

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**for**



**DRAFT 2017**

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**UNITED STATES DEPARTMENT OF TRANSPORTATION**

**DBE PROGRAM - 49 CFR PART 26**

**NEW RIVER VALLEY AIRPORT COMMISSION**

**for the New River Valley Airport, Dublin VA**

**POLICY STATEMENT**

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

The New River Valley Airport Commission (hereafter 'the Airport Commission') 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 Airport Commission has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Airport Commission has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Airport Commission to ensure that DBEs are defined in Part 26, have an equal opportunity to receive and participate in USDOT-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 marketplace outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

**Keith Holt, Airport Manager, New River Valley Airport, 5391 C.V. Jackson Rd., Bldg. 4, Dublin VA 24084, Phone: 540-674-4141** has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the Airport Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport Commission in its financial assistance agreements with the Department of Transportation.

The Airport Manager has disseminated this policy statement to the Airport Commission members and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for the Airport Commission on USDOT-assisted contracts in the following manner:

1. *This Policy statement was prepared as a handout, and made available at an advertised outreach meetings conducted by the Airport Commission.*

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Airport Commission Chairman

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Date

## **SUBPART A - GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

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

### **Section 26.5 Definitions**

The Airport Commission will use terms this program that have the meaning defined in Section 26.5.

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

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

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

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

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

The Airport Commission will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in Appendix B to this part. We will also report the DBE contractor firm information either on the FAA DBE Contractor's Form or other similar format.

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

The Airport Commission will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE

contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms. We will collect this information in the following ways:

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

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

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

Assurance: 26.13(a) – Each financial assistance agreement the New River Valley Airport Commission signs with a DOT operating administration (or primary recipient) will include the following assurance:

*The New River Valley Airport Commission 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 New River Valley Airport Commission 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 New River Valley Airport Commission'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 Airport Commission 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: 26.13b

The Airport Commission will ensure that the following clause is included in each contract we sign with a contractor and each subcontract the prime 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 New River Valley Airport Commission deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.*

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

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

The Airport Commission 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. We are 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. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

### **Section 26.23 Policy Statement**

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

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

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

**Keith Holt, Airport Manager, New River Valley Airport, 5391 C.V. Jackson Rd. Bldg. 4, Dublin VA 24084, Phone: 540-674-4141, kpskmanager@gmail.com**

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO, has a staff of one staff attorney and consultant engineers. The duties and responsibilities 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 monitor results.*
6. *Analyzes the Airport Commission's progress toward attainment and identifies ways to improve progress.*
7. *Participates in pre-bid meetings.*
8. *Advises the Airport Commission on DBE matters and achievement.*
9. *Chairs the DBE Advisory Committee.*
10. *Determine contractor compliance with good faith efforts.*
11. *Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.*
12. *Plans and participates in DBE training seminars.*
13. *Acts as liaison to the Uniform Certification Process.*
14. *Provides outreach to DBEs and community organizations to advise them of opportunities.*
15. *Maintains the agency's updated directory on certified DBEs.*

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

It is the policy of the Airport Commission 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.

To date, in developing this DBE program, the Airport Commission's efforts did not identify any such institutions within its service area. If any such institutions are established in the Airport's service area, the Airport Commission will consider the services offered by these institutions and refer them as noted above. Information on these institutions will be made available in the office of the DBE Liaison Officer.

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

The Airport Commission has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment made to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. We will use the following method to comply with its 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 of satisfactory completion of the accepted work within 30 days after payment to the prime contractor.*

The Airport Commission will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Airport Commission. When the Airport Commission has made 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 Airport Commission will provide appropriate means to enforce the requirements of this sections. These means include:

- (1) Refusal to issue additional work;
- (2) Damages;
- (3) Suspension of work on the project;
- (4) Withholding final payment of retainage until compliance with this section is achieved;
- (5) Withholding future contracts of any contractor deemed not in compliance with this section.

