

**PORTAGE COUNTY REGIONAL AIRPORT**  
**AUTHORITY**

**PORTAGE COUNTY REGIONAL AIRPORT (POV)**

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**FY 2023-2024-2025**

**[October 1, 2022 – September 30, 2025]**

**POLICY STATEMENT**

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

The Portage County Regional Airport Authority (herein referred to as 'the Authority'), owner of Portage County Regional Airport ('POV' or 'the Airport'), has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Authority has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Authority has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

It is the policy of the Authority 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 Authority's policy to engage in the following actions on a continuing basis:

1. Ensure nondiscrimination in the award and administration of DOT- assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Mark Atwood, a member of the Authority, has been delegated as the DBE Liaison Officer. In that capacity, Mark Atwood is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the Department of Transportation.

This policy statement has been disseminated to the Authority and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on the Authority's DOT-assisted contracts. The distribution was accomplished by posting a notice to the Airport's website.

  
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Homer Lucas  
President, Portage County Regional Airport Authority

  
\_\_\_\_\_  
Date

## **GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

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

### **Section 26.5 Definitions**

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

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

The Authority will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

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

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

#### **Reporting to DOT**

The Authority will provide data about its DBE Program to the Department as directed by DOT operating administrations.

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

The Authority will transmit to the FAA annually, by or before December 1, the information required for the "Uniform Report of DBE Awards or Commitments and Payments", as described in Appendix B to Part 26. The Authority will similarly report the required information about participating DBE firms. All reporting will be done through the FAA's official reporting system, or another format acceptable to the FAA as instructed thereby.

## **BIDDERS LIST**

The Authority will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on the Authority's DOT-assisted contracts, for use in helping to set overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

This information will be collected from bid proposals received during the bid process of projects and through recipient-directed surveys. A sample bidder's list collection form is included in Attachment 3 of this Program.

Records retention and reporting:

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

**Section 26.13 Federal Financial Assistance Agreement**

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

Assurance: - Each financial assistance agreement the Authority signs with a DOT operating administration (or a primary recipient) will include the following assurance:

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

Contract Assurance: The Authority will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

## **ADMINISTRATIVE REQUIREMENTS**

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

The Authority is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. The Authority is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the Authority is compliant with it and Part 26. The Authority will continue to carry out this program until all funds from DOT financial assistance have been expended. The Authority does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

### **Section 26.23 Policy Statement**

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

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

The following individual has been designated as the DBE Liaison Officer for the Authority:

*Mark Atwood  
Member, Portage County Airport Authority  
4039 Nanway Boulevard  
Ravenna, Ohio 44266  
Phone Number: 216-316-2489  
Email: matwood@flykpov.com*

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

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

- Gathers and reports statistical data and other information as required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with all departments to set overall annual goals.
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- Analyzes the Authority's progress toward attainment and identifies ways to improve progress.

- Participates in pre-bid meetings.
- Advises the Authority and Airport on DBE matters and achievement.
- Determine contractor compliance with good faith efforts.

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

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

Information provided by the Federal Deposit Insurance Corporation (FDIC) pertaining to Minority Depository Institutions indicates that no minority-owned financial institutions have been located within Ohio.

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

The Authority requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the Authority 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 Authority.

The Authority ensures prompt and full payment of retainage from the prime contractor to the subcontractor within *[number not to exceed 30]* days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the Authority has selected the following method to comply with this requirement:

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

To implement this measure, the Authority includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime construction contract:

***Clause from FAA Advisory Circular 150-5370-10H, Standard Specifications for Construction of Airports (Date: 2/21/2018)***

**90-06 Partial payments.** Partial payments will be made to the Contractor at least once each month as the work progresses. Said payments will be based upon estimates, prepared by the RPR, of the value of the work performed and materials complete and in place, in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with paragraph 90-07, Payment for Materials on Hand. No partial payment will be made when the amount due to the Contractor

since the last estimate amounts to less than five hundred dollars.  
[Retainage Option 3]

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Option 3: The Owner may hold retainage from prime Contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime Contractors based on these acceptances, and require a contract clause obligating the prime Contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the Owner's payment to the prime Contractor. ~~If Option 3 is selected,~~ the percent withheld may range from 0% to 10% but in no case may it exceed 10%. When establishing a suitable retainage value that protects the Owner's interests, give consideration that the performance and payment bonds also provide similar protection of Owner interests. Owner may elect to incrementally release retainage if owner is satisfied its interest with completion of the project are protected in an adequate manner. ~~If Option 3 is selected, insert the following clause and specify a suitable value where indicated:~~

