



Tulsa Airports

Improvement Trust

Disadvantaged Business Enterprise Program

July 2023

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**TULSA AIRPORTS IMPROVEMENT TRUST DBE PROGRAM
49 CFR PART 26**

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The Tulsa Airports Improvement Trust (hereafter "TAIT"), sponsor of Tulsa International Airport (TUL) and Tulsa Riverside Airport, (RVS), has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 (Attachment 1). TAIT has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, TAIT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of TAIT to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also TAIT's 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 conducted by recipients;
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

Sandra Charon, Properties & Concessions Coordinator, DBELO, Tulsa International Airport, P.O. Box 581838, Tulsa, OK, 74158, 918-838-5016, SandraCharon@tulsaairports.com has been delegated as the DBE Liaison Officer. In that capacity, she 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 TAIT in its financial assistance agreements with the US Department of Transportation.

This policy statement will be placed on the TAIT website at www.flytulsa.com and will be distributed at all TAIT pre-bid and pre-construction meetings. Copies of the policy statement will be emailed to all of the agencies/organizations consulted during the development of the DBE goal methodology thereby making TAIT's policy for the airports available to a broader group of small, minority, and women business development agencies.

Kent Harrell

Kent Harrel, Chair
Tulsa Airports Improvement Trust

07/01/2023

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

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

Section 26.5 Definitions

TAIT will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

TAIT will report DBE participation to the DOT/FAA as follows:

TAIT will submit annually the *Uniform Reports of DBE Awards or Commitments and Payments* form as modified for use by FAA recipients, via FAA Civil Rights-Connect <https://faa.civilrightsconnect.com>. TAIT will report DBE participation to the FAA annually, no later than December 1. TAIT will also report the DBE contractor firm information either on the FAA DBE Contractor's Form or other similar format.

Bidders List: 26.11(c)

TAIT will create and maintain a bidders list. The purpose of the list consisting of information about all DBE and non-DBE firms that bid or quote on TAIT's USDOT-assisted contracts. Another purpose of this requirement is to allow use of the bidders list approach in calculating overall goals. The bidders list will include the name, address, DBE or non-DBE status, age and annual gross receipts of the firms. TAIT will collect this information by inclusion of a Bidders List data collection form (**as shown in Attachment 3**). This form is to be included in FAA-funded solicitations and bidders/proposers are to return completed forms with their bids/proposals.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

TAIT 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. TAIT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. TAIT'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 TAIT 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.).

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

Contract Assurance: 26.13b

TAIT will ensure that the following clause is placed in every USDOT-assisted contract 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 TAIT deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages' and/or 940Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

TAIT 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. TAIT will not be eligible to receive USDOT financial assistance unless the USDOT has approved this DBE program and TAIT is in compliance with it and this part. TAIT will continue to carry out this program until all funds from USDOT financial assistance have been expended. TAIT does not have to submit regular updates of this program, as long as TAIT remains in compliance. However, TAIT will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

TAIT has designated the following individual as its DBE Liaison Officer:

Sandra Charon, Properties & Concessions Coordinator, DBELO
Tulsa International Airport
P.O. Box 581838
Tulsa, OK, 74158
918-838-5016
sandracharon@tulsairports.com.

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that TAIT complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Airport's Chief Executive Officer, Alexis Higgins, 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 utilizes the DBE program in coordination with other appropriate officials. The DBELO also administers the program. The duties and responsibilities include the following:

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 triennial 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 and race-neutral measures are considered for solicitations.
6. Analyzes TAIT's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Determines contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Acts as liaison to the Uniform Certification Process in Oklahoma.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of TAIT 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 by inclusion of this information at "Business","Business Opportunities", section of the Airports website www.flytulsa.com.

TAIT identified 12 minority-owned financial institutions located throughout the state of Oklahoma. No institutions were located in the Tulsa area. However, the following minority banks reside in Oklahoma City: Each time TAIT updates its DBE program Plan (at a minimum every three years), its reviews the existence of such financial institutions.

Bank2
Chickasaw Community Bank
909 S. Meridian Avenue
Oklahoma City, OK 73108
405-946-2265

First Security Bank and Trust Company
1541 NE 23rd Street
Oklahoma City, OK 73111
405-424-4341

Contractors will be advised of these institutions as part of the pre-bid information provided to contractors. TAIT will continue to research additional institutions through local banking associations and chambers of commerce. TAIT will periodically check the listings of the Federal Reserve Board of Governors in an attempt to keep its local list, and the Oklahoma DBE and minority-owned financial institutions list up to date.

Section 26.29 Prompt Payment Mechanisms

TAIT 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 10 days from receipt of each payment TAIT makes to the prime contractor.

TAIT will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by TAIT. When TAIT 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.

TAIT will ensure prompt and full payment from the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. TAIT will comply with this requirement by:

Holding retainage from prime contractors and providing for prompt and regular incremental acceptances of portions of the prime contract, paying retainage to prime contractors based on these acceptances, and requiring a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 10 days after TAIT's payment to the prime contractor.

TAIT will include the following clause in each USDOT-assisted prime contract: The prime contractor must promptly pay subcontractors under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from TAIT. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractors 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 TAIT. This clause applies to both DBE and non-DBE subcontractors. Failure to comply with the prompt payment provision may result in the following sanctions:

- Suspension of work on the project
- No additional progress payments may be processed
- Damages (to be determined) to subcontractors

Monitoring Payments and Returned Retainage to DBEs

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

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

TAIT will report to the FAA complaints made by a DBE for the alleged non-compliance of prompt payment requirements including the untimely return of retainage by prime contractors per the FAA Reauthorization Act of 2018, (Public Law: 115-254) 49 CFR Section §26.29 (**Attachment 8 and Attachment A**).

Section 26.31 Directory

TAIT utilizes the Oklahoma Department of Transportation's DBE Directory (**Attachment 4**) which identifies all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory is updated at least annually and more often as necessary. Copies of the directory can be obtained by contacting ODOT, 200 N.E. 21st, Room 1C5, Oklahoma City, OK, 73105 or at http://www.okladot.state.ok.us/dbeinfo/dbe_dcf_index.htm.

