

**THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN**

**RESOLUTION NO: 15-08**

**A RESOLUTION concerning**

**Disadvantaged Business Enterprise Program For Frederick Municipal Airport**

**WHEREAS**, the Frederick Municipal Airport (“Airport”) is required to establish a Disadvantaged Business Enterprise (“DBE”) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26; and

**WHEREAS**, the Airport has received federal financial assistance from USDOT; and

**WHEREAS**, having a DBE program is a condition of receiving this assistance; and

**WHEREAS**, the Airport has signed an assurance that it will comply with 49 CFR Part 26; and

**WHEREAS**, the DBE program will ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT–assisted contracts; and

**WHEREAS**, the DBE program will also:

- a. ensure nondiscrimination in the award and administration of USDOT – assisted contracts;
- b. create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
- c. ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- d. help remove barriers to the participation of DBEs in USDOT-assisted contracts;
- e. promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by the Airport;
- f. assist the development of firms that can compete successfully in the market place outside the DBE Program, and
- g. provide appropriate flexibility to the Airport in establishing and providing opportunities for DBEs.



**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that the Disadvantaged Business Enterprise Program For Frederick Municipal Airport attached hereto as Exhibit A is hereby adopted.

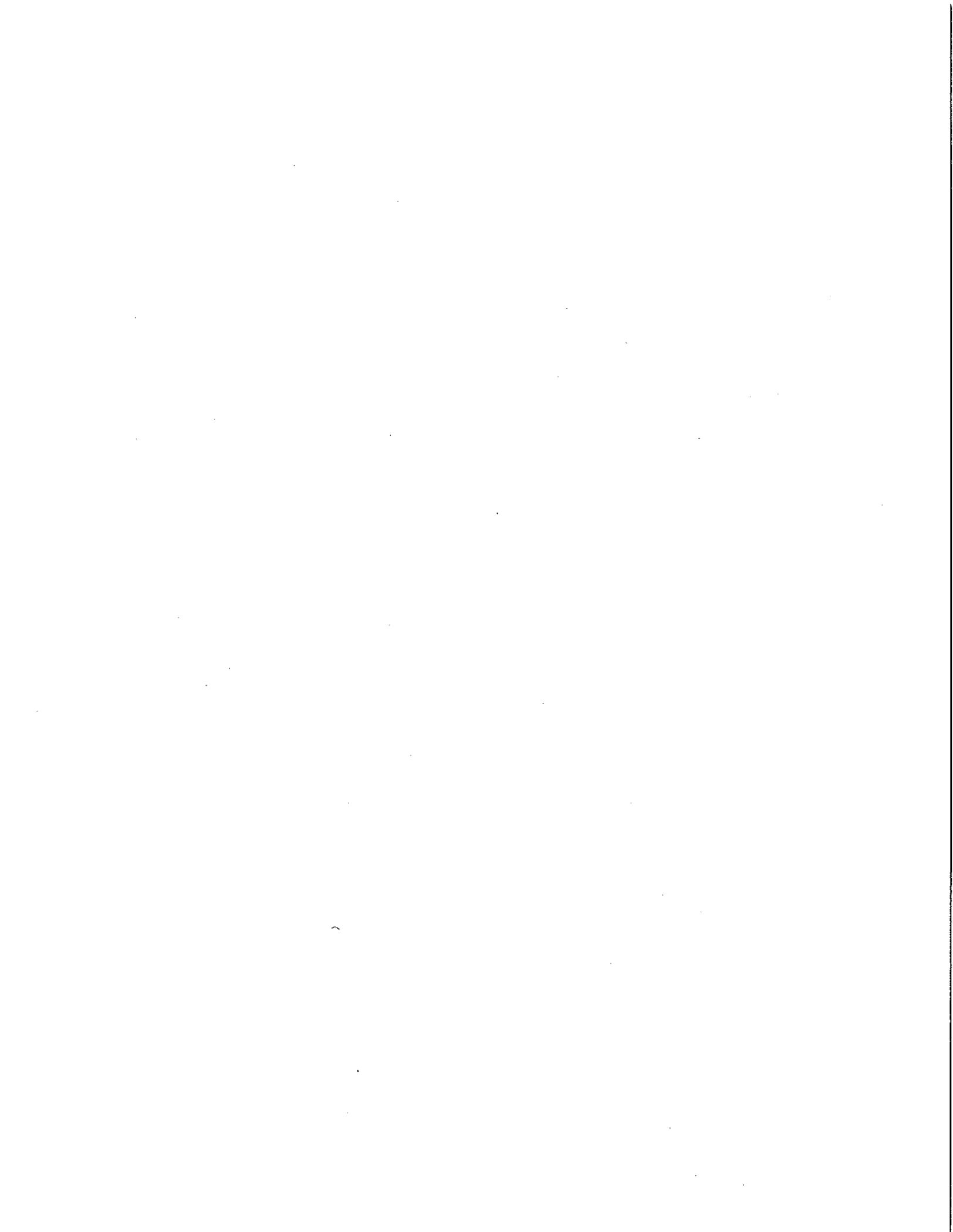
Adopted and approved this 2<sup>nd</sup> day of April, 2015.

