



DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PLAN

Melbourne Orlando International Airport -
MLB

Melbourne, FL

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UNITED STATES DEPARTMENT OF TRANSPORTATION
DBE PROGRAM – 49 CFR PART 26
Melbourne Airport Authority
for the Melbourne Airport Authority, Melbourne FL

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

Melbourne Airport Authority (hereafter 'the Authority') has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26. The Authority has received federal financial assistance from USDOT, and as a condition of receiving this assistance, the Authority has signed an assurance that they will comply with 49 CFR Part 26.

It is the policy of the Authority to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT–assisted contracts. It is also the policy:

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

Ms. Summer Wyllie-Vitt, Procurement Manager, Melbourne Orlando International Airport, One Air Terminal Parkway, Suite 220, Melbourne, FL 32901; Phone: 321-723-6227, Email: swyllie-vitt@mlbair.com has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Procurement 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 Authority in its financial assistance agreements with the US Department of Transportation.

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

1. This policy statement will be prepared as a handout, and made available at pre-bid conferences and outreach meetings conducted by the Authority.
2. This policy statement will be posted to the Airport's website.



Greg Donovan, Executive Director

11/22/2014
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

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

Section 26.5 Definitions

The Authority will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Recordkeeping Requirements

Reporting to USDOT: 26.11(b)

The Authority will report DBE participation to USDOT as follows:

The Authority will submit annually, by or before December 1, the *Uniform Reports of DBE Awards or Commitments and Payments*, as modified for use by FAA recipients, via FAA Civil Rights Connect (<https://faa.civilrightsconnect.com/>).

Bidders List: 26.11(c)

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

The Authority will collect this information using the Bidders List Data Collection form, as shown in **Attachment 10**.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

Melbourne Airport Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract; or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Authority shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The Authority's DBE program plan, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Authority of its failure to carry out its approved program, the Department may impose sanction as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

Contract Assurance: 26.13(b)

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

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

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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

Ms. Summer L. Wyllie-Vitt
Procurement Manager
Melbourne-Orlando International Airport
One Air Terminal Parkway | Suite 220
Melbourne, FL 32901
Office: 321.723.6227 x 163
swyllie-vitt@mlbair.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Authority complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director 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, along with her staff, will administer the program. The DBELO performs the following duties and responsibilities:

1. Gathers and reports statistical data and other information as required by USDOT.
2. Reviews third-party contracts and purchase requisitions for compliance with this program.

3. Works with all departments to set overall 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).
6. Analyzes the Authority's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Authority on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

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

In developing this DBE program, the Authority's efforts did not identify any such institutions within its service area. The Authority will conduct an evaluation on an annual basis, and if any such institutions are established in the Airport's service area, the Authority will consider the services offered by these institutions and refer them as noted above.

Section 26.29 Prompt Payment Mechanisms

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

The Authority 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.

The Authority 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. The Authority will hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for

satisfactory completion of the accepted work within 30 days after payment to the prime contractor.

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

To implement this measure the Authority will include the following clause from the FAA Advisory Circular 150-5370-10H in each USDOT-assisted prime contract.

- a. *From the total of the amount determined to be payable on a partial payment, 10% percent of such total amount will be deducted and retained by the Authority for protection of the Authority's interests. Unless otherwise instructed by the Authority, the amount retained by the Authority will be in effect until the final payment is made except as follows:*
 - (1) *Contractor may request release of retainage on work that has been partially accepted by the Authority in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Authority for partially accepted work.*
 - (2) *In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.*
- b. *The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Authority evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Authority. When the Authority has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.*
- c. *When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Authority's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Authority may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.*

The Authority will share information regarding required documentation for payment with subcontractors. The Authority will take steps to promote the timely submission by contractors of invoices for payment, and will also maintain adequate internal controls to facilitate timely payment to contractors.

Section 26.31 Directory

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

FDOT 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.

Prime contractors may also consider the FAA’s DBE directory, which can be found at FAA Matchmaker (<https://faa.dbesystem.com>).

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

FDOT revises the directory in real time, and the weblink may be found in **Attachment 2**.

Section 26.33 Overconcentration

The Authority has not identified that overconcentration exists in the types of work that DBEs perform. However, the DBELO will continue to monitor the various categories every three years to ensure that non-DBE firms are not unduly burdened.

Section 26.35 Business Development Programs

The Authority has not established a business development program. The DBELO will re-evaluate the need for such a program every three years.

Section 26.37 Monitoring and Enforcement Mechanisms

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

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

Monitoring Payments to DBEs and Non-DBEs

The Authority will provide ongoing monitoring of prime contractor payments to subcontractors over the course of any covered contract. The Authority will require prime contractors to report documentation of payments to subcontractors monthly. The DBELO will review and verify that payments have been made and retainage has been returned to subcontractors in accordance with section 26.29.

The Authority will require prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the Authority's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Authority or USDOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Authority uses a number of DBE forms, which can be found in Attachment 3, to collect DBE information for initial project setup and for ongoing monitoring of DBE participation:

- DBE Project Compliance Review Checklist
- Listing of DBE Subcontractors
- DBE Monthly Report
- DBE Commercially Useful Function Report

The DBELO or the Authority's representative will conduct onsite compliance reviews of FAA-funded projects. The DBELO will review all DBE subcontracts and payments and will evaluate any DBE firms working on the project during the date of the visit. The DBELO will conduct a commercially useful function (CUF) review at least once during the project for all DBEs. The DBELO will also review monthly progress reports submitted by prime contractors to determine if they are on track to meet the DBE goal. Written certification will be documented by the DBELO on the DBE Project Compliance Review Checklist form.

Prompt Payment Dispute Resolution

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

A meeting will be scheduled with the prime contractor, subcontractor, DBELO and other appropriate County representative(s). Any meeting for the purpose of dispute resolution will include County representative(s) authorized to bind each interested party, including County representative(s) with authorization to take enforcement action.

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

A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

If the prime contractor has not paid subcontractors in accordance with 26.29, the Authority will not reimburse the prime contractor for work performed by subcontractors until the prime contractor is in compliance with 26.29.

Prompt Payment Complaints

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

1. The affected subcontractor shall file a complaint with the prime contractor directly regarding payment.
2. If filing a complaint with the prime contractor does not result in timely and meaningful action by the prime contractor to resolve the prompt payment dispute, the affected subcontractor may contact the Authority's DBELO.
3. If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the Authority to resolve prompt payment disputes, the affected subcontractor may contact the FAA Office of Civil Rights.
4. Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported via FAA Civil Rights Connect, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

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

- Assessing liquidated damages, in accordance with the contract, against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor.
- Advising subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract.
- Paying subcontractors directly and deducting this amount from the retainage owed to the prime contractor.
- Issuing a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays, for the purposes of calculating liquidated damages, if milestones are not met.

The Authority will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The Authority will review contracting records and will engage in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring will be performed by the DBELO with assistance from the resident project representative. Contracting records will be reviewed by the DBELO. The Authority will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering Small Business Participation

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

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

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Authority does not use quotas in any way in the administration of this DBE program. However, the use of race neutral set-asides for small businesses is permissible as a strategy under 26.39 (b) (1).

Section 26.45 Overall Goal

The Authority will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding USDOT/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. In accordance with Section 26.45(f) the Authority will submit its overall three-year DBE goal to FAA by August 1st as required by the established schedule posted at https://www.faa.gov/sites/faa.gov/files/2021-12/FAAGoalsDueChart%20New_Final.pdf.

The DBE goals will be established in accordance with the two-step process as specified in 49 CFR Part 26.45. If the Authority does not anticipate awarding USDOT/FAA-funded prime contracts the cumulative total value of which exceeds \$250,000 during any of the years

within the three-year reporting period, the Authority will not develop an overall goal; however, this DBE Program will remain in effect and the Authority 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 5 to this program. This section of the program will be updated triennially.

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

In addition, the Authority will post a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on the Authority's official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the FAA, the revised goal will be posted on the official internet web site. The Authority will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at the DBELO's office, and that the Authority 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 (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

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

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

Section 26.45 (e) - Project Goals

If permitted or required by the FAA Administrator, the Authority will express its 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 FAA. A project goal is an overall goal, and it 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 the Authority establishes a goal on a project basis, the Authority will begin using its goal by the time of the first solicitation for a USDOT-assisted contract for the project.

