



CITY OF DALLAS



Dallas Airport System

CITY OF DALLAS
DEPARTMENT OF AVIATION
DALLAS LOVE FIELD

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM UPDATE

October 30, 2019

Submitted By:
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Dallas Love Field

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Attachment 3.1 Bidders Collection Form (Sample)

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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The City of Dallas Department of Aviation, owner of Dallas Love Field, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Department of Aviation at Dallas Love Field has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Department of Aviation at Dallas Love Field has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

It is the policy of the Department of Aviation at Dallas Love Field to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also Department of Aviation at Dallas Love Field policy to engage in the following actions on a continuing basis:

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

Gloria McNac, Procurement Manager has been delegated as the DBE Liaison Officer. In that capacity, Ms. McNac 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 Department of Aviation at Dallas Love Field in its financial assistance agreements with the Department of Transportation.

The Department of Aviation at Dallas Love Field has disseminated this policy statement to the Airport Executive Staff and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on Department of Aviation at Dallas Love Field DOT-assisted contracts. The distribution was accomplished via the airport's website.

T.C. Broadnax, Dallas City Manager Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The Department of Aviation at Dallas Love Field is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The Department of Aviation at Dallas Love Field will use terms in this program that have their meanings defined in Section 26.5 of 49 CFR Part 26.

Section 26.7 Non-discrimination Requirements

The Department of Aviation at Dallas Love Field 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, Department of Aviation at Dallas Love Field 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))

Department of Aviation at Dallas Love Field will provide data about its DBE Program to the DOT as directed by DOT operating administrations.

DBE participation will be reported to FAA as follows:

The Department of Aviation at Dallas Love Field will transmit to FAA annually, by or before December 1, the information required for the "Uniform Report of DBE Awards or Commitments and Payments", as described in Appendix B to Part 26. Department of Aviation at Dallas Love Field will similarly report the required information about participating DBE firms. All reporting will be done through the FAA official reporting system (DOORS), or another format acceptable to FAA as instructed thereby.

Bidders List (26.11(c))

The Department of Aviation at Dallas Love Field will collect this information from respondents to our RFP and RFB processes via the documentation specified in the DBE/ACDBE Good Faith Effort Participation Program for Federally Funded Projects contained in Attachment 3 as well as from Pre-Bid and Pre-proposal meeting attendance logs. In conjunction with the Business Development and Procurement Services Department of the City of Dallas, the Department of Aviation at Dallas Love Field will create and maintain a bidders list (Attachment 3.1). 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.

Records retention and reporting:

Department of Aviation at Dallas Love Field will maintain records documenting a firm's compliance with the requirements of this part.

These records will be retained in accordance with all applicable record retention requirements of Department of Aviation at Dallas Love Field financial assistance agreement. Other 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

Department of Aviation at Dallas Love Field has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

Each financial assistance agreement Department of Aviation at Dallas Love Field signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: 26.13 (b) The Department of Aviation at Dallas Love Field 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.

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The Department of Aviation at Dallas Love Field is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. The Department of Aviation at Dallas Love Field is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and Department of Aviation at Dallas Love Field is in compliance with it and Part 26. The Department of Aviation at Dallas Love Field will continue to carry out this program until all funds from DOT financial assistance have been expended.

The Department of Aviation at Dallas Love Field does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT 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)

The following individual has been designated as the DBE Liaison Officer for The Department of Aviation at Dallas Love Field:

DBE Liaison Officer: Gloria McNac
Procurement Manager
Department of Aviation
Dallas Love Field Airport
8008 Herb Kelleher Way
Dallas, Texas 75235
Phone: 214-671-2004
Email address: Gloria.Mcnac@dallas.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Department of Aviation at Dallas Love Field complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Director of Aviation and the City Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 2** of this program document.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Designated DBELO staff work in conjunction with the City's Purchasing Department, the City Attorney's Office, and designated airport project managers from the City's Department of Public Works to assist in the administration of the DBE 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, in conjunction with the Purchasing Department, 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 Department of Aviation at Dallas Love Field progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Dallas City Manager/Director of Aviation on DBE matters and achievement.
9. Chairs the RFB/P DBE Advisory Committee.
10. Determine contractor compliance with good faith efforts.
11. Serves as liaison to the City of Dallas Office of Business Diversity and Office of Procurement Services in providing DBEs with information and assistance in preparing bids, obtaining bonding and insurance.

12. Plans and participates in DBE training seminars.
13. Acts as liaison to the NCTRCA, administrator of the Uniform Certification Process to the North Texas Region.
14. Coordinates, in conjunction with the City's Office of Business Diversity team, outreach seminars and symposiums to DBEs and community organizations to advise them of upcoming opportunities.
15. Provides access to the TUCP updated directory on certified DBEs (see Section 26.31 below).

Section 26.27 DBE Financial Institutions

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

DAL researched the National Bankers Association (www.nationalbankers.org) members list, an agency which tracks minority owned banks. The NBA's list indicated that there were no banks in the local area which are known to be owned by socially and economically disadvantaged individuals. However, there are minority owned banks in the state of Texas. See list below:

Commerce Bank
5800 San Dario Street
Laredo, TX 78041
(956) 724-1616

Unity National Bank
2602 Blodgett St.
Houston, TX 77004
(713) 387-7400

Unity National Bank
1661 Texas Pkwy
Missouri, TX 77489
(713) 387-7400

International Bank of Commerce
1200 San Bernardo Ave.
Laredo, TX 78040
(956) 722-7611

International Bank of Commerce
1600 Ruben Torres Blvd.
Brownsville, TX 78526
(956) 547-1000

Section 26.29 Prompt Payment Mechanisms

The Department of Aviation at Dallas Love Field has established as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days for receipt of each payment it receives from the Department of Aviation at Dallas Love Field (DAL).

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. We will use the following methods to comply with this requirement: Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on City's final acceptance of job completion, 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 City's payment to the prime contractor.

DAL will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Department of Aviation at Dallas Love Field. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors' work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Department of Aviation at Dallas Love Field. This clause applies to both DBE and non-DBE subcontractors.

The Department of Aviation at Dallas Love Field will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the prime contractor. When the Department of Aviation at Dallas Love Field 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.

