

## **SUBPART A – GENERAL REQUIREMENTS**

- 1. Objective (26.1).** The objectives are found in the policy statement on page 1 of this program.
- 2. Applicability (26.3).** The Sponsor is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*
- 3. Definitions (26.5).** The definitions are found in the policy statement on page 1 of this program.
- 4. Nondiscrimination Requirements (26.7).** The Sponsor will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the Sponsor 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.

### **5. Record Keeping Requirements (26.11).**

#### **Reporting to DOT: 26.11(b)**

We will report DBE participation to DOT by submitting annually through the “Uniform Report of DBE Awards or Commitments and Payments form, found in Appendix B to Part 26. We will also report the DBE Contractor firms contact information.

#### **Bidders List: 26.11(c)**

The Nebraska Department of Aeronautics, acting as agent for the Sponsor, will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement may allow use of the bidder’s list approach to calculate overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

We will collect this information by requesting that prime bidders report the names and addresses of all firms who quote to them on subcontracts. We will collect this information using forms included in Appendix E.

### **6. Federal Financial Assistance Agreement.** The Sponsor has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

#### **Assurance (26.13a)**

The Sponsor 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 recipient 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 recipient'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 Sponsor of its failure to carry out its approved program, the Department may impose

sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Contract Assurance (26.13b)

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

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

**END - SUBPART A**

**SUBPART B – ADMINISTRATIVE REQUIREMENTS**

**1. DBE Program Updates (26.21).** The Sponsor will receive grant(s) for airport planning or development totaling \$250,000 in a Federal fiscal year. We will continue to carry this DBE Program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program approval.

The Sponsor is not eligible to receive DOT financial assistance unless DOT has approved our DBE Program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended.

**2. Policy Statement (26.23).** The policy statement is elaborated on the first page of this program.

**3. DBE Liaison Officer (DBELO) (26.25).** We have designated the following individual as our DBE Liaison Officer:

Name: Debra Potratz, Administrative Assistant  
Address: 3855 Sky Park Road  
City: Grand Island, Nebraska 68801-9144  
Telephone: 308-385-5170

In that capacity, the DBE Liaison Officer (DBELO) is responsible for implementing all aspects of the DBE program and ensuring that the Sponsor complies with all provisions of 49 CFR Part 26. The Liaison Officer is the Administrative Assistant at the airport and has direct, independent access to the airport's governing board concerning DBE program matters. The Sponsor does not have a dedicated civil rights department. The Sponsor uses the Nebraska Department of Aeronautics and the Nebraska Department of Roads civil rights staff for guidance on matters concerning the DBE program. An organization chart displaying the DBELO's position in the organization is found in Appendix A to this program.

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

- a) Gathers and reports statistical data and other information as required by DOT.
- b) Works with others to set overall annual goals.
- c) Ensures that bid notices and requests for proposals are available to DBE's in a timely manner.
- d) Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- e) Analyzes the Sponsor's progress toward goal attainment and identifies ways to improve progress.
- f) Participates in pre-bid meetings.
- g) Determine contractor compliance with good faith efforts.
- h) Advises the governing body on DBE matters and achievement.
- i) Plans and participates in DBE training seminars.
- j) Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
- k) Acts or will act as liaison to the Uniform Certification Process in Nebraska.
- l) Maintains the Sponsor's updated directory on certified DBEs as published by the Nebraska Department of Roads.

**4. DBE Financial Institutions (26.27).** It is the policy of the Sponsor 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.

There are sixteen (16) banks in Grand Island: Bank of Doniphan, Bank of West, Charter West National Bank, Cornerstone Bank, Equitable Bank, Exchange Bank, Five Point Bank, Heritage Bank, Home Federal Bank, Pathway Bank, First National Bank, State Farm Bank, Great Western Bank, US Bank, Union Bank & Trust and Wells Fargo Bank. Each of these banks was contacted and none are owned and controlled by socially and economically disadvantaged individuals. In addition, three statewide organizations were contacted and asked to identify institutions owned and controlled by socially and economically disadvantaged individuals in Nebraska: the Nebraska Department of Banking & Finance, the Nebraska Bankers Association, and the Nebraska Department of Roads Minority Business Coordinator. Again, no such institutions were identified. The Sponsor will continue to search for institutions of this type within their geographical area. Information on the availability of such institutions will be available from the DBE Liaison Officer.

According to Part 26.27, the Sponsor is required to "thoroughly investigate ... financial institutions ... in your community." Grand Island is a city with a population of less than 50,000. It is located in an area with no suburbs. The city of Grand Island constitutes the Sponsor's community. The Sponsor has investigated all financial institutions within their community and thus met the requirements of Part 26.27.

The Sponsor's community under 26.27 and the Sponsor's market area under 26.45 are not the same areas. Due to the area's low population density, contractors typically travel hundreds of miles to participate on DOT-assisted contracts. Therefore, the Sponsor's market area that was used to establish their overall DBE goal is discussed in Appendix B. It would be impractical, infeasible and unreasonable for the Sponsor to use a financial institution outside of their community.

## **5. Required Contract Clauses (26.13b, 26.29)**

Prompt Payment: We will include the following clauses in each DOT-assisted prime contract:

- (a) The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance no later than 30 days from receipt of payment from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.
- (b) In the event of noncompliance with this provision, the Sponsor may impose appropriate penalties in accordance with terms and conditions of this contract.
- (c) The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor has paid for work performed by such subcontractors in accordance with this provision and contract terms.

