



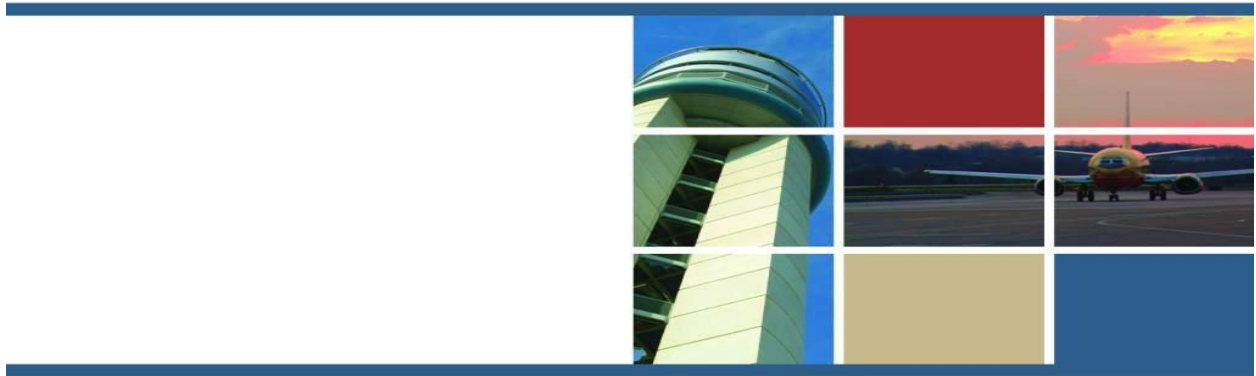
## COLUMBUS REGIONAL AIRPORT AUTHORITY

JOHN GLENN INTERNATIONAL • RICKENBACKER INTERNATIONAL • BOLTON FIELD

### RICKENBACKER INTERNATIONAL AIRPORT

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PLAN

### ENABLING LEGISLATION: 49 CFR PART 26



Dated June 2025

Submitted by: Jessica Gaston Mathews

Senior Manager, Procurement & Business Partnership Programs

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## Policy Statement

Rickenbacker International Airport is owned and operated by the Columbus Regional Airport Authority (CRAA or the "Authority"). The Authority 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, as the sponsor of Rickenbacker International Airport, has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code.) The Authority has signed airport grant assurances that will comply with 49 CFR Part 26.

The Authority has committed to and maintains a program that promotes the maximum opportunity for participation from Disadvantaged Business Enterprises (DBEs) in construction-related contracting opportunities with the Authority. 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 our policy:

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

The Senior Manager - Procurement, has been designated as the Authority's DBE Liaison Officer (DBELO). In that capacity, the Senior Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority and compliance as a legal obligation incurred by the Authority in its financial assistance agreements with the Department of Transportation.

The Authority has disseminated this policy statement to the Columbus Regional Airport Authority Board of Directors and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The distribution was accomplished by the Authority's Procurement Office at 4600 International Gateway, Columbus, Ohio 43219. This policy will be submitted to the Federal Aviation Administration for approval pursuant to the Regulations. This policy will be modified by the Authority to the extent required to obtain such approval. If there are any questions or a need for further information regarding this Program, please contact the Senior Manager, by telephone at (614) 239-6180, or by e-mail at [craaprocurement@columbusairports.com](mailto:craaprocurement@columbusairports.com).



Joseph R. Nardone, President & CEO



Date



## **SUBPART A-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, Section 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 based on 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 Data Collection and Reporting Requirements**

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

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

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

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

## **Bidders List:**

CRAA will collect bidders list information as described in § 26.11(c)(2) and enter it into the system designated by DOT. The purpose of the bidders list is to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our federally assisted contracts for use in helping you set your overall goals, and to provide the Department with data for evaluating the extent to which the objectives of § 26.1 are being achieved.

CRAA will obtain the following bidders list information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each of our federally assisted contracts:

- Firm name
- Firm Address including Zip code
- Firm's status as a DBE or non-DBE
- Race and sex information for the firm's majority owner
- NAICS code applicable to each scope of work the firm sought to perform in its bid
- Age of the firm
- Annual gross receipts of the firm. The gross receipts can be obtained by asking each firm to indicate into what gross receipts bracket they fit (e.g. less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million, etc) rather than requesting an exact figure from the firm.

CRAA will collect the data from all bidders for our federally assisted contracts by requiring the information in paragraph (c)(2) of this section to be submitted with their bids or initial responses to negotiated procurements.

CRAA will enter this data in the Department's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded.

In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to § 26.53(e), CRAA will enter the data no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

CRAA will maintain records documenting a firm's compliance with the requirements of this part. 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 Assurances Recipients and Contractors Must Make**

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 Authority 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 in compliance 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, if it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted to the relevant operating administrator for 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:

Jessica Gaston Mathews, Senior Manager, Procurement  
Columbus Regional Airport Authority  
4600 International Gateway  
Columbus, Ohio 43219  
Phone: 614-239-6180  
Email: [JLGaston@ColumbusAirports.com](mailto:JLGaston@ColumbusAirports.com)

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination, with other appropriate officials. The DBELO has a staff of one direct report and multiple staff resources from other internal departments to assist in the administration of the program. The duties and responsibilities of the DBELO include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes the Authority's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the President & CEO/governing body on DBE matters and achievement.
9. Determines contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Oversees the maintenance of the Authority's updated directory on certified DBEs.

## **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. After a preliminary investigation the Authority has not identified any DBE financial institutions within the community. The Authority will continue to look for such institutions and, if found, will make reasonable efforts to use their services. Should any DBE financial institutions be identified, information regarding their availability can be obtained from the Procurement Office.

