAYMENT APPLICATIONS. ****

****Utilize additional sheets if all information will not fit****

Attachment

6

FY 2019 – FY 2021

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM METHODOLOGY
FOR**



GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

FLETCHER, NC

JULY 2018

METHODOLOGY for Establishing the FY 2019 – FY 2021 Overall Disadvantaged Business Enterprise (DBE) Goal for:

Fletcher, NC

In fulfillment of the requirements of 49 CFR Part 26, the Greater Asheville Regional Airport Authority (hereafter 'GARAA') has developed a proposed Overall Goal for FY 2019-2021 FAA-AIP projects for the Asheville Regional Airport. The methodology used in establishing this goal is described herein.

Airport Sponsor: Greater Asheville Regional Airport Authority

Airport: Asheville Regional Airport

DBELO: Rita Yanz

Development Coordinator II
Greater Asheville Regional Airport Authority
61 Terminal Drive, Suite 1
Fletcher, NC 28732
E-mail: ryanz@flyavl.com
Office: 828-654-3252

I. Detailed Methodology: Specific Steps

A. Amount of Goal

The GARAA's FY 2019-2021 overall goal for the Federal financial assistance it will expend in USDOT-assisted contracts is the following:

Overall Goal:	<u>12.8%</u>
Race-Neutral:	<u>0.3%</u>
Race-Conscious:	<u>12.5%</u>

Given the amount of USDOT-assisted contracts that the GARAA expects to let from FY 2019-2021, which is approximately **\$6,650,000** this means that the GARAA has set a goal of expending approximately **\$848,300** with DBEs during this period.

B. Determination of the Market Area of the study

The normal market area was based on discussions with the GARAA staff and an assessment of bidders from similar recent projects. Specifically, the market area is based on where the substantial majority of bidders, both successful and unsuccessful are located and where the substantial majority of funding was spent as illustrated in **Table 1** below:

Table 1: Greater Asheville Regional Airport Authority Market Area

County	Number of Bidders	Percent of Bidders	Dollars spent	% of dollars spent
Buncombe	6	46.2%	\$12,247,542	47.4%
Graham	2	15.4%		0.0%
Market Area	8	61.5%	\$12,247,542	47.4%
Other	5	38.5%	\$13,579,596	52.6%
Total	13	100.0%	\$25,827,138	100.0%

SOURCE: Greater Asheville Regional Airport Authority

Bidders in the other category included out of state firms. Some of the previous projects were larger in scope compared to the upcoming projects and bidders will likely come from the local area.

C. Determination of relevant NAICS codes

Based on information provided by the GARAA concerning the proposed projects for this fiscal year, a list of NAICS codes corresponding to these projects was developed and is shown below:

**Table 2: Greater Asheville Regional Airport Authority
FY 2019-FY 2021 Projects & Activities**

Fiscal Year	Project	Activity	NAICS
FY 2019	Wright Bros Way Road Extension	Highway & Street	237310
		Drainage	237990
		Electrical	238210
		Site Prep	238910
		Landscaping	561730
FY 2020	Terminal Apron Expansion (South) - Phase 1	Highway & Street	237310
		Drainage	237990
		Electrical	238210
		Site Prep	238910
		Landscaping	561730
	Terminal Apron Repairs	Highway & Street	237310
FY 2021	Terminal Apron Expansion (South) - Phase 2	Highway & Street	237310
		Drainage	237990
		Electrical	238210
		Site Prep	238910
		Landscaping	561730

SOURCE: Greater Asheville Regional Airport Authority

D. Determination of Relative Availability of DBEs in the Market Area, Compared to all Firms

**Table 3a: DBES—Asheville Regional Airport
by Relevant NAICS Codes— Wright Bros Way Road Extension**

Description	NAICS CODES	DBE Firms	All Firms	% of DBE Firms Available	NAICS Dollars	DBE Dollars
Highway & Street	237310	2	9	22.2%	\$615,154	\$136,701
Drainage	237990	0	3	0.0%	\$26,680	\$0
Electrical	238210	0	83	0.0%	\$176,096	\$0
Site Prep	238910	2	29	6.9%	\$141,007	\$9,725
Landscaping	561730	5	126	4.0%	\$41,064	\$1,630
Total					\$1,000,000	\$148,055
WEIGHTED GOAL – Step 1						14.8%

SOURCES:

- 2016 County Business Patterns, U.S. Census Bureau.
- North Carolina UCP DBE Directory, June 2018.