- a. From the total of the amount determined to be payable on a partial payment, 10 percent of such total amount will be deducted and retained by the Owner for protection of the Owner's interests. Unless otherwise instructed by the Owner, the amount retained by the Owner will be in effect until the final payment is made except as follows:
  - (1) Contractor may request release of retainage on work that has been partially accepted by the Owner in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.
  - (2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner 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.
- c. When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner's

discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

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It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the RPR to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in paragraph 90-09, *Acceptance and Final Payment*.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

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In some areas, release of liens prior to paying the full amount to the prime Contractor may void the contract. In those areas, revise the previous paragraph as required to meet all state and local regulations.  
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**Section 26.31 Directory**

The Authority is a *non-certifying* member of the Ohio 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.

**Section 26.33 Over-concentration**

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

**Section 26.35 Business Development Programs**

The Authority has not established a Business Development Program.



### **Section 26.37 Monitoring Responsibilities**

The Authority implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in [Recipient's] DBE program.

The Authority actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

#### Monitoring Payments to DBEs and Non-DBEs

The Authority undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

- The Authority will bring attention to the Department of Transportation (DOT) any false, fraudulent, or dishonest conduct in connection with this program. The DOT can then take steps (i.e., 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.
- The Authority will implement similar action under the Authority's own legal authorities, including responsibility determinations in future contracts. See Attachment 6 of this program.
- The Authority will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
- The Authority will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose.
- The Authority will implement a mechanism that will provide for a running tally of actual DBE attainments (i.e., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, the Authority will show both commitments and attainments, as required by the DOT uniform reporting form.

The Authority 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 Authority's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Authority or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- The Authority proactively reviews contract payments to subcontractors including DBEs not less than quarterly to ensure compliance. Payment reviews will evaluate

whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Authority by the prime contractor.

#### Prompt Payment Dispute Resolution

The Authority will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

A meeting will be held between the prime contractors and subcontractors, with the resident project representative and/or project manager present, as appropriate. The DBELO will be present at all meetings regarding dispute resolution and will serve as the authority authorized to bind each interested party, including the recipient representative(s), and to take enforcement action.

The Authority has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

- Contract Clause: Prior to requesting payment from the Recipient, the prime contractor must pay subcontractors for work satisfactorily complete (in accordance with FAA Advisory Circular 150/5370-10, 90-06 Partial Payments: Option 3). The prime contractor will not be reimbursed by the Recipient for work performed by subcontractors until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

#### Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- If affected subcontractor is not comfortable contacting the prime directly regarding payment or unable to resolve payment discrepancies with prime, the subcontractor should contact the DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the Authority to resolve prompt payment disputes, the affected subcontractor may contact the responsible FAA contact.
- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

#### Enforcement Actions for Noncompliance of Participants

The Authority will provide appropriate means to enforce the requirements of §26.29. These means include:

- Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met
- Other penalties for failure to comply, up to and including contract termination.

The Authority will actively implement the enforcement actions detailed above.

### Monitoring Contracts and Work Sites

The Authority reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (*e.g.*, as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by the DBELO, project managers, and the Consultant. Contracting records are also reviewed by the DBELO, project managers, and the Consultant. The Authority will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

### **Section 26.39 Fostering small business participation**

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

The small business element is incorporated as Attachment 10 to this DBE Program. The program elements will be actively implemented to foster small business participation. Implementation of the small business element is required in order for the Authority to be considered by DOT as implementing this DBE program in good faith.

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

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

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

### **Section 26.45 Overall Goals**

The Authority will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the Authority will submit its Overall Three-year DBE Goal to the Federal Aviation Administration by August 1<sup>st</sup> of the year in which the goal is due, as required by the schedule established by and posted to the website of the FAA Office of Civil Rights.

FAA:

[https://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/media/Schedule\\_of\\_DBE\\_and\\_ACDBE\\_Reporting\\_Requirements\\_Dec\\_2017\\_Issue.pdf](https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/Schedule_of_DBE_and_ACDBE_Reporting_Requirements_Dec_2017_Issue.pdf)

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

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The Authority will use the DBE Directory information and Census Bureau Data as a method to determine the base figure. The Authority understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The Authority will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

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

In establishing the overall goal, the Authority will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by the Authority to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before the Authority is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the Authority engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the Authority will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on [Recipient’s] official internet web site and may be posted in other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the FAA, the revised goal will be posted on the official internet web site.