## **Research to Identify Potential DBE Financial Institutions**

The Authority checked the on-line resource: <https://fdic-gis.maps.arcgis.com/apps/webappviewer/index.html?id=76c05acdf50f4e3db35cd042103e> to identify and learn about financial institutions owned and controlled by social and economic disadvantaged individuals in and around our local community. None could be identified in or around our local community. The Authority will review and check annually the above-mentioned website and any other resources to see if any new opportunities can be identified to do business with financial institutions owned and controlled by social and economic disadvantaged individuals.

### **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. Prompt payment and return of retainage requirements also apply to lower-tier subcontractors.

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 10 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 10 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:

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 10 days after the Authority's payment to the prime contractor.

To implement this measure, the Authority includes the following clause from FAA Advisory Circular 150/5370-10 (Section 90-06) in each DOT-assisted prime contract:

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the Contractor has received a partial payment. The Authority must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. 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 Authority. When the Authority 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.

From the total of the amount determined to be payable on a partial payment, a percent, not to exceed 10% of such total amount will be deducted and retained by the Authority until the final payment is made, except as may be provided (at the Contractor's option) in the Payment of Withheld Funds. The balance of the amount payable, less all previous payments, shall be certified for payment. Should the Contractor exercise its option, as provided in the Payment of Withheld Funds, no such percent retainage shall be deducted.

When at least 95% of the work has been completed, the Engineer shall, at the Authority'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 Authority 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.

## **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 and/or ACDBEs, and it contains all the elements required by §26.31. The directory lists all firms eligible to participate as a DBE and/or ACDBE in the program. In the listing for each firm, the UCP directory includes the following details about the firm:

Business address

Business phone number

Firm website(s)

The types of work the firm has been certified to perform as a DBE and/or ACDBE.

The type of work a DBE and/or ACDBE is eligible to perform is listed by using the most specific NAICS code available to describe each type of work the firm performs. Pursuant to § 26.81(n)(1) and (3), the UCP directory allows for NAICS codes to be supplemented with specific descriptions of the type(s) of work the firm performs.

The UCP directory may include additional data fields of other items readily verifiable in State or locally maintained databases, such as State licenses held, Pre-qualifications, and Bonding capacity.

The UCP directory is an online system that permits the public to search and/or filter for DBEs by:

Physical location

NAICS code(s)

Work descriptions

All additional data fields of readily verifiable optional information described above.

The directory includes a prominently displayed disclaimer that states the information within the directory is not a guarantee of the DBE's capacity and ability to perform work.

A link to the online directory may be found in Attachment 4 to this program document.

## **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 mechanism to ensure compliance with 49 CFR Part 26 program requirement by all program participants, including prompt payment, and describes and set forth these mechanisms in the Authority's DBE program.

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

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in CFR 26.107.
2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in the DBE program.
3. We will implement a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is performed by the DBEs. This will be accomplished by:
  - a) **After Bid Opening**- Following a bid opening, the Procurement Office will investigate and verify that the apparent low bidder either will meet the contract goal or has made a good faith effort to achieve the goal. As part of this verification process, the Procurement Office will contact DBEs whose quotes the apparent low bidder has indicated in the bid documents as having accepted for purposes of preparing its bid. The Procurement Office will verify that the DBE(s) so indicated will be performing as subcontractor(s) on the project and that the amount(s) indicated in the bid accurately reflect(s) the anticipated subcontract amount(s). As part of this verification, the Procurement Office will obtain copies of the subcontract agreements between the apparent low bidder and its DBE subcontractor(s).
  - b) **After Contract Award/Execution**-The Authority will only credit DBE participation toward overall and contract goals after payments have been made to the DBE subcontractor(s). The Procurement Office will verify that payment has been made. Once the apparent low bidder has been determined, the Procurement Office will contact the subcontractors listed in the bid documents, notifying them of their subcontract. Completed forms confirming the type of work to be performed and the amount of the subcontract will be required from both the prime contractor and its subcontractors as a compliance mechanism. Copies of canceled checks and invoices may be requested by subcontractors to verify payments and contract amount. Subcontractors are also required to sign a sworn affidavit verifying contract amounts.
4. The Authority has implemented a mechanism that provides for a running tally of actual DBE attainments (e.g., payment made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

The Authority will require prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for five years following the performance of the contract. 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 Procurement office proactively reviews contract payments to subcontractors, including DBEs not less than quarterly. 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.

The Authority will consider a subcontractor's work as satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Authority. When the Authority has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

The Authority will provide appropriate means to enforce the requirements of this section. These means may include appropriate liquidated damages for failure to comply, the terms and conditions of which the Authority will set. Our program may also

provide that any delay or postponement of payment among the parties may take place only for good cause, with the Authority's prior written approval.

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

**Prompt Payment to Subcontractors.** Within 10 days after the Contractor receives payment from the Owner (i.e. The Authority) on account of a Subcontractor's Work, the Contractor shall pay that Subcontractor the amount to which the Subcontractor is entitled less retainage attributable to the amount due the Subcontractor. The Contractor shall pay interest of 1-1/2 percent per month, or any part of a month, to a Subcontractor on any undisputed amount not paid to that Subcontractor in accordance with this prompt-payment requirement. The Contractor shall pay to Subcontractor all amounts retained from any payments to Subcontractor within ten days after the Subcontractor's work is substantially complete. The Contractor shall require each Subcontractor to make payments to sub-Subcontractors in a similar manner.

The Contractor shall cause the above provisions to be included in all Subcontracts and sub-subcontracts (regardless of tier) entered in furtherance of the Work.

The Contractor shall not include in any Subcontract any provision which conditions the Contractor's obligation to pay a Subcontractor or the timing of the Contractor's payment of a Subcontractor except as specifically provided in this paragraph on the Contractor's receipt of money from the Authority. The Contractor shall also prohibit each Subcontractor from including any such provision in any sub-subcontract (regardless of tier) entered in furtherance of the Work. The intent of this clause is to prohibit the use of provisions commonly known as "contingent-pay provisions", "pay-if-paid provisions", and "pay-when-paid provisions" from being used on the project.