Section 26.45(f) - Prior Operating Administration Concurrent

The Authority understands that it is not required to obtain prior FAA concurrence with the overall goal. However, if the FAA's review suggests that the overall goal has not been correctly calculated or that the method for calculating goals is inadequate, the FAA may, after consulting with the Authority, adjust the overall goal or require that the Authority do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the FAA will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

Section 26.47 Goal Setting and Accountability

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

The Authority understands that, to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

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

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments.
2. Establish specific steps and milestones to correct the problems identified in the analysis.

3. Prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The Authority will retain a copy of the analysis and corrective actions in its records for a minimum of three years. The Authority will make it 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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 6 to this program. This section of the program will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

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

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

Section 26.53 Good Faith Efforts Procedures

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

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

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

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

Information to be submitted (26.53(b))

In its solicitations for USDOT/FAA-assisted contracts for which a contract goal has been established, the Authority will require the following:

- (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 Authority, 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 49 CFR Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
- (3) The Authority 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.

This information will be collected using the forms found in Attachment 7.

Administrative reconsideration (26.53(d))

Within ten (10) days of being informed by the Authority 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:

Greg Donovan
Executive Director
Melbourne Orlando International Airport
One Air Terminal Parkway
Melbourne, FL 32901
(321)-723-6227

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 Authority's administrative reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The Authority will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the US Department of Transportation.

Good Faith Efforts procedural requirements (post-solicitation)

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

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

The Authority requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the Authority's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

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

In this situation, the Authority will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The Authority will provide such written consent only

if the Authority agrees, for reasons stated in a concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

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

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

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the Authority and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Authority should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Authority 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 Authority will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that the Authority established for the procurement. The good faith efforts shall be documented by the contractor. If the Authority requests documentation from the contractor under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (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.

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

Sample Bid Specification:

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

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

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

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

Section 26.55 Counting DBE Participation

The Authority will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, DBE firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE credit for work in that category as long as they do not exceed the small business size standard for that category, as adjusted by the United States Small Business Administration.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Authority will refer all matters pertaining to certification to the Florida Department of Transportation or a certifying member of the Florida UCP in accordance with the State's UCP program. The Florida UCP 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. The Florida UCP 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:

Florida Department of Transportation (FDOT)

Equal Opportunity Office

605 Suwannee St. MS 65

Tallahassee, Florida 32399-0450

(850) 414-4747

<http://www.dot.state.fl.us/equalopportunityoffice/>

The certification application forms, and the documentation requirements are found in Attachment 8 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Authority is a member of the Unified Certification Program (UCP) administered by the Florida Department of Transportation (FDOT). The UCP will meet all of the requirements of this section. Florida's UCP program uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT/FAA-assisted contracts. Under the Florida UCP Program, FDOT and other certifying members will conduct DBE certifications. To be certified as a DBE, a firm must meet all certification eligibility standards.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to the Authority

The Authority understands that if it fails to comply with any requirement of this part, it may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the FAA, such as the suspension or termination of federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122.

Section 26.109 Information, Confidentiality, Cooperation

The Authority 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, the Authority 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, the Authority will transmit this information to USDOT 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 USDOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of

noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

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

Monitoring Payments to DBEs

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

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

ATTACHMENTS

- | | |
|---------------|-------------------------------------------------------------------|
| Attachment 1 | Organizational Chart |
| Attachment 2 | DBE Directory |
| Attachment 3 | Monitoring and Enforcement Mechanisms |
| Attachment 4 | Fostering Small Business Participation |
| Attachment 5 | Overall Goal Calculation |
| Attachment 6 | Breakout of Estimated Race-Neutral & Race-Conscious Participation |
| Attachment 7 | Form 1 & 2 for Demonstration of Good Faith Efforts |
| Attachment 8 | Certification Application Forms |
| Attachment 9 | Regulations: 49 CFR Part 26 |
| Attachment 10 | Bidder's List Data Form |
| Attachment 11 | UCP Agreement |

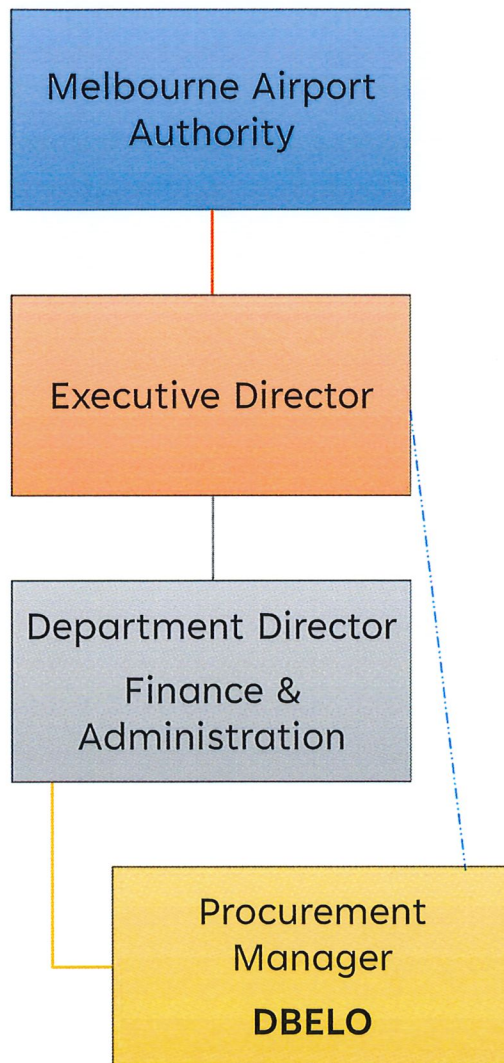
Attachment 1

Organizational Chart

Melbourne Airport Authority

Melbourne, Florida

Organizational Chart



Attachment 2
DBE Directory

The DBE Directory for the State of Florida
may be found at
<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>.

Attachment 3

Monitoring and Enforcement Mechanisms

Melbourne Airport Authority – Melbourne Airport Authority

1. All participants are hereby notified that pursuant to Title 49 Code of Federal Regulations, United States Department of Transportation, Part 26 and the Disadvantaged Business Enterprise Participation Program for Melbourne Airport Authority, they must affirmatively ensure that, in any contract entered into with the Authority, DBEs will be afforded equal opportunity to participate in subcontracting activities. It is the policy of the Authority to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is further the policy of the Authority to ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
2. All contracts between the Authority, and a Contractor shall contain an appropriate provision to the effect that failure by the Contractor to comply with the Authority'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 Florida law, the Authority 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 the time of submission of bid must have prior approval of the Authority's DBE Liaison Officer.
4. Should a DBE firm not certified by the Florida Department of Transportation be proposed by a potential contractor as a part of his/her DBE plan efforts, the inclusion of said firm will not be considered a demonstration of making good faith efforts towards meeting the DBE goal.
5. In contracts with DBE contract goals, bids submitted which do not meet the DBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered non-responsive bids, and bidders will be notified of the deficiency and given opportunity to appeal to the Administrative Reconsideration Official (49 CFR 26.53). The bidder will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Official will make the determination on the sufficiency of the good faith efforts.
6. The Authority reserves the right to reject any or all bids, or to re-advertise for bids. Award, if made, will be to the lowest responsive and qualified bidder. A bid will not be considered responsive unless the bidder complies with Title 49 Code of the Federal Regulations, Part 26, and the Disadvantaged Business Enterprise Program of the Authority.
7. The Authority shall require contractors to make good faith efforts to replace a DBE subcontractor that is terminated, or fails to complete its work on the contract for any reason, with another DBE subcontractor. If a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Contractor must notify the Airport immediately. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established contract goal. The Authority shall approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible DBEs.