**6. Directory (26.31).** The Sponsor maintains a directory prepared and furnished by the Nebraska Department of Roads (NDOR) identifying all firms eligible to participate as DBEs. The NDOR directory is prepared using the standards and procedures conforming to 49 CFR Part 26. The directory is available from the Minority Business Coordinator, Nebraska Department of Roads, P.O. Box 94759, Lincoln, NE 68509-4759. It is available on the Internet at:

[www.dor.state.ne.us/letting/certified-dbes.htm](http://www.dor.state.ne.us/letting/certified-dbes.htm)

The directory lists firms that have passed NDOR's certification process. The listing includes the firm's name, address, phone number and the type of work the firm has been certified to perform as a DBE. NDOR updates the directory at least quarterly.

**7. Overconcentration and Business Development Programs (26.33) (26.35).** The sponsor has not identified overconcentration of DBEs in any field of work and has not implemented a Business Development Program.

**8. Business Development Programs (26.35).** We have not established a business development program.

**9. Monitoring and Enforcement Mechanisms (26.37).** 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 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

The Sponsor will provide a monitoring and enforcement mechanism to verify that the work committed to DBE's at the contract award is performed by the DBE's. This will be accomplished by the Sponsor entering into an agreement for construction observation services, which will include reviewing compliance with Labor and Civil Rights provisions in accordance with FAA AIP Sponsor Guide No. 1070 and keeping a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

In the event of non-compliance with the DBE regulation by a participant in our procurement activities, the Sponsor has available several remedies to enforce the DBE requirements contained in its contract, including, but not limited to, the following:

- Breach of contract action, pursuant to the terms of the contract.
- Breach of contract action, pursuant to Nebraska Statute
  - 3-613 county airport authority
  - 3-116, 3-120, 3-125 NDA
- Other sections of Nebraska Statutes that may be applicable and could be used to enforce DBE requirements include unemployment compensation fund contributors and interest due under the provisions of Nebraska Statue 48-601 to 48-669 on wages paid to individuals employed. Conditions regarding fair employment practices as contained in Nebraska Statutes 48-1101 through 48-225 and to comply with minimum wage scale and nondiscrimination as defined in Nebraska Statutes 48-1201 through 48-1277.

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

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

**END - SUBPART B**

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

**1. Quotas (26.43).** We do not use quotas in any way in the administration of this DBE program.

**2. Overall Goals (26.45)**

The Sponsor's methodology to calculate the overall goal and goal calculations are attached as Appendix B and described below. This section of the program will be updated annually for each year that DOT-assisted contracts are let.

Method: The following is a summary of the method we used to calculate this goal:

We consulted with the Nebraska Department of Aeronautics to establish the geographical area from which we could reasonably expect ready, willing and able prime contractors and subcontractors to be obtained. After identifying the geographical area, we search the US Census Bureau's data base to obtain the total number of businesses that correspond to the NAICS code related to the prime scope of work for the project. We review the Nebraska Department of Roads (NDOR) data base to identify the number of certified DBE's in the geographical area with work codes similar to the NAICS codes.

"**Step 1**" of the process (Section 26.45(c)) is base figure determination. The base figure was determined by dividing the number of DBE firms on this list by the total number of firms. See Appendix B, Step 1: Goal Setting Process for details.

"**Step 2**" of the process (Section 26.45(d)) allows for adjustments to the base figure. We have been unable to find evidence of past discrimination and have not identified any barriers in our local market area research. In addition, the Nebraska Department of Roads (NDOR) is not

aware of past discrimination and has not identified any barriers in our local market area research to adjust their base figure for over utilization or under utilization to warrant adjustments to their base figure. Therefore, we have not adjusted our base figure due to discrimination.

In addition, our past history of DBE participation (See Appendix B) will be considered and may be used to adjust the base figure if applicable. Information on our history will be updated for each year that DOT-assisted contracts are let.

Process: Before establishing the overall goal each year, the Sponsor will consult with the Nebraska Departments of Aeronautics and Roads to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Sponsor's efforts to establish a level playing field for the participation of DBEs. The Sponsor may also consult with United Minority Contractors Association of Nebraska and the Urban League of Nebraska to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Sponsor's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice. The notice will also inform the public that the Sponsor and U.S. DOT will accept comments on the goals for 45 days from the date of the notice. The notice will be published in the legal newspaper that is used for legal notices and notifications to contractors. The notice will include addresses to which comments may be sent and addresses (including offices and websites, if applicable) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

The Sponsor will establish its overall goal based on one or more projects. Our overall goal will be submitted to FAA at least 30 days prior to the first solicitation for a DOT-assisted contract for a project that contains a goal, including professional services, construction, or other contracts. Unless we have received other instructions from DOT, we will establish a goal on a project basis and begin using our overall goal by the time of the first solicitation for a contract that contains a goal.

### **3. Vehicle Manufacturers or Specialized Equipment Goals (26.49)**

The Sponsor will establish project-specific goals for DBE participation in the procurement of vehicles and specialized airport equipment. The project-specific goal will be submitted to the Federal Aviation Administration for approval prior to procurement.

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

The Sponsor's breakout of Race-Neutral and Race-Conscious participation and details on the calculation are attached in Appendix B. The breakout participation will be updated annually for each year that DOT-assisted contracts are let.

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

1. Arranging solicitations in ways that facilitate DBE, and other small business, participation.
2. Ensuring that DBEs are notified on DOT-assisted contract lettings. This is accomplished through a mailing prepared by the Nebraska Department of Aeronautics.
3. Ensuring distribution of the DBE directory to potential prime contractors.