Should the Contractor fail to comply with these provisions, the Authority may withhold payment from Contractor, pay the Subcontractor directly, or take such other action as the Authority deems necessary to compel the Contractor's compliance.

### **Prompt Payment Complaints**

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

- Subcontractor should communicate directly with the Prime Contractor about prompt payment issues. If affected subcontractor is not comfortable contacting prime directly regarding payment or unable to resolve payment discrepancies with the prime directly, subcontractor should contact the DBELO of the Authority to initiate complaint.
- If the subcontractor feels the DBELO is not handling the prompt payment complaint in a timely, efficient and/or effective manner, the subcontractor may contact the appropriate FAA or DOT personnel.
- 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:

- *Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract*
- *Pay subcontractors directly and deduct this amount from the amount(s) owed to the prime*

- *Other remedies for failure to comply, up to and including withholding payments and 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 performed by the DBEs to which the work was committed. Work site monitoring is performed by either the Senior Specialist, Procurement or the DBELO. Contracting records are reviewed by the DBELO or the Senior Specialist, Procurement. 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 Authority's small business element, called the Certified Small Business Partner program, is incorporated as Attachment 10 to this DBE Program. The program elements will be actively implemented to foster small business participation. The Authority acknowledges that **implementation of the small business element is required for the Authority to be considered by DOT as implementing our DBE program in good faith.**

## **GOALS, GOOD FAITH EFFORTS AND COUNTING**

### **Section 26.43 Set Asides or Quotas**

The Authority does not use quotas or race-conscious set-asides 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 we anticipate 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 Section 26.45(f) the Authority will submit its Overall Three-year DBE Goal to FAA by August 1<sup>st</sup> of the year in which the goal is due, as required by the schedule established schedule by and posted to the website of the FAA.

**FAA:**

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 one or more of the following resources, DBE Directories and Census Bureau Data, a Bidders List, a Disparity

Study, the goal of another DOT recipient or other alternative methods 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 Authority 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 our market.

### **Section 26.45 (g)(1) Overall Goals**

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 Authority’s efforts 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 our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. The goal submission will document the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, 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 our official internet website as well as on our compliance software platform, B2GNow. If the proposed goal changes following review by the FAA, the revised goal will be posted on the official internet website and on B2GNow.

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

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

### **Section 26.45 (e) Project Goals**

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

### **Section 26.45(f) - 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 us, 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 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 their 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 to be regarded by the Department as implementing our 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;
- (3) The Authority will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three (3) years and will make it available to FAA upon request.

### **Section 26.49 How Overall Goals are Established for Transit Vehicle Manufacturers**

Section 26.49 does not apply to the Authority.

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

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

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



- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs 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; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses.
- (6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low.
- (8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

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

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

The 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.

If the approved projection under paragraph (c) of section 26.51 estimates that the entire overall goal for a given year 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 work).

Contract goal will be expressed as a percentage of the total amount of a DOT-assisted contract.

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

### **Section 26.53 (a) & (c) 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.

Jessica Gaston Mathews, 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 forms found in Attachment 6 will be used to help determine good faith effort.

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.

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

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the Authority will require every bidder/offeror to submit the following information:

- (1) The names and addresses of all DBE firms that will participate in the contract.
- (2) A description of the work 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.
- (3) The dollar amount of the participation of each DBE firm participating.
- (4) Written documentation of the bidder/offeror's commitment to use each DBE subcontractor whose participation it submits to meet a contract goal.
- (5) 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. Each DBE listed to perform work as a regular dealer or distributor must confirm its participation according to the requirements of § 26.53 (c)(1).
- (6) 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/offeror when a non-DBE subcontractor was selected over a DBE for work on the contract.

Under sealed bid procedures, the bidder will be required to submit the above-listed information with its bid. The Authority will evaluate the submitted information in conjunction with its evaluation of bid responsiveness.

Provided that, in a negotiated procurement, such as a procurement for professional services, 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 (b)(2) of this section before the final selection for the contract is made by the Authority. This paragraph (b)(3)(ii) does not apply to a design-build procurement, which must follow the provisions in paragraph (e) of 49 CFR § 26.53.

For each DBE listed as a regular dealer or distributor CRAA will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §§ 26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The preliminary determination will be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its

participation will meet the specific requirements of either a regular dealer or distributor, CRAA will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

In a design-build contracting situation, in which CRAA solicits proposals to design and build a project with minimal project details at time of letting, CRAA may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance Plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information required in paragraph (b) of § 26.53(b). To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amounts) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, CRAA will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. CRAA and the design-builder may agree to make written revisions of the OEPP throughout the life of the project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

CRAA] will apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, CRAA **will count** the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

Regardless of the applicable procurement procedures, award of the contract will be conditioned on the bidder/offeror meeting the requirements of this section.

### **Section 26.53 (d) Administrative Reconsideration**

Within five (5) business 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/offeror should make this request in writing to the following reconsideration official:

Demitri Johnson, Attorney  
Columbus Regional Airport Authority  
4600 International Gateway  
Columbus, OH 43219  
614-629-9104  
[DPJohnson@ColumbusAirports.com](mailto:DPJohnson@ColumbusAirports.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 our 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.

## **Section 26.53 (f) (g) Good Faith Efforts Procedural Requirements (post-solicitation)**

CRAA will include in each prime contract the contract clause required by § 26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section that CRAA deems appropriate if the prime contractor fails to comply with the requirements of this section.

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.