Additional information on the Authority's Disadvantaged Business Enterprise Program can be obtained from the DBE Liaison Officer, **Ms. Summer Wyllie-Vitt, Procurement Manager, Melbourne Orlando International Airport, One Air Terminal Parkway, Suite 220, Melbourne, FL 32901; Phone: 321-723-6227, Email: swyllie-vitt@mlbair.com.**

8. The Authority 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. Reviewing bid package documentation thoroughly, obtaining clarification, if necessary.
 - b. Reviewing 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. Monitoring progress of payments to DBEs through monthly reports from prime contractors.
 - d. Monitoring progress of DBEs work through on-site visits and communication with DBEs. The Authority will implement a monitoring and enforcement mechanism that will include written certification that the Authority has reviewed contracting records and monitored work sites for this purpose. This monitoring will be conducted during routine project site visits on a monthly basis. The DBELO will sign off on the written certifications.
9. The Authority will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
10. The Authority also will consider similar action under its own legal authorities, including responsibility determinations in future contracts. In addition, the Authority will apply legal and contract remedies under state and local law. This includes, for example, applying liquidated damages, withholding payments, etc.
11. In its reports of DBE participation to the USDOT, the Authority will show both commitments and attainments, as required by the USDOT reporting form.

Attachment 9 contains a link to 49 CFR Part 26, which describes federal regulations, provisions, and contract remedies available to the Authority in the event of non-compliance by a participant.

DBE Commercially Useful Function Report

Project:	
AIP Number:	
Prime Contractor:	
DBE Firm:	
DBE Start/Complete	
CUF Review Date:	

GENERAL

	Yes	No	N/A
1. Does the DBE have its own employees on the job to perform the work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the DBE own the equipment being utilized to perform its work? If No, attach equipment list, ownership documents, and rental/lease agreements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the DBE self-performing the subcontract defined task for a specific item of work (distinct element) on the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

HAULING FIRMS

	Yes	No	N/A
1. Does the DBE hauling firm own and/or lease their trucks? (review ownership/vehicle registration and/or lease documents to verify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the DBE employ drivers for trucks owned by the company? (If leased trucks include operators, this should be indicated in the agreement/purchase order.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Do the haul tickets and/or bills of lading associated with the project confirm that hauling is being performed by the DBE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MATERIAL SUPPLIERS OR MANUFACTURERS/FABRICATORS

	Yes	No	N/A
1. Does the DBE's name appear on all applicable invoices, haul tickets, and/or bills of lading?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the DBE provide documentation showing that the funds used to pay a supplier in fact came from the DBE's own funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If the DBE had any materials drop shipped to the project site, was the invoice addressed to the DBE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Did the DBE deliver materials to the site with their own and/or leased trucks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SUPERVISION

	Yes	No	N/A
1. Is the DBE self-performing work without assistance from the prime or another subcontractor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the DBE providing supervision of its employees and their work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the supervisor a full-time employee of the DBE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Completed by:
Date:

DBE Monthly Report

Contractor:
Project:
AIP Number:
Date:

DBE Subcontractor/Supplier	Committed Award	Total Prior Payments	Current Payment	Total	Date Paid to Vendor / Sub this Invoice	Percent
Totals						

Contractor Name:	Signature:	Title:	Date:

DBE Project Compliance Review Checklist

Project:
AIP Number:
Prime Contractor:

Pre-Bid Checklist

- Review project to determine if a DBE contract goal is needed.
- Attend pre-bid meeting to inform bidders of DBE requirements.

Pre-Award Project Checklist

- Collect the Listing of DBE Subcontractors form.
- Collect letters of intent for all committed DBEs.
- If prime contractor is unable to meet the DBE goal, collect documentation of its good faith effort.

Post Award (Pre-Construction/Design) Project Checklist

- Collect fully executed (signed) subcontracts for all DBE firms.
- Review DBE subcontract(s) to ensure scope of work is consistent with what has been committed.
- Review contracts to verify that all required contract clauses are included.
- Ensure dollar value of DBE subcontract(s) is/are equal to or greater than the amount committed.

During Construction and/or Design Checklist

- Complete DBE Commercially Useful Function Report form, to verify that the DBEs are performing a commercially useful function.
- Verify that business names on equipment and vehicles are not covered with paint or magnetic signs (visual inspection of vehicles on site).
- Verify who employs the workers on site (visually inspect badges/IDs; establish reporting relationships of workers on site/review certified payrolls).
- Review supplier invoices and cancelled checks to verify what firm orders and pays for the necessary supplies being used by the DBE subcontractor.
- Ensure all DBE firms are paid promptly (within 30 days of payment to prime contractor per 49 CFR 26.29) by collecting and reviewing the DBE monthly report form.
- Document and file any correspondence related to terminations, substitutions, or deletions of DBE firms.
- If terminations, substitutions, or deletions were approved, collect documentation of prime contractor's good faith effort to find a replacement firm

Post Construction/Design Checklist

- Ensure DBE goal has been achieved by collecting and reviewing the final DBE report.
- If a shortfall exists, collect Good Faith Effort documentation from prime contractor explaining reasons shortfall took place.

Certification:

I, _____ hereby certify that the contracting records for the federally funded project have been reviewed and the work site has been visited/monitored.

Signature:

Date: _____

Attachment 4

Small Business Participation Plan

Section 26.39 – Fostering Small Business Participation

This element, 49 CFR Part 26.39, is included as a component our DBE program plan, and is herein referenced as the Small Business Participation Plan (SBPP). This part calls for the inclusion of an element to “structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation.”

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

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

Further, the Authority perceives the objectives of this section to be consistent with its DBE Program Policy Statement, which says in part:

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

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

B. SBPP Strategy

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

1. Establishment of a Race-neutral “Subcontracting Goal”

The Authority proposes, when feasible, on certain prime contracts that do not have a DBE contract goal, that prime contractors will be requested to provide subcontracting opportunities to qualified small business concerns (SBCs), as defined herein, and without regards to race or gender of the business owner. Verified business size and subcontracting opportunities will be the basis of this subcontracting goal. The opportunities must be of a size that SBCs, including some that may also be DBEs, can reasonably perform. The Authority will assess the feasibility for race-neutral subcontracting goals on projects.

The Authority may assist the potential primes by reviewing the project(s) in advance of the solicitation and, when possible, by suggesting potential subcontracting opportunities. This will help to establish a reasonable race-neutral subcontracting goal.

2. Consideration of “Unbundling” of Large Contracts

Each program year the Authority will review upcoming projects and determine, the feasibility of that some larger projects be “unbundled” i.e. reduced in scope and size, so that smaller prime contracts might be let of a reasonable size so that SBCs may reasonably bid as primes. This may increase the number of solicitations.

3. Small Business Preference

The Authority will provide an incentive for maximizing the success of SBCs. To establish a SBC the vendor shall provide written documentation of compliance with the definition of a SBC.

When a qualified and responsive non-SBC submits the lowest price bid, and the lowest bid submitted by a qualified and responsive SBC is within five percent (5%) of the lowest bid, then the lowest bidding SBC shall have the opportunity to submit an offer to match the price submitted by the non-SBC. In such instances, staff shall first verify if the lowest non-SBC bidder and the lowest SBC bidder are in fact qualified and responsive bidders.

C. Definitions for this Element

1. Small Business

For purposes of this program element, which is part of our approved DBE program, “small business” shall have the same definition as “small business concerns” contained in 49 CFR 26.5:

“Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts of 22.41 million specified in §26.65(b). “

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

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

(b) A business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except

that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.

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

2. Disadvantaged Business Enterprise

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

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

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

D. Verification Standards and Procedures

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

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

2. **A non-DBE certified potential small business concern** must, as evidence of small business status, complete a simplified application and provide financial and other information as reasonably required by the Authority at time of response to a solicitation or a bid submittal.

3. **Use of Personal Net Worth:**

The Authority, in addition to the standards for small business concerns described above, plans to utilize the current personal net worth standards of the DBE program (26.67), presently at \$1.32 million.

E. Supportive Services

The Authority is a non-certifying member of the Florida UCP, but relies on certifications of the FDOT. The Authority also does not provide direct supportive services and/or business development programs to DBEs or small businesses. However, the Authority will coordinate and make referrals to other providers of these and similar services, such as the Small Business Developments Center at Brevard Community College. These services, as relevant, will also be referred to verified small business concerns. These services may include:

1. The distribution and dissemination of information about the new Small Business Participation program, as well as bid information to certified DBEs and by extension, to potential small business concerns.
2. Publicizing information on the Authority's Website for the small business community with regard to current, on-going and future opportunities for the Authority.

F. Principal Responsible Person

The principal responsible person for overseeing and implementing the Authority's SBPP will be the currently designated Disadvantaged Business Enterprise Liaison Officer (DBELO).