The historical data included in Appendix B summarizes the race-neutral and race-conscious DBE participation. The historical data will continually be evaluated and used to provide base line data for DOT-assisted contracts.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

**5. Contract Goals (26.51)** The Sponsor will use contract goals to meet any portion of the overall goal that the Sponsor does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

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

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

## **6. Good Faith Efforts (26.53)**

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

The DBE Liaison Officer (identified on page 3) 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.

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

### Information to be submitted (26.53b)

The Sponsor treats bidder/offerors' compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information within five (5) days of the bid opening:

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

#### Administrative reconsideration

Within three days of being informed by the Sponsor that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to Ron Dupue', Airport Authority Attorney, P.O. Box 460, Grand Island, Nebraska 68802. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make 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 it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

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

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

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

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. We have determined that the listed DBE subcontractor is not a responsible contractor;
  7. The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
  8. The listed DBE is ineligible to receive DBE credit for the type of work required;
  9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
  10. Other documented good cause that we have 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 us its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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

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

Sample Bid Specification:

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

The bidder/offer will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participate; (4) written documentation of the bidder/offer's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it will participate in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts will be requested.

**7. Counting DBE Participation (26.55).** We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

**END - SUBPART C**

**SUBPART D – CERTIFICATION STANDARDS**

**1. Certification Process With Unified Certification Program. (26.61 - 26.91)** A Nebraska Unified Certification Program (NUCP) agreement has been approved by the U.S. Department of Transportation. The NUCP consists of other recipients of DOT financial assistance including the Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) and the Federal Transit Authority (FTA). The Nebraska Department of Aeronautics is the Sponsor's representative on the NUCP.

Process

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

Minority Business Coordinator, Nebraska Department of Roads  
P.O. Box 94759, Lincoln, NE 68509-4759.

Our certification application forms and documentation requirements are found in Attachment D to this program

**END - SUBPART D**

**SUBPART E – CERTIFICATION PROCEDURES**

**1. Unified Certification Programs. (26.81).** The sponsor accepts the certification procedures adopted by the NUCP for DBE contractors. The NUCP uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. If a contractor is certified on NUCP's current list, that contractor will be acceptable to the sponsor.

**2. Procedures for Certification Decisions. (26.83).**

Recertifications

The NUCP is responsible for all recertifications. The NUCP reviews the eligibility of DBE's to make sure that they will meet the standards of Subpart E of Part 26. The NUCP completes this review no later than three years from the most recent certification date of each firm.

For firms that have been certified or reviewed and found eligible under Part 26, the NUCP will review their eligibility at least every ten years. The components of these reviews will be determined on a case-by-case basis.

#### "No Change" Affidavits and Notices of Change

The NUCP requires all DBEs to inform them with a sworn and notarized affidavit affirming that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership or control eligibility requirements of 49 CFR Part 26 or of any material changes in the information provided with the DBE's application for certification, except for changes of which the firm has already informed the Office. The disadvantaged owners of the DBE firms are also required to provide a Personal Financial Statement and copies of their most recent personal and company Federal Income Tax Returns.

### **3. Denials of Initial Requests for Certification (26.85).**

The NDOR decisions to deny a firm DBE certification are administratively final on the day of the decision. There are no provisions for appeal of a decision to deny DBE certification to NDOR. A firm denied DBE certification by NDOR may make a formal appeal of the decision to DOT.

### **4. Removal of DBE's Eligibility (26.87).**

In the event it is proposed to remove a DBE's certification, an investigation or audit by NDOR DBE Office will be conducted. If the results reveal undisclosed or erroneous information which affects a firm's DBE eligibility status, the firm will be notified in writing by certified mail. The notice will cite the undisclosed or erroneous information, and the firm will be given 15 days from the date of the notice to respond in writing. The response must contain information sufficient to permit an evaluation of eligibility.

The DBE Office will investigate and evaluate all available information. If the firm's eligibility status remains in question; the Office will present their recommendation to an appointed Committee. The Committee will then evaluate the available information and make a determination.

If the determination is that the firm should be decertified, the DBE Office will send the firm and Intent to Decertify Letter within five (5) days of the determination stating the reasons(s) for the determination.

After a firm is notified of the Intent to Decertify, the firm has the opportunity to request an informal hearing. A request for a hearing must be made within 15 days of the date of the intent to Decertify Letter. If no timely request for a hearing is made, the DBE firm's certification will be revoked the day the decision is administratively final on the 16<sup>th</sup> day after the letter.

### **5. Certification Appeals (26.89).**

Any firm or complainant may appeal a decision in a certification matter to DOT. Such appeals may be sent to:

US Department of Transportation  
Departmental Office of Civil Rights  
External Civil Rights Program Division (S-33)  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: 202-366-4754

FAX: 202-366-5575

A firm will remain eligible as a DBE during the pendency of the proceedings to remove its eligibility and until the date of the issuance of the notice.

We will promptly implement any DOT certification appeal decisions affecting the eligibility of the DBEs.

**END - SUBPART E**

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

### **1. Information, Compliance, Cooperation (26.109).**

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, we will must transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

#### **Monitoring Payments to DBEs**

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

We will keep a tally of actual payments to DBE firms for work committed to them at the time of contract award. We will require prime contractors to submit information on actual payments made to DBE subcontractors. We will require DBE subcontractors to certify that they have received these payments. If there is a discrepancy in the prime and subcontractor reports, we will perform audits of contract payments to DBEs. The purpose of the audits will be to review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participations.