CRAA will require that a prime contractor not terminate a DBE, or any portion of its work listed in response to § 26.53(b)(2) (or an approved substitute DBE firm per § 26.53(g)) without our prior written consent, unless CRAA causes the termination or reduction. A termination includes any reduction or underrun in work listed for a DBE not caused by a material change to the prime contract by the recipient. This requirement applies to instances that include but are not limited to: when a prime contractor seeks to perform work originally designed for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

CRAA will include in each prime contract a provision stating that:

- (1) The contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains CRAA written consent as provided in § 26.53(f); and
- (2) Unless CRAA consent is provided under § 26.53(f), the prime contractor must not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

CRAA may provide such written consent only if it agrees, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the listed DBE or any portion of its work.

Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that is 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. For purposes of § 26.53(f)(3), 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, or any portion of its work, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Authority sent concurrently, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the proposed request.

The prime contractor must give the DBE five 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/solicitation*] 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 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 49 CFR 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 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 Part 26 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 section 26.87(j).

For FAA-funded projects **only**, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and may be counted for DBE credit toward overall and contract goals 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). 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:

The Ohio Unified Certification Program  
The Ohio Department of Transportation  
Office of Small Business and Disadvantaged Business Enterprise  
1980 W. Broad Street, MS 3270  
Columbus, OH 43223  
Phone: (614) 466-3957  
Fax: (614) 728-2078

<https://www.transportation.ohio.gov/programs/business-economic-opportunity>

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 (UCP)**

The Authority is a member of a Unified Certification Program (UCP) administered by The Ohio Department of Transportation. The UCP will meet all requirements of this section. (see Attachment 9 for the link to the Authority's agreement with the Ohio UCP).

## **SUBPART F- COMPLIANCE AND ENFORCEMENT**

### **Section 26.101 Compliance Procedures Applicable to the Columbus Regional Airport 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 FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d).

CRAA understands that, as provided in statute, it will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because it has been prevented from complying because a federal court has issued a final order in which the court found that the requirement is unconstitutional.

### **Section 26.105 Enforcement Actions Applicable to FAA Programs**

Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The provisions of § 26.103(b) and this section apply to enforcement actions in FAA programs.

**Compliance Reviews.** The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

### **Section 26.107 Enforcement Actions Applicable to Participating Firms**

If a firm that does not meet the eligibility criteria of subpart D of this part attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

If a firm, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

The Department may take enforcement action under [49 CFR Part 31](#), Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under [49 CFR part 31](#).

The Department may refer to the Department of Justice, for prosecution under [18 U.S.C. 1001](#) or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

### **Section 26.109 Confidentiality, Cooperation, 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.

The Ohio open records act guides the Authority regarding the release of public records and is found at Ohio Revised Code Sections 149.011 (definitions) and 149.43 (See Attachment 11 for both sections). ORC 149.011(G) defines a record as any document regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any political subdivision, including the Authority, which serves to document its organization, functions, policies, decisions, procedures, operations, or other activities. The Authority's obligations for making records available to the public upon request are explained in Section 149.43.

To the extent 49 CFR Part 26 does not exempt information provided in furtherance of the Authority's DBE program from disclosure, the Authority must make records related to the program available to the public. Ohio law exempts trade secrets from disclosure in ORC 1333.61. Trade secrets include financial information if it derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and it is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Additionally, and notwithstanding any contrary provisions of state or local law, the Authority will not release personal financial information, submitted in response to the personal net worth requirement, to a third party (other than DOT) without the written consent of the submitter.

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 of Part 26 or to any other state to which the individual's firm has applied for certification under § 26.85 of Part 26.

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 Part 26 or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Part 26. The Authority understands that it is in noncompliance with Part 26 if it violates this prohibition.



## **ATTACHMENTS**

<b><u>ATTACHMENT 1</u></b>	Regulations: 49 CFR Part 26 Website Link
<b><u>ATTACHMENT 2</u></b>	Organizational Chart
<b><u>ATTACHMENT 3</u></b>	Bidder's List Collection Form
<b><u>ATTACHMENT 4</u></b>	DBE Directory Website link
<b><u>ATTACHMENT 5</u></b>	Overall Goal Calculations
<b><u>ATTACHMENT 6</u></b>	Demonstration of Good Faith Efforts - Forms 1 & 2
<b><u>ATTACHMENT 7</u></b>	DBE Monitoring and Enforcement Mechanisms
<b><u>ATTACHMENT 8</u></b>	DBE Certification Application Form
<b><u>ATTACHMENT 9</u></b>	Ohio's UCP Agreement
<b><u>ATTACHMENT 10</u></b>	Small Business Element Program
<b><u>ATTACHMENT 11</u></b>	Ohio Public Records Laws (ORC 149.011 and 149.43)