  
\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Randy McClement, Mayor

Approved for Legal Sufficiency:

  
\_\_\_\_\_  
City Attorney



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Disadvantaged Business Enterprise Program

For

Frederick Municipal Airport

February 2015

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**UNITED STATES DEPARTMENT OF TRANSPORTATION**

**DBE PROGRAM – 49 CFR PART 26**

Frederick Municipal Airport, Frederick, Maryland

**POLICY STATEMENT**

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

The Frederick Municipal Airport (hereafter the Airport) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26. The Airport has received federal financial assistance from USDOT, and as a condition of receiving this assistance, the Airport has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of the Airport to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy:

1. To ensure nondiscrimination in the award and administration of USDOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program, and
8. To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

**Kandi Fullerton, CPPB, Purchasing Manager, City of Frederick, 111 Airport Drive, Frederick, Maryland 21701, (301)-600-6906, e-mail: [kfullerton@cityoffrederick.com](mailto:kfullerton@cityoffrederick.com)** has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Purchasing Manager 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 Airport in its financial assistance agreements with the US Department of Transportation.

The Airport has disseminated this policy statement to its board members and all of the components of the organization. The Airport will distribute this statement to DBE and non-DBE business communities that perform work for the Airport on USDOT-assisted contracts in the following manner:

1. *This policy statement will be prepared as a handout, and made available at pre-bid conferences, and/or outreach meetings conducted by the Airport.*
2. *Copies of the policy statement will be mailed to all of the agencies/organizations consulted during the development of the DBE goal methodology. This will make the Airport's policy for the Frederick Municipal Airport available to additional small, minority, and women business development agencies.*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

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

### **Section 26.5 Definitions**

**The Airport will adopt the definitions contained in Section 26.5 for this program. The definitions are in the DBE regulations 49 CFR Part 26 and can be found in the Code of Federal Regulations at: [www.ecfr.gov](http://www.ecfr.gov).**

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

The Airport 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 Airport 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 USDOT: 26.11(b)

The Airport will report DBE participation to USDOT as follows:

The Airport will submit annually the Uniform Reports of DBE Awards or Commitments and Payments, as modified for use by FAA recipients.

#### Bidders List: 26.11(c)

The Airport will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

The Airport will collect this information in the following ways:

- a. Include a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.
- b. Include a notice in all solicitations, and otherwise widely disseminated, a request to firms quoting on subcontracts to report the approved information directly to the Airport's DBELO for inclusion in the bidder's list.
- c. Request the above information from all potential bidders who contact the Airport seeking bid information, and/or who attend pre-bid meetings, conferences, etc., at the Airport.

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

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

#### Assurance: 26.13(a)

*The Frederick Municipal Airport shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract; or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Airport 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.).*

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

#### Contract Assurance: 26.13(b)

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

*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 USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:*

- (1) *Withholding monthly progress payments;*
- (2) *Assessing sanctions;*
- (3) *Liquidated damages; and/or*
- (4) *Disqualifying the contractor from future bidding as non-responsible.*

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

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

The Airport will continue to carry out this program until all funds from USDOT financial assistance have been expended. The Airport will provide to USDOT updates representing significant changes in the program.

### **Section 26.23 Policy Statement**

The policy statement is elaborated on the third page of this program.

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

The Airport has designated the following individual as its DBE Liaison Officer:

**Kandi Fullerton, CPPB, Purchasing Manager**  
**City of Frederick**  
**111 Airport Drive,**  
**Frederick, Maryland 21701**  
**(301)-600-6906**  
**E-mail: [kfullerton@cityoffrederick.com](mailto:kfullerton@cityoffrederick.com)**

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Airport complies with all provision of 49 CFR Part 26. **The DBELO has access to the Mayor concerning DBE program matters.** An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

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

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

7. *Participates in pre-bid meetings.*
8. *Advises the Airport on DBE matters and achievement.*
9. *Chairs the DBE Advisory Committee (when formed).*
10. *Participates in pre-bid meetings.*
11. *Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.*
12. *Plans and participates in DBE training seminars.*
13. *Provides outreach to DBEs and community organizations to advise them of opportunities.*

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

It is the policy of the Airport 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 USDOT-assisted contracts to make use of these institutions.

In developing this DBE program, the Airport's efforts did not identify any such institutions within its service area. If any such institutions are established in the Airport's service area, the Airport will consider the services offered by these institutions and refer them as noted above.