The Department of Aviation at Dallas Love Field will promptly investigate and resolve any issues related to the failure of the prime to appropriately pay subcontractors for work satisfactorily completed within the timeframe allotted. The City of Dallas may impose sanctions, including but not limited to payment suspension, against prime contractors found to be in violation of this prompt payment clause.

Section 26.31 Directory

The Department of Aviation at Dallas Love Field is a *non-certifying* member of the Texas Unified Certification Program (TUCP) and uses the State of Texas DBE

directory, maintained by TxDOT in conjunction with NCTRCA, the Uniform Certification Program (UCP) for the state. After NCTRCA certification, certified DBEs are listed on the TxDOT directory. TxDOT maintains the directory identifying all firms eligible to participate as DBEs. The Directory lists the firms, which contains all the elements required by §26.31– name, primary contact, address, phone number, NAICS work category listings, the type of work the firm has been certified to perform as a DBE, the certifying agency, certification expiration and email address. The UCP database is updated regularly. The directory of certified companies is made available to all prospective bidders and proposers online. Refer to Attachment 4 for more information. Directory information is also available through the North Central Texas Regional Certification Agency (NCTRCA) at www.nctrca.org.

Section 26.33 Over-concentration

The Department of Aviation at Dallas Love Field has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Diversity Programs

The Department of Aviation at Dallas Love Field does not have a business development program established exclusively to provide airport related business assistance. The airport is owned and operated by the City of Dallas, and business assistance is provided by the City's Office of Business Diversity and Office of Procurement Services. The Office of Business Diversity division maintains a register of Dallas companies in an effort to facilitate disadvantaged, minority and women-owned participation in the procurement process. The Office of Business Diversity is responsible for the ongoing development and implementation of the City of Dallas' Disadvantaged/Minority and Women-owned Business Enterprise (D/M/WBE) programs and DBE related programs through Outreach and Assistance, Contract Compliance, and Audit Verification.

The Office of Procurement Services is responsible for purchasing the City's goods and services. The City of Dallas utilizes Bonfire as its electronic procurement platform. The Office of Business Diversity and Office of Procurement Services will help link interested vendors to the City of Dallas' online procurement website, register as a vendor, submit bids and more. Procurement and Bonfire may be contacted by calling (214) 670- 3326 or via the City's website:

<https://dallascityhall.com/departments/procurement/Pages/default.aspx>.

Section 26.37 Monitoring Responsibilities

The Department of Aviation at Dallas Love Field 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 Department of Aviation Love Field DBE program.

The Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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):

1. Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. Consider similar action under our own legal authorities, including responsibility determinations in future contracts. **Attachment 6** 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 program.
3. 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. Implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by monthly monitoring, quarterly DBE joint meetings, and annual verifications of prime contractor supplied participation information.
5. Implement a 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. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT reporting form.

The Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Department of Aviation at Dallas Love Field or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- The Department of Aviation at Dallas Love Field proactively reviews contract payments to subcontractors including DBEs at least *quarterly to ensure compliance*. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Department of Aviation at Dallas Love Field by the prime contractor.

Prompt Payment Dispute Resolution

The Department of Aviation at Dallas Love Field will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

The Department of Aviation penalties/sanctions/consequences for non-compliance to these prompt payment and retainage provisions include, but are not limited to, nonpayment of Prime Contractor invoices. The City's monitoring process for this provision is as follows:

1. The Prime Contractor shall submit with each invoice, a report of DBE expenditures on a DBE Payment Monitoring Form.
2. The report shall show all DBE and non-DBE subcontractors, the amount of their subcontract, the amount earned to date, the amount earned for that respective invoice and the amount remaining to be earned.
3. The report shall also have each DBE subcontractor verify the amounts earned and paid to date.
4. 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.

Payments to the contractor(s) may be delayed until the progress report is submitted as required.

The Department of Aviation at Dallas Love Field has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage [*examples of mechanisms include the following*]:

(1) Alternative dispute resolution (ADR)

(2) 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.

(3) Other mechanisms

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 Department of Aviation at Dallas Love Field to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA contact.

Enforcement Actions for Noncompliance of Participants

Department of Aviation at Dallas Love Field will provide appropriate means to enforce the requirements of §26.29. These means include, but are not limited to:

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
- Pay subcontractors directly and deduct this amount from the retainage owed to the prime
- 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
- Other penalties for failure to comply, up to and including contract termination (specify these penalties clearly).

The Department of Aviation at Dallas Love Field will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The Department of Aviation at Dallas Love Field 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. Contracting records are reviewed by DBE compliance team. Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 objective of the SBE Program at Dallas Love Field is to encourage competition by small business concerns including DBEs. The SBE Program will provide a race and gender neutral means of facilitating competition by small business concerns, including DBEs, by structuring contracting requirements in such a way as to be attainable by SBE entities. As a recipient, we will utilize the definition of an SBE as provided in 49 CFR §26.5, as well as adhere to the definitions for business size standards, PNW, etc. pursuant to the regulation. Eligibility to participate in the airport's SBE Program will be determined by the designated UCP entities in the State of Texas, following the established certification protocol for SBEs, which is analogous to the state UCP certification process for DBEs. We will actively implement SBE program elements to foster small business participation. Doing so is a requirement of good faith implementation of our DBE program.

In addition, the Department of Aviation at Dallas Love Field makes the following assurances with regard to the SBE Program:

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

The SBE Program element will consist of several strategies to encourage small business participation in our contracting activities. Specifically, the Department of Aviation at Dallas Love Field proposes to do the following:

We will structure any bid procurements, whenever feasible, in such a way as to facilitate competition by small business concerns by unbundling contract requirements that may preclude participation by SBEs on contracts as prime contractors or subcontractors.

In multi-year design-build contracts and/or on other large contracts, we will require bidders on prime contracts to specify elements of the contract or specific sub-contracts that are of a size that SBEs, including DBEs can reasonably perform.

On prime contracts not having DBE contract goals, we will require the prime contractor to provide sub-contracting opportunities of a size that SBEs, including DBEs, can reasonably perform, rather than self-perform all the work involved.

We will structure procurements to facilitate the ability of joint-ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

To meet the portion of the overall goal anticipated to be met via race-neutral measures, we will ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

In January 2012, the airport instituted a review of current and pending construction and design related contracts to address the unbundling element as discussed in the implementation guidance. We currently have SBE participation as well as DBE participation on construction related contracts. Therefore, we do not anticipate difficulty implementing and administering this new component.