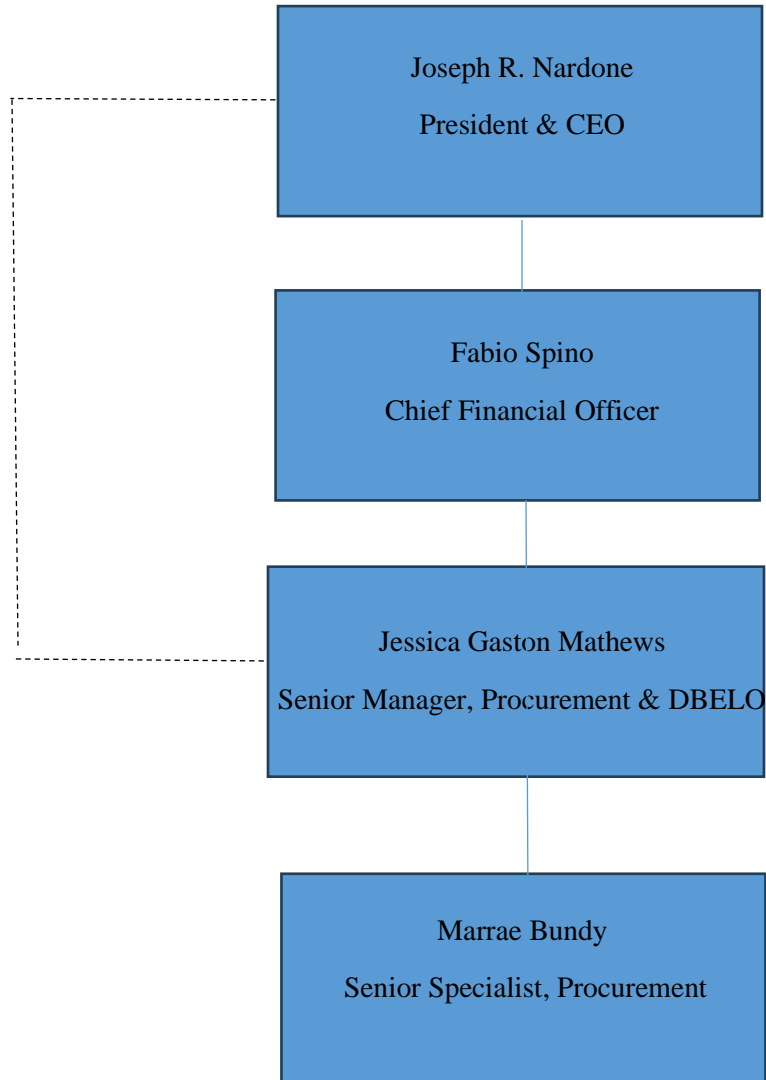
## **ATTACHMENT 1**

**Regulations: 49 CFR Part 26 website link**

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

## **ATTACHMENT 2**

### **Organizational Chart Administration**



# Attachment 3

## Bidder's List Collection Form

		Prime Contractor / Consultant Company Name							
		CRAA Project Name					CRAA Project No.		
Firm Name / Address / City/State/Zip		DBE? (Y)es or (N)o	Race and Sex of Majority Owner	Federal Tax ID No.	Age of Firm	Business Size  Avg. Annual Gross Receipts for Past 3 years	NAICS Codes and Description of Work To Be Performed	Amount of Bid/ Subcontract	Accepted or Rejected & Why?
Name						<input type="checkbox"/> < \$1mill			
Address						<input type="checkbox"/> > \$1mill < \$5mill			
City, State, Zip						<input type="checkbox"/> > \$5mill			
Name						<input type="checkbox"/> < \$1mill			
Address						<input type="checkbox"/> > \$1mill < \$5mill			
City, State, Zip						<input type="checkbox"/> > \$5mill			
Name						<input type="checkbox"/> < \$1mill			
Address						<input type="checkbox"/> > \$1mill < \$5mill			
City, State, Zip						<input type="checkbox"/> > \$5mill			
Name						<input type="checkbox"/> < \$1mill			
Address						<input type="checkbox"/> > \$1mill < \$5mill			
City, State, Zip						<input type="checkbox"/> > \$5mill			
Name						<input type="checkbox"/> < \$1mill			
Address						<input type="checkbox"/> > \$1mill < \$5mill			
City, State, Zip						<input type="checkbox"/> > \$5mill			

The bidder shall list all subcontractors that provided a quote/bid, whether accepted or not (both DBE and non-DBE) in accordance with CRAA General Conditions and per Title 49, Section 26.11 of the Code of Federal Regulations. This listing is required in addition to listing DBE Subcontractors elsewhere in the bid or proposal.

Date

Signature of Authorized Representative

Title

## **ATTACHMENT 4**

### **DBE Directory Information**

1. The Ohio Unified Certification Program  
The Ohio Department of Transportation  
Office of Small and Disadvantaged Business Enterprise  
1980 W. Broad Street, MS 3270  
Columbus, OH 43223
2. The Ohio UCP Website at: <http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP.aspx>
3. By telephone at 614-466-3957

## **Attachment 5**

Section 26.45: Submitted Every 3 Years

# Attachment 6

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

### DECLARATION OF PROPOSED DBE UTILIZATION

*This Page Must Be Completed By Prime Bidder To Indicate The Amount (Percentage) Of DBE Participation. This Form is a Required Submission with the Bid / Proposal to CRAA.*

The undersigned, as a representative of the entity, \_\_\_\_\_, submitting a bid/proposal for the \_\_\_\_\_ project, hereby acknowledges that the DBE goal established for this project is \_\_\_\_\_ %.

**Note: Bidder Shall Make One Of The Two Certifications Noted Below:**

☐ **DBE Goal Met.** The Bidder further represents that the proposed level of DBE participation as set forth in the enclosed Schedule of DBE participation for this project is \_\_\_\_\_ % and represents attainment of the DBE participation goal. The bidder has met the overall Disadvantaged Business Enterprise participation goal with a total DBE Commitment Amount of \_\_\_\_\_ (dollars). The bidder agrees that the DBE firm(s) listed in Schedule of DBE Participation will be used to accomplish the DBE participation commitment for this contract, for at least the dollar amounts set forth herein. Affidavits of Intent confirming the proposed participation of the DBEs set forth on the Schedule of DBE Participation are attached.

☐ **DBE Goal Not Met.** The prime contractor has concluded that it is unable to achieve the DBE participation goal set for this contract. The bidder verifies that it has employed good faith efforts to meet the established DBE goal and has submitted documentation of those efforts along with its bid documentation. The bidder further agrees that the DBE firms listed in the Schedule of DBE Participation will be used to accomplish the DBE participation goal for this contract, for at least the dollar amounts set forth herein. Affidavits of Intent confirming the proposed participation of the DBEs set forth on the Schedule of DBE Participation are attached.