Attachment 5

**Overall DBE Goal
Calculation**

FY 2022 - FY 2024

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM METHODOLOGY
FOR**



MELBOURNE ORLANDO INTERNATIONAL AIRPORT • MLB

MELBOURNE, FL

NOVEMBER 2023

METHODOLOGY for Establishing the Fiscal Year 2022 through Fiscal Year 2024 Overall Disadvantaged Business Enterprise (DBE) Goal for:

*Melbourne-Orlando International Airport
Melbourne FL*

In fulfillment of the requirements of 49 CFR Part 26, the Melbourne Airport Authority (hereafter ‘the Authority’) has developed a proposed Overall Goal for FY 2022-2024 FAA-AIP projects at the Melbourne-Orlando International Airport. The methodology used in establishing this goal is described herein.

Airport Sponsor: **Melbourne Airport Authority**
Airport: **Melbourne-Orlando International Airport**

DBELO: **Summer L. Wyllie-Vitt**
Procurement Manager
Melbourne-Orlando International Airport
One Air Terminal Parkway | Suite 220
Melbourne, FL 32901
Office: 321.723.6227 x 163
swyllie-vitt@mlbair.com

I. Detailed Methodology: Specific Steps

A. Amount of Goal

The Authority’s FY 2022-2024 overall goal for the Federal financial assistance it will expend in USDOT-assisted contracts is the following:

	<u>Overall</u>	<u>Race Neutral</u>	<u>Race Conscious</u>
Total Goal	6.1%	0.0%	6.1%
Year 1 Goal	3.8%	0.0%	3.8%
Year 2 Goal	4.2%	0.0%	4.2%
Year 3 Goal	7.5%	0.0%	7.5%

Given the amount of USDOT-assisted contracts that the Airport expects to let from FY 2022-2024, which is approximately **\$78,109,428**, the Airport has set a goal of expending approximately **\$4,729,291** with DBEs during this period.

B. Determination of the Market Area of the Study

The normal market area was based on discussions with the Authority staff and an assessment of bidders from similar recent projects. Specifically, the market area is based on where the substantial majority of bidders, both successful and unsuccessful, are located and where the substantial majority of funding was spent as illustrated in **Table 1** below:

**Table 1: Melbourne-Orlando International Airport
Market Area**

County	Bidders	Percent of bidders	Dollars	Percent of dollars
Brevard	5	38.5%	\$3,049,576	20.7%
Lake	1	7.7%	\$11,717,200	79.3%
Orange	4	30.8%	\$0	0.0%
Market Area	10	76.9%	\$14,766,776	100.0%
Other	3	23.1%	\$0	0.0%
Total	13	100.0%	\$14,766,776	100.0%

SOURCE: Melbourne Airport Authority

C. Determination of Relevant NAICS Codes

Based on information provided by the Authority concerning the proposed projects for FY 2022 – FY 2024, a list of projects and AIP dollars for Airport was developed and is shown below.

**Table 2: Melbourne-Orlando International Airport
FY 2022-FY 2024 Projects & Activities**

Fiscal Year	Projects	Step 1 Goal	AIP Dollars
2022	Prepare Plans and Specifications - Rehabilitate Taxiway Pavements	3.2%	\$233,693
2022	Terminal Renovation and Expansion - Public Spaces	3.0%	\$1,924,000
2023	Rehabilitate Taxiway C	16.6%	\$2,003,361
2023	Prepare Plans and Specifications - Rehabilitate Taxiway A and Realign Connectors	3.2%	\$500,840
2023	Terminal Renovation and Expansion - New Gate, Fire Sprinklers, Plumbing Upgrades, Terminal Floor, HVAC (BIL-D)	3.0%	\$29,476,221
2024	Modify Airfield Lighting Vault	2.3%	\$1,962,943
2024	Rehabilitate Taxiway A and Realign Connectors	16.6%	\$24,758,370
2024	Terminal Renovation and Expansion - Inline Baggage System (BIL-E)	2.5%	\$3,000,000
2024	Terminal Renovation and Expansion - Roof Replacement, Electrical Upgrades (BIL-E)	2.4%	\$14,250,000
FY 2022 - FY 2024 Total			\$78,109,428

SOURCE: Melbourne Airport Authority

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

**Table 3a: Step 1 Base Figure
Melbourne Airport Authority**

FY 2022 - Prepare Plans and Specifications - Rehabilitate Taxiway Pavements						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Engineering	541330	23	727	3.2%	\$233,693	\$7,393
Total					\$233,693	\$7,393
Weighted Base Figure						3.2%

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, October 2023.

**Table 3b: Step 1 Base Figure
Melbourne Airport Authority**

FY 2022 - Terminal Renovation and Expansion - Public Spaces						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Building Construction	236220	20	373	5.4%	\$860,278	\$46,128
Land Subdivision	237210	0	50	0.0%	\$186,006	\$0
Concrete	238110	5	222	2.3%	\$42,626	\$960
Masonry Contractors	238140	4	178	2.2%	\$60,064	\$1,350
Other Foundation, Structure, and Building Exterior Contractors	238190	2	66	3.0%	\$187,944	\$5,695
Electrical Contractors	238210	11	582	1.9%	\$176,318	\$3,332
Plumbing, Heating, and Air-Conditioning Contractors	238220	1	861	0.1%	\$273,196	\$317
Drywall and Insulation Contractors	238310	0	226	0.0%	\$124,004	\$0
Landscaping	561730	9	1200	0.8%	\$13,563	\$102
Total					\$1,924,000	\$57,884
Weighted Base Figure						3.0%

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, October 2023.

**Table 3c: Step 1 Base Figure
Melbourne Airport Authority**

FY 2023 - Terminal Renovation and Expansion - New Gate, Fire Sprinklers, Plumbing Upgrades, Terminal Floor, HVAC (BIL-D)						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Building Construction	236220	20	373	5.4%	\$13,179,700	\$706,686
Land Subdivision	237210	0	50	0.0%	\$2,849,665	\$0
Concrete	238110	5	222	2.3%	\$653,048	\$14,708
Masonry Contractors	238140	4	178	2.2%	\$920,204	\$20,679
Other Foundation, Structure, and Building Exterior Contractors	238190	2	66	3.0%	\$2,879,349	\$87,253
Electrical Contractors	238210	11	582	1.9%	\$2,701,245	\$51,054
Plumbing, Heating, and Air-Conditioning Contractors	238220	1	861	0.1%	\$4,185,445	\$4,861
Drywall and Insulation Contractors	238310	0	226	0.0%	\$1,899,777	\$0
Landscaping	561730	9	1200	0.8%	\$207,788	\$1,558
Total					\$29,476,221	\$886,800
Weighted Base Figure						3.0%

SOURCES:

- 2021 County Business Patterns, U.S. Census Bureau.
- Florida UCP DBE Directory, October 2023.

**Table 3d: Step 1 Base Figure
Melbourne Airport Authority**

FY 2023 - Prepare Plans and Specifications - Rehabilitate Taxiway A and Realign Connectors						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Engineering	541330	23	727	3.2%	\$500,840	\$15,845
Total					\$500,840	\$15,845
Weighted Base Figure						3.2%

SOURCES:

- 2021 County Business Patterns, U.S. Census Bureau.
- Florida UCP DBE Directory, October 2023.

**Table 3e: Step 1 Base Figure
Melbourne Airport Authority**

FY 2023 - Terminal Renovation and Expansion - New Gate, Fire Sprinklers, Plumbing Upgrades, Terminal Floor, HVAC (BIL-D and BIL-E)						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Building Construction	236220	20	373	5.4%	\$13,179,700	\$706,686
Land Subdivision	237210	0	50	0.0%	\$2,849,665	\$0
Concrete	238110	5	222	2.3%	\$653,048	\$14,708
Masonry Contractors	238140	4	178	2.2%	\$920,204	\$20,679
Other Foundation, Structure, and Building Exterior Contractors	238190	2	66	3.0%	\$2,879,349	\$87,253
Electrical Contractors	238210	11	582	1.9%	\$2,701,245	\$51,054
Plumbing, Heating, and Air-Conditioning Contractors	238220	1	861	0.1%	\$4,185,445	\$4,861
Drywall and Insulation Contractors	238310	0	226	0.0%	\$1,899,777	\$0
Landscaping	561730	9	1200	0.8%	\$207,788	\$1,558
Total					\$29,476,221	\$886,800
Weighted Base Figure						3.0%

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, October 2023.