**END - SUBPART F**

## **SUBPART G – FOSTERING SMALL BUSINESS PARTICIPATION**

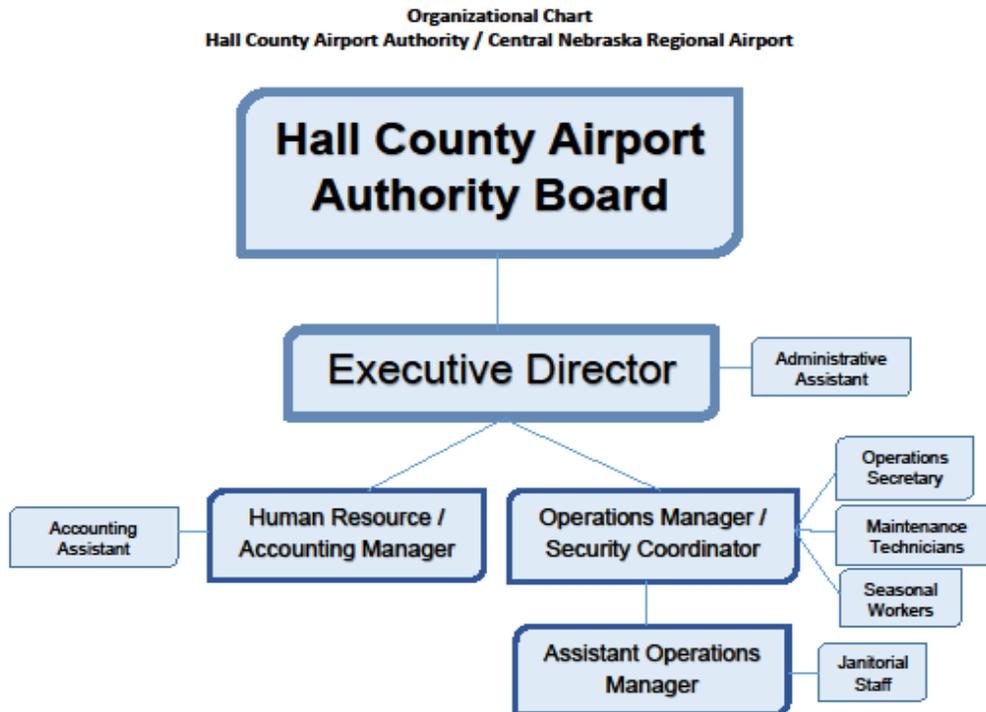
See Appendix C

**END - SUBPART G**

## **ATTACHMENTS**

<b>Appendix A</b>	<b>Organizational Chart</b>
<b>Appendix B</b>	<b>DBE Goal Methodology</b>
<b>Appendix C</b>	<b>Fostering Small Business</b>
<b>Appendix D</b>	<b>Regulations, State Directory, Certification Application &amp; Unified Certification Program</b>
<b>Appendix E</b>	<b>Bidder's List Collection Form</b>
<b>Appendix F</b>	<b>DBE Monitoring and Enforcement Mechanisms</b>
<b>Appendix G</b>	<b>Demonstration of Good Faith Efforts</b>

## Appendix A Organizational Chart



Revised 9/1/14

## Appendix B DBE Goal Methodology For FY 2016, 2017, 2018

**Airport:** Central Nebraska Regional Airport, Grand Island, Nebraska  
**Sponsor:** Hall County Airport Authority

**Goal Period:** Fiscal Years 2016, 2017, 2018; October 1, 2015 through September 30, 2018

**Anticipated DOT-Assisted Contracts:**

	<u>Contract Amount</u>	<u>Project Name</u>	<u>Type of Work</u>
FY-2016:	\$200,000	Runway Extension	Consultant/Engineering Services
<b>Subtotal FY2016</b>	<b>\$200,000</b>		
FY-2017:	\$250,000	Runway Extension	Consultant/Engineering Services
FY-2017:	\$3,600,000	Runway Extension	Construction
<b>Subtotal FY2017</b>	<b>\$3,850,000</b>		
FY-2018:	\$150,000	Pavement Maintenance	Consultant/Engineering Services
FY-2018:	\$850,000	Pavement Maintenance	Construction
<b>Subtotal FY2018</b>	<b>\$1,000,000</b>		
<b>Total:</b>	<b>\$5,050,000</b>		

**The Sponsor's overall 3-year DBE goal is: 4.26%**

On DOT assisted contracts, the goal is to expend 4.26% of the Federal financial assistance on DBE's. It is anticipated that our overall DBE goal will be achieved through 0% race-neutral participation and 4.26% being achieved through race-conscious participation.

**Total amount to be expended on DBE's: \$215,170**

The following is a summary of our DBE expenditures for each fiscal year by contract:

<u>Fiscal Year</u>	<u>Contract Type</u>	<u>Contract Amount</u>	<u>DBE Amount</u>	<u>Total DBE Participation</u>	<u>Race Neutral</u>	<u>Race Conscious</u>
2016	Consultant/Engineering Services	\$200,000	\$0	0%	0%	0%
2017	Consultant/Engineering Services	\$250,000	\$0	0%	0%	0%
2017	Construction	\$3,600,000	\$186,120	5.17%	0%	5.17%
2018	Consulting/Engineering Services	\$125,000	\$0	0%	0%	0%
2018	Construction	\$875,000	\$29,050	3.32%	0%	3.32%
<b>FY16, 17 &amp; 18 TOTALS</b>		<b>\$5,050,000</b>	<b>\$215,170</b>	<b>4.26%</b>	<b>0%</b>	<b>4.26%</b>

**Step 1: Goal Setting Process (26.45 c)**

The goal was calculated using the method described in our DBE program. We selected the following geographical areas (counties) that will be used to seek contractors for the projects during the various years. The specific geographical areas were selected based on information from Nebraska Department of Aeronautics. Specifically, we selected those contractors within the following Counties for the projects for the various years:

**FY2016**  
 Cedar, Dixon, Dakota, Pierce,  
 Stanton, Cumming, Burt,  
 Wayne, Thurston, Madison,  
 Colfax, Dodge, Washington,  
 Douglas, Sarpy. Butler  
 Butler, Saunders, Lancaster, Gage,  
 Johnson, Pawnee, Knox, Antelope,  
 Pierce, Boone, Platte, Nance,  
 Merrick, Hamilton, Polk,  
 York, Seward, Saline, Fillmore,  
 Thayer, Jefferson, Boyd,  
 Holt, Garfield, Wheeler,  
 Greeley, Sherman, Howard,  
 Buffalo, Hall, Clay, Adams,  
 Kearney, Phelps, Nuckolls,  
 Franklin, Harlan, Keya Paha,  
 Rock, Brown, Loup, Blaine,  
 Custer, Dawson, Gosper,  
 Furnas, Cherry, Thomas, Hooker, Grant,  
 Frontier, Red Willow, Keith, Perkins,  
 Hayes, Chase, Hitchcock, Dundy,  
 Sheridan, Garden, Deuel,  
 Dawes, Box Butte, Sioux, Morrill,  
 Cheyenne, Scotts Bluff, Kimball

**FY2017**  
 Cedar, Dixon, Dakota, Pierce,  
 Stanton, Cumming, Burt,  
 Wayne, Thurston, Madison,  
 Colfax, Dodge, Washington,  
 Douglas, Sarpy. Butler  
 Butler, Saunders, Lancaster, Gage,  
 Johnson, Pawnee, Knox, Antelope,  
 Pierce, Boone, Platte, Nance,  
 Merrick, Hamilton, Polk,  
 York, Seward, Saline, Fillmore,  
 Thayer, Jefferson, Boyd,  
 Holt, Garfield, Wheeler,  
 Greeley, Sherman, Howard,  
 Buffalo, Hall, Clay, Adams,  
 Kearney, Phelps, Nuckolls,  
 Franklin, Harlan, Keya Paha,  
 Rock, Brown, Loup, Blaine,  
 Custer, Dawson, Gosper, Furnas,  
 Cherry, Thomas, Hooker, Grant,  
 Frontier, Red Willow, Keith, Perkins,  
 Hayes, Chase, Hitchcock, Dundy,  
 Sheridan, Garden, Deuel,  
 Dawes, Box Butte, Sioux, Morrill,  
 Cheyenne, Scotts Bluff, Kimball

**FY2018**  
 Cedar, Dixon, Dakota, Pierce,  
 Stanton, Cumming, Burt,  
 Wayne, Thurston, Madison,  
 Colfax, Dodge, Washington,  
 Douglas, Sarpy. Butler  
 Butler, Saunders, Lancaster, Gage,  
 Johnson, Pawnee, Knox, Antelope,  
 Pierce, Boone, Platte, Nance,  
 Merrick, Hamilton, Polk,  
 York, Seward, Saline, Fillmore,  
 Thayer, Jefferson, Boyd,  
 Holt, Garfield, Wheeler,  
 Greeley, Sherman, Howard,  
 Buffalo, Hall, Clay, Adams,  
 Kearney, Phelps, Nuckolls,  
 Franklin, Harlan, Keya Paha,  
 Rock, Brown, Loup, Blaine,  
 Custer, Dawson, Gosper, Furnas,  
 Cherry, Thomas, Hooker,  
 Frontier, Red Willow,  
 Hayes, Hitchcock,

In addition to construction contracts, we anticipate contracts for consulting/engineering services. In establishing DBE participation by DBE consulting/engineering firms, we were unable to locate certified DBE's that provide consulting/engineering services. Based on our past experience and information from the Nebraska Department of Aeronautics, we anticipate 4 to 6 consulting/engineering firms submitting qualification packets for providing services at our airport. It should be noted that our engineering selection will be a qualification based selection and we do not anticipate DBE consulting/engineering firms submitting qualifications during the selection process. Therefore, during this 3-year period, we anticipate no DBE participation on consulting/engineering services contracts. We will continually review/evaluate DBE participation by consulting/engineering firms and update as necessary.

**FY2016**

We anticipate one contract for consulting/engineering services in the total amount of \$200,000. Because all contracts for FY2016 will be less than \$250,000, we will establish our FY2016 goal as 0%. The DBE participation for consulting/engineering service contracts is calculated as follows:

**FY16 Engineering Services – Runway Extension**  
 $(0 \text{ DBE Firms} / 6 \text{ total firms}) = 0\% \text{ DBE Participation for Consulting/Engineering Services}$   
 $0\% \times \$200,000 \text{ Contract Amount} = \$0 \text{ DBE Participation for Consulting/Engineering Services}$

**FY16 Overall DBE Goal**  
 $\$0 \text{ Total DBE Participation} / \$200,000 \text{ Total Contract Amount} = 0\% \text{ DBE Participation for FY16 Engineering Services}$

**FY2017**

We anticipate one contract for consulting/engineering services in the total amount of \$250,000 and we anticipate no DBE participation on consulting/engineering services contracts, as previously discussed. The DBE participation for consulting/engineering service contracts is calculated as follows:

**FY17 Engineering Services – Runway Extension**  
 $(0 \text{ DBE Firms} / 6 \text{ total firms}) = 0\% \text{ DBE Participation for Consulting/Engineering Services}$   
 $0\% \times \$250,000 \text{ Contract Amount} = \$0 \text{ DBE Participation for Consulting/Engineering Services}$