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

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

*The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than fourteen (14) days from the receipt of each payment the prime contract receives from the Airport. The prime contractor agrees further to return retainage payments to each subcontractor within fourteen (14) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Airport. This clause applies to both DBE and non-DBE subcontracts.*

### **Section 26.31            Directory**

The primary Disadvantaged Business Enterprise Directory for the Airport comes from the Maryland Department of Transportation (MDOT) and contains listings of certified minority- and women-owned construction firms and material suppliers from throughout the State of Maryland.

MDOT maintains active lists of certified disadvantaged businesses located throughout the state. Therefore, all of the firms listed in the directory have been certified by the state and in accordance with USDOT criteria. It should be noted also that these listings and certifications are periodically updated with some firms being added, while others are removed if they have been decertified or choose not to remain in the directory.

These directories should enable prime contractors for projects at the Airport to proceed more easily in their attempts to comply with overall goals regarding Disadvantaged Business Enterprises.

The Airport will refer potential bidders to the MDOT directory that is available online. The link for the directory can be found in Attachment 2 to this program.

**Section 26.33            Overconcentration**

The Airport has not identified that overconcentration exists in the types of work that DBEs perform.

**Section 26.35            Business Development Programs**

The Airport has not established a business development program.

**Section 26.37            Monitoring and Enforcement Mechanisms**

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

1. The Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The Airport will consider similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulations, provisions, and contract remedies available to the Airport in the event of non-compliance with the DBE regulations by a participant in procurement activities.
3. The Airport will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by the following means:
  - a. *Review bid package documentation thoroughly, obtaining clarification, if necessary.*
  - b. *Review monthly reports regarding employment as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.*
  - c. *Monitor progress of payments to DBEs through monthly reports from prime contractors.*
  - d. *Monitor progress of DBEs work through on-site visits and communication with DBEs. The Airport will implement a monitoring and enforcement mechanism that will include written certification that the Airport has reviewed contracting records and monitored work sites for this purpose. This monitoring will be conducted during routine project site visits by the Airport's engineering consultant on a monthly basis. In addition to the engineering consultant, the DBELO will sign-off on the written certifications.*

4. The Airport will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

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

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

The program element is included as Attachment 4. The Airport will actively implement the program elements to foster small business participation. Doing so is a requirement of good faith implementation of the DBE program.

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

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

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

#### **Section 26.45           Overall Goals**

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

**In accordance with Section 26.45(f)** the Airport will normally submit its overall goal to USDOT on August 1 of each year. Before establishing the overall goal each year, the Airport will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Airport's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the Airport will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport and for a 30 day comment period. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The Airport's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and responses, if any comments are received.

The Airport will begin using the overall goal on October 1 of each year, unless it has received other instructions from USDOT. If the Airport establishes a goal on a project basis, it will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

**Section 26.47 Goal Setting and Accountability**

If the awards and commitments shown on the Airport's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, the Airport will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Maintain a copy of the plan on file for at least three (3) years.

**Section 26.49 Transit Vehicle Manufacturers Goals**

N/A

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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program. This section of the program will be updated when the goal calculation is updated.

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

The Airport will use contract goals to meet any portion of the overall goal it 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 Airport will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. The Airport need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Airport will express its contract goals as a percentage of the total share of a USDOT-assisted contract.

## **Section 26.53            Good Faith Efforts Procedures**

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

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

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

### Information to be submitted (26.53(b))

The Airport treats bidders'/offerors' compliance with good faith efforts' requirements as a matter of responsiveness. This means that the information required for the bid is to be submitted at time of the bid opening.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

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

This information will be collected using the forms found in Attachment 6.

### Administrative reconsideration (26.53(d))

**Within ten (10) days of being informed by the Airport that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following administrative reconsideration official (ARO): Timothy P. Davis, Transportation Planner, City of Frederick,**

**140 W. Patrick Street, Frederick, Maryland 21701, (301)-600-1884. The ARO will not have played any role in the original determination that the bidder 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 Airport's administrative reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The Airport will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the US Department of Transportation.

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

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

In this situation, the Airport will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The Airport will provide such written consent only if the Airport agrees, for reasons stated in a 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 Airport has determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;

- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that the Airport 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 its request to the Airport 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 Airport, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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

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

Sample Bid Specification:

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

The bidder/offeror will be required to submit the following information:

- (1) the names and addresses of DBE firms that will participate in the contract;
- (2) a description of the work that each DBE firm will perform;

- (3) the dollar amount of the participation of each DBE firm participating;
- (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4);
- (6) if the contract goal is not met, evidence of good faith efforts.

**Section 26.55            Counting DBE Participation**

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

**SUBPART D – CERTIFICATION STANDARDS**

**Section 26.61 – 26.73            Certification Process**

The Airport will refer all matters pertaining to certification to the Maryland Department of Transportation (MDOT) in accordance with the State's UCP program. MDOT will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. MDOT will 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:

Maryland Department of Transportation  
Office of Minority Business Enterprise  
7201 Corporate Center Drive  
Hanover, MD 21071  
[mbe@mdot.state.md.us](mailto:mbe@mdot.state.md.us)  
410-865-1269

A link to certification application forms and documentation requirements are found in Attachment 7 to this program.

