

**Disadvantaged Business Enterprise Program
Harriman and West Airport
North Adams, MA
FY24 – FY26**

This program covers the period from October 1, 2023 through September 30, 2026.

This report is prepared under USC, Title 49,
Part 26



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**Harriman-and-West Airport
North Adams, Massachusetts
Disadvantaged Business Enterprise Program
Updated April, 2024**

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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The North Adams Airport Commission (aka Harriman and West Airport and the Airport) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The North Adams Airport Commission has received Federal financial assistance from the USDOT, and as a condition of receiving this assistance. The North Adams Airport Commission has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the North Adams Airport Commission to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

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

The Airport Manager, Bruce Goff, has been delegated as the DBE Liaison Officer. In that capacity, the Airport Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the North Adams Airport Commission in its financial assistance agreements with the Department of Transportation.

The Airport has disseminated this policy statement to the Commission Chair, Town Manager and all the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on the Airport’s DOT-assisted contracts. The distribution was accomplished by email, publishing to the organization’s website and having a copy available for public viewing in the common area of the Airport terminal.

Bruce Goff
Airport Manager

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.5 Definitions

The Airport uses terms in this program that has the meaning defined in Section 26.5, §26.5..

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Record Keeping Requirements

Reporting to DOT

You must continue to provide data about your DBE Program to the Department as directed by DOT operating administrations.

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on, or before December 1, the “Uniform Report of DBE Awards or Commitments and Payments” using the FAA Civil Rights Connect website.

We will also report the DBE contractor firm information on the FAA Civil Rights Connect website. We will transmit to FAA annually on December 1.

Bidders List:

The Airport will create and maintain a bidders list, **Attachment 3**. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information by requesting each primary contractor awarded a contract to submit the details to our DBELO in writing within 14 days of contract award. The requirement to provide this information will be disseminated during bid solicitations and during pre-bid conferences.

Records retention and reporting:

Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: - Each financial assistance agreement the Airport signs with a DOT operating administration (or a primary recipient) will include the following assurance:

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

Contract Assurance: The Airport will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The Airport is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and

we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Bruce Goff, Airport Manager
10 Main St, City Hall
North Adams, MA 01247
Cell Phone: 413-652-7587
BGoff@northadams-ma.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Airport complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Chairman of the North Adams Airport Commission concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 2** to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of one plus the Airport's aviation consultant to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes the North Adams Airport Commission's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Mayor/Airport Commission on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.

Section 26.27 DBE Financial Institutions

The Airport will investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to

make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

The Massachusetts State Supplier Diversity Office (MSDO) has identified two minority owned financial institutions.

National Capital Resources, LLC
P.O. Box 1145 c/o LVCC
Marblehead, MA. 01945

The Boston Bank of Commerce
100 Franklin Street, Suite 600
Boston, MA. 02110

We will check back annually to see if there are changes.

Section 26.29 Prompt Payment Mechanisms

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

In accordance with 49 CFR §26.29, the Airport established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the Airport.

The Airport ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the Airport has selected the following method to comply with this requirement:

- You may 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 your payment to the prime contractor.

To implement this measure, the Airport includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract:

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 Owner 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 Owner. When the Owner 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.

Section 26.31 Directory

The Airport is a non-certifying member of the Massachusetts Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31.

Section 26.33 Over-concentration

The Airport has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Airport has not established a business development program.

Section 26.37 Monitoring Responsibilities

The Airport 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 the Airport's DBE program.

The Airport 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 Airport undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

- With each pay requisition submitted by a prime contractor, a form shall be submitted documenting dollar value of work completed by a DBE, including attached DBE invoices and a signature from the DBE firm certifying the form.

The Airport requires 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 Airport's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of The Airport or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Airport proactively reviews contract payments to subcontractors including DBEs on a quarterly basis. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Airport by the prime contractor.

Prompt Payment Dispute Resolution

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

- Hold a meeting with prime, subs, sponsor and project manager to resolve disputes on whether or not work has been satisfactorily completed.

The Airport 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. The following is the contract clause:

“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Airport. The prime contractor agrees further to return retainage payments to each subcontractor within fourteen days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the Airport. This clause applies to both DBE and non-DBE subcontracts.”