**Table 3b: DBES—Asheville Regional Airport
by Relevant NAICS Codes— Terminal Apron Expansion (South) - Phase 1**

Description	NAICS CODES	DBE Firms	All Firms	% of DBE Firms Available	NAICS Dollars	DBE Dollars
Highway & Street	237310	2	9	22.2%	\$1,122,655	\$249,479
Drainage	237990	0	3	0.0%	\$48,690	\$0
Electrical	238210	0	83	0.0%	\$321,375	\$0
Site Prep	238910	2	29	6.9%	\$257,337	\$17,747
Landscaping	561730	5	126	4.0%	\$74,942	\$2,974
Total					\$1,825,000	\$270,200
WEIGHTED GOAL – Step 1						14.8%

SOURCES:

1. 2016 County Business Patterns, U.S. Census Bureau.
2. North Carolina UCP DBE Directory, June 2018.

**Table 3c: DBES—Asheville Regional Airport
by Relevant NAICS Codes— Terminal Apron Repairs**

Description	NAICS CODES	DBE Firms	All Firms	% of DBE Firms Available	NAICS Dollars	DBE Dollars
Highway & Street	237310	2	9	22.2%	\$1,000,000	\$222,222
Total					\$1,000,000	\$222,222
WEIGHTED GOAL – Step 1						22.2%

SOURCES:

1. 2016 County Business Patterns, U.S. Census Bureau.
2. North Carolina UCP DBE Directory, June 2018.

**Table 3d: DBES—Asheville Regional Airport
by Relevant NAICS Codes— Terminal Apron Expansion (South) - Phase 2**

Description	NAICS CODES	DBE Firms	All Firms	% of DBE Firms Available	NAICS Dollars	DBE Dollars
Highway & Street	237310	2	9	22.2%	\$615,154	\$136,701
Drainage	237990	0	3	0.0%	\$26,680	\$0
Electrical	238210	0	83	0.0%	\$176,096	\$0
Site Prep	238910	2	29	6.9%	\$141,007	\$9,725
Landscaping	561730	5	126	4.0%	\$41,064	\$1,630
Total					\$1,000,000	\$148,055
WEIGHTED GOAL – Step 1						14.8%

SOURCES:

1. 2016 County Business Patterns, U.S. Census Bureau.
2. North Carolina UCP DBE Directory, June 2018.

NOTE: The County Business Patterns data were used as the source to determine the denominator, or the number of all firms in the market area. The DBE directory listed above was used to determine the numerator, or the number of DBE firms in the market area.

E. Determination of the “Weighted” DBE Base Figure

The Step 1 DBE Base Figure for each project was derived by multiplying the dollars for each activity by the percentage of relevant DBE firms to all relevant firms. The total DBE goal in dollars was divided by the total project costs to derive the step 1 goals.

The Step 1 DBE Base Figures for the GARAA are as follows:

Wright Bros Way Road Extension -	14.8%
Terminal Apron Expansion (South) - Phase 1 -	14.8%
Terminal Apron Repairs -	22.2%
Terminal Apron Expansion (South) - Phase 2 -	14.8%

II. Adjustments to the DBE Base Figure

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

A. Adjustment Factors to Consider

The regulations further state that there are several types of evidence that must be considered when adjusting the base figure. These include:

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

The historical overall DBE goals accomplished at the GARAA in recent years were examined relative to the above consideration. Notice the annual DBE percent accomplishment indicated in Table 4 below:

**Table 4: Asheville Regional Airport
DBE Accomplishment**

Report Period	Approved DBE Goal	Total DBE Percent Achieved	Achieved Over/Under
FY 2015	17.8%	18.1%	0.3%
FY 2016	9.0%	9.6%	0.6%
FY 2017	11.9%	0.0%	-11.9%
Median	11.9%	9.6%	0.3%

The median DBE accomplishment for the periods as shown above for the GARAA is 9.6%. This accomplishment was compared to the step 1 base figures calculated above.

B. Consultations

The GARAA held a public meeting on June 28, 2018. The purpose of the meeting was to solicit information from interested stakeholders about the draft goal, as well as the availability of potential DBEs at the Airport, the effects of discrimination on opportunities for DBEs, and the GARAA's effort to increase DBE participation. Please see Appendix B for the consultation process.

C. Adjustment to Step 1 DBE Base Figures: Asheville Regional Airport, FY 2019-FY 2021

With the adjustment factors considered to this point, the GARAA will adjust the Step 1 base figures as calculated above by adding the annual accomplishment factor derived in Table 4 above (9.6%) to the base figures, averaging the total for an adjusted DBE goal.