**SUBPART E – CERTIFICATION PROCEDURES**

**Section 26.81            Unified Certification Programs**

The Airport is a member of the Unified Certification Program (UCP) administered by the Maryland Department of Transportation (MDOT). The UCP will meet all of the requirements of this section. The MDOT UCP program uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT/FAA-assisted contracts. Under the MDOT UCP Program, only MDOT will conduct all

DBE certifications. To be certified as a DBE, a firm must meet all certification eligibility standards. The Airport will refer all certifications to MDOT.

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

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

The Airport will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, the Airport will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.

#### Monitoring Payments to DBEs

The Airport will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Airport or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

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

## **ATTACHMENTS**

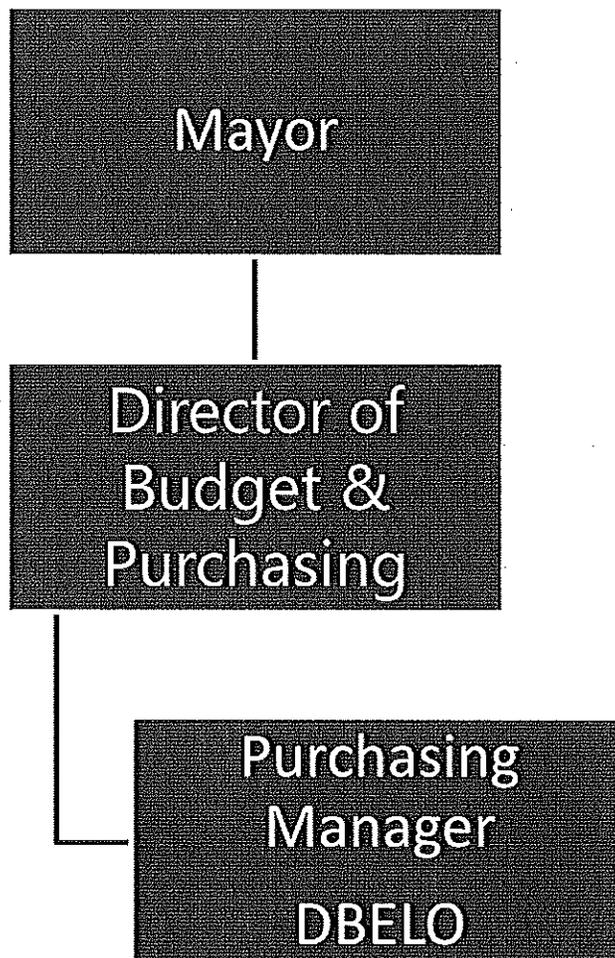
Attachment 1	Organizational Chart
Attachment 2	DBE Directory
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Attachment 1

Organizational Chart

Frederick Municipal Airport  
Frederick, Maryland

Organizational Chart



Attachment 2

# DBE Directory

The UCP DBE directory for the State of  
Maryland may be found at

<http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/HomePage.html>

Attachment 3

Monitoring and Enforcement  
Mechanisms

## Frederick Municipal Airport

1. All participants are hereby notified that pursuant to Title 49 Code of Federal Regulations, United States Department of Transportation, Part 26 and the Disadvantaged Business Enterprise Participation Program for the Frederick Municipal Airport, they must affirmatively ensure that, in any contract entered into with the Airport, DBEs will be afforded *equal* opportunity to participate in subcontracting activities. It is the policy of the Airport to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is further the policy of the Airport to ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
2. All contracts between the Airport, and a Contractor shall contain an appropriate provision to the effect that failure by the Contractor to comply with the Airport's DBE Program shall constitute a breach of contract, exposing the Contractor to a potential termination of the contract or other appropriate remedy, including withholding of funds, until such time as the contractor complies with all the DBE requirements of this program. Under authority granted by Maryland law, the Airport may impose liquidated damages, contract suspension, or even contract termination.
3. All documentation submitted at time of bid, as well as additional data provided by the successful bidder, is considered part of the contract documents. Any alterations, substitutions, deletions, etc., to data provided at time of submission of bid must have prior approval of the Airport's DBE Liaison Officer.
4. Should a DBE firm not certified by the Maryland Department of Transportation be proposed by a potential contractor as a part of his/her DBE plan efforts, review and certification procedures consistent with 49 CFR Part 26 must be conducted prior to award of any contract.
5. In contracts with DBE contract goals, bids submitted which do not meet the DBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered non responsive bids, and bidders will be notified of the deficiency and given opportunity to appeal to the Administrative Reconsideration Official (49 CFR 26.53). The bidder will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Official will make the determination on the sufficiency of the good faith efforts.
6. The Airport reserves the right to reject any or all bids, or to re-advertise for bids. Award, if made, will be to the lowest responsive and qualified bidder. A bid will not be considered responsive unless the bidder complies with Title 49 Code of the Federal Regulations, Part 26, and the Disadvantaged Business Enterprise Program of the Airport.
7. The Airport shall require contractors to make good faith efforts to replace a DBE subcontractor that is terminated, or fails to complete its work on the contract for any reason, with another DBE subcontractor. If a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Contractor must notify the Airport immediately.