Prompt Payment Complaints

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

- If affected subcontractor is not comfortable contacting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the Airport to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA contact.
- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

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

- In accordance with the contract, assessing liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor.
- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract.
- Issue 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 Airport will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The Airport reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of

modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by either Consultant or a Subcontractor of Consultant for Construction Monitoring. Contracting records are reviewed by Consultant. The Airport 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 Airport has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The small business element is incorporated as Attachment 10 to this DBE Program. The program elements will be actively implemented to foster small business participation. Implementation of the small business element is required in order for The Airport to be considered by DOT as implementing this DBE program in good faith.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The Airport will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f) the Airport will submit its Overall Three-year DBE Goal to FAA by August 1st (extended to October 1 for 2023) of the year in which the goal is due, as required by the schedule established by and posted to the website of the FAA:

[FAAGoalsDueChart New_Final.pdf](#)

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

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The Airport will use DBE Directory information and Census Bureau Data as a method to determine the base figure. The Airport understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The Airport will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the Airport’s market.

In establishing the overall goal, the Airport will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by the Airport to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before the Airport is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the Airport engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the Airport will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on the Airport’s official internet web site and may be posted in 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 Overall Three-Year DBE Goal submission to FAA will include a summary of information and comments received, if any, during this public participation process and the Airport responses.

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

Project Goals

If permitted or required by the FAA Administrator, an overall goal may be expressed as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the

regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

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

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

Section 26.47 Failure to meet overall goals.

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

If the Airport awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will do the following in order to be regarded by the Department as implementing your DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;
- (3) The Airport will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (1) and (2) above to the FAA for approval.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

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

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

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.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract,

and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

Contract goals will be expressed as a percentage of the Federal share of a DOT-assisted contract.

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

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

Consultant is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded **Responsible**.

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

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (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 (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:

No later than 5 days after bid opening as a matter of **responsibility**.

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the recipient.

Administrative reconsideration

Within 14 days of being informed by the Airport that it is not responsible because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official, Marc Morandi, Chairman, North Adams Airport Commission, 10 Main St, City Hall, North Adams, MA 01247, 413-446-9926, mmorandi@northadams-ma.gov. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do so. The bidder/offeror will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the Airport. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if the Airport agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

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

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

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

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

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's *[bid/solicitation]* response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of the Airport as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Airport will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If the Airport requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor.

the Airport shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

[Note: The provisions of the foregoing section apply only when a contract goal is established.]

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in §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).

[FAA Funding Recipients Only]

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and credit on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Airport is a non-certifying member of the Massachusetts Unified Certification Program (UCP). Massachusetts UCP will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certifying Massachusetts UCP members make all certification decisions based on the facts as a whole.

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

[Massachusetts Supplier Diversity Office](#)

The McCormack Building
One Ashburton Place, Room 1017
Boston, MA 02108
Phone: (617) 502-8831
Fax: (617) 502-8841
wso@state.ma.us

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Airport is the member of a Unified Certification Program (UCP) administered by MassDOT. The UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to The Airport

The Airport understands that if it fails to comply with any requirement of this part, the Airport may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

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

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to DOT in any certification appeal proceeding under §26.89 or to any other state to which the individual's firm has applied for certification under §26.85.

All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The Airport, 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. The Airport understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26
- Attachment 2 Organizational Chart
- Attachment 3 Bidders List Collection Form
- Attachment 4 DBE link to Massachusetts Supplier Diversity Office (MSDO) DBE Directory
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Application Form
- Attachment 9 State's UCP Agreement
- Attachment 10 Small Business Element Program

ATTACHMENT 1: REGULATIONS: 49 CFR PART 26

49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, is available on the Internet at

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

ATTACHMENT 2 – ORGANIZATIONAL CHART



ATTACHMENT 3
Bidder's List Collection Form

(SAMPLE BIDDERS LIST COLLECTION FORM)

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

ATTACHMENT 4 – DBE DIRECTORY

Massachusetts Supplier Diversity Office (MSDO) web link to DBE directory

[SDO \(mass.gov\)](https://www.mass.gov/info-details/supplier-diversity-office)

ATTACHMENT 5 – OVERALL GOAL CALCULATIONS

Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: North Adams Airport Commission, North Adams, MA

Goal Period: FY-2024-2025-2026 – October 1, 2023 through September 30, 2026

DOT-assisted contract amount:	FY-2024	\$	0
	FY-2025	\$	733,000
	FY-2026	\$	<u>585,000</u>
	Total		\$1,318,000

Overall Three-Year Goal: 4.41%, to be accomplished through 0% RC and **4.41% RN**. This goal is reflected as a weighted percentage of contracts for FY24 - FY26.