**Table 3f: Step 1 Base Figure
Melbourne Airport Authority**

FY 2024 - Modify Airfield Lighting Vault						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Highway & Street	237310	11	49	22.4%	\$10,906	\$2,448
Electrical	238210	11	582	1.9%	\$1,812,443	\$34,256
Site Prep	238910	11	175	6.3%	\$139,594	\$8,775
Total					\$1,962,943	\$45,479
Weighted Base Figure						2.3%

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, October 2023.

**Table 3g: Step 1 Base Figure
Melbourne Airport Authority**

FY 2024 - Rehabilitate Taxiway A and Realign Connectors						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Highway & Street	237310	11	49	22.4%	\$16,047,092	\$3,602,408
Site Prep	238910	11	175	6.3%	\$4,704,090	\$295,686
Engineering	541330	23	727	3.2%	\$2,475,837	\$78,328
Geotechnical Testing	541380	4	42	9.5%	\$1,283,767	\$122,264
Landscaping	561730	9	1200	0.8%	\$247,584	\$1,857
Total					\$24,758,370	\$4,100,542
Weighted Base Figure						16.6%

SOURCES:

- 2021 County Business Patterns, U.S. Census Bureau.
- Florida UCP DBE Directory, October 2023.

**Table 3h: Step 1 Base Figure
Melbourne Airport Authority**

FY 2024 - Terminal Renovation and Expansion - Inline Baggage System (BIL-E)						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Building Construction	236220	20	373	5.4%	\$1,101,856	\$59,081
Land Subdivision	237210	0	50	0.0%	\$238,239	\$0
Concrete	238110	5	222	2.3%	\$54,596	\$1,230
Masonry Contractors	238140	4	178	2.2%	\$76,931	\$1,729
Other Foundation, Structure, and Building Exterior Contractors	238190	2	66	3.0%	\$240,721	\$7,295
Electrical Contractors	238210	11	582	1.9%	\$225,831	\$4,268
Plumbing, Heating, and Air-Conditioning Contractors	238220	1	861	0.1%	\$349,914	\$406
Drywall and Insulation Contractors	238310	0	226	0.0%	\$158,826	\$0
Conveyor and Conveying Equipment Manufacturing	333922	0	8	0.0%	\$535,714	\$0
Landscaping	561730	9	1200	0.8%	\$17,372	\$130
Total					\$3,000,000	\$74,139
Weighted Base Figure						2.5%

SOURCES:

- 2021 County Business Patterns, U.S. Census Bureau.
- Florida UCP DBE Directory, October 2023.

**Table 3i: Step 1 Base Figure
Melbourne Airport Authority**

FY 2024 - Terminal Renovation and Expansion - Roof Replacement, Electrical Upgrades (BIL-E)						
Trades	NAICS	# of DBE Firms	All Firms	%DBE Availability	NAICS Dollars	DBE Dollars
Building Construction	236220	20	373	5.4%	\$4,822,688	\$258,589
Land Subdivision	237210	0	50	0.0%	\$1,377,644	\$0
Concrete	238110	5	222	2.3%	\$315,710	\$7,111
Masonry Contractors	238140	4	178	2.2%	\$444,864	\$9,997
Roofing Contractors	238160	0	252	0.0%	\$1,548,913	\$0
Other Foundation, Structure, and Building Exterior Contractors	238190	2	66	3.0%	\$1,391,994	\$42,182
Electrical Contractors	238210	11	582	1.9%	\$1,305,891	\$24,682
Plumbing, Heating, and Air-Conditioning Contractors	238220	1	861	0.1%	\$2,023,414	\$2,350
Drywall and Insulation Contractors	238310	0	226	0.0%	\$918,429	\$0
Landscaping	561730	9	1200	0.8%	\$100,453	\$753
Total					\$14,250,000	\$345,664
Weighted Base Figure						2.4%

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, October 2023.

NOTE: The County Business Patterns data was used as the source to determine the denominator, or the number of all firms in the market area. The DBE directory 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 for each project 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 3a-i above.

II. Adjustments to the DBE Base Figure

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

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

A. Adjustment Factors to Consider

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

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

The historical overall DBE goals accomplished at the Authority in recent years were examined relative to the above consideration. The annual DBE accomplishment is indicated in Table 4 below:

**Table 4: Melbourne-Orlando International Airport
DBE Accomplishment**

Report Period	DBE Goal	DBE Percentage Achieved	Achieved Over/Under
FY 2018	11.9%	4.6%	-7.3%
FY 2020	8.7%	2.7%	-6.0%
FY 2021	4.7%	2.0%	-2.7%
FY 2022	4.7%	1.9%	-2.8%
Median	6.7%	2.4%	-4.4%

SOURCE: Uniform Report of DBE Commitments/Awards and Payments

The median DBE accomplishment for the periods, as shown above, for the Authority is 2.4%. Although the median is 2.4% the Authority will use the FY 2018 accomplishment of 4.6% as its adjustment factor. The Authority feels 4.6% more accurately reflects DBE capacity.

B. Consultations

The Authority held a public meeting on November 17, 2023. The purpose of the meeting was to solicit information from interested stakeholders about the draft goal, as well as the availability of potential DBEs at the Airport, the effects of discrimination on opportunities for DBEs, and the Airport’s effort to increase DBE participation. Please see Appendix A for the attendee list and consultation comments.

C. Adjustment to Step 1 DBE Base Figures: Melbourne-Orlando International Airport, FY 2022 - FY 2024

With the adjustment factors considered to this point, the Authority will adjust the Step 1 base figures as calculated above with the adjustment factor of (4.6%). The Authority will average the step 1 figure for each project with the adjustment factor. The adjusted goal for each project will be multiplied with the federal dollars to calculate a DBE goal in dollars.

**Table 5: Melbourne-Orlando International Airport
FY 2022 – FY 2024 Overall Goal**

Fiscal Year	Project	Step 1	Step 2 adjustment	Overall Goal	AIP Dollars	DBE Goal (dollars)
FY 2022	Prepare Plans and Specifications - Rehabilitate Taxiway Pavements	3.2%	4.6%	3.9%	\$233,693	\$9,072
	Terminal Renovation and Expansion - Public Spaces	3.0%	4.6%	3.8%	\$1,924,000	\$73,194
FY 2022 Total				3.8%	\$2,157,693	\$82,266
FY 2023	Rehabilitate Taxiway C	16.6%	4.6%	10.6%	\$2,003,361	\$211,978
	Prepare Plans and Specifications - Rehabilitate Taxiway A and Realign Connectors	3.2%	4.6%	3.9%	\$500,840	\$19,442
	Terminal Renovation and Expansion - New Gate, Fire Sprinklers, Plumbing Upgrades, Terminal Floor, HVAC (BIL-D)	3.0%	4.6%	3.8%	\$29,476,221	\$1,121,353
FY 2023 Total				4.2%	\$31,980,422	\$1,352,773
FY 2024	Modify Airfield Lighting Vault	2.3%	4.6%	3.5%	\$1,962,943	\$67,887
	Rehabilitate Taxiway A and Realign Connectors	16.6%	4.6%	10.6%	\$24,758,370	\$2,619,714
	Terminal Renovation and Expansion - Inline Baggage System (BIL-E)	2.5%	4.6%	3.5%	\$3,000,000	\$106,069
	Terminal Renovation and Expansion - Roof Replacement, Electrical Upgrades (BIL-E)	2.4%	4.6%	3.5%	\$14,250,000	\$500,582
FY 2024 Total				7.5%	\$43,971,313	\$3,294,252
FY 2022 - FY 2024 Overall Goal				6.1%	\$78,109,428	\$4,729,291

The total DBE goal in dollars was divided by the total federal portion of the projects to derive the overall DBE goal of **6.1%** for FY 2022 - FY 2024.

III. Process

The Authority consulted with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Authority's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the Authority published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for review and comment during normal business hours at the Authority's administrative office, for 30 days following the date of the notice. The notice included addresses (including offices) to which comments could be sent and addresses where the proposal could be reviewed. This process was used to establish the goals for FY 2022 to FY 2024.

The Authority will begin using the overall goal on October 1 of each goal year, unless the Authority has received other instructions from DOT/FAA (or, if the goal is established on a project basis) by the time of the first solicitation for a DOT/FAA-assisted contract for the projects.