Section 26.33 Overconcentration

TAIT has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Program

TAIT has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

TAIT will utilize the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. TAIT will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps provided in 26.107 (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).
2. TAIT will consider similar action under our own legal authorities, including responsibility determinations in future contracts. **Attachment 7** lists the regulation, provisions, and

contract remedies available to us in the event of non-compliance with the DBE regulation by a participant in our DBE Program.

3. TAIT will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. TAIT will implement a monitoring and enforcement mechanism that will include written certification that TAIT has reviewed contracting records and monitored work sites for this purpose. This will be accomplished by on-site monitoring of DBE contractors in the field and review of all pay requests and supporting documentation to ensure that DBEs and prime contractors are receiving appropriate credit for work performed.
5. TAIT will implement a monitoring and enforcement mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. TAIT's reports of DBE participation to the USDOT will show both commitments and attainments, as required by the USDOT uniform reporting form.

Section 26.39 Fostering Small Business Participation

TAIT 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.

TAIT's small business element is incorporated as **Attachment 10** to this DBE Program. TAIT will actively implement the program elements to foster small business participation; doing so is a requirement of good faith implementation of our DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

TAIT will establish overall DBE goals covering a three-year federal fiscal year period if TAIT anticipates awarding FAA funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with 49 CFR Part 26.45(f), TAIT will submit its overall three-year DBE goal to the FAA by August 1, 2024 for Federal FYs 2024-2026.

DBE goals will be established for those fiscal years that TAIT anticipates awarding USDOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. The first step is to determine the relative availability of DBEs in the market area, "base figure". TAIT will use DBE Directories and Census Bureau Data as a method to determine our base figure. The second step is to adjust 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 based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

In establishing the overall goal, TAIT will consult with minority, women 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 TAIT'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 TAIT's goal setting process, and it will occur before TAIT is required to submit their goal methodology to the operating administration for review. TAIT will document with the goal submission the consultation process that was utilized. TAIT will not implement the proposed goal without meeting this requirement.

Following this consultation, TAIT will make any necessary adjustments and post the goal on its website.

TAIT's overall goal submission to the USDOT will include a summary of information and comments received during this public participation process and TAIT's responses. TAIT will begin using the overall goal on October 1 of each year, unless TAIT has received other instructions from the USDOT. If TAIT establishes a goal on a project basis, TAIT will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

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

TAIT 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 TAIT's 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, TAIT 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 TAIT has identified as a result of the analysis and to enable TAIT to meet fully the DBE goal for the new fiscal year;
- (3) TAIT will prepare the analysis and corrective actions developed under paragraph (1) and (2) of this section. TAIT will retain a copy of analysis and corrective actions in records for a minimum of three years, and will make it available to FAA upon request.

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

TAIT 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. The breakout of estimated race-neutral and race-conscious participation can be found in **Attachment 5** to this program. This section of the program will be updated triennially when the goal calculation is updated.

Section 26.51(d-g Contract Goals

TAIT will use contract goals to meet any portion of the overall goal TAIT 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 TAIT's overall goal that is not projected to be met through the use of race-neutral means.

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

TAIT will express all contract goals as a percentage of the total amount of a USDOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26. TAITs requirements for good faith efforts submission for the DBE program are stated in **Attachment 6**, along with required forms.

Sandra Charon, 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.

TAIT will ensure that all information is complete, accurate and adequately documents the bidder/offeror's good faith efforts before TAIT commits to the performance of the contract by the bidder/offerer. TAIT treats bidders' compliance with good faith efforts' requirements as a matter of responsiveness. This means that the information required for the bid is to be submitted at time the bid opening. Award of the contract will be conditioned on meeting the requirement of this section.

Information to be submitted (26.53(b))

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
 - i. The names and addresses of DBE firms that will participate in the contract;
 - ii. A description of the work that each DBE will perform; To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - iii. The dollar amount of the participation of each DBE firm participating;
 - iv. Written documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
 - v. Written confirmation from each listed DBE that it is participating in the contract in the kind and amount of work as provided in the prime contractors commitment; and.
 - vi. This information will be collected using forms found in **Attachment 5**.

- vi. If the contract goal is not met, evidence of good faith efforts. The documentation of GFE's 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) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section no later than three 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 (b)(2) of this section before the final selection for the contract is made by the recipient.

Administrative reconsideration (26.53(d))

Within five (5) business days of being informed by TAIT that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: **Alexis Higgins, Chief Executive Officer, Tulsa Airports Improvement Trust, P.O. Box 581838, Tulsa, OK, 74158, office phone: 918-838-5000, email: alexishiggins@tulsaairports.com.** The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

TAIT will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. TAIT 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, TAIT will require the prime contractor to obtain TAIT's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, TAIT's contracting office will issue an order stopping all or part of payment/work, in TAIT's discretion, until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may request that a notice of default under the project contract be issued to the contractor.

TAIT will include in each prime contract a provision stating:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed at time of bid unless the contractor obtains written consent from TAIT;

and unless TAIT's 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.

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

TAIT will require the prime contractor to obtain TAIT's prior approval of any substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

TAIT requires that a prime contractor not terminate a DBE subcontractor without TAIT's prior written consent. This includes, but not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

TAIT will provide such written consent only if TAIT 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) TAIT determines that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides TAIT with written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) The 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 TAIT determines 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 TAIT its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to TAIT, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE 5 days to respond to the prime contractor's notice and advise TAIT and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why TAIT should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), TAIT may provide a response period shorter than 5 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.

TAIT 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 TAIT established for the procurement. The good faith efforts shall be documented by the contractor. If TAIT requests documentation from the contractor under this provision, the contractor shall submit the documentation within 5 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and TAIT shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

TAIT 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 TAIT deems 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, TAIT'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 TAIT 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 [as determined in the goal calculation (Attachment)] has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), 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 to count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet

the contract goal; and (5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; (6) if the contract goal is not met, evidence of good faith efforts. (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Section 26.55 Counting DBE Participation

TAIT will count DBE participation toward overall and contract goals as provided in 49 CFR . The 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 in §26.87 (j)

Pursuant to Sec 150 of the FAA Reauthorization Act of 2018, DBE firms certified with NACIS code 237310 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

Tulsa Airports Improvement Trust (TAIT) does not conduct DBE certifications (See Section 26.81 hereafter for discussion of certification.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

TAIT is a member of a Unified Certification Program (UCP) administered by the Oklahoma Department of Transportation (**Attachment 9**). The UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Monitoring Payments to DBEs, Information, Confidentiality, Cooperation, Intimidation or Retaliation

TAIT will require primes to maintain documents of payments to DBE's 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 TAIT. This extends to any certified DBE subcontractor. TAIT will perform interim audits of contract payments to DBE's. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

TAIT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law (the Oklahoma Open Records Act is found at 51 Oklahoma Statutes 24A.1, et seq.).