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 established contract goal. The Airport shall approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible DBEs.

Additional information on the Airport's Disadvantaged Business Enterprise Program can be obtained from the DBE Liaison Officer, **Kandi Fullerton, CPPB, Purchasing Manager, City of Frederick, 111 Airport Drive, Frederick, Maryland 21701, (301)-600-6906, e-mail: [kfullerton@cityoffrederick.com](mailto:kfullerton@cityoffrederick.com)**.

8. The Airport will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. These mechanisms will include, but not be limited to, the following:
  - a. *Review bid package documentation thoroughly, obtaining clarification, if necessary.*
  - b. *Review monthly reports regarding employment as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.*
  - c. *Monitor progress of payments to DBEs through monthly reports from prime contractors.*
  - d. *Monitor progress of DBEs work through on-site visits and communication with DBEs. The Airport will implement a monitoring and enforcement mechanism that will include written certification that the Airport has reviewed contracting records and monitored work sites for this purpose. This monitoring will be conducted during routine project site visits by the Airport's engineering consultant on a monthly basis. In addition to the engineering consultant, the DBELO will sign-off on the written certifications.*
9. The Airport will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
10. The Airport also will consider similar action under its own legal authority, including responsibility determinations in future contracts. In addition, the Airport will apply legal and contract remedies under state and local law. This includes, for example, applying liquidated damages, withholding payments, etc.
11. In its reports of DBE participation to the USDOT, the Airport will show both commitments and attainments, as required by the USDOT reporting form.

**Attachment 8** contains a copy of 49 CFR Part 26, which describes federal regulations, provisions, and contract remedies available to the Airport in the event of non-compliance by a participant.

Attachment 4

# Small Business Participation Plan

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

### **A. Purpose and Objective of this Element**

This element, 49 CFR Part 26.39, is included as an amendment to the airport's DBE program plan, and is herein referenced as the Small Business Participation Plan (SBPP). This new part calls for the inclusion of an element to

*"structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation."*

The Frederick Municipal Airport ("the Airport") hereby sets forth the plan to implement these requirements. The Airport's SBPP is also regarded as a substantial effort toward fulfilling the overall intent of 49 CFR Part 26.51, which is to meet the maximum feasible portion of its overall goal by using race-neutral means to obtain DBE participation. Therefore, implementation of the Airport's SBPP will be based on the standard of business size, without regard to race or gender of the business owner.

This element also addresses the unnecessary and unjustified "bundling" of contract requirements which may preclude or inhibit small business participation in procurements, as either prime or subcontractors.

Further, the Airport perceives the objectives of this section to be consistent with its DBE program policy statement, which says in part:

*"- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.  
- To help remove barriers to the participation of DBEs in DOT assisted contracts...  
-To assist the development of firms that can compete successfully in the market place outside the DBE Program."*

The Airport's policy statement and this small business element (SBPP) are consistent with the Airport's mission of creating and encouraging business opportunities at all levels.

### **B. SBPP Strategy**

The Airport intends to carry out the objectives of this part by employing the following strategies and supporting activities:

#### **1. Establishment of a Race-neutral "Subcontracting Goal"**

The Airport proposes, where feasible, on certain prime contracts that do not have a DBE contract goal, that prime contractors will be required to provide subcontracting opportunities to qualified small business concerns (SBCs), as defined herein, without regards to race or gender of the business owner. Verified business size and subcontracting opportunities will be the basis of this subcontracting goal. The opportunities must be of a size that SBCs, including some which may also happen to

be DBEs, can reasonably perform. The Airport, through its staff or its consultants, will assess the feasibility for race-neutral subcontracting goals on projects. The Airport staff or consultant(s) will assist the potential prime contractors by reviewing the project(s), in advance of the solicitation, and by suggesting potential subcontracting opportunities in the solicitation documents. This will help to establish a reasonable race-neutral subcontracting goal.

## 2. Consideration of "Unbundling" of Large Contracts

The Airport, as a general aviation facility, has given consideration to "unbundling" as a small business strategy and believes that, at this time, such a strategy will not be suitable for the Airport. Because of the limited number of contracts each year, the increased total number of bid solicitations with "unbundling" could significantly increase both administrative and project costs per bid. This will reduce the necessary "economy of scale" for general aviation airports.