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

*The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than fifteen (15) days from the receipt of each payment the prime contract receives from the Airport Commission. The prime contractor agrees further to return retainage payments to each subcontractor within fifteen (15) 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 Airport Commission. This clause applies to both DBE and non-DBE subcontracts.*

#### 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 Airport Commission or DOT.



This reporting requirement also extends to any certified DBE subcontractor.

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

### **Section 26.31 Directory**

The primary Disadvantaged Business Enterprise Directory for the Airport Commission comes from the Virginia Department of Minority Business Enterprise (VDMBE) and contains listings of certified minority- and women-owned construction firms and material suppliers from throughout the Commonwealth of Virginia.

VDMBE maintains active lists of certified disadvantaged businesses located throughout the state. Therefore, all of the firms listed in the directory have been certified by this state and in accordance with USDOT criteria. It should be noted also that these listings and certifications are periodically updated with some firms being added, while others are removed.

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

The VDMBE DBE Directory lists the firm's name, address, phone number, date of most recent certification, NAICS code, and the type of work the firm has been certified to perform as a DBE. The Directory is updated at least annually, and periodically, as necessary. The VDMBE directory is available at: <http://egov1.virginia.gov/>

### **Section 26.33 Overconcentration**

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

### **Section 26.35 Business Development Programs**

The Airport Commission has not established a business development program.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

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

1. The Airport Commission 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 USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.

2. The Airport Commission will implement similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulations, provisions, and contract remedies available to the Airport Commission in the events of non-compliance with the DBE regulation by a participant in our DBE Program.
3. The Airport Commission will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. The Airport Commission will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose, this will be conducted in conjunction with standard monitoring of contract performance and reviewed at project close-out.
5. The Airport Commission will implement a mechanism that will provide for a running tally of actual DBE attainments, 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.

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

The Airport Commission will foster small business participation by where practicable take reasonable steps to eliminate obstacles to their participation. A detailed small business participation plan is included in Attachment 10 and includes promotion of such efforts such as unbundling contracts and small business outreach.

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

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

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

### **Section 26.45 Overall Goals**

The Airport Commission will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the

three-year goal period. The accordance with Section 26.45(f) the Airport Commission will submit its Overall Three-year DBE Goal to the FAA by August 1<sup>st</sup> as required by the established schedule below.

<b>Airport Type</b>	<b>Region</b>	<b>Date Due (Goal Period)</b>	<b>Next Goal Due (Goal Period)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>New England, Northwest Mountain, &amp; Southern</b>	<b>August 1, 2014 (2015/2016/2017)</b>	<b>August 1, 2017 (2018/2019/2020)</b>

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

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

26.45 (g)(1) In establishing the overall goal, the Airport Commission 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 Airport Commissions efforts to establish a level playing field for the participation of DBEs. The consultation will include a planned scheduled, meeting with as many interested stakeholders as possible focused on obtaining information relevant to the Airport Commission goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, the Airport Commission will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be posted in a newspaper of local circulation. If the proposed goal changes

following review by the operating administration, the revised goal will be posted on-site. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the Airport Commission and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent and where the proposal may be reviewed.

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

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT.

Specific outreach and schedule includes:

March 2017 Publication of public outreach meeting in local newspaper and mailed to local DBE firms.

March 2017 Presentation to the Airport Commission at their regular public meeting.

April 25, 2017 Public Outreach Public Meeting held.

June 2017 Publish on Airport's Website

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

If permitted or required by the FAA Administrator we will express our overall goals 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 should 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 your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

### **Section 26.45(f) - Prior Operating Administration Concurrent**

The Airport Commission understands that we are not required to obtain prior operating administration concurrence with our overall goal. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate, the operating administration may, after consulting with us, adjust our overall goal or require that we do so. 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 4 to this program.