Notwithstanding any contrary provisions of state or local law, TAIT will not release any information that may reasonably be construed as confidential business information to a third party (other than USDOT) without the written consent of the submitter.

All participants in TAIT'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.

ATTACHMENTS

Attachment 1	Regulations: 49 CFR Part 26
Attachment 2	Organizational Chart
Attachment 3	Bidder's List
Attachment 4	OK DOT DBE Directory
Attachment 5	Overall Goal Calculation
Attachment 6	Good Faith Efforts Requirement and DBE Submission Forms
Attachment 7	DBE Monitoring and Enforcement Mechanisms
Attachment 8/A	Prompt Payment Complaint Reporting Requirements
Attachment 9	Signed UCP Agreement Form
Attachment 10	Small Business Program Element

Attachment 1

Regulations: 49 CFR Part 26

Overview

- Overview of Tulsa Airports Improvement Trust (TAIT)
- DBE Program Basics
- TAIT Goal Setting Methodology
- How to Provide Comments
- Questions

3

3

Overview of TAIT

- Administers, manages and operates:
 - Tulsa International Airport (TUL)
 - R.L. Jones, Jr. Airport (RVS)
- Mission: provide a safe, efficient, self-supporting airport system for the citizens of the Tulsa metropolitan area and surrounding region
- Primary airport funding is received from:
 - Federal Aviation Administration
 - Airlines/Air Cargo fees
 - Concessions (food/beverage/retail, parking, and car rental)
- Types of FAA-funded projects at TAIT reviewed for DBE participation
 - Runway and taxiway
 - Design
 - Construction
 - Reconstruction

4

What is a DBE?

- Disadvantaged Business Enterprise:
 - Small, independent businesses
 - At least 51% owned and controlled by social and economically disadvantaged person/people
 - Certified by the Oklahoma Unified Certification Program (UCP)
 - https://www.ok.gov/odot/Doing_Business/Civil_Rights/DBE_Information.html
- Basic certification requirements for Oklahoma-based firms
 - Complete application
 - Submit supporting documentation
 - Demonstrate ownership and control of requested work codes (NAICS codes)
 - Receive an initial site visit
 - Once certified, provide streamlined information annually to remain certified

5

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DBE Program Basics

- Governing US DOT Regulation
 - 49 CFR Part 26 and Participation by DBEs in Department of Transportation (DOT) Financial Assistance Programs
- TAIT Responsibilities
 - Establish Overall Goals (every three years)
 - Determine Contract Goals
 - Monitoring and Enforcement
 - Reporting

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Establishing Overall Goals

- 49 CFR 26.45 requires an Airport to set overall DBE goals for FAA-funded projects. TAIT must establish a DBE goal for TUL and a separate one for RVS.
- Overall goals must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate in the airport's federally funded contract opportunities.
- Goal must reflect the level of DBE participation TAIT would expect absent the effects of discrimination.
- Development of future goals considers previous attainments.

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Recent DBE Attainment

	TUL		RVS	
Fiscal Year	Goal	Attainment	Goal	Attainment
2020	10%	5.62%	7.9%	0%
2021	6.78%	0%	6.70%	0%
2022	6.78%	0%	6.70%	0%

TAIT is currently developing its
Federal Fiscal Year 2024-2026 DBE goals.

8

DBE Goal Setting Process

Goal-setting is a two-step process:

1. Establish a base figure based on the relative availability of DBEs to participate in TAIT's FAA-funded capital projects.
2. Make any necessary adjustments to the base figure based on local market conditions.

9

9

Calculating the Base Figure

- The goal focuses on the participation of DBEs in FAA-funded contracts that will be *awarded* over the next three federal fiscal years.
- Potential projects are forecasted three years into the future.
- This provides a “best estimate” of potential contracting activity and opportunities.

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TAIT's Projected FAA-Funded Project

Federal Fiscal Year 2024 - 2026



- Construction and / or Design
 - Airfield Electrical Cable Replacement
 - ATCT
 - Cargo Landside Pavement
 - Entrance Road Rehabilitation
 - Federal Inspection Facility
 - Improve Airport Terminal (PH 1) Vestibules
 - Improve Airport Terminal (PH 2) Public RR LL
 - Improve Security Fencing
 - Pavement Condition Index (PMP Update)
 - T\W K Pavement Reconstruction
 - T\W M Rehabilitation

11

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TAIT's Projected FAA-Funded Project

Federal Fiscal Year 2024 - 2026



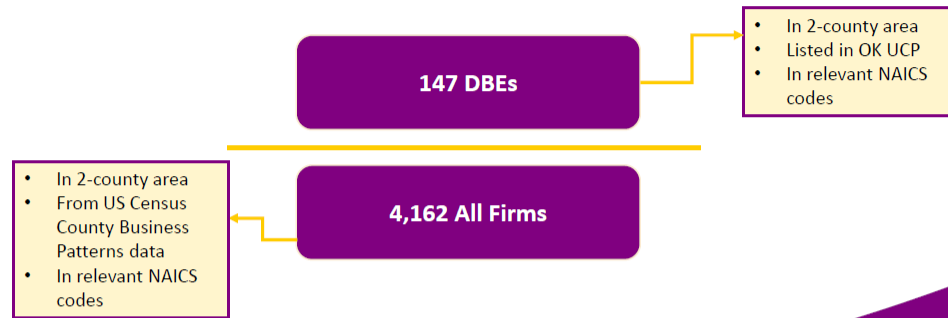
- Construction and / or Design
 - Drainage Improvements
 - Pavement Rehab Perimeter Road
 - Pavement Rehab (T\W A, J, Z, NE Hangar Area Misc.)
 - Realign T\L GG and Perimeter Road
 - Realign T\W GG and Perimeter Road
 - Upgrade Security/Fencing

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TAIT's Base Figure (TUL)

- Most of FAA-funded OK-based contracting activity at TUL and RVS is with firms located in Oklahoma and Tulsa Counties.
- Based on projected opportunities and past/current DBE participation, TAIT estimates the percentage of DBEs compared to all firms that can participate in its FAA-funded contracts.