**Table 5: Greater Asheville Regional Airport Authority
FY 2019 – FY 2021 Overall Goal**

Fiscal Year	Project	Step1	Step 2 adjustment	Overall Goal	Total project costs	DBE Goal (dollars)
FY 2019	Wright Bros Way Road Extension	14.8%	9.6%	12.2%	\$1,000,000	\$122,000
FY 2019 Total				12.2%	\$1,000,000	\$122,000
FY 2020	Terminal Apron Expansion (South) - Phase 1	14.8%	9.6%	12.2%	\$1,825,000	\$222,650
	Terminal Apron Repairs	22.2%	9.6%	15.9%	\$1,000,000	\$159,000
FY 2020 Total				13.5%	\$2,825,000	\$381,650
FY 2021	Terminal Apron Expansion (South) - Phase 2	14.8%	9.6%	12.2%	\$2,825,000	\$344,650
FY 2021 Total				12.2%	\$2,825,000	\$344,650
FY 2019 - FY 2021 Overall Goal				12.8%	\$6,650,000	\$848,300

The total DBE goal in dollars was divided by the total project costs to derive the overall DBE goal of 12.8% for FY 2019 - FY 2021.

III. Process

The GARAA will normally submit its overall goal to the FAA on August 1 of each goal year.

Before establishing the overall goal this year, the GARAA consulted with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the GARAA's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the GARAA published a notice of the proposed overall goal on its website, informing the public that the proposed goal and its rationale were available for inspection and comment during normal business hours at the GARAA's administrative office for 30 days following the date of the notice.

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

The GARAA will begin using the overall goal on October 1 of each goal year, unless the GARAA has received other instructions from DOT/FAA (or, if the goal is established on a project basis) by the time of the first solicitation for a DOT/FAA-assisted contract for the projects.

IV. Breakout of Estimated Race-Conscious/Race-Neutral Participation

The GARAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The GARAA will use a combination of the following race-neutral means to increase DBE participation:

- A. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- B. Disseminating information communications on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors).
- C. The GARAA proposes a race-conscious goal of **12.5%** and a race-neutral goal of **0.3%**, for a total of **12.8%**. The reason for this breakout is that the projects from previous years show that the median amount by which the past DBE goals were over-achieved is 0.3% (see **Table 4**).

The GARAA will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (26.51(f)) and it will track and report race-neutral and race-conscious participation 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.

VI. Contract Goals

The GARAA will use contract goals to meet any portion of the overall goal that the GARAA 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 overall goal that is not projected to be met through the use of race-neutral means.

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

The GARAA will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Appendix A: Resource Listing

A. Resource Documents:

1. North Carolina UCP DBE Directory
2. 2016 County Business Patterns, Census Bureau
3. Uniform Report of DBE Commitments/Awards and Payments
4. GARAA Capital Improvement Program

Appendix B: Asheville Regional Airport - Stakeholder Meeting - June 28, 2018

Summary of Meeting: The Airport scheduled a meeting to present the information below to its stakeholders.

- Background, purpose, and goal requirements of the FAA-DBE program.
- Overview of the DBE goal methodology and basic requirements, such as use of most refined data, identification of a normal market area, and employment of a two-step process in establishing the overall 3-year DBE goals.
- Calculation of the base-figure goal (step 1), and adjusted goal (step 2), through “weighting” and consideration of indicators of “capacity”.

The invitation on the next page was emailed to 22 businesses and organizations. In addition, the invitation was posted on the Airport’s website which alerts all of the businesses who have signed up for the Airport’s vendor list. Although these efforts were taken there were no attendees at the meeting.



YOUR INVITED

Disadvantaged Business Enterprise 3-Year Goal Stakeholders Meeting

In compliance with the Federal Regulations, 49 CFR Part 26, Greater Asheville Regional Airport Authority (GARAA is in the process of developing a 3-year Disadvantaged Business Enterprise (DBE) program goal (FY 2019 - FY 2021) for construction related projects. The date, time and location of the meeting are listed below:

Date: Thursday, June 28, 2018

Time: 1:00 p.m.

Location: Asheville Regional Airport, held on the 2nd floor in the Greater Asheville Regional Airport Authority Board Conference Room. Elevator is located to the North (Right) of the Airline Ticket Counters

The purpose of the meeting is to receive input regarding the GARAA's three-year DBE Goal. We invite you to participate in a meeting to discuss the proposed goal, as well as the availability of potential DBEs for the GARAA's projects, and the GARAA's effort to increase DBE participation.

We sincerely hope that you or your representative will attend this meeting to assist the GARAA in our ongoing efforts to implement an effective DBE program.

Space is limited to a capacity of thirty. Please bring your parking ticket to be validated.

To register or if you have any questions or need additional information, please do not hesitate to contact Danielle Andrews at 888-762-6296 or danielle-andrews@kwaplanning.com.