The Department of Aviation of Dallas Love Field will:

- disseminate the SBE plan amendment to the entities responsible for bidding airport construction contracts, and to our current and potential Prime and Sub-Contractors;
- recognize as eligible to participate on airport contracts those SBE entities certified as such by the UCP;
- report SBE/DBE participation as race-neutral participation on annual accomplishment reports;
- participate in City of Dallas outreach events to promote the airport's SBE Program.

The small business element is incorporated as Attachment 8 to this DBE Program. The program elements will be actively implemented to foster small business participation. Implementation of the small business element is required for Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field does not use quotas in any way in the

administration of this DBE program.

Section 26.45 Overall Goals

The Department of Aviation at Dallas Love Field will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the Department of Aviation at Dallas Love Field will submit its Overall Three-year DBE Goal to FAA by August 1 of the year in which the goal is due, as required by the schedule established by and posted to the website of FAA.

The Department of Aviation at Dallas Love Field will establish overall goals 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". 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.

A description of the methodology used to calculate the overall goal and the goal calculations are found in Attachment 5 of this document.

In establishing the overall goal for each three-year period a goal submission is due, the Department of Aviation at Dallas Love Field will obtain data from the Census Bureau, consult with minority women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Department of Aviation at Dallas Love Field's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport administrative offices of Dallas Love Field for 30 days following the date of the notice, and informing the public that the Department of Aviation at Dallas Love Field and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority- focus media and trade publications, and the airport website. Normally, we will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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

We will begin using our overall goal on October 1 of each year, unless we have received

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

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Department of Aviation at Dallas Love Field does not anticipate awarding prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and Department of Aviation at Dallas Love Field will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field for calculating goals is inadequate, FAA may, after consulting with the Department of Aviation at Dallas Love Field, adjust the overall goal or require that the goal be adjusted by the Department of Aviation at Dallas Love Field. 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.

Section 26.47 Failure to meet overall goals

The Department of Aviation at Dallas Love Field 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.

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

The Department of Aviation at Dallas Love Field understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The Department of Aviation at Dallas Love Field understands that if the awards and commitments shown on the 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, the following actions must be taken in order to be regarded by the DOT as implementing this DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
- (3) The Department of Aviation at Dallas Love Field will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain 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 Breakout of Estimated Race-Neutral & Race-Conscious Participation

The Department of Aviation at Dallas Love Field 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 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.

Section 26.51 (d-g) Contract Goals

The Department of Aviation at Dallas Love Field 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.

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 total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations Where There Are Contract Goals

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

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.

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

The Department of Aviation at Dallas Love Field 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.

Information to be submitted (26.53 (b))

The Department of Aviation at Dallas Love Field treats bidder/proposer's compliance with good faith efforts' requirements as a matter of responsiveness - all bidders must submit preliminary DBE information at the time of bid, therefore, each solicitation for which a contract goal has been established will require all bidders/proposers to submit the following information at the time of bid:

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

Additionally, each solicitation for which a contract goal has been established will require the successful bidder/proposer to submit the above information, in final form, within ten (10) business days of being notified that they are the successful bidders, prior to the time the contract is executed.

Administrative reconsideration

Within 5 business days of being informed by Department of Aviation at Dallas Love Field that it is not responsive 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: Sheneice Hughes, Assistant Director of Aviation, City of Dallas, Department of Aviation, 7555 Lemmon Avenue, Dallas, TX 75235. 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. 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 (26.53 (f))

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

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

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

1. The listed DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements
4. The listed DBE subcontractor becomes bankrupt,

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

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

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

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

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

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 Department of Aviation at Dallas Love Field. 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.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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 Department of Aviation at Dallas Love Field 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).

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Department of Aviation at Dallas Love Field does not certify DBE eligibility. As a participant of the Texas Unified Certification DBE Program (TUCP) as administered by the North Central Texas Regional Certification Agency (NCTRCA) and TxDOT (Attachment 8), it will rely on the state certification agency to make DBE certification decisions in compliance with the certification standards of Subpart D of Part 26 when determining the eligibility of firms to participate as DBEs in DOT-assisted contracts. (See Section 26.81) To be certified as a DBE, a firm must meet all certification eligibility standards. The NCTRCA will make certification decisions based on the facts as a whole:

For information about the certification process or to apply for certification, firms should contact: The North Central Texas Regional Certification Agency (NCTRCA) via the webpage www.nctrca.org. The NCTRCA office is located at 624 Six Flags Drive, Suite #100, Arlington, TX. 76011. Phone: 817-640-0606. Fax: 817-640-6315.

Information regarding NCTRCA certification application forms and documentation requirements are found in **Attachment 7** to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Department of Aviation at Dallas Love Field is a member of the Texas Unified Certification Program (TUCP) administered by the North Central Texas Regional Certification Agency (NCTRCA). The NCTRCA will meet all of the requirements of this section. UCP membership for City of Dallas covering the Department of Aviation at Dallas Love Field can be verified by visiting the member entity page listing located on the NCTRCA website www.nctrca.org.

[The City of Dallas Is Not a Certifying Agency - Sections 26.83 - 26.89 Omitted]

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to Department of Aviation at Dallas Love Field

The Department of Aviation at Dallas Love Field understands that if it fails to comply with any requirement of this part, the Department of Aviation at Dallas Love Field 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 FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122.

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. Both federal law and the State of Texas exempt from disclosure all certification records from the Texas Open Records Act and confidential business information deemed as proprietary.