The Overall Three-Year DBE Goal submission to the FAA will include a summary of information and comments received, if any, during this public participation process and the Authority’s responses.

The Authority will begin using the overall goal on October 1 of the relevant period, unless other instructions from the FAA have been received.

### Project Goals

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

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

### Prior Operating Administration Concurrence

The Authority 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 Authority for calculating goals is inadequate, the FAA may, after consulting with the Authority, adjust the overall goal or require that the goal be adjusted by the Authority. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

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

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

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

The Authority understands that 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 Authority 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 Department as implementing this DBE Program in good faith:

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

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

### Breakout of Estimated Race-Neutral & Race-Conscious Participation

The Authority will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating DBE participation. Race-conscious DBE participation is focused specifically on assisting only DBEs, including women-owned DBEs. DBE participation on a project that exceeds the goal will be through race-neutral measures.

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

The Authority will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

### Contract Goals

If the approved projection under paragraph (c) of §26.51 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 meet the overall goal.

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

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

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

### Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

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

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

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

- (1) Award of the contract will be conditioned on meeting the requirements of this section;

- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section: Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the recipient.

#### Administrative reconsideration

Within seven (7) days of being informed by the Authority that it is not *responsive* because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

*Homer Lucas  
President, Portage County Airport Authority  
4039 Nanway Boulevard  
Ravenna, Ohio 44266  
Phone Number: 330-357-6927  
Email: hlucas@flykpov.com*

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 the goal was met, or the bidder/offeror made adequate good faith efforts to do. The bidder/offeror will be sent a written

decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts procedural requirements (post-solicitation)

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

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the Authority. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if the Authority agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) The Authority determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides the Authority 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 Authority has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.



Before transmitting to the Authority a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Authority, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

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

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.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of the Authority as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Authority will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. 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 was established for the procurement. The good faith efforts shall be documented by the contractor. If the Authority requests documentation from the contractor under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional 7 days if necessary at the request of the contractor. The Authority shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

*[Note: The provisions of the foregoing section apply only when a contract goal is established.]*

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

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

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the

contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and credit on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

### **SUBPART D – CERTIFICATION STANDARDS**

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

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

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

*Ohio Unified Certification Program  
c/o Office of Business & Economic Opportunity  
Ohio Department of Transportation  
1980 West Broad Street, MS 3270  
Columbus, Ohio 43223  
Phone Number: 614-466-2878  
Email: DOT.SDBE@dot.ohio.gov*

The Uniform Certification Application form and documentation requirements are found in Attachment 8 to this program.

### **SUBPART E – CERTIFICATION PROCEDURES**

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

The Authority is a non-certifying member of a Unified Certification Program (UCP) administered by Ohio. The UCP will meet all of the requirements of this section.

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

#### **Section 26.101 Compliance Procedures Applicable to the Authority**

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

**Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation**

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

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 Authority, 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 Authority understands that it is in noncompliance with Part 26 if it violates this prohibition.

**ATTACHMENTS**

- Attachment 1 Regulations: 49 CFR Part 26
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 Ohio Unified DBE Directory
- Attachment 5 Overall DBE Goal Methodology
- Attachment 6 Demonstration of Good Faith Efforts - Forms 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Application Form
- Attachment 9 State's UCP Agreement
- Attachment 10 Small Business Element

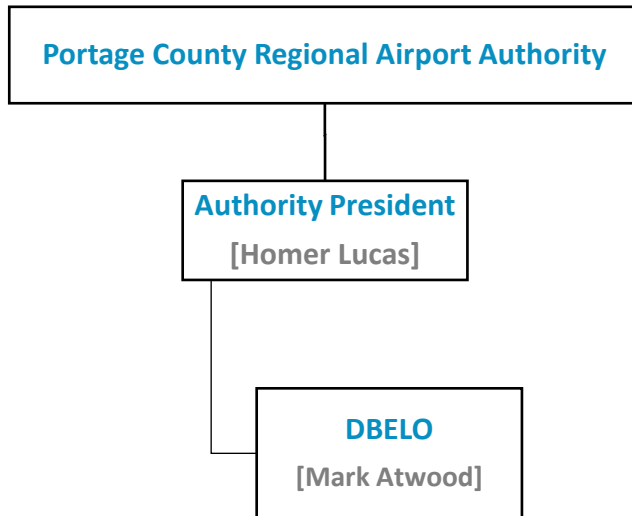
**Attachment 1**

Regulations: 49 CFR Part 26

Website:

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

**Attachment 2**  
**Organizational Chart**



**Attachment 3**

**Bidder's List Collection Form**

*(SAMPLE BIDDERS LIST COLLECTION FORM)*

***[Reminder: the information below must be collected from every bidder who submits a quote/bid to the recipient and every potential subcontractor who submitted a quote/bid to each bidder. §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.]***

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

**Attachment 4**  
**Ohio Unified DBE Directory**

Website:

<https://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx>



**Attachment 5**

**Overall DBE Goal Methodology**

**Name of Recipient:** Portage County Regional Airport (POV)

**Goal Period:** FY-2023-2024-2025 (October 1, 2022 through September 30, 2025)

**DOT-assisted contract amount:**

Federal Fiscal Year (FY)	Federal Funds	DBE Goal Required (Yes/No)
Total FY 2023	\$639,000	Yes
Total FY 2024	\$202,500	No
Total FY 2025	\$0	No

**Overall Three-Year Goal:** 5.7%, to be accomplished through 5.7% RC

**Total dollar amount to be expended on DBEs in FY 2023:** \$39,074

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

Contracts Fiscal Year 2023

- AWOS Replacement (Design & Construction)
  - \$0
- North Parallel Taxiway Relocation - Design (All) and Construction South of Runway
  - \$243,000
- North Parallel Taxiway Relocation - Construction North of Runway
  - \$396,000

Contracts Fiscal Year 2024

- Environmental Documentation - Runway 9/27 Extension
  - \$112,500
- Aeronautical Survey
  - \$90,000

Contracts Fiscal Year 2025

- Obstruction Removal
  - \$0

*[Note, the funds listed above only represent the federally funded portion of the contracts.]*

**Market Area:** Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Mahoning, Portage, Stark, Summit, and Trumbull Counties in Ohio

**Step 1.** Actual relative availability of DBEs

The base figure for the relative availability was calculated as follows:

Method: Use DBE Directories

Ohio DBE Directory

<https://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx>

Census Bureau Data

<https://data.census.gov/cedsci/all>

Unweighted Availability of DBE Firms:

**FY 2023**

North Parallel Taxiway Relocation - Design (All) and Construction South of Runway

Contract Goal: 5.7%

NAICS	Type of Work	Total DBEs	Total All Firms
237310	Heavy Construction	31	94
541330	Engineering Services	6	503
541370	Survey	3	53
541380	Testing	3	102
<b>Total</b>	-	<b>43</b>	<b>752</b>

North Parallel Taxiway Relocation - Construction North of Runway

Contract Goal: 5.7%

NAICS	Type of Work	Total DBEs	Total All Firms
237310	Heavy Construction	31	94
541330	Engineering Services	6	503
541380	Testing	3	102
<b>Total</b>	-	<b>40</b>	<b>699</b>

The data source or demonstrable evidence used to derive the numerator was: DBE Directory

The data source or demonstrable evidence used to derive the denominator was: Census Bureau

Dividing the total number of DBEs by the total number of All Firms gives a base DBE availability figure for each contract. The availability figures for all contracts were then combined and averaged to provide the basis for the overall goal. Note, a goal is only required in FY 2023.

The base goal projections are as follows:

- Fiscal Year 2023 – 5.7%, 5.7%
- Fiscal Year 2024 – N/A
- Fiscal Year 2025 – N/A

Average of weighted availability:  $(5.7\% + 5.7\%) / 2 = 5.7\%$

Base of DBE Goal: 5.7%

We do not intend to weight the DBE goal. Rather, the Base of DBE Goal of 5.7% will be used.

## Step 2: Adjustments to Step 1 base figure

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what, if any, adjustment to the base figure was needed in order to arrive at the overall goal. There is no evidence that adjustments should be made to the weighted DBE goal, as there is not enough historical data on DBE participation available to reference to make an adjustment to the Step 1 base figure; therefore, the Authority is adopting the Step 1 base figure as the overall goal for this goal period.

Furthermore, there are no applicable disparity studies for the local market area or recent legal case information from the relevant jurisdictions to show evidence of barriers to entry or competitiveness of DBEs in the market area that is sufficient to warrant making an adjustment to the base goal.