IV. Breakout of Estimated Race-Conscious/Race-Neutral Participation

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Authority 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 Authority proposes a race-conscious goal of **6.1%** and a race-neutral goal of **0.0%**. The reason for this breakout is that the projects from previous years show that the median amount by which the past DBE goals were under-achieved is **4.4%** (see **Table 4**).

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

V. Contract Goals

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

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

The Authority will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Appendix A: Resource Listing

A. Resource Documents:

1. Florida UCP DBE Directory
2. 2021 County Business Patterns, Census Bureau
3. Uniform Report of DBE Commitments/Awards and Payments

Appendix B: Melbourne Orlando International Airport – Web conference – November 17, 2023

Summary of Meeting: Wilfred Nixon, of Ken Weeden & Associates, gave a PowerPoint presentation that covered and explained the following:

- Background, purpose, and goal requirements of the FAA-DBE program.
- Overview of the DBE goal methodology and basic requirements, such as use of most refined data, identification of a normal market area, and employment of a two-step process in establishing the overall 3-year DBE goals.
- Calculation of the base-figure goal (step 1), and adjusted goal (step 2), through “weighting” and consideration of indicators of “capacity”.

Questions/Comments

1. Are there any opportunities for technology companies?

The Airport will be updating it’s security system. Please check the Airport’s website under business opportunities www.mlair.com . You can also contact the Airport’s DBELO Summer Wyllie-Vitt at 321-723-6227 or swyllie-vitt@mlair.com .

2. Are there any upcoming opportunities for engineering services?

Not at this time.

Stakeholder Meeting Attendee List

Attendee	Organization
Pablo Auffant Matos	Auffant And Partners, LLC
Kristina	LTG, INC.
Hamid Elkheir	International Synergy For Technical Services LLC
Darrell Fullington	Trusted & Dependable Solutions LLC
Dharmesh Patel	Rudram Engineering, Inc
Alkesh Patel	Rudram Engineering
David Perley	Melbourne Orlando International Airport
Gil Ramirez	LTG, Inc.
Barbara Schempf	BLS Aviation
Mary Vuono	TraConcepts, LLC
Mike O’Dell	Melbourne Orlando International Airport
Summer Wyllie-Vitt	Melbourne Orlando International Airport
Wilfred Nixon	Ken Weeden & Associates
Danielle Andrews	Ken Weeden & Associates

Attachment 6

Breakout of Estimated Race-
Neutral & Race-Conscious
Participation

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Authority 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 Authority proposes a race-conscious goal of **6.1%** and a race-neutral goal of **0.0%**. The reason for this breakout is that the projects from previous years show that the median amount by which the past DBE goals were under-achieved is **4.4%** (see **Table 4**).

The Authority 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.

Attachment 7

Form 1 & 2 for Demonstration of Good Faith Efforts

MELBOURNE AIRPORT AUTHORITY

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
Signature Title

MELBOURNE AIRPORT AUTHORITY

FORM 2: LETTER OF INTENT

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

Name of bidder/offeror's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of DBE firm: _____

Name & title of DBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Work to be performed by DBE firm:

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

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

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

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

Signature of Bidder/Offeror's Authorized Representative

Date: _____

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

Signature of DBE Bidder/Offeror's Authorized Representative

Date: _____

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

Submit this page for each DBE subcontractor.

Attachment 8

Certification Application Forms

The DBE certification application for the State of Florida may be found at

<http://www.fdot.gov/equalopportunity/dbecertification.shtm>.

Attachment 9

**Regulations:
49 CFR Part 26**

The federal regulations, Title 49 Code of Federal Regulations Part 26, may be found at www.ecfr.gov.

Attachment 10

Bidders List Data Collection Form

BIDDERS LIST DATA COLLECTION FORM

Firm Name	Firm Address and Phone No.	DBE or Non-DBE Status (verify via FDOT DBE 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 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<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 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
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Attachment 11

UCP Agreement

FLORIDA UNIFIED CERTIFICATION PROGRAM AGREEMENT

RECTALS

WHEREAS, 49 CFR Part 26 Subpart E- Certification Procedures Section 26.81, requires that all United States Department of Transportation (USDOT) Recipients participate in a statewide Unified Certification Program (UCP); and

WHEREAS, this Agreement establishes the UCP for the State of Florida; and

WHEREAS, the UCP will comply with all certification procedures and standards set forth in Subparts D and E of 49 CFR Part 26 on the same basis as recipients; and

WHEREAS, the UCP will cooperate fully with oversight, review, and monitoring activities of USDOT and its operating administrations; and

WHEREAS, the UCP will implement USDOT directives and guidelines concerning certification matters; and

WHEREAS, all certification by the UCP shall be pre-certification, i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE; and

WHEREAS, the UCP will render uniform certification decisions on behalf of all USDOT financial assistance recipients in Florida with respect to participation in the USDOT Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, the UCP will provide “one-stop shopping” to applicants for DBE certification, such that an applicant need apply only once for a DBE certification that will be honored by all UCP Members in Florida; and

WHEREAS, the UCP shall develop and maintain an electronic DBE Directory of all firms certified in Florida that will be available to the public on the Internet and in print and continuously updated with additions, deletions, and other changes; and

WHEREAS, the UCP shall have sufficient resources and expertise to carry out the requirements of 49 CFR Part 26 Subpart E; and

WHEREAS, all obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and that recipients may use only UCPs that comply with the certification and nondiscrimination requirements of 49 CFR, Part 26.

NOW, THEREFORE, in consideration of the promises and covenants herein contained Florida UCP Members, agree to the following:

ARTICLE 1 – VISION

Florida's USDOT Recipients share the common goal of creating a level playing field on which DBE firms can compete fairly for USDOT assisted contract awards, while enhancing the administration of the DBE Programs through the exchange of information and coordination of activities. In order to achieve the common goal, Recipients will establish the UCP for the State of Florida.

ARTICLE 2 – DEFINITIONS

Terms and Definitions used by the UCP shall be those specifically defined in this Agreement, and in 49 CFR, Section 26.5, which is incorporated by reference herein:

2.01 Certifying Member

A Florida Recipient as defined in 2.05, and UCP Member as defined in 2.10 and 3.01 who has a current DBE Program Plan approved by an appropriate USDOT Operating Administration that includes provisions for DBE certification and revocation processes.

2.02 Disadvantaged Business Enterprise (DBE)

A for-profit small business concern, that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, in which at least 51% of the stock is owned by one or more such individuals; and whose management and daily business operations of the entity are controlled by one or more of the socially and economically disadvantaged individuals who own it.

2.03 Non-Certifying Member

A Florida Recipient as defined in 2.05, or UCP Member as defined in 2.10 and 3.1 who has a current DBE Program Plan approved by an appropriate USDOT Operating Administration that does not include provisions for DBE certification and revocation processes.

2.04 Personal Net Worth

The net value of the assets of an individual remaining after total liabilities are deducted. Pursuant to 49 CFR Section 26.67 and as used herein, the personal net worth of each disadvantaged owner of an applicant or a DBE firm, excluding the individual's ownership interest in the applicant or a DBE firm and the individual's equity in his or her primary place of residence, must not exceed \$750,000. As of the effective date of this Agreement, the personal net worth requirement is not applicable to airport concessions.

2.05 Recipient

Any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the Federal Aviation

Authority (FAA), Federal Highway Administration (FHWA) or the Federal Transit Authority (FTA), or who has applied for such assistance.

2.06 Small Business Concern

A Small Business Concern is as defined in Small Business Administration regulation 13 CFR Part 121 and in 49 CFR, Part 26; Section 65.

2.07 Socially and Economically Disadvantaged Individuals

Any individual who is a citizen or lawfully admitted permanent resident of the United States and who is:

- (a) Any individual who a recipient finds to be socially and economically disadvantaged individual on a case-by-case basis.
- (b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) “Black Americans” which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) “Hispanic Americans” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) “Native Americans” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) “Asian-Pacific Americans” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (v) “Subcontinent Asian Americans” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
 - (vi) Women;

- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA at such time as the SBA designation becomes effective.

2.08 Executive Committee

A single standing committee, comprised of the Manager of the Equal Opportunity Office in the Florida Department of Transportation (FDOT) or his/her designee, a Certifying Member selected annually by and among the FAA UCP Members, and a Certifying Member selected annually by and among the FTA UCP Members.

