

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.11
(ID # 10714)

MEETING DATE:

Tuesday, September 24, 2019

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Riverside County Aviation Division
Disadvantaged Business Enterprise (DBE) Program, Districts 3 and 4, [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt the Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, as Riverside County Aviation Division (EDA-Aviation) receives Federal financial assistance from the DOT, and as a condition of receiving this assistance, EDA-Aviation is required by Federal aviation grant assurance to comply with 49 CFR Part 26; and
2. Authorize the Assistant County Executive Officer/ECD, or his designee, to execute the Disadvantaged Business Enterprise (DBE) Program documents and administer and implement the program on behalf of the County.


ACTION:Policy

Robert Field, Assistant County Executive Officer/ECD 8/28/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Hewitt, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: September 24, 2019
xc: EDA

Kecia R. Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 2019/2020	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

EDA-Aviation has established a Disadvantaged Business Enterprise Program (DBE Program) in accordance with regulations of the U.S. Department of Transportation (DOT) 49 CFR Part 26 for all five owned and operated Riverside County Airports. The owned County Airports include Blythe, Chiriaco Summit, French Valley, Hemet-Ryan and the Jacqueline Cochran Regional. The DBE Program will meet compliance requirements set by DOT for EDA-Aviation as a condition for receiving Federal financial assistance.

The DBE Program will ensure discrimination does not take place on the basis of race, color, national origin or sex in the award, performance or administration of any DOT assisted contract covered by 49 CFR Part 26. Additionally, EDA-Aviation must take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of federal assisted contracts awarded in excess of \$250,000.

EDA-Aviation has delegated the County Airport Manager as the DBE Liaison Officer. In that capacity, County Airport Manager is responsible for implementing all aspects of the DBE Program. EDA-Aviation is requesting approval for the DBE Program from the Riverside County Board of Supervisors.

Impact on Citizens and Businesses

Disadvantaged Business Enterprises (DBE) Program provides equal opportunity to receive and participate in DOT assisted contracts. EDA-Aviation is ensuring non-discrimination in the award and administration of such contracts.

SUPPLEMENTAL:

Additional Fiscal Information

There is no net county cost or budget adjustment required.

ATTACHMENTS (if needed, in this order):

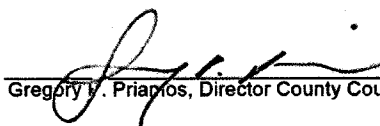
Attachment 1: Disadvantaged Business Enterprise (DBE) Program

RF:HM:VY:LV:mm

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA


Nehini Masika, Principal Management Analyst

9/16/2019


Gregory V. Priapros, Director County Counsel

9/12/2019



WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

DBE PROGRAM – AVIATION DIVISION

For the County of Riverside Economic Development Agency – Aviation Division, hereinafter referred to as “EDA-Aviation.”

Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR Part 26.

Objectives/Policy Statement

EDA-Aviation, owner of Blythe Airport (BLH), Chiriaco Summit Airport (L77), French Valley Airport (F70), Hemet-Ryan Airport (HMT), and Jacqueline Cochran Regional Airport (TRM) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. EDA-Aviation receives Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, EDA-Aviation has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of EDA-Aviation to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT assisted contracts. It is also our policy:

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

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

APPROVED COUNTY COUNSEL

KRISTINE BELL-VALDEZ 9/5/19 DATE

SEP 24 2019 3.11



EDA-Aviation has disseminated and have received approval for this policy statement from the Riverside County Board of Supervisors and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The distribution was accomplished by publishing it on our website.

A handwritten signature in blue ink, appearing to read "R. Field", written over a horizontal line.

Robert Field
Assistant County Executive Officer
Economic & Community Development

A handwritten date "10/7/19" in blue ink, written over a horizontal line.

Date



SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

EDA-Aviation is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

EDA-Aviation 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, EDA-Aviation 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

EDA-Aviation will report DBE participation to Department Of Transportation/Federal Aviation Administration (DOT/FAA) as follows:

The RECIPIENT will transmit to FAA annually on August 1st, the “Uniform Report of DBE Awards or Commitments and Payments” form. EDA-Aviation will also report the DBE contractor firm information either on the FAA DBE Contractor’s Form or other similar format.