CRAA Project Number		Total bid/ Contract Amount	\$	
Name of DBE Company	Contact Person	Scope of Work	Percentage of Total Bid ÷ Subcontract Amount	Amount of Subcontract
			%	
			%	
			%	
			%	
			%	
			%	
<b>Total DBE Commitment</b>				
<b>Total Percentage of DBE Commitments (Total \$ DBE participation ÷ Total \$ Bid Amount)</b>				

\*Attach Additional Copies, If Necessary.\*

The undersigned further agrees to enter into formal agreement with DBEs listed above or approved substitutions, for the work described in this schedule conditioned upon the award of a contract by the CRAA. The undersigned will provide the CRAA's Manager, Office of Contracts & Procurement a copy of the executed contract(s) with all DBE firms to perform on this contract, upon request.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## AFFIDAVIT OF DBE INTENT TO PERFORM AS A

### SUBCONTRACTOR/SUBCONSULTANT/SUPPLIER {PART 1 OF 3}

**INSTRUCTIONS:** Complete one (1) form for **EACH** certified Disadvantaged Business Enterprise (DBE) committed to performing on this contract.

CRAA Project Name		Project No.	
Prime Contractor/Consultant Company Name			
Name of Person Completing This Form			
Is Prime Contractor/Consultant certified as a Disadvantaged Business Enterprise (DBE)?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>DBE FIRM INFORMATION</b>			
DBE Firm Name			
DBE Firm Contact			
DBE Firm Address		City	State/Zip
Phone:		Email:	
DBE Subcontract Amount			

1. The undersigned DBE firm intends to perform work in connection with the above referenced project as:  

☐ An individual
☐ A partnership
☐ A corporation
☐ A joint venture
☐ Other
2. The undersigned affirms that (s)he is a duly authorized official representing the proposed DBE. The undersigned also affirms that the DBE firm is certified to perform the work described herein and that its current certification letter will reflect appropriate NAICS codes associated with the described scope of work.

**Certifying Agency(Attach Copy of Current Certifications):**

☐  
**DBE**  
 Ohio UCP

3. If awarded the contract, the undersigned intends to enter into subcontract to perform the work described in Part 2 of this form for the prices/subcontract amount indicated.

\* If DBE Firm Is A Third-Tier Subcontractor, This Form Must Also Be Executed By The Second-Tier Subcontractor That Has The Subcontract Agreement With The DBE Firm.

X	
Authorized Signature of Prime Contractor	Title:
X	
Authorized Signature of DBE Subcontractor/ Consultant/ Supplier ( <b>SECOND TIER</b> ):	Title:
X	
Authorized Signature of DBE Subcontractor/ Consultant/ Supplier ( <b>THIRD TIER</b> ):	Title:

(THIS FORM CONTINUES ON THE NEXT PAGE)



**AFFIDAVIT OF DBE INTENT TO PERFORM AS A  
SUBCONTRACTOR/SUBCONSULTANT/SUPPLIER {PART 2 OF 3}**

- \* Please Use A Separate Form for EACH DBE Firm To Be Utilized On The Project.  
\* Fill In ONLY The Appropriate Section For The Specified DBE Firm Listed On Part 1 Of This Form.

Description of Work To Be Performed by DBE Certified <b>Subcontractors</b>						
Bid Item #	Item Description	Scope of Work	NAICS Code	Unit Price	Quantity	Total
				\$		\$
				\$		\$
Total Value of Work To Be Performed By Certified DBE Firm					\$	
Subtract (Minus) Any Amount to Be Sublet to a <b>Non-DBE Firm(s)</b>					(                      )	
<b>Total Value DBE Subcontractor</b>					\$	
Description of Work To Be Performed by DBE Certified <b>Subconsultants</b>						
Work Item(s) to be performed by DBE	Description of Work	#Hours or Units	Total Value			
			\$			
			\$			
			\$			
Total Value of Work To Be Performed By Certified DBE Firm					\$	
Subtract (Minus) Any Amount to Be Sublet to a <b>Non-DBE Firm(s)</b>					(                      )	
<b>Total Value of DBE Subconsultant</b>					\$	
Items of Work To Be Performed By DBE <b>Trucking Firm(s)</b>						
Description of Material(s) Hauled	Estimate of Ton/C.Y	Estimate of # of Trucks Required	Number of Trucks Owned or Leased		Total Dollar Value	
			O=		\$	
			L=			
			O=		\$	
			L=			
			O=		\$	
			L=			
<b>Total Value DBE Trucking Firm</b>					\$	
					%	
Items of Work To Be Performed by DBE <b>Supplier/Dealer/Distributor [Non-Manufacturer] – Complete Page 3 to Determine Percentage Allowable:</b>						
Description of Material(s) Supplied	Total Contract Value	Multiply X .60 or .40	Total DBE Credit Allowed (Contract Value*.60 or.40)			
		60%				
		60%				
<b>Total Value of DBE Supplier</b>			\$			
<b>*Note: Count only the portions of work to be performed by a certified DBE firm for all of the above mentioned categories.</b>						

**\*Important Notice:** Failure to submit **ALL THREE PARTS** of this completed and signed form for each DBE firm whose quote/bid is being counted toward the established DBE participation goal, may constitute a **MATERIAL DEFECT** in your bid submission and may result in a determination of your bid as **NON-RESPONSIVE**.

**AFFIDAVIT OF DBE INTENT TO PERFORM AS A  
SUBCONTRACTOR/SUBCONSULTANT/SUPPLIER {PART 3 OF 3}**

*Please Use A Separate Form for EACH DBE Firm To Be Utilized On The Project.*

OMB Approval Pending 04/17/2024



U.S. Department of  
Transportation

**DBE Regular Dealer/Distributor  
Affirmation Form**

Bidder Name:

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

**DISCLAIMER: This form has not yet received OMB/PRA approval and is subject to change. We are making it available for your voluntary use.**

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

- a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)? ☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

- b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

☐ YES ☐ NO\* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

\*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacturer's facility)? ☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

- a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased? ☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

<sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

<sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

**Printed Name and Signature of DBE Owner/Authorized Representative:**

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

**Printed Name and Signature of Bidder's Authorized Representative:**

## **Attachment 7**

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

The Columbus Regional Airport 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;
2. Withholding payments to the contractor under the contract until the contractor complies
3. Canceling, terminating, or suspending a contract, in whole or in part.