2.09 Sub-Recipient

Any entity, public or private, to which USDOT financial assistance is extended through another Recipient.

2.10 UCP Members

All Florida Recipients participating in this Agreement as described in 3.01 and 11.05, including both Certifying and Non-Certifying Members.

ARTICLE 3 – ORGANIZATION OF THE UCP

3.01 Members of the UCP – Recipients

Pursuant to Section 26.81(a), all USDOT recipients in this State shall participate in a UCP.

All recipients, including airports and transit properties, that receive funds directly from FHWA, FAA or FTA must agree in writing to participate as members in the UCP.

Signatures to the UCP agreement of all USDOT recipients in this State shall be maintained on file in the FDOT Equal Opportunity Office.

3.02 Responsible Certifying Member

It is the intent of this Agreement that a Certifying Member will be responsible for certifying DBE's who perform work in their respective fields of expertise (highway and bridge, aviation, and transit). If a DBE firm performs work unique to aviation or transit, and there is no available FAA or FTA Certifying Member in the local area, the FAA or FTA Members will coordinate and agree on the designation of a Responsible Certifying Member. The FAA or FTA Member designated as the Responsible Certifying Member shall either be located in the vicinity of the applicant or DBE firm or have an on-going contract or business relationship with the firm. Non-certifying Members shall likewise consider the location of the applicant or DBE firm and any on-going contract or business relationships with the firm when forwarding an application or a DBE file to a Responsible Certifying Member. To this end Responsible Certifying Members shall be responsible for DBE certifications as follows:

- a) FDOT shall be the Responsible Certifying Member for those firms primarily engaged in the delivery of highway, road and bridge related goods and services. These goods and services may include, but are not limited to, heavy highway construction contractors, road and bridge contractors, specialty construction contractors, engineering consultants, specialty consultants, highway, road and bridge related material suppliers and fabricators and highway, road and bridge related maintenance services.

- b) An FAA UCP Member shall be the Responsible Certifying Member for those firms that are primarily engaged in the delivery of aviation related goods and services, including concessionaires. These goods and services may include, but are not limited to, food service and other aviation specialty firms.
- c) An FTA UCP Member shall be the Responsible Certifying Member for those firms that are primarily engaged in the delivery of transit related goods and services. These goods and services may include, but are not limited to, transit services generally, transit maintenance services and transit related materials and supplies.

3.03 DBE Directory Management

UCP Members hereby acknowledge that FDOT is the major recipient of FHWA funds in the State of Florida, has the largest DBE certification program in the State, and maintains a Directory of certified DBEs that is available electronically and in printed form to Florida Recipients, contractors, and other interested members of the general public.

3.03.1 FDOT shall serve as Manager for the UCP's electronic DBE Directory, which shall include all DBE certifications made by Certifying Members.

3.03.2 FDOT, as DBE Directory Manager, shall assume the following responsibilities with regard to the DBE Directory:

- (a) Keep and maintain the up-to-date electronic DBE Directory;
- (b) Ensure its availability to all UCP Members and other interested parties;
- (c) Make available printed copies of the Directory upon request; and
- (d) Provide Certifying Members with access to certification information in the DBE Directory through the Internet.

3.03.3 Certifying Members will, within 3 business days of receipt of any new application for DBE certification, complete input to a Directory application screen, whenever a new application for DBE certification is received, so that other Certifying Members will not process or otherwise duplicate work on any DBE application.

3.03.4 When a Certifying Member makes a DBE certification approval decision, information shall be submitted, through the Internet, by the Certifying Member, directly to the DBE Directory within three (3) business days of said approval. Pursuant to 49 CFR, Section 26.31, this information shall include:

- a) Firm Name, Street Address, P.O. Box, Telephone and Facsimile Numbers, and e-mail address;
- b) Name of Majority Owner, Gender, and Minority Code;
- c) Type(s) of work performed by the DBE using North American Industry Classification system (NAICS) adopted by the SBA on October 1, 2000, and other work specialty codes as needed;
- d) Name of Certifying Member;
- e) Expiration Date of DBE Certification; and
- f) Any other appropriate information, as agreed upon by UCP Members.

3.03.5 Certifying Members shall also input, through the Internet, within three (3) business days of the action, information as required in 3.03.3 on firms denied DBE certification. This information will be input on the DBE Status Page.

3.03.6 Firms denied DBE certification by a Certifying Member are eligible to re-submit a DBE application after one (1) year.

3.04 Transition of Currently Certified DBEs

Each UCP Member shall electronically submit its current DBE Directory to the DBE Directory Manager (FDOT) for inclusion into the UCP's DBE Directory. Each UCP Member Directory shall include complete information as required in 3.03.4, and a statement attesting to the fact that each DBE firm submitted has been certified under the provisions of 49 CFR Part 26.

3.04.1 The Executive Committee shall meet and review those certified DBE firms submitted by Certifying UCP Members, and will determine the appropriate Certifying Member who will be responsible for future certification and re-certification of the DBE.

3.04.2 Upon determination by the Executive Committee of the appropriate Certifying Member, the Certifying UCP Member having possession of the DBE firm's certification file will be notified, and shall immediately forward that DBE file to the responsible Certifying Member, who shall assume custody and responsibility for the DBE file.

3.04.3 Presently certified non-Florida DBE firms must document current DBE certification by the DOT of the state in which they are domiciled or that state's UCP, if it is in place, prior to being included in the DBE Directory.

3.04.4 Designation of a Responsible Certifying Member for a non-Florida DBE firm shall follow the same process as described above.

3.05 **Executive Committee Duties**

It is agreed that upon approval by the Secretary of the USDOT, the Executive Committee shall begin implementing the provisions of this agreement and the Implementation Plan, attached as Exhibit C.

3.05.1 The Executive Committee shall meet as necessary to provide oversight and ensure compliance with 49 CFR Section 26.81. The Executive Committee shall at all times seek the participation, and may call special meetings of all UCP Members to ensure compliance with said regulation.

3.05.2 The Executive Committee may establish special committees, by majority vote, which may include, but are not limited to, Airport Concessions, UCP Member Dispute Resolution, UCP Process, Quality Assurance, Training, and Intake.

3.05.3 The Executive Committee will ensure that the UCP has sufficient resources and expertise to carry out the requirements of 49 CFR Section 26.81.

3.05.3 The Executive Committee will advise all UCP Members when it appears resources and expertise are not sufficient to carry out the requirements of 49 CFR Section 26.81.

ARTICLE 4 – RIGHTS AND RESPONSIBILITIES OF UCP MEMBERS

4.01 Types of UCP Members

Florida recipients acknowledge that this Agreement provides for two (2) classes of members, Certifying Members and Non-Certifying Members as defined in 2.01 and 2.03, and that each class shall have specific rights and responsibilities as set forth herein.

4.02 Certifying Member Rights and Responsibilities

Each Certifying Member shall have the following rights and responsibilities:

- (a) Comply with the terms and conditions of this Agreement.
- (b) Collect and evaluate information received regarding DBE certification applications, conduct site visits, and make certification decisions as to DBE status, in accordance with 49 CFR Part 26.
- (c) Promptly provide current information to the DBE Directory as required by and in the manner prescribed in 3.03 above.
- (d) Update the DBE Directory with all new and updated information (renewals, removals, change of address, etc.).
- (e) Retain and maintain appropriate DBE certification files.
- (f) Make file information available to other USDOT recipients and other state UCPs in response to questions or complaints, upon written request.
- (g) Upon request of a UCP Member, may conduct a site visit to a DBE applicant in its vicinity.
- (h) Process annual updates to verify continuing eligibility of DBE firms certified by it.
- (i) Perform specific file reviews at any time upon request by a UCP Member.
- (j) Make timely final decisions on DBE applications as outlined in 49 CFR Section 26.83(k) or within (90) ninety days of receipt of all information.
- (k) Provide information on any certified DBE upon request by a UCP Member.

4.03 Non Certifying Member Rights and Responsibilities

Each Non-Certifying Member shall have the following rights and responsibilities:

- (a) Comply with the terms and conditions of this Agreement.
- (b) Promptly forward DBE applications to the Responsible Certifying Member.