Notwithstanding any provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes any information provided to us as a result of the firm's DBE certification process or supporting documentation. However, if such documents are in our possession, we will transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

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

The Department of Aviation at Dallas Love Field, 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

49 CFR Part 26 - Disadvantaged Business Enterprise Program City of
Dallas - Department of Aviation
Dallas Love Field (DAL)

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 Department of Aviation at Dallas Love Field understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 or website link
- Attachment 2 Organizational Chart
- Attachment 3 Dallas Love Field DBE GFE Participation Program
- Attachment 3.1 Bidder's List Collection Form (Sample)
- Attachment 4 DBE Directory link to DBE Directory
- Attachment 5 Overall Goal Calculations
- Attachment 6 DBE Monitoring and Enforcement Mechanisms
- Attachment 7 DBE Certification Application Form
- Attachment 8 State's UCP Agreement
- Attachment 9 Small Business Element Program

49 CFR Part 26 - Disadvantaged Business Enterprise Program City of
Dallas - Department of Aviation
Dallas Love Field (DAL)

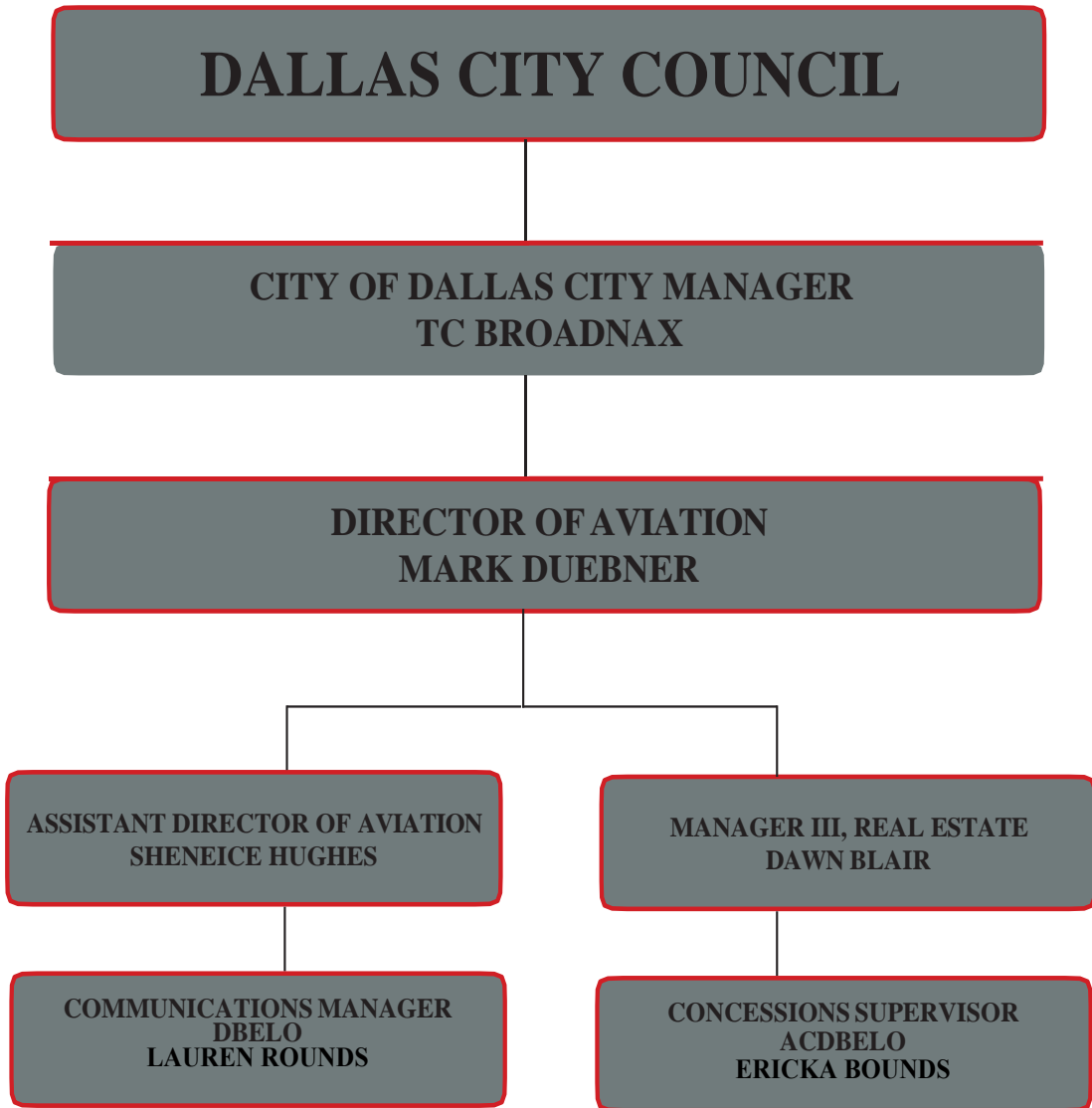
ATTACHMENT 1

Regulations: 49 CFR Part 26, or link to website

https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=b91de5ab6b73016dcc2e8f3aa3ed35f4&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

ATTACHMENT 2

CITY OF DALLAS, DEPARTMENT OF AVIATION, DBE ORGANIZATION CHART



Attachment 3

DBE GFE Participation Documentation

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Department of Aviation at Dallas Love Field to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. Award of this contract will be conditioned upon satisfying the requirements of this section of the bid/proposal specification. These requirements apply to all bidders/proposers including those who qualify as a DBE. The bidder/proposer shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (**Attachment 1**), to meet the goal for DBE participation in the performance of this contract.

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

The information provided on the bid forms will determine whether the bidder/proposer has satisfied the GFE requirement.

ATTACHMENT 3



City of Dallas



Dallas Airport System

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

**GOOD FAITH EFFORT (GFE) PARTICIPATION
PROGRAM
FOR SMALL AND MINORITY BUSINESS
ENTERPRISES**

For Federally Funded Projects

**FY 2019 - 2021
City of Dallas DBE Program Policy
DBE Good Faith Effort (GFE) Documentation Forms**

City of Dallas Disadvantaged Business Enterprises (DBE) Program Policy

Airport related Construction and Professional Service procurement contracts awarded by the City of Dallas are not subject to the requirements of the City's M/WBE Program, but instead are governed by the requirements of the US Department of Transportation (DOT) Federal Aviation Administration's (FAA) Disadvantaged Business Enterprises (DBE) Regulation, 49 CFR Part 26 ("Part 26").

To be eligible for the award of a construction or professional services contract, a proposer or bidder must either be able to meet the established annual DBE goal (for the current period through September 30, 2022 is **28.61%**) or document a good faith effort to meet the goal. Upon award, the prime contractor must agree that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any agreement, management contract, or subcontract, purchase or lease agreement, covered by 49 CFR Part 26. Further, the prime contractor agrees to include the following statement in any subsequent agreement, contract or subcontract covered by 49 CFR Part 26, that it enters into and cause those businesses to similarly include the following statement in further agreements, contracts or subcontracts:

"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."