**Section 26.47 Failure to meet overall goals.**

The Airport Commission will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the Airport Commission awards and commitments shown on our 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, we will do the following in order to be regarded by the Department as implementing your DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in the fiscal year that falls short of the goals;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year to fully meet the goals;

The shortfall analysis shall be maintained for three years and made available to the FAA upon request.

**Section 26.49 Transit Vehicle Manufacturers Goals**

N/A

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

(a) The Airport Commission 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 of this part.
- (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 your 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 4 to this program.

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

The Airport Commission 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 section 26.39.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

The Airport Commission will use contract goals to meet any portion of the overall goal it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means. We will express our contract goals as a percentage of the total amount of a DOT-assisted contract. The Airport Commission will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. The Airport Commission needs not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

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

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

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

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

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

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

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

The Airport Commission treats bidders'/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:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures; Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

Administrative reconsideration (26.53(d))

Within three (3) days of being informed by the Airport Commission that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following reconsideration official: **Robert N. Glenn, New River Valley Airport Commission, 5391 C.V Jackson Rd. Bldg. 4, Dublin VA 24084**. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the Airport Commission's administrative reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do.



The Airport Commission 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 DOT.

Good Faith Efforts procedures in situations when there are contract goals (26.53(f)(g))  
We will include in each prime contract a provision stating:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph 26.53(f); and

That, unless our consent is provided under this paragraph 26.53(f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

We will require the contractor that is awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

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 require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without our prior written consent. This includes, but not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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.

The Airport Commission 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 we established for the

procurement. The good faith efforts shall be documented by the contractor. If we request documentation from the contractor under this provision, the contractor shall submit the documentation to us within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

We 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 we deem appropriate if the prime contractor fails to comply with the requirements of this section.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of 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 New River Valley Airport Commission to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of      percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 9), to meet the contract goal for DBE participation in the performance of this contract.

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

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

## **Section 26.55 Counting DBE Participation**

The Airport Commission 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.

If the firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, we will not count the firm's participation toward any DBE goals, except as provided for in 26.87(j).

## **SUBPART D - CERTIFICATION STANDARDS**

### **Section 26.61 - 26.73 Certification Process**

The Airport Commission will refer all matters pertaining to certification to the Virginia Department of Minority Business Enterprise (VDMBE) until the UCP for the Commonwealth of Virginia is approved and implemented. VDMBE will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. VDMBE will make all certification decisions based on the facts as a whole.

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

**Virginia Department of Minority Business Enterprise**  
**1111 East Main Street, Suite 300**  
**Richmond VA 23219**  
**(804) 786-6585**  
[DMBE@DMBE.virginia.gov](mailto:DMBE@DMBE.virginia.gov)

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

## **SUBPART E - CERTIFICATION PROCEDURES**

## **Section 26.81 Unified Certification Program**

The Virginia Department of Minority Business Enterprise currently manages the proposed Unified Certification Program (UCP) for the Commonwealth of Virginia, and the New River Valley Airport Commission will become a participant once the UCP is approved. The Airport Commission will also work, in a reciprocal manner, with other airports and USDOT/FAA agencies to receive and share DBE certification information.

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

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

The Airport Commission will safeguard from disclose 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 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.

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 Airport Commission, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.



## **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculation
Attachment 5	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of DBE's Eligibility
Attachment 9	Regulations: 49 CFR Part 26
Attachment 10	Small Business Element