Bidders List: 26.11 (c)

EDA-Aviation will create and maintain a bidders list for all projects, once the bids for each project are received. 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, and DBE and non-DBE status of firm(s), age of the firm and may include gross receipts of the firm when required.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13 (a) - Each financial assistance agreement EDA-Aviation signs with a DOT operating administration (or a primary recipient) will include the following assurance:

EDA-Aviation 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. EDA-Aviation shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. EDA-Aviation's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to EDA-Aviation 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) – EDA-Aviation will ensure that the following clause is included in each contract we sign with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor 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 EDA-Aviation deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

EDA-Aviation 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. EDA-Aviation is not eligible to receive DOT financial assistance unless DOT has



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

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

EDA-Aviation has designated the following person as the DBE Liaison Officer (DBELO):

County Airport Manager
Riverside County Economic Development Agency
3403 10th St., Suite 400
Riverside, CA 92501
(951) 955-9418
Fax: (951) 955-6686

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that EDA-Aviation complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Assistant County Executive Officer/Economic and Community Development concerning DBE program matters. The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 of this program.

The DBELO or a designee is responsible for developing, implementing and monitoring the DBE program in coordination with other appropriate officials. 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. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
4. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
5. Analyzes EDA-Aviation's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.



7. Advises the Assistant County Executive Officer/Economic & Community Development and the Riverside County Board of Supervisors on DBE matters and achievement.
8. Determine contractor compliance with good faith efforts.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars available online and in the Southern California area
11. Acts as liaison to the Uniform Certification Process.
12. EDA-Aviation has not established a business development program; however it actively participates and collaborates with professional associations, industry organizations and chambers of commerce.

Section 26.27 DBE Financial Institutions

It is the policy of EDA-Aviation 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.

In an effort to identify the use such institutions, using the State of California, Department of General Services online directory (http://www.dot.ca.gov/hq/bep/find_certified.htm), EDA-Aviation did not find any DBE financial institutions in the Riverside County area. The following NAICS Codes were used: 522110 (Commercial Banking), 522130 (Credit Unions), 521110 (Monetary Authorities – Central Banks) and 522291 (consumer Lending).

The DBELO for EDA-Aviation will investigate financial institutions established within the community which are owned by socially and economically disadvantage individuals annually. When a financial institution owned and operated by socially and economically disadvantaged individuals is opened, the DBELO will recommend their services to EDA-Aviation and provide notification to prime contractors with solicitation documents.

Section 26.29 Prompt Payment Mechanisms

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

EDA-Aviation 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. EDA-Aviation will use one of the following methods to comply with this requirement:

Decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept



by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

EDA-Aviation 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 EDA-Aviation. When EDA-Aviation 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.

EDA-Aviation will provide appropriate means to enforce the requirements of this section. These means will be included as specific terms and conditions in each contract. Any delay or postponement of payment among the parties may take place only for good cause, with the prior written approval of EDA-Aviation.

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

The prime contractor agrees to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from EDA-Aviation. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of EDA-Aviation. This clause applies to both DBE and non-DBE subcontractors.

Monitoring Payments to DBE's

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

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

Section 26.31 Directory

EDA-Aviation uses the State of California DBE directory. This DBE directory is maintained by the State. The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.



The State of California revises the Directory daily. EDA-Aviation makes the Directory available by listing the website address on solicitation packages for interested persons. The Directory may be found at www.dot.ca.gov/hq/bep.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

EDA-Aviation has not established a business development program; however it actively participates and collaborates with professional associations, industry organizations and chambers of commerce.

Section 26.37 Monitoring and Enforcement Mechanisms

EDA-Aviation will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. EDA-Aviation will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. Consider Implementing similar action under our own legal authorities, including responsibility determinations in future contracts
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 EDA-Aviation has reviewed contracting records and monitored work sites for this purpose. A copy of the Certification process for Contract Review and Monitoring is found in Attachment 7.
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, EDA-Aviation will show both commitments and attainments, as required by the DOT uniform reporting form.



Section 26.39 Fostering small business participation.

EDA-Aviation 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.

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

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

EDA-Aviation will not use quotas or set-asides in any way in the administration of this DBE program.

Section 26.45 Overall Goals

EDA-Aviation will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. EDA-Aviation will submit its Overall Three-year DBE Goal to FAA by August 1st as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Primary (GAs, Relievers and State DOTs)	Central, Southwest, and Western-Pacific	August 1, 2019 (2020/2021/2022)	August 1, 2022 (2023/2024/2025)

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

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 Contracts.