Total dollar amount to be expended on DBE's: \$58,124

Describe the Number and Type of Contracts that the airport anticipates awarding:

Contracts Fiscal Year 2024

- No projects

Contracts Fiscal Year 2025

- Snow Removal Equipment Building

Contracts Fiscal Year 2026

- New Taxilanes for Hangar Development

Market Area: The North Adams Airport Commission defines its market area as the State of Massachusetts. The contracting community that the North Adams Airport Commission works with is relatively small and primarily Massachusetts based. Although out-of-state firms to bid and subcontract on projects, because of high mobility costs and capacity, many out-of-state firms are less likely to mobilize to North Adams, Massachusetts to work on construction projects.

STEP 1. Actual relative availability of DBE's

Weighted Average of Availability of DBE firms:

Fiscal Year #2 - For FY-2025, we anticipate the award of the following

Contract Name	Trade Description	NAICS Code	Trade (\$)	NAICS #	DBEs #	DBE (%)	DBE (\$)
Contract #1 - Snow Removal Equipment Building	Consulting Engineering	541330	\$109,950	1483	41	2.76%	\$3,040
	Excavation Earthwork	238910	\$109,950	1154	23	1.99%	\$2,191
	Electrical	238210	\$146,600	2541	18	0.71%	\$1,038
	Structural Steel, Concrete	238120	\$366,500	67	8	11.94%	\$43,761
Total Contract #2			\$733,000			6.83%	\$50,031

Fiscal Year #3 - For FY-2065, we anticipate the award of the following

Contract Name	Trade Description	NAICS Code	Trade (\$)	NAICS #	DBEs #	DBE (%)	DBE (\$)
Contract #1 -New Taxilanes for Hangar Development	Consulting Engineering	541330	\$87,750	1483	45	3.03%	\$2,663
	Asphalt Paving	237310	\$292,500	217	16	7.37%	\$21,567
	Electrical	238210	\$29,250	2541	18	0.71%	\$207
	Excavation Earthwork	238910	\$175,500	1154	23	1.99%	\$3,498
Total Contract #1			\$585,000			4.78%	\$27,935
Total			\$1,318,000			5.92%	\$77,965

The base goal projection with weighting is as follows:

- Total Weighted DBE Availability
- Total for All Trades

$$\text{Weighted Base Goal} = \frac{\text{Total FY24 - FY26 DBE \$}}{\text{FY24 - FY26 Trade \$}}$$

$$\text{DBE Weighted Base Goal} = \frac{\$77,965}{\$1,318,000} = 5.92\%$$

STEP 2. Adjustments to Step 1 base figure.

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what, if any, adjustment to the base figure was needed in order to arrive at the overall goal.

Past Historic Participation

One piece of data used to determine the adjustment to the base figure was the median of historical DBE accomplishments, as follows, using only RN means, as that was the type of previous goals:

FY	Total Grant Amount	DBE Goals			Accomplishments			Type of work
		RC	RN	Total	RC	RN	Total	
2020	\$594,809	0%	2.80%	2.80%	0%	2.90%	2.90%	Install Perimeter Fence
2021	\$67,774	0%	4.20%	4.20%	0%	0.00%	0.00%	Remove Taxiway (Design)
2022	\$232,225	0%	4.20%	4.20%	0%	16.50%	16.50%	Construct/Modify/Improve/Rehabilitate Hangar
Median						2.90%		

To arrive at an overall goal, the Step 1 base figure (5.92%) was added to the Step 2 adjustment figure (2.9%) and the total was averaged, arriving at an overall goal of 4.41%. The City of North Adams believes this adjusted goal accurately reflects DBE participation that can be achieved for the types of work being awarded during this three-year period.

Arranging historical data from low to high, 0%, 2.9%, 16.5%, the median is 2.9%

Step 1 Base Averaged with Historical Median: $5.92\% + 2.9\%/2 = 4.41\%$

Adjusted DBE Total Participation of 4.41% = \$58,124

Furthermore, there are no applicable disparity studies, recent legal case information from the relevant jurisdictions, or evidence from related fields, that indicates evidence of barriers to entry or competitiveness of DBEs in the market area that is sufficient to warrant making any further adjustment.

Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender Conscious” (RC) Participation. 26.51(b) (1-9)

The City of North Adams will meet the maximum feasible portion of the overall goal by using RN means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;

The City of North Adams estimates that in meeting the established overall goal of 4.41%, it will obtain 4.41% from RN participation and 0% through RC measures.

The breakout is based on prime contractors historically having subcontractor DBE participation.

The City of North Adams will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation [see §26.51(f)] and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract obtained 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.

PUBLIC PARTICIPATION

Consultation: Section 26.45(g)(1).