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Base Figure Calculation (TUL)

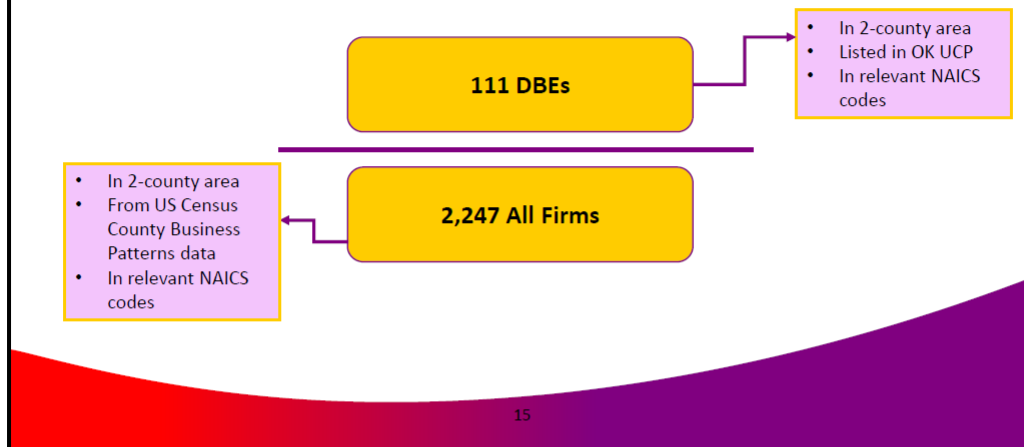
NAICS Description	NAICS Code	DBE Firms	All Firms	Relative Availability	% of Project Costs	Weighted Availability
Commercial and Institutional Building Construction	236220	3	374	0.80%	16.96%	0.136%
Water and Sewer Line and Related Structures Construction	237110	8	46	17.39%	3.51%	0.611%
Power and Communication Line and Related Structures Construction	237130	1	55	1.82%	7.60%	0.138%
Highway, Street and Bridge Construction	237310	31	43	72.09%	2.22%	1.604%
Other Heavy and Civil Engineering Construction	237990	9	13	69.23%	1.60%	1.110%
Poured Concrete Foundation and Structure Contractors	238110	5	129	3.88%	6.93%	0.269%
Structural Steel and Precast Concrete Contractors	238120	4	20	20.00%	12.24%	2.447%
Framing Contractors	238130	1	45	2.22%	2.31%	0.051%
Glass and Glazing Contractors	238150	0	35	0.00%	0.28%	0.000%
Other Foundation, Structure, and Building Exterior Contractors	238190	2	18	11.11%	7.13%	0.792%
Electrical Contractors and Other Wiring Installation Contractors	238210	3	391	0.77%	3.20%	0.025%
Plumbing, Heating, and Air-Conditioning Contractors	238220	2	546	0.37%	4.67%	0.017%
Drywall and Insulation Contractors	238310	0	113	0.00%	5.20%	0.000%
Tile and Terrazzo Contractors	238340	0	57	0.00%	3.44%	0.000%
Finish Carpentry Contractors	238350	0	135	0.00%	4.18%	0.000%
Site Preparation Contractors	238910	13	82	15.85%	2.51%	0.398%
All Other Specialty Trade Contractors	238990	5	168	2.98%	1.35%	0.040%
Asphalt Paving Mixture and Block Manufacturing	324121	0	0	0.00%	3.12%	0.000%
Brick, Stone, and Related Construction Material Merchant Wholesalers	423320	0	24	0.00%	6.42%	0.000%
Specialized Freight, Trucking, Local	484220	24	80	30.00%	2.96%	0.887%
Specialized Freight (except Used Goods) Trucking, Long-Distance	484230	0	47	0.00%	0.01%	0.000%
Architectural Services	541310	0	159	0.00%	0.04%	0.000%
Engineering Services	541330	15	376	3.99%	0.86%	0.034%
Geophysical Surveying and Mapping Services	541360	0	81	0.00%	0.10%	0.000%
Surveying and Mapping Testing Laboratories (Geotechnical Services)	541370	6	52	11.54%	0.08%	0.010%
Administrative Management and General Management Consulting Services	541380	1	65	1.54%	0.50%	0.008%
Landscaping Services	541611	9	567	1.59%	0.08%	0.001%
	561730	5	441	1.13%	0.49%	0.006%
Total		147	4,162	3.53%	100.00%	8.58%

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TAIT's Base Figure (RVS)

- Most of FAA-funded OK-based contracting activity at TUL and RVS is with firms located in Oklahoma and Tulsa Counties.
- Based on projected opportunities and past/current DBE participation, TAIT estimates the percentage of DBEs compared to all firms that can participate in its FAA-funded contracts.