## C. Definitions for this Element

### 1. Small Business

For purposes of this program element, which is part of the Airport's approved DBE program, "small business" shall have the same definition as "small business concerns" contained in 49 CFR 26.5:

*"Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b)."*

For additional clarification, it is useful to include here some excerpts from the SBA regulations, 13 CFR, 121.105:

*(a)(1) Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...." and,*

*(b) A business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.*

Small business concerns must meet the business size standards, as defined by the SBA. The business size standards are based upon the average annual revenues, and

they vary according to the type of business. More information can be found at <http://www.sba.gov/sites/default/files/files/Size Standards Table.pdf>.

Further, it is acknowledged that the SBA rules make allowances for the dollar amounts to be adjusted from time to time.

## **2. Disadvantaged Business Enterprise**

Disadvantaged Business Enterprise (DBE) means a for-profit small business concern (defined by SBA rules, above) that meets the standards of 49 CFR Part 26, i.e.

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

It is understood that in the implementation of this element, all of the "small business concerns" may not necessarily be DBE firms. However, small businesses that are also owned and controlled by individuals who meet the DBE standard will certainly be encouraged to seek DBE certification. Only DBE-certified firms who participate as small business concerns, pursuant to this element, will be counted towards DBE race-neutral participation on FAA-assisted contracts in this program.

## **D. Verification Standards and Procedures**

For purposes of this small business element, the Airport will require the following verification and/or certification:

1. **Maryland Unified Certification Program DBE Certification** – DBE certification by the Maryland UCP that stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the Maryland UCP. It should be noted that the Airport is a non-certifying member of the Maryland UCP and relies on certification decisions of the Maryland Department of Transportation (MDOT). The MDOT certification staff applies the standards and procedures for DBE certification applicants contained in Subparts D and E of 49 CFR 26.61 – 26.91.

2. **Small business status** - A non-DBE certified potential small business concern may have to complete a simplified application and/or provide the following information at time of response to a solicitation or a bid submittal, as evidence of the small business status:
  - a. Evidence of SBA 8(a) or SBD Certification (as described in 13 CFR Parts 121 and 124);
  - b. A copy of the business tax returns for the most recent three-year period indicating the gross receipts; and/or
  - c. A notarized statement from a Certified Public Accountant indicating the firm's average gross receipts for the past three years.
3. **Use of Personal Net Worth:** The Airport, in addition to the standards for small business concerns described above, plans to utilize the current personal net worth standards of the DBE program (49 CFR Part 26.67), presently at \$1.32 million.

#### **E. Supportive Services**

The Airport is a non-certifying member of the Maryland UCP. The Airport does not conduct DBE certifications on behalf of the Airport, but relies on certifications of the UCP. While the Airport also does not provide direct supportive services or business development programs to DBEs or small businesses, the Airport is aware of several valuable resources in the surrounding area. The Airport will coordinate and make referrals to potential and qualifying small business concerns to these services. One resource is listed below:

Western Maryland Small Business Development Center  
Frostburg State University  
101 Braddock Road  
Frostburg, MD 21532  
Phone: 888-237-9007  
[http://marylandsbdc.org/western/index\\_western.php](http://marylandsbdc.org/western/index_western.php)

#### **F. Implementation Plan and Timetable**

The Airport proposes to have its SBPP fully implemented within 120 days of the FAA final approval of the plan. The Airport will utilize the timeframe to properly set up the program in order to maximize the potential for ultimate success. These set-up activities will include:

1. Review, in coordination with the Purchasing Manager's office, all upcoming projects to determine which, if any, will be conducive for application of either of the two selected SBPP strategies described in Section B, above.

2. Review, in coordination with the Airport, its consultants, and with legal input, the necessary revisions and modifications to bid solicitation language, etc., prior to implementation of the plan.
3. Coordinate properly with the Maryland UCP to initiate discussions as to whether any changes/modifications are implicated in the UCP stakeholder agreement, due to verification of small business concerns.
4. Coordinate with other entities currently providing relevant supportive services and/or business development for referrals to their programs, as appropriate for the small business concerns that may contact the Airport to increase their competitive opportunities at the Airport.
5. The Airport, during the pre-implementation period, may also seek consultation with the representative small business community.

**G. Principal Responsible Person**

The principal responsible person for overseeing and implementing the Airport's SBPP will be the currently designated Disadvantaged Business Enterprise Liaison Officer (DBELO). The DBELO at the Airport is **Kandi Fullerton, CPPB, Purchasing Manager**.

Attachment 5

Overall Goal Calculation

**FY 2014 - FY 2016**

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM METHODOLOGY  
FOR**

**FREDERICK MUNICIPAL AIRPORT**

**FREDERICK, MARYLAND**

**FEBRUARY 2015**

**METHODOLOGY for Establishing the FY 2014 - FY 2016 Overall Disadvantaged Business Enterprise (DBE) Goal for:**

*Frederick, MD*

In fulfillment of the requirements of 49 CFR Part 26, Frederick Municipal Airport (hereafter 'the Airport') has developed a proposed Overall Goal for FY 2014-2016 FAA-AIP projects. The methodology used in establishing this goal is described herein.