- (c) Provide information on any certified DBE upon request by a UCP Member.

ARTICLE 5 – RIGHTS AND RESPONSIBILITIES OF THE UCP

5.01 Certification Decisions

The UCP shall maintain processes and programs that conform to the overall certification standards set out in 49 CFR Part 26.

Certification decisions made by UCP Certifying Members shall be binding on all DOT recipients with respect to participation in the DBE Program. In the event of a conflict, the UCP, through the Executive Committee, shall make a final decision, subject to the provisions of 49 CFR, Part 26.

5.02 “One-Stop Shopping”

The UCP shall provide “one-stop shopping” to applicants for DBE certification in Florida, such that an applicant is required to apply only once for a DBE certification that will be honored by all UCP Members.

5.03 Processing Out-of-State Applications

The UCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state. When a Certifying Member processes an out-of-state application, a full certification application file with all supporting documentation will be compiled by the Certifying Member, including a copy of the Site Visit Report obtained from the applicant’s home state or from the state’s UCP if it is in place, before the firm is included in the DBE Directory.

5.04 Reciprocity With Other UCPs

It is understood that:

- (a) The UCP, through its Executive Committee, may enter into written reciprocity agreements at any time with UCPs of other states subject to approval of USDOT.
- (b) Such reciprocity agreement(s) must outline the specific responsibilities of each participating UCP.

- (c) The UCP, and its Members, may accept a DBE certification decision, made by another UCP or state DOT, on a case-by-case basis.
- (d) The UCP, and its Members, shall share information concerning Florida DBE firms or applicants with other UCPs and state DOTs upon written request.

5.05 UCP Information Program

UCP Members and the Executive Committee will provide information on the Florida UCP to the public and to DBE applicant firms; provide individuals and firms seeking DBE certification with UCP applications; accept DBE applications from any applicant firm, and forward DBE applications to the appropriate Certifying Member for processing.

5.06 Meetings for Continued UCP Monitoring

The UCP, through its Executive Committee, shall hold a statewide membership meeting at least once a year or more often as needed for continued monitoring of the UCP, and on-going processes.

5.06.1 The Executive Committee shall notify UCP Members in writing of the date and location of the meeting at least (30) thirty days in advance of the meeting.

5.06.2 A majority of those recipients having agreed in writing to participate as members of the UCP shall constitute a quorum for conducting UCP business.

5.06.3 When a quorum is established at a meeting, a majority vote of those members present and voting shall be required to pass on a matter.

ARTICLE 6 – CERTIFICATION PROCEDURES

6.01 Certification Application

UCP Members agree to utilize the USDOT Disadvantaged Business Enterprise Certification Application format attached as Exhibit A.

6.02 Certification Process

The UCP and its Members shall follow DBE certification processes and adhere to standards set forth in 49 CFR Part 26, Subparts D and E, Certification Procedures, as well as those guidelines set forth herein or otherwise attached hereto.

6.03 Certification Site Visits

Certifying Members shall conduct a site visit to the principal place of business of an applicant firm prior to DBE certification and submission or direct input via the Internet to the DBE Directory.

- (a) Certifying Members will utilize the On-Site Review Checklist, which is included as Exhibit D herein.
- (b) Certifying Members may conduct site visits for one another when requested, in instances where the member requested is geographically close to the DBE's location.

ARTICLE 7 – APPEALS, COMPLAINTS AND DISPUTES

7.01 Appeals/Third Party Complaints

DBE Certification appeals and third party complaints may only be filed with the Certifying Member whose action is being appealed or complained about and shall be handled in accordance with 49 CFR Part 26, Sections 26.85, 26.87, and 26.89.

7.02 Member Agreement

This Agreement recognizes that each Certifying Member has a DBE Program Plan approved by USDOT, and that each such Program Plan may be unique. Therefore, it is herein agreed, that actions under this Section shall, in addition to the foregoing requirements of 49 CFR Part 26, comply with the process and procedure provided for in those individual DBE Program Plans.

External or Internal Complaints regarding certification decisions of a Certifying Member may only be filed with that Certifying Member, and shall be processed in accordance with 49 CFR Part 26, Section 26.87, or as otherwise provided for herein.

7.03 Notice Requirements

An action by a Certifying Member (certification denial, de-certification, etc.) shall be in writing, and shall:

- (a) Be delivered via Certified U.S. Mail, Return Receipt Requested.
- (b) Be specific as to the action being taken.
- (c) Be specific as to the basis of the action.
- (d) Be specific as to the facts relied upon.
- (e) Advise the party of the right to appeal.
- (f) Provide detailed information on the appropriate appeal process.

7.04 Member Disputes

UCP Members shall make every effort to resolve disputes that may arise between them.

7.04.1 Unresolved Member Disputes

When UCP Members are unable to resolve an internal dispute, the matter will be submitted to the Executive Committee for resolution. The decision of the Executive Committee shall be binding on all those UCP Members subject to the provisions of 49 CFR Part 26.

ARTICLE 8 – TRAINING

8.01 Executive Committee Oversight

The Executive Committee shall retain DBE certification oversight of UCP Members. FDOT will be responsible for DBE certification training of UCP Members. Upon approval of the Executive Committee, FDOT may provide, or otherwise arrange for, DBE certification training for any Certifying Member upon request or it may require a Certifying Member to attend DBE certification training in order to ensure compliance with the provisions of this Agreement and 49 CFR Part 26.

8.02 Training Costs

Certifying Members requesting DBE certification training through FDOT, or who have been required to obtain such training, agree to bear the costs and expenses for said training.

ARTICLE 9 – DBE DIRECTORY

9.01 Organization of the Directory

The DBE Directory shall be organized and maintained by FDOT, using industry standard state-of-the-art software. All UCP Members agree to maintain compatible software and systems in order to best use the electronic DBE Directory, and to timely provide DBE certification information and updates for the DBE Directory.

9.02 Availability

The DBE Directory shall be available electronically on the Internet (and in printed form, when requested) to UCP Members, contractors, and other interested parties.

ARTICLE 10 – FEES/COSTS

10.01 UCP Fees

The UCP may assess its Members such fees as may, from time to time, be required in order to operate and maintain the UCP, ensuring that resources and expertise are sufficient.

The Executive Committee shall certify the need for a fee assessment to Members at statewide membership meeting, and shall recommend a fee amount to the Members.

Members shall vote to approve the imposition of any such fee.

UCP Members that receive less than \$250,000.00 annually from USDOT shall be exempt from the payment of any such fees.

10.02 DBE Applicant Firms

Certifying Members may charge a reasonable fee for DBE certification application processing.

ARTICLE 11 – GENERAL PROVISIONS

11.01 Exhibits

All exhibits to this Agreement are incorporated herein by reference and made a part hereof.

11.02 Interpretation

Article and section headings and Table of Contents are for convenience only and shall not affect construction of this Agreement.

11.03 Amendments

This Agreement may not be amended, modified, or supplemented except by an instrument in writing agreed to the UCP Members. Notwithstanding the foregoing, should any provisions of 49 CFR Part 26 be changed or modified, corresponding provisions of this Agreement shall be modified accordingly.

11.04 Compliance with Law

UCP Members agree that the operation of this Agreement and performance of all obligations hereunder shall at all times comply with 49 CFR Part 26 and with applicable federal and state laws.

11.05 Signed Agreement

This Agreement will become effective upon approval by the Secretary of USDOT, and will be fully operational within (18) eighteen months of approval.

By executing the Signature and Declaration of Status page of this Agreement recipients agree to become Members of the UCP, and agree to accept the terms and conditions of this Agreement.

Following USDOT approval, a recipient may become a member by submitting a fully executed Signature and Declaration of Status page from this Agreement to the Executive Committee, which shall be delivered to FDOT's Equal Opportunity Office, where it shall remain on file.

11.06 Severability

Should any part, term, portion, or provision of this Agreement be in conflict with any law of the United States or of the State of Florida, or otherwise be unenforceable or ineffectual, the remaining provisions shall be deemed valid and severable, and not affected thereby.

11.07 Successors

This Agreement shall be binding upon and inure to the benefit of any successors or assigns of the UCP Members.

11.08 Execution

Execution of this Agreement by UCP Members shall comply with appropriate procedures, resolutions, authorized signatures, and required filings pursuant to the law governing each UCP Member. This Agreement will be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.