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Base Figure Calculation (RVS)

Detailed Calculation of Base Figure - RVS						
NAICS Description	NAICS Code	DBE Firms	All Firms	Relative Availability	% of Project Costs	Weighted Availability
Highway, Street and Bridge Construction	237310	31	43	72.09%	11.70%	8.434%
Other heavy and civil engineering construction	237990	9	13	69.23%	5.85%	4.050%
Electrical Contractors and Other Wiring Installation Contractors	238210	3	391	0.77%	12.67%	0.097%
All Other Specialty Trade Contractors	238990	5	168	2.98%	59.33%	1.766%
Specialized Freight, Trucking, Local	484220	24	80	30.00%	3.98%	1.195%
Engineering Services	541330	15	376	3.99%	3.66%	0.146%
Surveying and Mapping	541370	6	52	11.54%	0.53%	0.061%
Testing Laboratories (Geotechnical Services)	541380	1	65	1.54%	0.42%	0.006%
Administrative Management and General Management Consulting Services	541611	9	567	1.59%	0.16%	0.003%
Environmental Consulting Services	541620	3	51	5.88%	0.53%	0.031%
Landscaping Services	561730	5	441	1.13%	1.17%	0.013%
		111	2,247	4.94%	100.00%	15.80%

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Adjusting TAIT's Base Figure

Once a base figure has been calculated, relevant evidence in the market area is examined to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal. Considerations include:

- Past DBE participation
- Evidence from disparity studies
- Any available evidence from related fields that affect the opportunities for DBEs to form, grow and compete, such as:
 - Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate
 - Data on employment, self-employment, education, training and union apprenticeship programs, to the extent that it is relevant

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Adjusting For Past Participation

- Past participation of DBEs was determined to be the relevant adjustment to consider.
- For past three years, that participation was:

TUL Historical DBE Goal Attainment - FFY 2020 – 2022							
	Total Dollars	Total DBE Dollars RC	Total DBE Dollars RN	Total DBE Dollars	% to DBE	%RC	%RN
2020	\$12,968,151	\$728,635	\$0	\$728,635	5.62%	5.62%	0.00%
2021	\$3,195,988	\$0	\$0	\$0	0.00%	0.00%	0.00%
2022	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
Total	\$16,164,139	\$728,635	\$0	\$728,635			
MEDIAN PAST DBE PARTICIPATION					0.00%		

KT0

RVS Historical DBE Goal Attainment - FFY 2020 – 2022							
	Total Dollars	Total DBE Dollars RC	Total DBE Dollars RN	Total DBE Dollars	% to DBE	%RC	%RN
2020	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
2021	\$333,333	\$0	\$0	\$0	0.00%	0.00%	0.00%
2022	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
Total	\$333,333	\$0	\$0	\$0			
MEDIAN PAST DBE PARTICIPATION					0.00%		

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Adjusting TUL's Base Figure

Calculate the Overall Goal by *averaging* the results of Step 1 (8.58%) with Step 2 (0%)

$$\frac{8.58\% + 0\%}{2} = 4.29\%$$

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Adjusting RVS' Base Figure

Calculate the Overall Goal by *averaging* the results of Step 1 (4.94%) with Step 2 (0%)

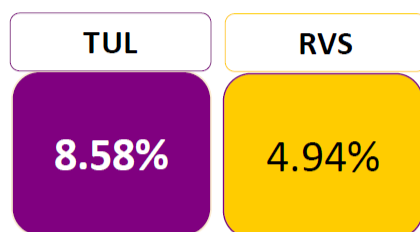
$$\frac{4.94\% + 0\%}{2} = 2.47\%$$

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Overall DBE Goal

- After an updated analysis of the relative availability of DBEs and other factors, TAIT has determined that the contracting and subcontracting opportunities will increase from past years.
- Therefore, TAIT's final proposed overall DBE goal for FFY 2024 – 2026 for TUL is **8.58%** and for RVS is **4.94%** which will be all race conscious.



21

21

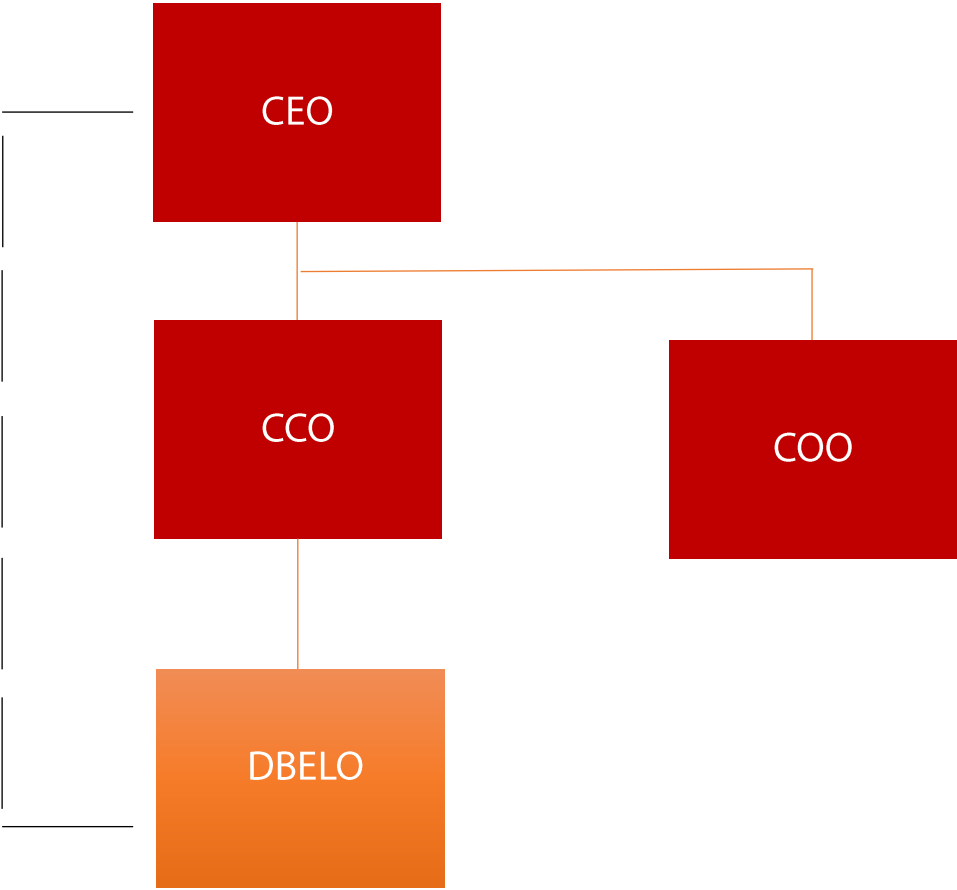
Projecting Race-Neutral/Race Conscious Split

- Once the overall goal is established, TAIT must project what part of the goal it anticipates achieving race-neutrally (i.e. no DBE goals set on agreements/contracts) and what portion it anticipates achieving race-consciously (i.e. setting a goal).
- Since the TAIT has had no race-neutral attainment, the goals for both TUL and RVS will be race-conscious.