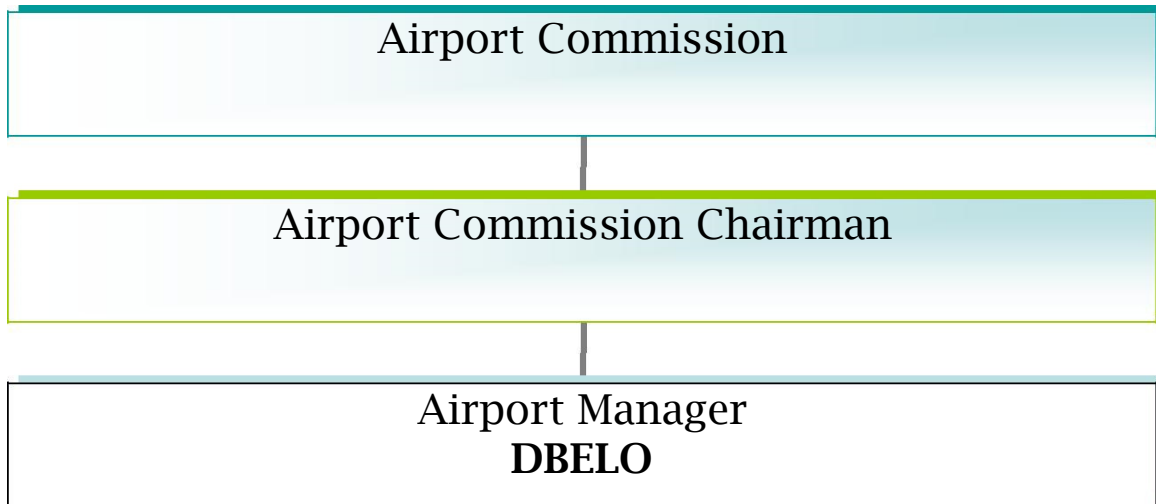
Attachment 1

# Organizational Chart



# Organizational Chart

New River Valley Airport Commission  
New River Valley Airport



Attachment 2  
**DBE Directory**

## **Virginia Unified Certification Program**

Available at: [http://egov1.virginia.gov/swam\\_reports/dbe\\_listing.htm.gz](http://egov1.virginia.gov/swam_reports/dbe_listing.htm.gz)

<u>Federal Type</u>	<u>Certifying Agency</u>	<u>Cert #</u>	<u>Company Name, Mailing Address and Contact</u>	<u>Description of Service</u>	<u>DBE/ACDBE</u>
DBE/WBE	DMBE	000320	<u>DEBORAH K. EASTER</u> <u>DBA EASTER FENCING</u> 124 SPLIT RAIL ROAD CANA VA 24317 Contact: <a href="#">DEBORAH K. EASTER</a> Phone: (276)755-4202 Fax: (276)755-3295	<b>NAICS Code and Description</b> <b>238990:</b> FENCING CONTRACTORS (EXCEPT ELECTRONIC CONTAINMENT FENCING FOR PETS)	DBE
DBE/WBE	DMBE	626435	F & B CONTRACTORS, LTD. 1787 BOLD BRANCH ROAD BEDFORD VA 24523 Contact: <a href="#">SANDRA B. FALLS</a> Phone: (540)297-4420 Fax: (540)297-0326	<b>NAICS Code and Description</b> <b>238910:</b> SITE PREPARATION CONTACTORS <b>237310:</b> HIGHWAY, STREET, & BRIDGE CONSTRUCTION	DBE