The prime contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform on contracts and subcontracts. All proposers, potential contractors, or subcontractors for DOT-assisted contracts are hereby notified that failure to carry out this DOT policy and the DBE obligation shall constitute a breach of contract which may result in termination of the Contract or such other remedy as deemed appropriate by the recipient and the FAA.

As a condition of the bid submission, the Bidder/Proposer must provide one of the following:

- A) Documentation that it has obtained enough DBE participation to meet the goal; or
- B) Documentation that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

Fully executed documentation in final form must be submitted prior to contract award. Please refer to the AC/DBE Good Faith Effort Documentation Packet for copies of the forms required for proposal/bid submission.

For general information concerning the City's DBE program and DBE certification, contact the Purchasing Dept. of the City of Dallas, 1500 Marilla St., Room 3FN, Dallas, TX 75201, 214/671-9814 - Direct, 214/670-4793 - Fax. The list of certified DBE firms can be accessed via the Texas Unified Certification Process website at <https://txdot.txdotcms.com/>.

DBE Good Faith Effort (GFE) Program Documentation

Eligibility for contract award is demonstrated by submission of the appropriate documents by the successful bidder/proposer within the timeframe allotted. The forms listed in this section are for the bidder's/proposer's use in documenting good faith effort. The apparent low bidder/most advantageous proposer must, within five (5) business days, submit a completed GFE Documentation Packet to the Public Works/Purchasing Department and the Department of Aviation (AVI) after AVI has issued notification of intent to award the contract in order to be considered for award by City Council. Failure to timely submit completed forms will delay award and may deem the recommended bid non-responsive. Electronic versions of these forms are available upon request.

The following forms are used to document DBE GFE for Construction & Professional Services Contracts:

1. Form 203A - AVI Disadvantaged Business Enterprises (DBE) Affidavit: This form is to be turned in with the bid packet or proposal package and certifies that the bidder/proposer agrees to comply with the City's AC/DBE Program.
2. Form 204A - Workforce Ethnic Composition Report: This form is to be turned in with the Schedule of Work and provides information on the ethnic and gender composition of the bidder/proposer's existing internal workforce.
3. Form 205A - RFP/RFQ Contractor's Affidavit of DBE Historical Utilization: This form is used to document the bidder's historical DBE utilization on prior projects. It lists the proposer's history of DBE utilization on past City and non-City contracts and agreements.
4. Form 213A - Pre-Award Schedule of Work (SOW) and Sub-Contractor/Supplier Participation Form: This form is to be completed and submitted by the bidder/proposer who **WILL** meet the AC/DBE goal on the contract. This form lists all sub-contractors, suppliers or service providers participating with the bidder/proposer on the anticipated contract. This form is to be used in conjunction with Form 214A. Post contract award, the Prime Contractor is required to submit Form 2138 - SOW and Actual Payments Form. (See #5 below)
5. Form 2138 - Schedule of Work and Actual Payments Form - Post contract award, the Prime Contractor is required to submit Form 2138 - SOW and Actual Payments Form on a monthly basis to document actual payments made to all contract participants for the duration of the contract.
6. Form 214A - AC/DBE Sub-Contractor/Supplier Intent Form: This form is to be completed by the apparent low bidder/most advantageous proposer for each AC/DBE subcontractor, supplier or service provider participating on the anticipated contract to affirm their intent to participate. A separate form is to be submitted for each DBE subcontractor, supplier or service provider listed on the Schedule of Work and Sub-contractor/Supplier Form (Form 213A). All certified AC/DBE primes, subcontractors, suppliers and service providers are required to maintain a current/valid certification for the entire duration of the contract.

7. Form 215A - Documentation of GFE Sufficiency: This form is to be completed and submitted by the bidder/proposer who **WILL NOT** meet the AC/DBE goal on the contract. This form is used to document the bidder/proposer's attempt to obtain sufficient AC/DBE participation but was unsuccessful in doing so.
8. Form 216A - Change of DBE Subcontractor/Supplier Form: This form is to be completed post-award by prime contractors to document subcontractor, supplier, or service provider changes during the term of the contract. This form must be approved by the City of Dallas Project Manager and the Department of Aviation prior to execution of any changes.
9. Form 222A - Prime Using Own Workforce on Contract: Federal regulations recognize that not every contract will have sub-contracting or joint-venture opportunities available due to the nature of the contract or service provided. In such cases, bidders/proposers are to use this form to document such. The information provided here must be verifiable, and the City must concur with the assessment of the prime contractor that no sub-contracting opportunities exist.
10. Form 223A - Prime Using Own or Existing Sub-Contractor's Workforce on Change Order or Supplemental Agreement to Contract: As in the case of Form 222A, prime contractors may use this form to document the award of additional work to themselves or to an existing sub-contractor if deemed in the best interest of the project that the additional work is best handled by their own workforces or by the workforces of an existing sub-contractor already on-site. The information provided here must be verifiable and the City must concur with the assessment of the prime contractor for utilization of the existing workforce.

Meeting Goals and Documenting Good Faith Efforts: Pre- & Post-Award Documentation

GFE Documents To Be Submitted With The Bid or Proposal

All bid and proposal package submissions must include the documents listed below. The DBE Affidavit confirms the bidder/proposer's intent to comply with the City of Dallas' AC/DBE Good Faith Effort Program. The Workforce Ethnic Composition Form provides information on the composition of the bidder's own workforce. **No other GFE documentation will be required at time of bid/proposal submission.**

- DBE Affidavit Form 203A or Form 3 as applicable
- Workforce Ethnic Composition Report Form 204A or Form 4 as applicable

Pre-Contract Award DBE Documentation

Prime contractors **who will meet** or exceed the AC/DBE goal must submit the following forms within five (5) days of the notice of intent to award:

- Pre-Award Schedule of Work (SOW) and Sub-Contractor/Supplier Participation Form 213A

- AC/DBE Sub-Contractor/Supplier Intent Form 214A- One (1) For Each Sub Listed on the SOW

Prime contractors who **will not meet** the AC/DBE goal must submit the following forms within five (5) days of the notice of intent to award:

- Pre-Award Schedule of Work (SOW) and Sub-Contractor/Supplier Participation Form 213A
- AC/DBE Sub-Contractor/Supplier Intent Form 214A- One (1) Form For Each Sub Listed on the SOW
- Documentation of GFE Sufficiency - Form 215A

RFQ/S01 Award DBE Documentation

- Responders to a City RFQ (Request for Qualifications) or SOI (Solicitation of Interest) solicitation must submit Form 205A - RFP/RFQ Contractor's Affidavit of DBE Historical Utilization: This form is used to document the bidder's historical DBE utilization on ANY prior projects (City and/or Non-City of Dallas contracts).