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Organizational Chart



Attachment 3

BIDDERS LIST

Name of Prime Contractor	
Airport Name:	
City, State:	
AIP Number:	
Federal Fiscal Year:	

In accordance with TAITs Disadvantaged Business Enterprise (DBE) Regulations (49 CFR Part 26), the Tulsa Airports Improvement Trust & Tulsa Riverside Airport (RVS) is required to create and maintain a comprehensive Bidders List. This list collects information used to determine the relative availability of DBE and non-DBE firms that bid as prime or subcontractor/suppliers. **Please provide the following information for your firm and for ALL subcontractors/suppliers that provided bids/quotations/qualifications in support of this solicitation.** Submit this information with your response to solicitation. Attach additional copies of the form as necessary.

Name of Contractor/ Supplier/Subcontractor	Address	DBE Status (Check Box as applicable)	Age of Firm	Type(s) of Work	
		<input type="checkbox"/> DBE <input type="checkbox"/> Non DBE			<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> \$5 million and above
		<input type="checkbox"/> DBE <input type="checkbox"/> Non DBE			<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> \$5 million and above
		<input type="checkbox"/> DBE <input type="checkbox"/> Non DBE			<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> \$5 million and above
		<input type="checkbox"/> DBE <input type="checkbox"/> Non DBE			<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> \$5 million and above
		<input type="checkbox"/> DBE <input type="checkbox"/> Non DBE			<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> \$5 million and above
		<input type="checkbox"/> DBE <input type="checkbox"/> Non DBE			<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> \$5 million and above

(Duplicate form as necessary.)

Attachment 4

OK DOT DBE Directory

<https://okdot.gob2g.com>

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION STATEMENT

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

_____ The bidder is committed to a minimum of _____ % DBE utilization on this contract.

_____ The bidder (if unable to meet the DBE goal of _____ %) is committed to a minimum of _____ % DBE utilization on this contract and should submit documentation demonstrating good faith efforts.

Name of bidder's firm: _____

By:

Signature

Title

DBE UTILIZATION SUMMARY

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

Note: If the total proposed DBE participation is less than the established DBE goal, Bidder must fill out FORM C, Pages 1-5 for submission

**SCHEDULE FOR PARTICIPATION
BY
DISADVANTAGED BUSINESS ENTERPRISES
(DBE)**

Name of Bidder _____

Bid Opening Date: _____
(mm/dd/yyyy)

DBE		Work Items or Supply Effort	NAICS Code(s) Under Which DBE Will Perform	DBE Participation	
				Dollar Amount \$	Percentage of Prime Contract (calculate Regular Dealer 60% rule if applicable)
Name					
Address					
Email					
Contact Person	Phone				
Name					
Address					
Email					
Contact Person	Phone				

Submission of this form constitutes the Bidder's written commitment to utilize the DBEs named.

Duplicate Form as Needed

Duplicate Form as Needed

PLEASE NOTE:

1. If the bidder is a DBE, it is still required to complete this form and must describe the work that it will perform with its own workforce and the dollar/percentage amount of the contract that this represents.
2. A binding commitment must have been achieved with the DBE for the work and percentage/dollar amount of participation (as reflected by the DBE's quotation) listed on this Schedule for Participation.
3. DBEs listed above must be certified by the ODOT UCP at the time of bid opening in order to count toward the DBE goal.
4. If DBE is a regular dealer performing a Supply Effort, count only 60% of the cost of the materials.

FORM B

CONFIRMATION OF DBE PARTICIPATION

TAIT

Bid Opening Date: _____
(mm/dd/yyyy)

AIP NUMBER	PROJECT	DBE GOAL
PRIME CONTRACTOR		
CONTACT PERSON		TELEPHONE NUMBER
COMPLETE THIS SECTION FOR DBE FIRM		
DBE FIRM		
CONTACT PERSON		TELEPHONE NUMBER
<p>I am a DBE certified by the Oklahoma Unified Certification Program (ODOT UCP). I hereby certify that as a DBE, I quoted the price and type of work as described on the Prime Contractor's Schedule For Participation for the above referenced bid.</p> <p>Signature of DBE: _____ Date: _____ (Signature and Title of Company Official) (mm/dd/yyyy)</p> <p>I hereby certify, on behalf of the Prime Contractor, and intending to be bound thereby, that the information contained herein is true and correct to the best of my knowledge, information and belief.</p> <p>Signature of PRIME: _____ Date: _____ (Signature and Title of Company Official) (mm/dd/yyyy)</p>		

Note: Complete one form for each DBE on the project

Page 1 of 5

FORM C

REQUEST FOR GOOD FAITH EFFORTS REVIEW

Name of Bidder: _____

Date: _____

I, _____, request a reduction of the DBE Contract Goal specified in this Invitation and Bid for the participation of Disadvantaged Business Enterprises (DBEs) from _____% to _____%. I represent, under penalty of law and as evidenced by the attached documentation, that I have made good faith efforts prior to proposal submission to meet the DBE Contract Goal in accordance with the criteria set forth in 49 C.F.R. Section 26.53, but have been unable to achieve this goal for the following reasons*:

*You may attach supplemental pages and documentation if necessary.

FORM C

Page 2 of 5

REQUEST FOR GOOD FAITH EFFORTS REVIEW
SCHEDULE FOR Partial PARTICIPATION
BY
DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Name of Bidder _____

Bid Opening Date: _____
(mm/dd/yyyy)

DBE	Description of Work or Supply Effort	NAICS Code(s) Under Which DBE Will Perform	<u>DBE Participation</u>	
			Dollar Amount \$	Percentage of Prime Contract (calculate Regular Dealer 60% rule if applicable)
Name				
Address				
Email				
Contact Person				
Phone				
Name				
Address				
Email				
Contact Person				
Phone				

Submission of this form constitutes the Bidder's written commitment to utilize the DBEs named.

Duplicate Form as Needed

Duplicate Form as Needed

Form C
Page 3 of 5

Name of Respondent: _____ Date: _____

A. CONTRACTOR'S ADVERTISEMENTS FOR PARTICIPATION

Have you advertised in general circulation media, trade association publications and minority or female focused media concerning subcontracting opportunities in general? If so attach copies of all such advertisements published by you within the past six months. If copies are not available, explain why and state the text of the advertisement(s) and the publications where they were printed.