In establishing the overall goal, the City of North Adams provided for consultation and publication. This process included consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could

be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process and was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows.

The consultation engaged in was a Teams video meeting, which was held on April 12, 2024 at 2:00 pm.

The following comments were received during the course of the consultation:
[If no comments were received, so state]

A notice of the proposed goal was published on the City of North Adams' official website [North Adams, MA \(northadams-ma.gov\)](http://NorthAdams.MA(northadams-ma.gov)) before the methodology was submitted to FAA.

If the proposed goal changes following review by FAA, the revised goal will be posted on the City of North Adams official website.

Notwithstanding paragraph (f)(4) of §26.45, the City of North Adams proposed goals will not be implemented until this requirement has been met.

PUBLIC NOTICE

The City of North Adams hereby announces its proposed Disadvantaged Business Enterprise (DBE) participation goal of 4.41% for FAA-funded contracts/agreements at the Harriman and West Airport. The proposed goal pertains to federal fiscal years 2024 through 2026.

A Teams meeting will be held on April 12, 2024 at 2:00 pm for the purpose of consulting with stakeholders to obtain information relevant to the goal-setting process. If you are interested in attending the teams meeting, please join using the following link:

Join on your computer, mobile app or room device

[Join the meeting now](#)

Meeting ID: 275 507 893 649

Passcode: WmxV2p

Dial-in by phone

(833) 436-6264

Phone conference ID: 508 974 144#

Comments on the DBE goal will be accepted for 30 days from the date of this publication and can be sent to the following:

Bruce Goff, Airport Manager
10 Main St, City Hall

North Adams, MA 01247
Cell Phone: 413-652-7587
Email: BGoff@northadams-ma.gov

and

Kimberly Robinson Harris
Federal Aviation Administration
Office of Civil Rights
800 Independence Avenue, SW
Washington, DC 20591
Ph: (202) 267-8747
Email: kimberly.l.robinson.harris@faa.gov

Contract Goals

The City of North Adams will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN 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 recipient's overall goal that is not projected to be met through the use of RN means.

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

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

ATTACHMENT 6 – GOOD FAITH EFFORTS

Demonstration of Good Faith Efforts – MassDOT Forms 1 & 2

**INTENTION FOR PROPOSED
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Harriman-and-West Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

The Harriman-and-West Airport has a Disadvantaged Business Enterprise (DBE) plan approved by the U.S. Department of Transportation with an established overall three-year program goal.

The Airport’s Overall DBE Program goal for Disadvantaged Business Enterprise utilization is ____% of the total value of all prime contracts. The Airport encourages the Bidder to meet or exceed the goal on this project.

The following statement MUST be completed and executed by ALL bidders:

This firm proposes that it will utilize _____% Disadvantaged Business Enterprise (DBE) participation towards the Airport’s Overall Program Goal.

(Date)

(Name of Bidder)

By: _____
(Signature and Title)

For each proposed DBE Firm the bidder shall submit the following prior to Contract Award:

1. A completed MassDOT Letter of Intent for each proposed DBE firm. Photocopies of the form are acceptable with the bid. Forms with original signatures are required within three business days after the bid opening.
2. Copy of the DBE's current Certification Letter from a state DBE certifying agency for each Disadvantaged Business Enterprise to be employed on the project.

The contractor can locate potential Disadvantaged businesses at one of the following organizations:

The Massachusetts Operational Services Division
(OSD), Supplier Diversity Office (SDO)
One Ashburton Place
Boston, MA 02108
Tel. (617) 502-8831
<https://www.mass.gov/orgs/operational-services-division>

Labor Compliance Office
New Hampshire Department of Transportation
P.O. Box 483
Concord, NH 03302-0483
Tel. (603) 271-6612

Northeast Minority News
P.O. Box 4159
3580 Main Street
Hartford, CT 01620
Tel. (860) 249-6065

Airport Minority Advisory Council
P.O. Box 310866
Atlanta, GA 30331

Letter of Intent/Schedule of Participation¹
Disadvantaged Business Enterprise (DBE)² Participation
(For Federally-sponsored Projects)³

MassDOT Aeronautics Division Form AD3-DBE (Last Modified: January 17, 2023)

NOTE TO BIDDER: THE DBE GOAL FOR THIS PROJECT SHALL NOT _____ % (FROM SPONSOR'S BE LESS THAN _____ APPROVED DBE PLAN). IF THIS GOAL IS NOT MET, THE BIDDER MUST SUBMIT DOCUMENTATION OF A "GOOD FAITH EFFORT" TO THE SPONSOR. PLEASE REFER TO CONTRACT DOCUMENTS REGARDING WHEN THIS FORM NEEDS TO BE SUBMITTED.