We anticipate a prime contract for the major work item that involves pavement rehabilitation. We identified 89 firms in our selected geographical area from the US Census Bureau that included NACIS codes 23731-Highways, Streets, Bridge. In addition, we identified 8 certified DBE's in our selected geographical area with NDOR categories D1-Grading & Earth Work, D2-Aggregates, D4-Culverts, D6A-Rebar Supply &

Installation, D11-Trucking & Hauling and Traffic Control. The DBE participation for this contract is calculated as follows:

**FY17 Construction Contract Goal – Runway Extension**  
 (8 DBE Firms/ 89 total firms) =8.99% DBE Participation for Construction Contract  
 8.99% x \$3,600,000 Contract Amount = \$323,640 DBE Participation for Consulting/Engineering Services

Based on the above discussions, our overall FY17 DBE goal is as follows:

**FY17 Overall DBE Goal**  
 \$323,640 Total DBE Participation / \$3,850,000 Total Contract Amount = 8.41% DBE Participation for FY17

**FY2018**

We anticipate one contract for consulting/engineering services in the total amount of \$250,000 and we anticipate no DBE participation on consulting/engineering services contracts, as previously discussed. The DBE participation for consulting/engineering service contracts is calculated as follows:

**FY18 Engineering Services – Pavement Maintenance**  
 (0 DBE Firms/ 6 total firms) = 0% DBE Participation for Consulting/Engineering Services  
 0% x \$125,000 Contract Amount = \$0 DBE Participation for Consulting/Engineering Services

We anticipate a prime contract for the major work item that involves pavement rehabilitation. We identified 84 firms in our selected geographical area from the US Census Bureau that included NACIS codes 23731-Highways, Streets, Bridge. In addition, we identified 8 certified DBE's in our selected geographical area with NDOR categories D3-Concrete Flatwork and D12-Traffic Control. The DBE participation for this contract is calculated as follows:

**FY18 Construction Contract Goal – Pavement Maintenance**  
 (6 DBE Firms/ 84 total firms) =7.14% DBE Participation for Construction Contract  
 7.14% x \$875,000 Contract Amount = \$62,475 DBE Participation for Consulting/Engineering Services

Based on the above discussions, our overall FY18 DBE goal is as follows:

**FY18 Overall DBE Goal**  
 \$62,475 Total DBE Participation / \$1,000,000 Total Contract Amount = 6.25% DBE Participation for FY18

The following is summary of our anticipated work with DBE participation by fiscal year:

**Summary of FY2016, 2017 and 2018 DBE Participation**

The following is a summary of our anticipated work with DBE participation by fiscal year:

<b>Fiscal Year</b>	<b>Contract Type</b>	<b>Contract Amount</b>	<b>DBE Amount</b>
2016	Consulting/Engineering Services – Runway Extension	\$200,000	\$0
2017	Consulting/Engineering Services – Runway Extension	\$250,000	\$0
2017	Construction – Runway Extension	\$3,600,000	\$323,640
2018	Consulting/Engineering Services – Pavement Maintenance	\$125,000	\$0
2018	Construction – Pavement Maintenance	\$875,000	\$62,475
<b>TOTALS</b>		<b>\$5,050,000</b>	<b>\$386,115</b>

The calculation for our 3-year base figure is as follows:

$$(\$386,115 \text{ Total DBE Contract Amount}) / (\$5,050,000 \text{ Total Contract Amount}) = 7.65\%$$

**Step 2: Adjustments to Base Figure (26.45(d))**

Our historical data is summarized as follows:

Central Nebraska Regional Airport, Grand Island, Nebraska  
 DBE Program  
 May 2015

FY	AIP Project	Description of Work	CONTRACT GOAL		CONTRACT ACHIEVE		GOAL		ACHEIVE Over/Under Achievement
			Race Neutral	Race Consc.	Race Neutral	Race Consc.	Overall Goal	Overall Achieve	
96	13	Electrical	0%	11.7%	3.5%	11.7	11.7%	15.2%	+3.5%
96	13	Seal Coat	0%	11.7%	0.6%	11.7%	11.7%	12.3%	+0.6%
98	14	Master Plan	0%	0%	0%	0%	0%	0%	0%
98	15	Snow Removal Equipment	0%	0%	0%	0%	0%	0%	0%
99	16	Sweeper Broom Truck	0%	0%	0%	0%	0%	0%	0%
99	17	Electrical Rwy 13/31	0%	7.1%	0%	2.8%	7.1%	2.8%	-4.3%
00	18	Engineering Services	0%	0%	0%	0%	0%	0%	0%
01	19/20	Phase II & III AIP Project 18	0%	5.9%	0.7%	5.9%	5.9%	6.6%	+0.7%
02	21	Engineering-Rehab Commercial Apron, Twys A,B,D,E, &G	0%	3.9%	0.8%	3.9%	3.9%	4.7%	+0.8%
03	22	PH II Construction-Commercial Apron, Twys A,B,D,E, &G	**	**	0%	0%	**	0%	0%
03	22	PH II Construction-Commercial	0%	3.9%	0.8%	3.9%	3.9%	4.7%	+0.8%
03	23	Engineering Design Rehab 17/35 & Twy C	0%	0%	0%	0%	0%	0%	0%
04	24	ARFF Vehicle	0%	0%	0%	0%	0%	0%	0%
04	25	Rehab 17/35 & Twy C	0%	3.9%	1.1%	3.9%	3.9%	5.0	+1.1%
05	26	Security Improvements	**	**	0%	0%	**	0%	0%
05	27	Rehab North Apron	0%	4.4%	0.4%	4.4%	3.9%	4.3%	+0.4%
06	28	Master Plan Update	0%	0%	0%	0%	0%	0%	0%
07	29	Snow Removal Equipment	0%	0%	0%	0%	0%	0%	0%
08	30	Snow Removal Equipment	0%	0%	0%	0%	0%	0%	0%
10	31/32	Pavement Rehab	0.8%	5.3%	0%	4.0%	4.4%	4.0%	-0.4%
10	33	Wildlife Fence	0%	0%	0%	0%	0%	0%	0%
11	34	Terminal Master Plan Study	0%	0%	0%	0%	0%	0%	0%
11	35	Prelim Eng.-Rwy Extension	0%	0%	0%	0%	0%	0%	0%
	36	NO GRANT							
14	37/38	Terminal Building	0%	0.36%	0%	0%	0.36%	0%	-0.36%

\* No records available

\*\*Project less than \$250,000; therefore no goal required.