B. NOTIFICATION TO DISADVANTAGED BUSINESS ENTERPRISES

- (1) Did you contact in writing any Disadvantaged Business Enterprise(s) to solicit their participation in this contract? If so, attach dated copies of all such solicitations.

- (2) Identify by name, address, date and telephone number each Disadvantaged Business Enterprise that you contacted orally, and name the person with whom you spoke. If your company maintains a telephone log, please attach relevant entries.

Form C
Page 4 of 5

Name of Respondent: _____ Date: _____

C. DISADVANTAGED BUSINESS ENTERPRISES UNAVAILABLE TO PARTICIPATE IN CONTRACT

Of those Disadvantaged Business Enterprises listed in answer to Subpart B above, identify those which were interested in the contract but which were unavailable to work on this contract or were unable to prepare a quote. State the reasons for the unavailability of each Disadvantaged Business Enterprise. The attached certification of unavailability form should be completed by the DBE and submitted for each unavailable firm whenever possible.

D. INFORMATION AND ASSISTANCE PROVIDED TO DISADVANTAGED BUSINESSES

Of those Disadvantaged Business Enterprises listed in answer to Subpart B above, identify those which you provided with plans, specifications and requirements of the contract. Detail all assistance you provide to interested Disadvantaged Business Enterprises and all efforts at negotiation to specific sub-bids below.

I HEREBY VERIFY THAT THE FOREGOING STATEMENTS ARE TRUE. THIS VERIFICATION IS MADE SUBJECT TO THE PENALTIES SET FORTH IN _____ RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES, AND _____, RELATING TO FALSE STATEMENTS. I UNDERSTAND THAT THIS REQUEST FOR GOOD FAITH EFFORTS REVIEW WILL BE CONSIDERED AND APPROVED OR DISAPPROVED ON THE BASIS OF THE INFORMATION HEREIN PROVIDED.

Name (Signature)

Title:

Form C

Page 5 of 5

Name of Respondent: _____ Date: _____

**CERTIFICATION OF UNAVAILABILITY
OF DISADVANTAGED BUSINESS
ENTERPRISES**

I, _____

do hereby certify that I was offered an opportunity to proposed on the above
referenced RFP for

by _____
(Describe Work or Supply Effort
Solicited)

(Name of Prime Respondent's Representative Making
Solicitation)

on _____
(Give Date of
Solicitation)

but was unavailable to participate/unable to prepare a quote (strike inappropriate term) for
the following reasons:

Name of Disadvantaged Business

Signature of Principal of Disadvantaged
Business Enterprise

Title

Date

DUPLICATE AS NECESSARY



Attachment 8

Department of
Transportation

Federal Aviation
Administration

Office of the Assistant Administrator
Office of Civil Rights

800 Independence Ave. S.W. Room 1030
Washington, DC 20591

FEB 11 2019

Dear Airport Sponsor:

Re: FAA Reauthorization Act of 2018 (Public Law No: 115-254) Prompt Payment Complaint Reporting Requirements

The Federal Aviation Administration (FAA) Reauthorization Act of 2018 (Public Law No: 115-254), signed into law on October 5, 2018, requires compliance with the prompt payment and timely return of retainage requirements, found in 49 CFR Section 26.29.

New requirements for airport sponsors and the FAA, along with the plan to meet those requirements, are:

- Section 157 of the 2018 FAA reauthorization requires airport sponsors to track and report the number of complaints received from subcontractors regarding alleged non-compliance with the prompt payment requirements, including the timely return of retainage by prime contractors.
- Section 157 also requires the FAA to assess and improve airport sponsor compliance with prompt payment requirements , including:
 - whether requirements relating to the inclusion of prompt payment language in contracts are being satisfied;
 - whether and how you, as the airport sponsor, are enforcing prompt payment requirements;
 - the processes by which covered complaints are received and resolved by airport sponsors;
 - whether improvements need to be made to better track and resolve covered complaints; and
 - whether changes to prime contractor specifications need to be made to ensure prompt payments and release of retainage to subcontractors.
- Section 157 further requires the FAA to make available to the public, on an appropriate FAA website, a report describing the results of the assessment completed, including a plan to respond to such results.

To meet the requirements of the law, we are directing airport sponsors to track and report to the FAA prompt payment complaints, including complaints regarding untimely return of retainage, beginning October 1, 2018. The data that you must track and report to FAA is identified in

Attachment A - Data Needed for Prompt Payment and Timely Return of Retainage Complaints.
The website to report the complaints and related data can be found at the following link:
<https://www.surveymonkey.com/r/PromptPaymentComplaints>.

If you have any questions regarding these new requirements related to prompt payment complaints, please reach out to your FAA Regional DBE/ACDBE Program Compliance Specialist. Contact information can be found on our website at:

https://www.faa.gov/about/office_erg/headquarters_offices/acr/bus_ent_program/contact/.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Courtney L. Wilkerson', written in a cursive style.

Courtney L. Wilkerson
Acting Assistant Administrator for Civil Rights Attachment

Attachment 8/A

Data Needed for Prompt Payment and Timely Return of Retainage Complaints

1. Date of complaint, Complaint tracking# (if any), and Complaint format (Phone, email, letter)
2. Sponsor (Name, Location ID, and DBELO contact info)
3. Project (#, Name, FAA Grant#)
4. Complainant (name and contact info, DBE or Non-DBE)
5. Name of firm that allegedly did not make the required payment and relationship to complainant
6. Description of complaint
7. Resolution for complaint
8. Did all project contracts include the following:
 - a. Contract assurances as required by 49 CFR § 26.13(b) (Yes or No)
 - b. 90-06 Partial Payment clause as required by ACIS0/5370-100 (Yes or No)
 - c. Additional prompt payment language related to 49 CFR § 26.29(a)-(c) (Yes or No)
 - d. Prompt payment enforcement provision as required by 49 CFR § 26.29(d)- (e). (Yes or No). If yes, please describe how contractual enforcement provisions are included
9. Does the Sponsor proactively monitor prompt payment of subcontractors? (Yes or No).
If yes, please describe how.
10. Did the Sponsor implement enforcement actions with this complaint to prevent repeat prompt payment complaints? (Yes or No). If yes, please describe how.
11. Has the Sponsor's DBE program been updated to address USDOT prompt payment guidance released in 2016 and 2018? (Yes or No). If yes, have you uploaded a copy into the FAA Civil Rights Connect system? (Yes or No).
12. Was FAA involved in the resolution of the complaint (Yes or No). If yes, provide FAA staff name.