Post-Contract Award DBE Documentation

Post contract award, Prime Contractors are required to submit the following forms to the City's Project Manager and Aviation Department on a monthly basis as evidence of continued compliance with the City's DBE Program:

- Schedule of Work and Actual Payments Form 213B is to be submitted with each payment request for the Prime Contractor and all sub-contractor/suppliers/service providers associated with the contract through the term of the contract. **Attach supporting documentation indicating proof of payment to DBE Sub- contractors.**

Change of DBE Subcontractor/Supplier Form 216A if there are any additions, deletions, substitutions, or changes to the DBE participants listed on the original contract award documentation

ATTACHMENT 3.1

Bidder's 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 INFORMATION

The City of Dallas, Department of Aviation utilizes the Texas Department of Transportation's (TxDOT) Texas Unified Certification Program (TUCP) website DBE directory to identify all certified Disadvantaged Business Enterprises (DBE) firms eligible to participate as a Disadvantaged Business Enterprise (DBE). Updated DBE Directory information is available to the public via the Texas Department of Transportation (TxDOT) Texas Uniform Certification Program website <https://www.txdot.gov/inside-txdot/division/civil-rights/tucp.html> as well as the North Central Texas Regional Certification Agency website <http://www.nctrca.org>.

Attachment 5

Section 26.45: Overall Goal Calculation – Three Year Goal Methodology

Name of Recipient: City of Dallas – Department of Aviation at Dallas Love Field

Goal Period: FY 2019-2021: October 1, 2019 thru September 30, 2022

Overall Goals

The Disadvantaged Business Enterprise (DBE) program for federally assisted projects at the Department of Aviation at Dallas Love Field (DAL) is established on a triennial basis for the period beginning on October 1, 2019 and ending on September 30, 2022. The overall goal for the three-years beginning in fiscal year 2019 has been set utilizing the methodologies described in CFR 49 part 26 as follows:

The DAL overall aspirational DBE Goal for FY 2019 is 28.61% of the federal financial assistance that the City of Dallas will expend. The DBE goal is broken down into 17.49 % race neutral and 11.12% race conscious.

Overall Three-Year DBE Goal: **28.61%** of DOT assisted contracts annually, to be accomplished through 11.12% RC and 17.49% RN participation.

As noted below, the City expects to receive and utilize \$191,609,250 in DOT assisted funding during this three-year goal period of which 28.61% or \$55M total is projected to be expended with certified DBEs.

DOT-Assisted Contract Amount:	FY 2019: \$ 37.7M
	FY 2020 \$ 107.0M
	FY 2021 \$ 46.9M

AIP Funded Projects that the airport anticipates awarding:

2019		
	Project Description	Total
W122	Rehabilitate Taxiway C - Design TOTAL	\$ 3,445,000
D015	Rehabilitate Taxiway B - Phase III (B1 to Runway 31R and Connectors B1 & B2) - Construction TOTAL	\$ 17,845,000
W216	Rehabilitate Taxiway B - Phase IV (RWY 18-36 to TWY B3 Including TWY's D, B5 & B6) - Construction TOTAL	\$ 16,432,000
2020		
	Project Description	Total
D019	Reconstruct RWY 13R-31L - Construction TOTAL	\$ 82,934,250
W122	Rehabilitate Taxiway C - Phase I - Construction TOTAL	\$ 22,453,000

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W358	Replacement ARFF Station - Design	\$ 1,600,000
2021		
	Project Description	Total
W125	Crossfield Taxiway Reconfiguration - Construction TOTAL	\$ 37,100,000
W358	Replacement ARFF Station - Construction	\$ 9,800,000

DAL elected to use the methodology described in 49 CFR 26.45 (1) to determine the base figure for the relative availability of DBEs. Staff started the determination of Love Field's Goal Setting Process by identifying a base figure for the relative availability of DBEs based on demonstrable evidence of the availability of ready, willing, and able DBEs as compared to the availability of all businesses participating on DOT-assisted contracts (hereafter, the relative availability of DBEs). Analysis of Love Field's previous three-year AIP funded projects, discussions with Airport staff, a review of the City's vendor's list in B2G Now Contract Compliance software and the State of Texas Department of Transportation Directory revealed the TXDOT District as the Love Field's market area. Seven state of Texas counties comprise Love Field's local market area: Collin, Dallas, Denton, Ellis, Kaufman, Navarro and Rockwell.

Methodology

The following is a summary of the method Love Field used to calculate this goal.

Step 1 Analysis: Actual Relative Availability of DBEs

A base figure of 15.00% was determined by utilizing 2016 Census County Business Patterns data, plus data from the Texas Department of Transportation DBE Directory of DBE firms located in District 1 (Collin, Dallas, Denton, Ellis, Kaufman, Navarro and Rockwell). The 2016 Census Bureau's County Business Patterns (CBP) data (denominator) and the DBE Directory information (numerator) were extracted for applicable construction and professional service trades in the same NAICS Codes where activity is estimated to occur during the performance of Love Field's potential projects. The base figure was calculated by counting, only the DBEs and census bureau establishments in those NAICS codes within the Love Fields's market area as shown in Table 1(a) below.