DBE/MBE	DMBE	666803	<p><u>F L LOGAN &amp; SONS, INC.</u>  DOING BUSINESS AS F L LOGAN &amp; SONS, INC.  6830 WOOD HAVEN ROAD  ROANOKE VA 24019  Contact: <a href="#">LAWRENCE LOGAN, SR.</a>  Phone: (540)362-4516  Fax: (540)362-4548</p>	<p><b>NAICS Code and Description</b>  <b>237310:</b> CONCRETE PAVING (I.E. HIGHWAY, ROAD, STREET, PUBLIC SIDEWALK)  <b>238110:</b> CONCRETE POURING, FINISHING, REPAIR, RESURFACING, FOOTING, FOUNDATION  <b>238990:</b> CONCRETE PAVING, RESIDENTIAL AND COMMERCIAL DRIVEWAY AND PARKING AREA, CURB AND GUTTER CONSTRUCTION  <b>238990:</b> ASPHALT COATING AND SEALING, RESIDENTIAL AND COMMERCIAL PARKING LOT AND DRIVEWAY</p>	DBE
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DBE/MBE	DMBE	663467	<p>FRANKLIN WELDING DOING BUSINESS AS FRANKLIN WELDING  718 GREENWICH DR  ROANOKE VA 24019  Contact: <a href="#">SAMUEL FRANKLIN</a>  Phone: (540)330-3454</p>	<p><b>NAICS Code and Description</b>  <b>238190:</b> WELDING, ON SITE, CONTRACTORS</p>	DBE
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DBE/WBE	DMBE	000114	<u>GREGORY SEEDING &amp; LANDSCAPING, INC.</u> DOING BUSINESS AS GREGORY SEEDING & LANDSCAPING, INC. 5775 ALUM SPRING ROAD PULASKI VA 24301 Contact: <a href="#">BETTY G. GREGORY</a> Phone: (540)980-5945 Fax: (540)980-6844	<b>NAICS Code and Description</b> <b>561730:</b> HYDROSEEDING AND LANDSCAPING SERVICES	DBE
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DBE/WBE	DMBE	664220	<u>L A S TRUCKING AND CONSTRUCTION, INC.</u> 1148 MT. PLEASANT ROAD SHAWSVILLE VA 24162 Contact: <a href="#">LISA AKERS ALTIS</a> Phone: (540)382-2821 Fax: (540)382-8883	<b>NAICS Code and Description</b> <b>237310:</b> HIGHWAY, STREET, AND BRIDGE CONSTRUCTION <b>484220:</b> TRUCKING, SPECIALIZED FREIGHT (EXCEPT USED GOODS), LOCAL <b>488490:</b> SNOW REMOVAL, HIGHWAY <b>811310:</b> COMMERCIAL AND INDUSTRIAL MACHINERY AND EQUIPMENT (EXCEPT AUTOMOTIVE AND ELECTRONIC) REPAIR AND MAINTENANCE <b>811310:</b> WELDING REPAIR SERVICES (E.G., AUTOMOTIVE, GENERAL) <b>238190:</b> WELDING, ON SITE, CONTRACTORS <b>561730:</b> HYDROSEEDING SERVICES (E.G., DECORATIVE, EROSION CONTROL PURPOSES) <b>561990:</b> FLAGGING (I.E., TRAFFIC CONTROL) SERVICES	DBE
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DBE/WBE	DMBE	660757	MCCRAW TRUCKING INC 2108 BRUSHY FORK RD CANA VA 24317 Contact: <a href="#">CYNTHIA MCCRAW</a> Phone: (276)755-2159 Fax: (276)755-3365	<b>NAICS Code and Description</b> <b>484220:</b> DUMP TRUCKING (E.G., GRAVEL, SAND, TOP SOIL) <b>423320:</b> CRUSHED STONE MERCHANT WHOLESALEERS	DBE
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### Attachment 3