**I. Detailed Methodology: Specific Steps**

**A. Amount of Goal**

The Airport's overall goal for FY 2014-2016 is **6.5%** of the Federal financial assistance it will expend in USDOT-assisted contracts.

Given the amount of USDOT-assisted contracts that the Airport expects to let from FY 2014-2016, which is approximately **\$5,127,980**, this means that the Airport has set a goal of expending approximately **\$334,666** with DBEs during this period.

**B. Determination of the Market Area of the study**

The normal market area was based on discussions with the consulting engineer, Airport 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: Frederick Municipal Airport Market Area**  
**Frederick County, MD**

**C. Determination of relevant NAICS codes**

Based on information provided by the consulting engineer 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: Frederick Municipal Airport  
FY 2014-FY 2016 Projects & Activities**

<b>FY 2014 Projects</b>		
<b>PROJECT</b>	<b>ACTIVITY</b>	<b>NAICS CODE</b>
Extend Runway 5-23 - Bailes Lane Building Demolition (Design)	• Engineering	541330
Extend Runway 5-23 - Relocate Washington Gas Line (Design)		
<b>FY 2015 Projects</b>		
<b>PROJECT</b>	<b>ACTIVITY</b>	<b>NAICS CODE</b>
Demolish Bailes Lane Buildings	• Gas Pipeline Construction • Site Prep/Demolition	237120 238910
Extend Runway 5-23 Phasing and Funding Study	• Engineering • Landscaping	541330 561730
Relocate Runway 23 Site Prep (Design)		
<b>FY 2016 Projects</b>		
<b>PROJECT</b>	<b>ACTIVITY</b>	<b>NAICS CODE</b>
Relocate Runway 23 Glideslope Site Prep	• Site Prep/Demolition • Engineering	238910 541330
Extend Runway 5 (Design)		

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

**Table 3a: DBEs—Frederick Municipal Airport  
by Relevant NAICS Codes—FY 2014**

<b>NAICS Codes</b>	<b>DBE Firms</b>	<b>All Firms</b>	<b>% of DBE Firms Available</b>	<b>Ratio of estimated total expended</b>	<b>Weighted Total Availability</b>
<b>541330</b>	4	59	6.8%	<b>100.0%</b>	6.8%
<b>WEIGHTED STEP 1 DBE BASE FIGURE =</b>					<b>6.8%</b>

**SOURCES:**

1. 2012 County Business Patterns, U.S. Census Bureau.
2. Maryland UCP DBE Directory, January 2015.

**Table 3b: DBEs—Frederick Municipal Airport  
by Relevant NAICS Codes—FY 2015**

<i>NAICS Codes</i>	<i>DBE Firms</i>	<i>All Firms</i>	<i>% of DBE Firms Available</i>	<i>Ratio of estimated total expended</i>	<i>Weighted Total Availability</i>
<b>237120</b>	0	6	0.0%	<b>10.2%</b>	0.0%
<b>238910</b>	3	42	7.1%	<b>49.6%</b>	3.5%
<b>541330</b>	4	59	6.8%	<b>39.0%</b>	2.6%
<b>561730</b>	1	150	0.7%	<b>1.2%</b>	0.0%
<b>WEIGHTED STEP 1 DBE BASE FIGURE =</b>					<b>6.1%</b>

SOURCES:

1. 2012 County Business Patterns, U.S. Census Bureau.
2. Maryland UCP DBE Directory, January 2015.

**Table 3c: DBEs—Frederick Municipal Airport  
by Relevant NAICS Codes—FY 2016**

<i>NAICS Codes</i>	<i>DBE Firms</i>	<i>All Firms</i>	<i>% of DBE Firms Available</i>	<i>Ratio of estimated total expended</i>	<i>Weighted Total Availability</i>
<b>238910</b>	3	42	7.1%	<b>81.8%</b>	5.8%
<b>541330</b>	4	59	6.8%	<b>18.2%</b>	1.2%
<b>WEIGHTED STEP 1 DBE BASE FIGURE =</b>					<b>7.0%</b>

SOURCES:

1. 2012 County Business Patterns, U.S. Census Bureau.
2. Maryland UCP DBE Directory, January 2015.

**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 fiscal year was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in Table 3 above.

The Step 1 DBE Base Figure for the Airport for FY 2014 is **6.8%**.

The Step 1 DBE Base Figure for the Airport for FY 2015 is **6.1%**.

The Step 1 DBE Base Figure for the Airport for FY 2016 is **7.0%**.

**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:

*"(i) 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 Airport has no recent similar history available for federally-funded projects; therefore, there are no performance measures with which to adjust the DBE base figure. There will be no adjustment to the goal using previous history.