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**

Uniform Certification Application:

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

Personal Net Worth Statement:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/new-dbe-personal-net-worth-statement>

Link to the Ohio Department of Transportation website, this link will take you to the screen below:

<http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP.aspx>



### **Applying for DBE Certification - Ohio Firms**

If your firm is based in Ohio, please complete the steps below to apply for DBE certification.

1. Download the  **Uniform Certification Application** and the  **Personal Net Worth Statement**.
2. Open the downloaded application, fill it out (and save it), and gather your supporting documents, including the Personal Net Worth Statement.
3. Download the  **NAICS Code/Descriptor Request Form**.
4. Open the downloaded form, fill it out (and save it), and gather your supporting documents.
5. Combine, into one file\*, the supporting documents for your Uniform Certification Application and your completed NAICS Code/Descriptor Request Form along with its supporting documents.
6. Click the Submit Certification Application button below to open the Certification Application Attachment form.
7. Complete the Certification Application Attachment form, uploading your completed Uniform Certification Application and your supporting documents file, and following the steps shown to electronically sign and submit the form.
8. Be sure to save a copy of everything you submitted for your files.

ODOT's goal is to acknowledge certification applications within seven days of receipt. Please allow 120 days for a final certification decision.

**Submit Certification Application**

\*This file may not exceed 10mb in size. If you are not able to fit all of your supporting documents into this file, please submit the remaining supporting documents using the [Additional Supporting Documents](#) form.

## **Attachment 9**

### **Ohio's UCP Agreement**

Link to the Ohio Department of Transportation website, this link will take you to the Unified Certification Program home page:

<http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP-OtherRecipientAgencies.aspx>

## Attachment 10

### Small Business Element



## COLUMBUS REGIONAL AIRPORT AUTHORITY

### FOSTERING SMALL BUSINESS PARTICIPATION ELEMENT

#### ENABLING LEGISLATION: 49 CFR PART 26.39



Revised 2025

4600 International Gateway | Columbus, Ohio 43219 | 614.239.4000  
[columbusairports.com](http://columbusairports.com)

**JOHN GLENN**  
INTERNATIONAL

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**BOLTON**  
FIELD

[www.columbusairports.com](http://www.columbusairports.com)

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

### **I. Objective (49 CFR Part 26.39)**

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that, DBE firms are small businesses; the Authority seeks to implement a small business element into its current DBE policy in accordance with applicable law. The Airport Authority has created a small business program element to facilitate competition by and expand opportunities for small businesses. For clarification purposes, a “Small Business Enterprise” or SBE is a firm that is independently owned and operated, is organized for profit, and is not dominant in its field for which the gross revenues or number of employees averaged over the past five years, inclusive of any affiliates as defined by 13 CFR Section 121.201, does not exceed the size standards for its respective industry as defined pursuant to Section 3 of the SBA Act and for which the net worth of each owner and each owner’s spouse (if married) does not exceed the personal net worth standards set by 49 CFR Part 26, currently \$2.047 million.

The Authority is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The Authority will meet its objectives using a combination of the following methods and strategies:

- 1) **Set asides:** Where feasible, the Authority will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the Authority and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s sex, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, considering the size and scope of each purchase or contract to establish the set aside percentage. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.
- 2) **Unbundling:** The Authority, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The Authority will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. Similarly, the Authority will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.
- 3) **In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”)** requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- 4) **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.

- 5) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or businesses, including DBEs, to compete for and perform prime contracts.

In order to actively implement the Airport Authority's program elements to foster small business participation and to comply with the requirement of good faith implementation of our DBE program, the Airport Authority will require Prime Contractor(s) for Construction Work Items and for Professional Services Work Items to complete the form(s) contained in the Procurement guidance, attached to this document.

The Special Conditions of the Contract will indicate the amount of small business participation as determined by the Airport Authority.

## **II. Definitions**

- 1) Small Business Enterprise:

A "Small Business Enterprise" or SBE shall mean a firm that is independently owned and operated, is organized for profit, and is not dominant in its field for which the gross revenues or number of employees averaged over the past five years, inclusive of any affiliates as defined by 13 CFR Section 121.201, does not exceed the size standards for its respective industry as defined pursuant to Section 3 of the SBA Act and for which the net worth of each owner and each owner's spouse (if married) does not exceed the personal net worth standards set by 49 CFR Part 26, currently \$2.047 million.

- 2) Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) — That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;

- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) set forth in 49 CFR Part 26. The current PNW cap is \$2.047 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 Unified Certification Program (UCP) 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 DBE race-neutral participation on FAA-assisted contracts.

## **III. Certification and Verification Procedures**

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



- 1) (State) DOT DBE Certification – DBE Certification by the (State) DOT/Ohio UCP which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the (State) DOT.
- 2) SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124).
- 3) Other certifications such as Veteran Owned Small Business, Women Owned Small Business, Regional Small Business, certified by any state, county, city, or other political subdivision that incorporates the requisite size standards consistent with 49 CFR 26 in qualifying determinations.

***All businesses meeting the criteria outlined in this element will be considered to be small businesses, without regard to race or sex.*** Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

The DBE Liaison Officer shall carry out the administration of the Small Business Program Element with the assistance of CRAA staff and may include paid consultants. The Authority will utilize the B2Gnow system to track certifications, documentation, and monitoring.

**A. Assurances**

The Authority makes the following assurances:

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

## Small Business Program Components

### Marketing & Outreach

The Authority will actively seek and market the Small Business program element to small, minority-owned and women-owned businesses currently performing or seeking to perform work with the CRAA.