OKLAHOMA
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
UNIFIED CERTIFICATION PROGRAM

The undersigned, a dully-authorized representative of the entity named does hereby make a statement of intent to comply with the provisions of the Oklahoma Unified Certification Program.

Signature

Name and Title (Please Print)

Name of Entity (Please Print)

Date

Attachment 10

Small Business
Participation Plan July 2023

A. Objective (49 CFR Part 26.39)

The Tulsa Airports Improvement Trust (TAIT) recognizes that DBE Program Goals should be met through a mixture of race conscious and race neutral methods, and since DBE firms by definition are small businesses, TAIT seeks to implement a small business element to facilitate competition and expand opportunities for all small businesses, regardless of the business owner's race or gender, by eliminating obstacles to their participation in TAIT contracting opportunities.

TAIT will use the following methods and strategies to meet this goal:

1. **Unbundling.** Each program year, TAIT will review upcoming projects to determine the feasibility of "unbundling" large projects and, when feasible, will break up the scope and size of the contract work items into economically feasible units to facilitate small business participation, even when the prime contractor might have the ability and otherwise prefer to perform these work items with its own forces. A determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. TAIT will also encourage its prime contractors or prime consultants to unbundle contracts to facilitate small business participation and TAIT will assist prime contractors in identifying portions of work which may be unbundled. TAIT will document the factors used to determine whether or not an FAA-assisted contract will be unbundled.
2. **Outreach.** TAIT will conduct an annual informational session regarding contracting opportunities for DBEs and small business owners, providing details on upcoming contracting opportunities for both the current fiscal year and through the five year Capital Improvement Program. On projects exceeding \$5 Million in estimated construction costs, TAIT will host a project specific interactive forum with prime contractors and small business owners to foster communication. TAIT will participate in business outreach sessions held by local municipalities and non-profit agencies which are designed to introduce small and minority-owned businesses to TAIT's procurement process. TAIT will participate in and sponsor conferences and outreach activities conducted by the Oklahoma Minority Supplier Development Council, Oklahoma Department of Transportation, and City of Tulsa and actively engage small business to share their experiences, address their concerns, and identify new opportunities. TAIT will also advertise contracting opportunities through its social media channels, website, and through various minority-based outlets.
3. **Technical Assistance.** TAIT will create a web page that specifically addresses the questions that small business owners have regarding certification, procurement, and business development resources.

As described above, TAIT will utilize a variety of methods to facilitate small business participation. In each FAA-assisted contract, the DBELO will document the method in which the small business element will be implemented (i.e. unbundling, outreach, technical assistance) and the process by which those methods were considered.

B. Definitions

1. Small Business - A small business is one that qualifies under the criteria and size standards in Title 13, Code of Federal Regulations, part 121 ([13 CFR 121](#)). Size standards have been established based on a firm's [North American Industry Classification System \(NAICS\)](#) code. Even if a firm meets the requirements of this section, it is not eligible if it (including its affiliates) has had average annual gross receipts, as defined by SBA regulations, over the firm's previous three fiscal years, in excess of \$22.41 million. This is a cap set by the U.S. Secretary of Transportation and is adjusted based upon inflation.

A small business must be:

- An independent business, whose viability does not depend on its relationship with another firm or firms.
 - Only firms organized for profit may be eligible for the Small Business Program.
 - In order to participate, firms must be ready, willing, and able to perform work on U.S. DOT assisted contracts.
 - Firms must be established businesses with sufficient assets and resources to perform the work of their contracts.
2. Disadvantaged Business Enterprise (DBE) – A for-profit Small Business Concern that is:
 - At least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
 - Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26 (current PNW cap is \$1.6 million);
 - Whose average annual gross receipts, as defined by SBA regulations over the firm's three fiscal years is less than \$22,410 million; (\$52,470 million for airport concessionaires in general with some exceptions).
 - Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
 - Has been certified as a DBE by the Oklahoma Unified Certification Program (OUCP) in accordance with the full requirements of 49 CFR 26.

For the purposes of the small business element of TAIT's DBE Program, small businesses which are owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards race-neutral participation on FAA-assisted contracts.

C. Verification Standards and Procedures

For purposes of this small business element, TAIT will accept the following certifications:

1. DBE Certification from the OKUCP must stipulate that a firm has been determined to meet all requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE Certification issued by the Oklahoma Department of Transportation and verified on their electronic directory of certified firms published on the OKDOT website.

2. Small Business Certification from the Oklahoma Department of Transportation that stipulates that a firm meets the Small Business Administration size standard for their NAICS code. All certification determinations are evidenced by a letter of Small Business Certification issued by the Oklahoma Department of Transportation and verified through their Civil Rights Division.

D. Implementation Schedule

TAIT proposes to have its SBPP fully implemented within six months of FAA final approval. TAIT will utilize this time to properly establish the SBPP to maximize the potential for success.

E. Assurances

TAIT makes the following assurances:

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

Signature Certificate

Reference number: GHICS-8AEPQ-ZDFDC-KIWRX

Signer

Timestamp

Signature

Kent Harrell

Email: kent@harrellenergy.com

Sent:

28 Nov 2023 20:07:49 UTC

Viewed:

28 Nov 2023 20:26:00 UTC

Signed:

28 Nov 2023 20:27:42 UTC



Recipient Verification:

✓ Email verified

28 Nov 2023 20:26:00 UTC

IP address: 199.26.117.22

Location: Tulsa, United States

Document completed by all parties on:

28 Nov 2023 20:27:42 UTC

Page 1 of 1



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PandaDoc is a document workflow and certified eSignature solution trusted by 50,000+ companies worldwide.