# Monitoring and Enforcement Mechanisms

**MONITORING AND ENFORCEMENT MECHANISMS (26.37)**

1. All participants are hereby notified that, pursuant to 49 CFR Part 26 and the New River Valley Airport Commission's Disadvantaged Business Enterprise Participation Program, they must affirmatively ensure that in any contract entered into with the Airport Commission that DBEs will be afforded *equal* opportunity to participate in subcontracting activities. It is the policy of the Airport Commission to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT/FAA-assisted contracts. It is further the Airport Commission's policy to ensure nondiscrimination in the award and administration of USDOT/FAA assisted contracts.
2. All contracts between the Airport Commission and a Contractor shall contain an appropriate provision to the effect that failure by the Contractor to comply with the Airport Commission's DBE Program shall constitute a breach of contract, exposing the Contractor to a potential termination of the contract or other appropriate remedy, including withholding of funds, until such time as the contractor complies with all the DBE requirements of this program. Under authority granted by Virginia law, the Airport Commission may impose liquidated damages, contract suspension, or even contract termination.
3. All documentation submitted at time of bid, as well as additional data provided by the successful bidder, is considered part of the contract documents. Any alterations, substitutions, deletions, etc., to data provided at time of submission of bid must have prior approval of the Airport Commission's DBE Liaison Officer.
4. In contracts with DBE contract goals, bids submitted which do not meet the DBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered nonresponsive bids, and bidders will be notified of the deficiency and given opportunity to appeal to the Administrative Reconsideration Officer (49 CFR 26.53). The bidder will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Officer will make the determination on the sufficiency of the good faith efforts.
5. The Airport Commission reserves the right to reject any or all bids, or to re-advertise for bids. Award, if made, will be to the lowest responsive and qualified bidder. A bid will not be considered responsive unless the bidder complies with 49 CFR Part 26, and the Airport Commission's Disadvantaged Business Enterprise Program.
7. The Airport Commission shall require Contractors to make good faith efforts to



replace a DBE subcontractor that is terminated, or fails to complete its work on the contract for any reason, with another DBE subcontractor. If a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Contractor must notify the Airport Commission immediately. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established contract goal. The Airport Commission shall approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible DBEs.

8. Additional information on the Airport Commission's DBE Program can be obtained from the DBELO, **Keith Holt, Airport Manager, New River Valley Airport, 5391 C.V. Jackson Rd. Bldg. 4, Dublin VA 24084, Phone: 540-674-4141.**
9. The Airport Commission will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. These mechanisms will include, but not be limited to, the following:
  - a. *Review bid package documentation thoroughly, obtaining clarification, if necessary.*
  - b. *Review monthly reports regarding employment, as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.*
  - c. *Monitor progress of payments to DBEs through monthly reports from prime contractors.*
  - d. *Monitor progress of DBEs work through on-site visits and communication with DBEs.*
10. The Airport Commission will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT/FAA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT/FAA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Part 26.109.
11. The Airport Commission also will consider similar action under its own legal authorities, including responsibility determinations in future contracts. In addition, the Airport Commission will apply legal and contract remedies under state and local law. This includes, for example, applying liquidated damages, withholding payments, etc.
12. In its reports of DBE participation to the USDOT, the Airport Commission will show both commitments and attainments, as required by the USDOT reporting form.

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:

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

Attachment 4

# Overall Goal Calculation

**FY 2017**  
**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**  
**METHODOLOGY**  
**for**

**NEW RIVER VALLEY AIRPORT**  
**Dublin, Virginia**

**March 2017**

**METHODOLOGY for Establishing the FY 2017 Overall Disadvantaged Business Enterprise (DBE) Goal for:**

*New River Valley Airport, Dublin, Virginia (49 CFR Part 26)*

*In fulfillment of the requirements of 49 CFR Part 26, the New River Valley Airport Commission has developed a proposed Overall Goal for FY 2017 FAA-AIP projects at the Airport. The methodology used in establishing this goal is described herein.*

**I. Goal Methodology: Detailed Application, Step One – DBE Base Figure**

**A. Amount of Goal**

The New River Valley Airport Commission’s overall goal for FY 2017 is the following: 3.2% of the Federal financial assistance it will expend in DOT-assisted contracts.

We are not expecting an award in FY2017 to exceed \$150,000, thus a DBE goal is not applicable that year. However, awards in FY2018 and FY2019 are expected to exceed \$150,000. Over the cumulative between FY2017 – 2019 in contracts is expected to be \$645,900 with a DBE goal of 3.2% the Airport Commission has set a goal of expending \$20,668.80 with DBEs during FY 2017-2019.