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

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

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

The Authority does not have a history of DBE participation or over achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation; therefore, the Authority estimates that in meeting the established overall goal of 5.7%, it will obtain 5.7% from RC participation and 0% through RN measures. Race-conscious DBE participation is focused specifically on assisting only DBEs, including women-owned DBEs. DBE participation on a project that exceeds the goal will be through race-neutral measures.

The Authority will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

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

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Public Participation

**Consultation:**

In establishing the overall goal, the Authority will provide for consultation and publication. This process will include consultation with minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Authority's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process and will be conducted before the goal methodology is submitted to the operating administration for review. Details of the consultation will be provided at a later date [i.e., nature of consultation (face-to-face meeting, virtual meeting, etc.) and location/date/time].

A notice of the proposed goal will be published on the Airport's official website before the methodology is submitted to the Federal Aviation Administration. If the proposed goal changes following review by the FAA, the revised goal will be posted on Airport's official website. If the proposed goal changes following review by the FAA, the revised goal will be posted on the Airport's official website.

Notwithstanding paragraph (f)(4) of §26.45, the Authority's proposed goals will not be implemented until this requirement has been met.

**Attachment 6**

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

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

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

Bidder/offeror has met the DBE contract goal

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

Bidder/offeror has not met the DBE contract goal

The bidder/offeror is committed to a minimum of \_\_\_\_ % DBE utilization on this contract and has submitted [*or "will submit," if recipient made compliance a matter of responsibility*] documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm: \_\_\_\_\_

Bidder/Offeror Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FORM 2: LETTER OF INTENT**

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

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

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name & title of DBE firm's AR: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Work to be performed by DBE firm:

Description of Work	NAICS	Dollar Amount / %*	Dealer/Manufacturer**

*\*Percentage is to be used only in negotiated procurements, including design-build contracts*

*\*\*For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55.*

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

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

Signature of Bidder/Offeror's Authorized Representative

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

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

Signature of DBE's Authorized Representative

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

Submit this page for each DBE subcontractor.

## **Attachment 7**

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

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

1. Breach of contract action, pursuant to the terms of the contract, as follows [insert description of administrative enforcement provisions you can and will use to enforce contractor compliance];

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

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

**Attachment 8**

**DBE Certification Application Form**

Website:

<https://www.dot.state.oh.us/Divisions/ODI/SDBE/UCPDocs/DBECertificationApplication.pdf>



**Attachment 9**  
**State's UCP Agreement**

Website:

[https://www.transportation.ohio.gov/wps/wcm/connect/gov/623ff283-b1f0-40db-b4e1-bab3532ea9b9/UCP+MOU.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=ROOTWORKSPACE.Z18\\_M1HGGIK0N0JO00QO9DDDDM3000-623ff283-b1f0-40db-b4e1-bab3532ea9b9-nh4oxY7](https://www.transportation.ohio.gov/wps/wcm/connect/gov/623ff283-b1f0-40db-b4e1-bab3532ea9b9/UCP+MOU.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-623ff283-b1f0-40db-b4e1-bab3532ea9b9-nh4oxY7)

**Attachment 10**  
**Small Business Element**

**1. Objective/Strategies**

- 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.
- 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.
- 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.

**2. Definition**

- Small Business:

A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

- Disadvantaged Business Enterprise:

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

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

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

### 3. Verification

- The Authority must diligently attempt to minimize fraud and abuse in the small business element of its DBE program by verifying program eligibility of firms. Verification does not necessarily involve creating a new certification category, though that is one option. Any verification procedure must allow for participation of all small businesses relying exclusively on local/state M/WBE certification, SBA 8(a) certification, or other programs that include race/gender/geographical considerations as a condition of the certification is not an acceptable means of verifying eligibility, and is not compliant with the race-neutral requirements of §26.39).

### 4. Monitoring/Record Keeping

- The following form will be completed by prime contractors and will be submitted to the Authority prior to the initiation of the project and retained by the Authority.
- SB element should be reasonably monitored.

### 5. Assurance

- The program is authorized under state law;
- Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;
- No limits are placed on the number of contracts awarded to firms participating in the program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
- Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
- The program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference).

Small Business Element Program

Fostering Small Business Participation	
Sponsor's Name:	
Airport Name:	
City, State:	
AIP Number:	
Federal Fiscal Year:	

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

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

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

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