Table 1(a)

NAICS Code	Description	2016 County Business Patterns	Percent Availability	Percent of Estimated Total Expenditure
236220	Airport Building Construction	612	0.18	2.72
238210	Electrical	830	0.05	11.39
237000/237310	Heavy and Civil Engineering Const	102	0.03	39.98
237100/237110	Utility Sys tem Construction	108	0.34	14.23
237130	Power and Communication Construction	97	0.13	4.74
237900/237990	Other Heavy and Civil Engr. Constr.	35	0.43	4.74
238110	Concrete Pouring; Resurfacing	229	0.12	4.74
238120	Structural Steel and Precast concrete	51	0.18	2.85
484110/484220	Trucking	181	0.49	1.90
541300/541310	Architectural, Engr and Related Svcs.	344	0.11	1.33
541330	Civil Engineering; Engineering Services; Engineering	859	0.18	2.00
541340	Drafting Services	44	0.11	0.77
541380	Testing Laboratories	85	0.11	2.85
541370	Surveying and Mapping (except Geophysical)	79	0.11	1.02
562900/562910	Remediation and other management Svcs	46	0.11	4.74
	Total I	3702	0.15	100.00

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Table 1 (b) summarizes the firms by 5-digit NAICS code and shows the number of DBEs and establishments shown in CBP available for each category, and the percentage of likely work the City of Dallas Love Field will contract for each category based on similar type projects performed in the past three years.

Table 1(b)
Actual Relative Availability of DBEs

NAICS Code	Description	2016 County Business Patterns	Percent Availability	Percent of Estimated Total Expenditure	Weighted Availability
236220	Airport Building Construction	612	0.18	2.72	0.50
238210	Electrical	830	0.05	11.39	0.55
237000/237310	Heavy and Civil Engineering Const	102	0.03	39.98	1.18
237100/237110	Utility Sys tem Construction	108	0.34	14.23	4.88
237130	Power and Communication Construction	97	0.13	4.74	0.64
237900/237990	Other Heavy and Civil Engr. Constr.	35	0.43	4.74	2.03
238110	Concrete Pouring; Resurfacing	229	0.12	4.74	0.56
238120	Structural Steel and Precast concrete	51	0.18	2.85	0.50
484110/484220	Trucking	181	0.49	1.90	0.92
541300/541310	Architectural, Engr and Related Svcs.	344	0.11	1.33	0.15
541330	Civil Engineering; Engineering Services; Engineering	859	0.18	2.00	0.37
541340	Drafting Services	44	0.11	0.77	0.09
541380	Testing Laboratories	85	0.11	2.85	0.30
541370	Surveying and Mapping (except Geophysical)	79	0.11	1.02	0.12
562900/562910	Remediation and other management Svcs	46	0.11	4.74	0.52
	Total	3702	0.15	100.00	15.37

Step 2 (a): Adjustment of Step 1 Base Figure Utilizing Median Past Participation (MPP)

“Step Two of the goal calculation is intended to adjust Step One Base Figure to make it as precise as possible. Under the rule, you must consider all evidence available in your jurisdiction to determine whether such an adjustment is necessary. In this context, there are several factors you must consider in making your Step Two adjustments if there are relevant and reliable data available”

Section 26.45 (d); identifies numerous examples of the various types of data to examine in order to adjust the Step One baseline figure to make it as precise as possible. This step is intended 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. We considered all of the factors listed in the above in the FAA Tips to Goal Setting to determine whether an adjustment is necessary.

The Step 2 adjustment for past participation results in a base figure of 28.61 percent. The City’s DBE achievement percentages for the past three (3) years are being used to adjust the base figure in Step 1.

<u>Fiscal year</u>	<u>DBE Goal</u>	<u>DBE Achievement</u>	
2015-2016	20.75%	12.99%	Median Past Participation (MPP) 41.85%
2016-2017	24.36%	41.85%	
2017-2018	24.36%	56.20%	Median Goal Excess Participation 17.49%

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The MPP percentage for the past three years is 41.85%. The MPP 41.85% with Base Figure 15.37% adjustment divided by 2 adjusts the overall goal percent to 28.61%.

$$\frac{\text{MPP} + \text{Step 1. Base Figure}}{2} = \frac{41.85 + 15.37}{2} = 28.61\% \text{ Overall Adjusted Goal}$$

	2016	2017	2018
Overall Goal	20.75	24.36	24.36
Achieved	12.99	41.85	56.20
Over/(Short)	-7.76	17.49	29.76
R/C	6.62	20.75	9.98
R/N	6.36	21.1	46.21

Median Participation %			
12.99	41.85		56.20
Median R/N %			
6.36	21.1		46.21
Median Goal Excess Participation			
-7.76	17.49		31.83
		Adjusted baseline availability	28.61

Step 2(b): ‘But For’ Evidence

The examination of marketplace evidence, econometric evidence on entry and earnings from self-employment, survey evidence and data on access to capital and business success and existence of any “other barriers”, including but not limited to self-employment, bonding, insurance, project size or complexity, is unknown to the Department of Aviation at Dallas Love Field at this time. Due to the aforementioned considerations, the Department of Aviation at Dallas Love Field elected not to directly adjust its base figure via step 2 (b) “But For Discrimination” considerations.

Geographic Market Area (GMA):

The relevant GMA has been determined to be the State of Texas Department of Transportation District 1. It is the area in which the majority of the airport’s contractors and subcontractors that seek to do business with the airport are located and the area in which the airport spends the majority of its contracting dollars.

Published Notice:

An invitation for public participation and notice announcing the FY 2019-2021 proposed DBE overall goal of 28.61% was published on the airport website (<http://www.dallas-lovefield.com/>) and sent to numerous stakeholders for public comment. The notice informed the public that the proposed goal and its rationale are available for inspection and will be held open for public comment for thirty (30) days from the date of publication.

Consultation/On-going Public Involvement:

The Department of Aviation of Dallas Love Field together with the City’s Office of Business Diversity and Office of Procurement Services regularly conduct bid and proposal conferences and advertisements geared toward the public and the various area Chambers of Commerce, Industry and Advocacy Groups, Minority Business Owners, and Affiliated Construction Contractors regarding all of the City’s projects, including all DOT related projects. These meetings are held

specifically to inform all participants of upcoming projects and to consult with the various groups on ways the City can better utilize minority contractors. At each conference, City representatives explain the details of the DBE program and solicit input for ways to increase minority participation in City projects.

Race-Neutral/Race-Conscious Projection:

DAL estimates that in meeting its overall proposed goal of 28.61%, it will obtain **17.49% from race-neutral participation and 11.12% through race-conscious** measures. The estimated breakout of race-neutral and race-conscious DBE participation is based on the fact that DAL has had few contracted DBE primes perform work in the past few years, however, to the extent that the 3-year median goal excess as noted above is 17.49%, the median excess of 17.49% is being used as the basis for the projection of the race-neutral portion of the overall goal. DAL feels that this race-neutral/race-conscious breakout is achievable, based on past accomplishment.