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

The market area is normally determined through an assessment of where bidders have come from to work on previous projects at the airport, and where the substantial majority of funds have been spent. However, New River Valley Airport has not had any previous federally-funded projects in recent years. Therefore, the market area for the New River Valley Airport will be determined by where the majority of bidders have come from for highway transportation projects (see **Table 1** below). A substantial majority of bidders came from these areas:

**Table 1: Local Market Area for New River Valley Airport**

Construction Services		Professional Services
Carroll	Roanoke City	Fairfax
Montgomery	Roanoke County	Hanover
Pulaski	Wythe	Henrico
Bedford	Giles	New Kent



**C. Determination of relevant NAICS codes**

**New River Valley Airport – FY 2017 - 2019 Estimated Projects**

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

**Table 2: Proposed FY 2017 Projects – New River Valley Airport**

PROJECT	ACTIVITY	NAICS CODES
Expand Apron - Design	Engineering	541330

**Table 2: Proposed FY 2018 Projects – New River Valley Airport**

PROJECT	ACTIVITY	NAICS CODES
Expand Apron - Construction	Heavy construction	237310
	Seeding/mulching	561730
	Engineering	541330
	Electrical	238210
	Testing Labs	541380
	Brick/Stone Handler	423320

**Table 2: Proposed FY 2019 Projects – New River Valley Airport**

PROJECT	ACTIVITY	NAICS CODES
Construction Taxiway Design	Engineering	541330

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

**Table 3: All Firms and DBEs – New River Valley Airport, by Relevant NAICS Codes for FY 2017-2019 Projects**

	NAICS Codes	DBE Firms	All Firms	Percent DBE
FY2017	541330	5	736	0.67%
FY2018	237310	1	19	
	561730	3	126	
	238210	0	71	
	541380	1	11	
	423320	1	11	
	541330	0	81	1.92%
FY2019	541330	5	736	0.67%

## **SOURCES:**

1. Virginia Department of Minority Business Enterprise UCP Directory, March 2017.
2. 2014 County Business Patterns, US Census Bureau, March 2017.

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

## **E. Determination of the “Weighted” DBE Base Figure**

The Step 1 DBE Base Figure was derived by using a weighting process by which the percentage of dollars spent on various activities (represented by NAICS codes) were multiplied by the percentage of relevant DBE firms to all relevant firms as indicated in Table 3 above.

**The Step 1 DBE Base Figure for the New River Valley Airport is 1.5%, using the average of the NAICS code methodology.**

## **II. Step 2: Adjustment to the Step 1 DBE Base Figure**

After the Step 1 DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

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

### **A. Adjustment factors to Consider**

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

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

### **B. Overall Lack of DBE in our Market Areas**

There is an overall lack of DBE firms doing work in our geographical area in the link of work associated with our typical projects. Most DBE firms in our area along with our line of work are typically materials hauling and seeding companies. The percentage of actual contract work for DBE associated firms within our projects could be a rather small percentage of the overall contract amount.

### **C. Historical DBE Goals**



In evaluating our past DBE goals, our 2006 overall goal was 5.1%; our 2013 goal was 3.2%. Our most recent 2016 actual awards to DBE was 3.86%.

#### **D. Adjustment to Step 1 Base Figure: New River Valley Airport**

The New River Valley Airport Commission will adjust the Step 1 base figure using a median of past goal percentages. Therefore, the DBE goal for the Airport Commission will be 3.2%.

$$\text{Median of } 1.50\%: 5.10\%: 3.20\% = 3.20\%$$

#### **A. Resource Documents:**

1. Virginia Department of Minority Business Enterprise UCP DBE Directory, March 2017.
2. 2014 County Business Patterns, U.S. Census Bureau, March 2017.

#### **B. Persons, and/or Agencies Contacted:**

1. Frank Milien, Campbell and Paris Engineers
2. Virginia Department of Minority Business Enterprise.

#### **C. Breakout of Estimated Race-Neutral / Race-Conscious Participation**

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

1. *Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);*
2. *Disseminating information communications on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors).*

The Airport estimates that, in meeting its overall goal of 3.2%, that it will obtain 0.0% from race-neutral participation and 3.2% through race-conscious measures.