AIRPORT: _____ AIP/ASMP NO.: _____

PROJECT TITLE:

_____ Name of General Contractor

_____ Name of DBE Contractor

_____ Address

_____ City State Zip Code Phone

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

Check One:

- An individual A partnership A corporation
 A joint venture
with: _____
 Other _____

Attach extra sheets if necessary

2. The undersigned affirms that they are a duly authorized official representing the proposed DBE and affirms that its certification has not expired nor been revoked. (Attach a copy of the certification letter)⁴

Check all that apply:

DBE

¹ Use a separate form for each DBE firm to be utilized on this project.

² Must be register with the MA Supplier Diversity Office (SDO) and must be listed as a DBE with a valid certification when work is completed. Suppliers must be discounted at 60%. The participation of the Prime Contractors and Subcontractors that are DBEs may be counted toward the DBE goal.

³ For projects with any amount of federal participation.

⁴ Certification of DBE must be completed prior to Contract Award.

Certification Agency _____ Certification Number _____

3. If awarded the contract, the undersigned intends to enter into a subcontract to perform the work described on the following sheet for the prices indicated.

Contract Item No.	Description of Work to be Performed by DBE Contractor	Estimated Quantity	Unit Price	Item Amount

Total amount credited to DBE contractor (add item amounts): TOTAL \$ _____

Proposed total contract price: \$ _____
 The total price to DBE contractor for work performed under this contract is _____ % of the proposed total

contract price. (See note to bidder above).

The undersigned certify that they will enter into a formal agreement upon execution of the contract for the above referenced project pursuant to all conditions noted in attached documents, swearing and affirming under the pains and penalties of perjury, that the foregoing information and appropriate attachments are true and accurate to the best of their knowledge.

Name of DBE Contractor: _____

Authorized Signature: _____

Name and Title: _____

Date: _____

Name of Prime Contractor: _____

Authorized Signature: _____

Name and Title: _____

Date: _____

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

Breach of contract action, pursuant to the terms of the contract; Breach of contract action, pursuant to Mass. Gen. Laws ch. 260, § 2A. Breach of contract; liquidated damages; costs.

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

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

ATTACHMENT 8
DBE Certification Application Form
(New form November 18, 2014)

U.S. Department of Transportation web link to Uniform Certification Application

<https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/dbe-uniform-certification-application>

ATTACHMENT 9
State's UCP Agreement

Emails and Phone Calls made to below office with no response as of January 22, 2027

[Massachusetts Supplier Diversity Office](#)

The McCormack Building
One Ashburton Place, Room 1017
Boston, MA 02108
Phone: (617) 502-8831
Fax: (617) 502-8841
wdo@state.ma.us

ATTACHMENT 10

Small Business Element

It is recommended that you include the following components and notes:

1. Objective/Strategies

As part of this program element you may include, but are not limited to, the following strategies:

- (1) Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).*
- (2) In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”) requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.*
- (3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.*
- (4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.*
- (5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.*

2. Definition

- DBE firms should be identified in the Small Business element of the recipient’s DBE program as eligible for the program unless there is a DBE micro-Small Business Program element in place.*
- Size standard should be consistent with 49 CFR 26.5 and must be no larger than the Small Business Administration’s size standards. DBE firms and small firms eligible for the program should be similarly sized to reduce competitive conflict between DBE and non-DBE firms.*
- Personal Net Worth standards (optional) – should be consistent with 49 CFR Part 26 thresholds.*

3. Verification

- Should diligently attempt to minimize fraud and abuse in the SB element of its DBE program by verifying program eligibility of firms.*

4. Monitoring/Record Keeping

- How will the information will be organized (for counting purposes)*

- *SB element should be reasonably monitored*

5. Implementation Timeline

- *Identify implementation schedule/timeline, within 6 or 9 months of FAA's approval.*

Small Business Element (continued)

6. Assurance

- *Include the following assurances:*
 1. *assurance that the program is authorized under state law;*
 2. *assurance that certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;*
 3. *assurance that there are no geographic preferences or limitations imposed on any federally assisted procurement included in the program;*
 4. *assurance that there are no limits on the number of contracts awarded to firms participating in the program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and*
 5. *assurance that aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.*
 6. *assurance that the program is open to small businesses regardless of their location (i.e., that there is no local or other geographic preference).*