\*\*\*Goal not applicable for this project

Based on our history over the past 5 years (FY10 through FY14), our overall DBE achievements have ranged from 0% to 4.0% with our median DBE achievement percentage being 0%. Using our previous 5 year median DBE achievement percentage of 0%, we added 0% (median) to our previously determined base figure (7.65%) and divided by 2 to obtain an average of 3.83%. Therefore, we intend to use 3.83% (average) as our adjusted overall goal based on historical data. We feel this adjusted overall goal will accurately reflect our anticipated achievement for FY16, FY17 and FY18.

Base Figure Adjusted for Historical Data = 3.83% (3.82% decrease of base figure)

Based on the adjustment (3.82% decrease) for historical data, we will apply the decrease to each fiscal year contract goal as shown below:

**FY2016 Contract Goals With Historical Data Adjustment**

Based on the above discussions (i.e., Goal Setting Process and Historical Adjustment), we will not apply the historical data adjustment (3.82% decrease) to FY16 because we do not anticipate having any contracts with DBE participation.

**FY2017 Contract Goals With Historical Data Adjustment**

Based on the above discussions, our overall adjusted FY17 DBE goal is as follows:

**FY17 Consulting/Engineering Services – Contract Goal  
 With Historical Data Adjustment**

Original DBE Participation for Engineering Services =0%  
 DBE Participation for Engineering Services Construction Observation With Historical Data Adjustment= 0%  
 0% x \$250,000 Contract Amount = \$0 DBE Participation for Engineering Services

**FY17 Construction Contract Goal With Historical Data Adjustment**

Original DBE Participation for Construction Contract =8.99%  
 DBE Participation for Construction Contract With Historical Data Adjustment= 5.17%  
 5.17% x \$3,600,000 Contract Amount = \$186,120 DBE Participation for Construction Contract

**FY17 Overall DBE Goal  
 With Historical Data Adjustment**

\$186,120 Total DBE Participation / \$3,850,000 Total Contract Amount = 4.83% DBE Participation for FY17

**FY2018 Contract Goals With Historical Adjustment**

Based on the above discussions, our overall adjusted FY18 DBE goal is as follows:

**FY18 Consulting/Engineering Services – Contract Goal  
 With Historical Data Adjustment**

Original DBE Participation for Engineering Services Construction Observation =0%  
 DBE Participation for Engineering Services Construction Observation With Historical Data Adjustment= 0%  
 0% x \$125,000 Contract Amount = \$0 DBE Participation for Engineering Services Construction Observation

**FY18 Construction Contract Goal – Pavement Maintenance With Historical Data Adjustment**

Original DBE Participation for Construction Contract =7.14%  
 DBE Participation for Construction Contract With Historical Data Adjustment= 3.32%  
 3.32% x \$875,000 Contract Amount = \$29,050 DBE Participation for construction Contract

**Summary of FY2016, 2017 and 2018 DBE Participation With Historical Adjustment**

The following is a summary of our anticipated work with DBE participation, which includes historical adjustments, by fiscal year:

Fiscal Year	Contract Type	Contract Amount	DBE Amount
2016	Consulting/Engineering Services – Runway Extension	\$200,000	\$0
2017	Consulting/Engineering Services – Runway Extension	\$250,000	\$0
2017	Construction – Runway Extension	\$3,600,000	\$186,120
2018	Consulting/Engineering Services – Pavement Maintenance	\$125,000	\$0
2018	Construction – Pavement Maintenance	\$875,000	\$29,050
<b>TOTALS</b>		<b>\$5,050,000</b>	<b>\$215,170</b>

The calculation for our 3-year base figure with historical adjustments is as follows:  
 (\$215,170 Total DBE Contract Amount) / (\$5,050,000 Total Contract Amount) = 4.26%

**Step 3: Breakout of Estimated Race-Neutral and Race-Conscious Participation (26.51 a-c)**

We estimate that, in meeting our overall goal of 4.26% (Base Figure with Historical Data Adjustment), we will obtain 0% from race-neutral participation and 4.26% from race-conscious measures. The race-neutral and race-conscious participation is based on the historical data that indicates our accomplishments have not exceeded our goals. By not exceeding our goals, this is evidence of no race-neutral participation.

## **Appendix C**

### **Fostering Small Business Participation**

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

Recognizing that the DBE Program goals are met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses; the Airport Sponsor seeks to implement a small business element into its current DBE policy. The Airport Sponsor is including this element to facilitate competition by and expand opportunities for small businesses. The Sponsor 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. If necessary, the Sponsor will meet its objectives using a combination of the following methods and strategies:

1. **Set asides:** Where feasible, the Sponsor 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 Sponsor 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 gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This 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 Sponsor, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The Sponsor will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. Similarly, the Sponsor will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

However, based on data from the Nebraska Department of Roads (NDOR), current procedures utilized to structure contracting requirements not only facilitate competition by small business concerns, but have enabled small business concerns to be very successful in securing work both as prime contractors and subcontractors. Because of the high level of success small businesses have had in competing for and performing prime contracts, the sponsor does not feel it is necessary at this time to alter or restructure its contracting requirements in order to foster small business participation.