The reason for this projected split is that the Airport has no history of over-achievement of past DBE participation upon which to justify a race-conscious/race-neutral breakout.

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

### **Contract Goals**

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

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

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

Attachment 5

State's UCP Agreement

## **State's UCP Agreement**

Information on the Commonwealth of Virginia's UCP Agreement can be found at <http://egov1.virginia.gov/index.html>

Attachment 6

Form 1 & 2 for  
Demonstration of Good Faith  
Efforts

**NEW RIVER VALLEY AIRPORT COMMISSION**

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

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

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

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

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

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

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

**NEW RIVER VALLEY AIRPORT COMMISSION**

**FORM 2: LETTER OF INTENT**

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

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

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

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

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

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

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

Description of work to be performed by DBE firm:

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

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

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

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

(Submit this page for each DBE subcontractor.)

Attachment 7

**Certification Application  
Forms**



## **DBE Certification Application Forms**

Certification Application Forms for potential DBE businesses can be found on the Virginia Department of Minority Businesses website at:

<http://egov1.virginia.gov/dbecert.html>

Attachment 8

**Bidders List  
Collection Form**

New River Valley Airport Commission

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

Attachment 9

Regulations: 49 CFR part 26

## **Weblink to 49 CFR Part 26**

The entirety of 49 CFR Part 26 can be found on the Government Printing Office's website or at [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

Attachment 10

**Small Business Element**

## Small Business Element

### 1. Objective/Strategies

When practical, the New River Valley Airport will foster the use of small businesses by removing barriers to their participation. This will be accomplished in the following ways:

- a) Seek to eliminate barriers such as reduced bonding requirements.
- b) Encourage sub-contracting of work that can be accomplished by a qualified small business.
- c) Clearly advertise jobs and work available to foster small business involvement.

### 2. Definition

- DBE firms should be identified in the Small Business element of the recipient's DBE program as eligible for the program unless there is a DBE micro-Small Business Program element in place.
- Size standard should be consistent with 49 CFR 26.5 and must be no larger than the Small Business Administration's size standards. DBE firms and small firms eligible for the program should be similarly sized to reduce competitive conflict between DBE and non-DBE firms. More information concerning if a business is or is not a considered a small business can be found at: <https://www.sba.gov/contracting/getting-started-contractor/qualifying-small-business>

### 3. Small Business Participation Elements

The New River Valley Airport Commission will meet its objectives to expand opportunities for small businesses using a combination of the following methods and strategies:

- a) **Unbundling:** Where feasible the Airport Commission may "unbundle" projects or separate large contracts into smaller contracts, which may be more suitable for small business participation. The Airport Commission will determine the feasibility of unbundling by reviewing the grant application for the federal projects and determining the work elements that are likely to be grouped for construction and/or purchase. The Airport Commission will consider the economic feasibility, constructability, and schedule impacts to providing greater opportunities for small business participations in the assessment of unbundling the projects. Similarly, the Airport Commission will encourage its prime contractors and prime consultants to unbundles contracts to facilitate participation by small businesses.
- b) **Outreach and Technical Assistance:** The New River Valley Airport

Commission advertises contracting opportunities through various outlets, including local newspapers. In addition, the Airport Commission will address the small business opportunities during pre-proposal and pre-bid meetings.

**4. Verification**

- a. The DBE Liaison shall request firm information to verify that the firm meets the definition criteria of a Small Business from above.

**5. Monitoring/Record Keeping**

- a. All records shall be noted, verified and recorded at project close out.

**6. Implementation Timeline**

- a. This program shall be implanted 60-days following FAA approval of this DBE plan.

**7. Assurances**

The Airport Commission has taken every effort to assure:

1. This program is authorized under state law;
2. Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;
3. There are no geographic preferences or limitations imposed on any federally assisted procurement included in the program;
4. There are no limits on the number of contracts awarded to firms participating in the program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
5. Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
6. This program is open to small businesses regardless of their location.