Information will be made available via the Authority's website at [www.flycolumbus.com](http://www.flycolumbus.com) and shared with local and statewide SMWDBE assistance centers, trade associations, and local media.

### Certification & Verification

Verification of the eligibility of firms to participate in the Authority's Small Business program will be conducted by members of the Authority's Procurement staff and/may include paid consultants.

### Small Business Vendor Directory

The Authority will maintain a directory of certified small business concerns, eligible to participate in the small business program.

### Monitoring and Tracking

The Authority will monitor and track utilization of small business concerns on all federally-assisted projects. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

### Contract Terms

The Authority's Legal staff will ensure appropriate and effective contract clauses are adopted into the Authority's Standard Terms and Conditions and/or Special Provisions to ensure compliance with this rule.

# **Attachment 11**

Ohio Public Records Laws (ORC 149.011 and 149.43)

## **149.011 Documents, reports, and records definitions.**

As used in this chapter, except as otherwise provided:

(A) "Public office" includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government. "Public office" does not include the nonprofit corporation formed under section [187.01](#) of the Revised Code.

(B) "State agency" includes every department, bureau, board, commission, office, or other organized body established by the constitution and laws of this state for the exercise of any function of state government, including any state-supported institution of higher education, the general assembly, any legislative agency, any court or judicial agency, or any political subdivision or agency of a political subdivision. "State agency" does not include the nonprofit corporation formed under section [187.01](#) of the Revised Code.

(C) "Public money" includes all money received or collected by or due a public official, whether in accordance with or under authority of any law, ordinance, resolution, or order, under color of office, or otherwise. It also includes any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office.

(D) "Public official" includes all officers, employees, or duly authorized representatives or agents of a public office.

(E) "Color of office" includes any act purported or alleged to be done under any law, ordinance, resolution, order, or other pretension to official right, power, or authority.

(F) "Archive" includes any public record that is transferred to the state archives or other designated archival institutions because of the historical information contained on it.

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section [1306.01](#) of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Amended by 129th General Assembly File No.1, HB 1, §1, eff. 2/18/2011.

Effective Date: 09-26-2003; 2006 HB9 09-29-200.

### **109.43 [Effective 4/6/2017] Public records training programs - model public records policy.**

(A) As used in this section:

(1) "Designee" means a designee of the elected official in the public office if that elected official is the only elected official in the public office involved or a designee of all of the elected officials in the public office if the public office involved includes more than one elected official.

(2) "Elected official" means an official elected to a local or statewide office. "Elected official" does not include the chief justice or a justice of the supreme court, a judge of a court of appeals, court of common pleas, municipal court, or county court, or a clerk of any of those courts.

(3) "Public office" has the same meaning as in section [149.011](#) of the Revised Code.

(4) "Public record" has the same meaning as in section [149.43](#) of the Revised Code.

(B) The attorney general shall develop, provide, and certify training programs and seminars for all elected officials or their appropriate designees in order to enhance the officials' knowledge of the duty to provide access to public records as required by section [149.43](#) of the Revised Code and to enhance their knowledge of the open meetings laws set forth in section [121.22](#) of the Revised Code. The training shall be three hours for every term of office for which the elected official was appointed or elected to the public office involved. The training shall provide elected officials or their appropriate designees with guidance in developing and updating their offices' policies as required under section [149.43](#) of the Revised Code. The successful completion by an elected official or by an elected official's appropriate designee of the training requirements established by the attorney general under this section shall satisfy the education requirements imposed on elected officials or their appropriate designees under division (E) of section [149.43](#) of the Revised Code.

(C) The attorney general shall not charge any elected official or the appropriate designee of any elected official any fee for attending the training programs and seminars that the attorney general conducts under this section. The attorney general may allow the attendance of any other interested persons at any of the training programs or seminars that the attorney general conducts under this section and shall not charge the person any fee for attending the training program or seminar.

(D) In addition to developing, providing, and certifying training programs and seminars as required under division (B) of this section, the attorney general may contract with one or more other state agencies, political subdivisions, or other public or private entities to conduct the training programs and seminars for elected officials or their appropriate designees under this section. The contract may provide for the attendance of any other interested persons at any of the training programs or seminars conducted by the contracting state agency, political subdivision, or other public or private entity. The contracting state agency, political subdivision, or other public or private entity may charge an elected official, an elected official's appropriate designee, or an interested person a registration fee for attending the training program or seminar conducted by that contracting agency, political subdivision, or entity pursuant to a contract entered into under this division. The attorney general shall determine a reasonable amount for the registration fee based on the actual and necessary expenses associated with the training programs and seminars. If the contracting state agency, political subdivision, or other public or private entity charges an elected official or an elected official's appropriate designee a registration fee for attending the training program or

seminar conducted pursuant to a contract entered into under this division by that contracting agency, political subdivision, or entity, the public office for which the elected official was appointed or elected to represent may use the public office's own funds to pay for the cost of the registration fee.

(E) The attorney general shall develop and provide to all public offices a model public records policy for responding to public records requests in compliance with section [149.43](#) of the Revised Code in order to provide guidance to public offices in developing their own public record policies for responding to public records requests in compliance with that section.

(F) The attorney general may provide any other appropriate training or educational programs about Ohio's "Sunshine Laws," sections [121.22](#), [149.38](#), [149.381](#), and [149.43](#) of the Revised Code, as may be developed and offered by the attorney general or by the attorney general in collaboration with one or more other state agencies, political subdivisions, or other public or private entities.

(G) The auditor of state, in the course of an annual or biennial audit of a public office pursuant to Chapter 117. of the Revised Code, shall audit the public office for compliance with this section and division (E) of section [149.43](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, SB 227, §1, eff. 4/6/2017.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 2006 HB9 09-29-200.

**Note:** *This section is set out twice. See also § [109.43](#), effective until 4/6/2017.*