#### **B. Consultations**

In accordance with 49 CFR Part 26.45, consultations were held with various agencies to gather

*"(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...*

*"(iii) Data on employment, self-employment, education, training and union apprenticeship programs to the extent you can relate it to the opportunities for DBEs to perform in your program" (26.45, d.)*

The Maryland Department of Transportation conducted a disparity study for its Minority and Women Owned Business Enterprise (MWBE) program in 2011. The study determined that there is evidence of significant disparities between minority and female participation in business enterprise activity in the State of Maryland's relevant market area and the actual current availability of those businesses. The study, however, provided no quantifiable data specific to the Airport to use to adjust the DBE base figure and therefore, is not listed in the analysis.

The Maryland Small Business Development Financing Authority (MSBDF) exists to assist socially and/or economically disadvantaged businesses in Maryland with their growth and development. The MSBDF has several programs available for DBEs, including a Contract Financing Program that assists businesses with direct loans or as a guarantor for loans from financial institutions. The MSBDF also offers a Surety Bond Program for DBEs who need bonding assistance. The Maryland Small Business Development Center - Western Region in Frostburg offers one-on-one business consulting, assistance in 8(a) certification and MBE certification in

Maryland, as well as low or no-cost classes and workshops on a number of business-relevant topics.

**C. Adjustment to Step 1 DBE Base Figures: Frederick Municipal Airport, FY 2014-FY 2016**

With the adjustment factors considered to this point, the Airport will not adjust the Step 1 base figures.

**Table 4: Frederick Municipal Airport  
FY 2014- FY 2016 Overall Goal**

<b>Fiscal Year</b>	<b>Step1</b>	<b>Step 2 adjustment</b>	<b>Overall Goal</b>	<b>Total project costs</b>	<b>DBE Goal (dollars)</b>
FY 2014	6.8%	NA	6.8%	\$280,100	\$19,047
FY 2015	6.1%	NA	6.1%	\$2,636,880	\$160,850
FY 2016	7.0%	NA	7.0%	\$2,211,000	\$154,770
<b>Total 3-year goal</b>			<b>6.5%</b>	<b>\$5,127,980</b>	<b>\$334,666</b>

The total DBE goal in dollars was divided by the total project costs to derive the overall DBE goal of 6.5% for FY 2014-FY 2016.

**III. Process**

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

Before establishing the overall goal this year, the Airport 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 Airport's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the Airport published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for inspection during normal business hours at the Airport's administrative office for 30 days following the date of the notice, and informing the public that the Airport would accept comments on the goals for 45 days from the date of the notice. The notice was published on the Airport's website. The notice included addresses (including offices) to which comments could be sent and addresses where the proposal could be reviewed. This process was used to establish the goals for FY 2014 to FY 2016.

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

*(Note: No comments have been received as of this submittal. Should any comments be received, those comments and our responses to the comments will be submitted at the end of the review and comment period.)*

The Airport will begin using the overall goal on October 1 of each goal year, unless the Airport 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 Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Airport will use a combination of the following race-neutral means to increase DBE participation:

- 1. 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);*
- 2. 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).*

The Airport proposes a race-conscious goal of **6.5%** and a race-neutral goal of **0.0%**, for a total of **6.5%**. The reason for this projected split is that the Airport has no recent similar history of past DBE participation upon which to base a race-conscious/race-neutral breakout, so the goal should be met via race-conscious measures.

The Airport 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.

## V. Contract Goals

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

The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The Airport 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 Airport 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. 2012 County Business Patterns, U.S. Census Bureau.
2. Maryland UCP Directory of Certified Disadvantaged Business Enterprises, January 2015.
3. The State of Minority- and Women- Owned Business Enterprise: Evidence from Maryland, February 2011.

### **B. Persons, and/or Agencies Consulted with:**

1. Delta Airport Consultants, Inc.
2. Maryland Department of Transportation's Office of Minority Business Enterprise

Attachment 6

Form 1 & 2 for  
Demonstration of Good Faith  
Efforts

**FREDERICK MUNICIPAL AIRPORT**

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

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

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

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

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

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

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

**FREDERICK MUNICIPAL AIRPORT**

**FORM 2: LETTER OF INTENT**

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

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

Airport: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

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

Airport: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

Description of work to be performed by DBE firm:

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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.

By \_\_\_\_\_  
(Signature) (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 page for each DBE subcontractor.)

Attachment 7

Certification Application  
Form

The UCP certification application for the  
State of Maryland may be found at

<http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/Certifications%20and%20Forms/Certifications%20and%20Required%20Forms%20Page.html>

Attachment 8

Regulations: 49 CFR Part 26

The federal regulations,  
Title 49

Code of Federal  
Regulations

Part 26, may be found at  
[www.ecfr.gov](http://www.ecfr.gov).