DAL will adjust the estimated breakout of race-neutral and race-conscious DBE participation as needed to reflect actual DBE participation {see 26.51(f)} and track and report race-neutral and race-conscious participation separately. For reporting purposes, race neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract 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.

Contract Goal:

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

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

We will express our contract goal as a percentage of the total amount of DOT-assisted contracts.

SUMMARY

Due to the aforementioned considerations, the Department of Aviation at Dallas Love Field decided not to directly adjust its base figure via "But For Discrimination" methods. The Department of Aviation at Dallas Love Field elected to propose to factor in median past participation and potential DBEs; and establish an attainable/feasible overall DBE Goal of 28.61%. The Department of Aviation at Dallas Love Field proposes to achieve this DBE goal using 17.49% race neutral and 11.12% race conscious.

As more data on utilization of DBEs becomes available and information is obtained from monthly achievement reports, future modifications to the goals may prove to be necessary. As Capital Improvement Programs are rolled out it might become necessary for the Department of Aviation at Dallas Love Field to seek a higher or lower project specific goal on its airport building and runway construction projects.

Finally, prior to the submission of the above methodology and proposed goal to FAA, the Department of Aviation at Dallas Love Field is to conduct consultations. According to 26.45 "consultations are required and must include a scheduled direct, interactive exchange (face to face meeting, video conferencing, webinar, teleconference) with as many interested stakeholders as possible. The focus of the consultation is to obtain information relevant to the goal setting process."

ATTACHMENT 6

DBE Monitoring and Enforcement Mechanisms

The Department of Aviation, Dallas Love Field has available several remedies to enforce the DBE requirement contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Notification to certifying agencies (ie NCTRCA) of Contractor Unsatisfactory Performance.

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; and
3. Prosecution pursuant to 18 USC 1001.

The Department of Aviation, Dallas Love Field will implement various mechanisms to monitor program participants to ensure they comply with Part 26, including, but not limited to the following:

1. Insertion into every contract a specific reporting criteria that requires program participants to submit an accomplishment report on a monthly, quarterly, semi-annually or annual basis. The report will detail payments to subcontractors, joint venture partners or supply/service purchases. Such contractual requirements will contain contractual delinquent consequences in the form of late fees or charges.
2. We will establish contractor performance/compliance standards that are aligned with service specifications to ensure compliance with contract terms as well as perform compliance audits during the contract period.
3. We will perform on-site visits to construction sites to insure DBEs are active participants in daily operations.
4. We will meet with Prime, Sub-Contractor, and DBE program participants to facilitate open communications, dialogue and effectiveness review to enable DBE feedback.

ATTACHMENT 7

DBE Certification Application Form
[https://www.transportation.gov/civil-
rights/disadvantaged-business-
enterprise/uniform-certification-
application-english](https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/uniform-certification-application-english)

ATTACHMENT 8

SMALL BUSINESS ELEMENT

I. OBJECTIVE

The Department of Aviation at Dallas Love Field 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 objective of the SBE Program at Dallas Love Field is to encourage competition by small business concerns including DBEs. The SBE Program will provide a race and gender neutral means of facilitating competition by small business concerns, including DBEs, by structuring contracting requirements in such a way as to be attainable by SBE entities.

As a recipient, we utilize the definition of an SBE as provided in 49 CFR §26.5, as well as adhere to the definitions for business size standards, PNW, etc. pursuant to the regulation. Eligibility to participate in the airport's SBE Program is determined by the designated UCP entities in the State of Texas, following the established certification protocol for SBEs, which is analogous to the state UCP certification process for DBEs. DAL actively implements SBE program elements to foster small business participation. Doing so is a requirement of good faith implementation of our DBE program.

II. DEFINITION

For purposes of this Small Business Program, a Small Business Enterprise (SBE) shall be defined as follows: An SBE, with respect to firms seeking to participate as SBEs in Dallas Love Field's Small Business Program, is a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR part 26, §26.65(b).

The SBA size standards may be found at:

www.sbaonline.sba.gov/contractingopportunities/officials/size/table/index.html

A function of the Dallas Love Field small business element is to encourage small businesses that are owned and operated by economically and socially disadvantaged to seek DBE certification through the Texas Department of Transportation. Only DBE TxDOT-certified firms are counted toward DBE race-neutral participation on FAA-assisted contracts.

III. VERIFICATION

A firm that wishes to participate as an SBE on a project at Dallas Love Field and is not currently certified as a DBE or SBE by the Texas Department of Transportation (TxDOT) or one of the other certifying agencies of the Texas Unified Certification Program may

apply for certification as an SBE by filing a SMALL BUSINESS ENTERPRISE (SBE) APPLICATION with TxDOT.

Applications may be found on the Texas Department of Transportation website at: http://www.txdot.gov/business/business_outreach/sbe.htm.

IV. MONITORING

Dallas Love Field monitors and tracks participation by SBEs in federally-funded projects. Only small businesses that are also certified as DBEs are counted, as race-neutral participation, toward the Airport's overall DBE goal. Participation by SBEs who are not certified as DBEs are tracked, but not reported to the FAA.

Race- and gender-neutral DBE participation obtained through the Small Business Program is included in the Airport's annual Report of Accomplishments and is calculated by dividing the total dollars to DBEs achieved through the small business program by the total federal dollars. Monitoring and enforcement procedures applicable to a race neutral environment for this element of the DBE Program is implemented as indicated in DAL's DBE Program as they pertain to a race neutral environment.

V. ASSURANCES

In addition, the Department of Aviation at Dallas Love Field makes the following assurances regarding the SBE Program:

1. Assurance that the SBE 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 SBE 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 SBE Program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
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; and
6. Assurance that the SBE Program is open to small businesses regardless of their location (i.e., that there is no local or other geographic preference)

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ATTACHMENT 9

TEXAS UNIFIED CERTIFICATION PROGRAM MEMORANDUM OF AGREEMENT

Available here: http://ftp.dot.state.tx.us/pub/txdot-info/bop/tucp_moa.pdf