It has been determined that contractors (primes and sub) doing airport projects in Nebraska are included in NDOR contractor lists. The Nebraska Department of Aeronautics (NDA) and airport sponsors will continue to monitor DBE and small business participation.

The sponsor, NDA and NDOR will continue to ensure that prime contracts are available for small businesses. The assessment will be conducted by personnel from the NDOR. If an assessment shows that the level of participation by small businesses has decreased significantly, the sponsor and NDOR will promptly take all reasonable steps to increase the level of participation.

NDOR currently requires all firms (prime and subcontractors) that participate on NDOR projects to provide average annual gross receipts information. The NDOR requires firms to indicate if their average annual gross receipts exceed \$22.41 million to better verify that only eligible firms are identified as small businesses.

The sponsor will continue to actively conduct outreach with organizations in accordance with procedures of the DBE program.

## **B. Definitions**

### **1. Small Business:**

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

## **C. Implementation Schedule**

The Sponsor will implement this small business element on January 1, 2013

## **D. Assurances**

The Sponsor 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 DBE Program, and;
5. Outreach to 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.

## Appendix D

### **Regulations: 49 CFR Part 26,**

The DOT published 49 CFR Part 26 is available at the following website.

<http://www.gpo.gov/fdsys/pkg/CFR-2012-title49-vol1/pdf/CFR-2012-title49-vol1-part26>

### **State of Nebraska DBE Directory,**

A directory of Nebraska DBE's is available at the following website.

<http://www.transportation.nebraska.gov.letting.dbeinfo>

### **State of Nebraska DBE Certification Application**

The DBE Certification Application A directory of Nebraska DBE's is available at the following website.

<http://www.transportation.nebraska.gov.letting.dbeinfo>

### **State of Nebraska DBE Unified Certification Program**

The DBE Unified Certification Program is available at the following website.

<http://www.transportation.nebraska.gov.letting.dbeinfo>

## Appendix E Bidder's List Collection Form

The following form is to be completed with the executed contract.

### **LIST OF SUBCONTRACTORS** **(To Be Completed With Execution of Contract)**

AIP Project: \_\_\_\_\_

Airport: \_\_\_\_\_

Location: \_\_\_\_\_

The Airport Sponsor is required to submit subcontract information about DBE and non-DBE subcontractors who perform work on their federally-assisted contracts. Therefore the Airport Sponsor requires that the prime contractor submit the following information related to this project. The DBE rules described in the Information to Bidders and Special Provisions must be followed in regards to the firms listed on the DBE Participation Statement.

#### PROPOSED SUBCONTRACTORS

SUBCONTRACTOR	WORK TO BE PERFORMED	APPROXIMATE DOLLAR VALUE
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____

SIGNED \_\_\_\_\_

COMPANY \_\_\_\_\_

BY \_\_\_\_\_  
(Printed name)

DATE \_\_\_\_\_

## **Appendix F**

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

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

- Breach of contract action, pursuant to the terms of the contract.
- Breach of contract action, pursuant to Nebraska Statute
  - 3-613 county airport authority
  - 3-116, 3-120, 3-125 NDA
- Other sections of Nebraska Statutes that may be applicable and could be used to enforce DBE requirements include unemployment compensation fund contributors and interest due under the provisions of Nebraska Statute 48-601 to 48-669 on wages paid to individuals employed. Conditions regarding fair employment practices as contained in Nebraska Statutes 48-1101 through 48-225 and to comply with minimum wage scale and nondiscrimination as defined in Nebraska Statutes 48-1201 through 48-1277.

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:

- Suspension or debarment proceedings pursuant to 49 CFR Part 26
- Enforcement action pursuant to 49 CFR Part 31
- Prosecution pursuant to 18 USC 101.

## Appendix G Demonstration of Good Faith Efforts – Forms 1 & 2

### FORM 1: Disadvantaged Business Enterprise (DBE) Utilization

#### UTILIZATION STATEMENT *Disadvantage Business Enterprise*

The undersigned bidder/offeree has satisfied the requirements of the bid specification in the following manner. *(Please mark the appropriate box)*

- The bidder/offeree is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract.**
- The bidder/offeree, while unable to meet the DBE goal of \_\_\_\_\_%, hereby commits to a minimum of \_\_\_\_\_% DBE utilization on this contract and also submits documentation, as an attachment demonstrating good faith efforts (GFE).**

The undersigned hereby further assures that the information included herein is true and correct, and that the DBE firm(s) listed herein have agreed to perform a commercially useful function in the work items noted for each firm. The undersigned further understands that no changes to this statement may be made without prior approval from the Civil Right Staff of the Federal Aviation Administration.

\_\_\_\_\_  
 Bidder's/Offeree's Firm Name

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

#### DBE UTILIZATION SUMMARY

<u>Percentage</u>	<u>Contract Amount</u>	<u>DBE Amount</u>	<u>Contract</u>
DBE Prime Contractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Subcontractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Supplier	\$ _____ x 0.60 =	\$ _____	_____ %
DBE Manufacturer	\$ _____ x 1.00 =	\$ _____	_____ %
Total Amount DBE		\$ _____	_____ %
DBE Goal		\$ _____	_____ %

\* If the total proposed DBE participation is less than the established DBE goal, Bidder must provide written documentation of the good faith efforts as required by 49 CFR Part 26.

**END FORM 1**