Attachment

7

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY
61 Terminal Drive Suite 1 Fletcher NC 28732 (828) 684-2226

SMALL BUSINESS ENTERPRISE (SBE) PROGRAM

1. Objective (49CFR Part 26.39)

Recognizing that the SBE program goals should be met through a mixture of size standards and race neutral methods and, that by definition, Disadvantaged Business Enterprise (DBE) firms can also be considered small businesses; the Greater Asheville Regional Airport Authority (GARAA) seeks to implement a small business plan separate from its current DBE policy in accordance with the applicable law. The GARAA will use this plan to facilitate competition by and expand opportunities for small businesses. The GARAA is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The GARAA will meet its objectives using the combination of the following methods and strategies:

- a. Outreach and Technical Assistance: The GARAA will look into working with sponsors and participate in outreach and training opportunities for small businesses through various partnerships. The GARAA is looking at methods to establish an annual participation in business outreach sessions conducted by local municipalities and non-profit agencies which are designed to introduce small businesses to the GARAA's procurement processes and practices. The GARAA currently advertises contracting opportunities through various outlets, including local newspapers and the GARAA website. To broaden the outreach efforts, the GARAA may add additional methods to reach out by submitting advertisements to small business publications, trade publications and their websites.
- b. Unbundling: The GARAA, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for SBE participation. The GARAA will review if an FAA-assisted contract is feasible to unbundle and determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with "unbundling." Similarly, the GARAA encourages its prime consultants or contractors to unbundle contracts to facilitate participation by small businesses. The GARAA may assist prime consultants and contractors in identifying portions of work which may be unbundled and performed by small businesses.
- c. Set Asides: Where feasible, the GARAA may establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A "set aside" is

the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the GARAA and its prime consultants or contractors set aside a portion of the value of a potential contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location. The GARAA Project Manager and DBE Liaison Officer (DBELO) will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy.

The GARAA will utilize a variety of methods to facilitate small business participation. Another method may be to list qualified small businesses on a directory for solicitation and provide information concerning the registration for notifications of potential projects through the GARAA website. The GARAA may utilize the Small Business Administration (SBA), Department of Commerce and Minority Business Development Agencies as a service and assistance guide. In an FAA-assisted contract, a review and possible establishment of the method in which the small business plan may be implemented (i.e., set aside, unbundling and/or outreach) may be considered.

2. Definitions

- a. Small Business: A small business must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration (SBA) regulations implementing it (13CFR Part 121).
 - 1) A small business is a business that is independently owned and operated, is organized for profit, is not race related and is not dominant in its field.
 - 2) Depending on the industry, size standard is based on the average number of employees for the preceding twelve months or based on sales volume averaged over a three year period to meet eligibility.
- b. Disadvantaged Business Enterprise: A for-profit small business (as defined by the SBA).
 - 1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
 - 2) Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49CFR Part 26 or current regulation;
 - 3) Whose average annual gross receipts, as defined by the current SBA regulations (PL85-536) over the firm's previous three fiscal years is less than the amount specified;

- 4) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- 5) That has been certified as a DBE by the North Carolina Department of Transportation (NCDOT) in accordance with 49CFR Part 26.

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

3. Certification and Verification Procedures

The GARAA may accept the following certifications for participation in the GARAA's SBE Program with applicable stipulations:

- a. NCDOT Small Business Enterprise – Will require submittal of three years of business tax returns and page 2 of the NCDOT DBE Certification application before contract award.
- b. North Carolina Department of Administration HUB Certification – Will require submittal of three years of business tax returns and page 2 of the NCDOT DBE Certification application before contract award.
- c. SBA 8(a) Business Development Certification (as described in 13CFR Parts 121 and 124) – Will require submittal of three years of business tax returns.

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

4. Implementation Schedule

The GARAA approved and submitted its SBE Participation Program by February 28, 2012 to the FAA and has implemented this program.

5. Assurances

The GARAA makes the following assurances:

- a. The SBE Program is not prohibited by state law;
- b. The utilization of the services and guidance of the State and Federal agencies;
- c. That certified SBEs which meet the size criteria established under the DBE Program are presumptively eligible to participate in the SBE program;
- d. The small and minority businesses and women's business enterprises (WBE) are solicited whenever they are potential sources;

- e. Requesting the prime contractor, if subcontracts are to be let, to take affirmative steps to ensure participation of SBE, DBE and WBE's;
- f. That there is no geographic or local preferences or limitations imposed on FAA-assisted contracts and the SBE Program is open regardless of their location;
- g. There is no limits on the number of contracts awarded to firms participating in the SBE Program;
- h. A reasonable effort will be made to avoid creating barriers to use the new, emerging, or untried businesses;
- i. To make efforts to establish a database for solicitation of SBE's; and
- j. That supportive steps may be taken to encourage those minority and women owned businesses participating in the SBE Program to become certified for DBE, if eligible.