EDA-Aviation will publish a notice announcing our proposed overall goal 3 months before submission to the FAA on August 1st. The notice will be posted on our official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications), and will be available during normal business hours at EDA-Aviation's principal office (3403 10th St., Suite 400, Riverside, CA 92501). EDA-Aviation and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. **The public comment period will not extend the August 1st deadline.**

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

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

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

Section 26.47 Failure to meet overall goals

EDA-Aviation will maintain an approved DBE Program and overall DBE goal, if applicable, will administer our DBE Program in good faith to be considered to be in compliance with this part.

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

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



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

In reviewing Section 26.5 (definition of terms) of 49 CFR Part 26, EDA-Aviation defines the terms of this section as follows:

- Race-Conscious measure or program is one that is focused specifically on assisting only DBE's, including women-owned DBE's.
- Race-Neutral measure or program is one that, while benefiting DBEs, is not solely focused in DBE firms and can be used to assist all small businesses, including gender-neutral businesses.

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.
- (2) 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); and
- (3) Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors

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

Section 26.51(d-g) Contract Goals

During the course of any year in which EDA-Aviation determines that it will exceed the overall goal, EDA-Aviation will reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If EDA-Aviation determines that it will fall short of the overall goal, it will make appropriate modifications in the use of race-conscious measures to meet the overall goal.



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

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

Section 26.53 Good Faith Efforts Procedures

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26, included in this document at Attachment 11.

County Airport Manager, 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.

EDA-Aviation will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted 26.53(b)

EDA-Aviation treats bidder/offers' compliance with good faith effort's requirements as a matter of responsiveness. In all instances where a contract goal has been established all bidders will submit the DBE information at the time of the bid. Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

- (i) The names and addresses of DBE firms that will participate in the contract;
- (ii) A description of the work that each DBE will perform, as well as a Letter of Intent signed by the DBE firm chosen;
- (iii) The dollar amount of the participation of each DBE firm participating;
- (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
- (v) If the contract goal is not met, evidence of good faith efforts must be documented.
- (vi) Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;



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

Administrative reconsideration 26.53(d)

Within 5 business days of being informed by EDA-Aviation that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors shall make this request in writing to the following reconsideration official, include evidence of good faith efforts to include but not limited to call list, ad proof and quotes received from DBE subconstrators:

County Airport Manager
Riverside County Economic Development Agency
3403 10th St., Suite 400
Riverside, CA 92501
(951) 955-9418
Fax: (951) 955-6686

The reconsideration official, EDA Assistant Director - Aviation, will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts within 10 workings days of receipt of written request for DBE Administrative Reconsideration. 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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. EDA-Aviation will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts procedures in situations when there are contract goals (26.53(f)(g))

EDA-Aviation will include in each prime contract a provision stating that the contractor is utilizing DBEs to perform the work to comply with EDA-Aviation's stated and approved goals. EDA-Aviation will require the contractor that is awarded the contract to make available, upon request, a copy of all DBE subcontracts.

EDA-Aviation will require the prime contractor to substitute a DBE firm with another DBE firm when necessary to maintain stated goals, and to provide copies of new or amended subcontracts or documentation of good faith efforts. The good faith efforts shall be documented by the contractor.



In 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, non-DBE firm, it may only do so with prior approval and written consent from EDA-Aviation.

EDA-Aviation 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) EDA-Aviation has determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to EDA-Aviation 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 EDA-Aviation 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 EDA-Aviation, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE subcontractor five days to respond to the prime contractor's notice and advise EDA-Aviation 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), EDA-Aviation may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements. If the contractor fails or refuses to comply in the time specified, EDA-Aviation will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, EDA-Aviation may issue a termination for default notice and may terminate the agreement.

Sample Bid Specification:

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

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; and (5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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



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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

EDA-Aviation will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

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

County Airport Manager
3403 10th St., Suite 400
Riverside, CA 92501
(951) 955-9418

Our certification application forms and documentation requirements are found in Attachment 8 to this program.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

EDA-Aviation will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, Freedom of Information and Privacy Act (5 U.S.C. Section 552) and other federal, state, and local law.

Notwithstanding any provision of Federal or state law, EDA-Aviation will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, EDA-Aviation 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.

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).

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

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

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

ATTACHMENTS

- Attachment 1 Link to 49 CFR Part 26: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 Link to State of California DBE Directory:
http://www.dot.ca.gov/hq/bep/find_certified.htm
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts - Forms 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 Link to DBE Certification Application Forms:
<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/obtaining-certification>
- Attachment 9 Link to State of California UCP Agreement:
<http://www.dot.ca.gov/hq/bep/ucp.htm>
- Attachment 10 Small Business Element Program
- Attachment 11 Appendix A to Part 26 – Guidance Concerning Good Faith Efforts



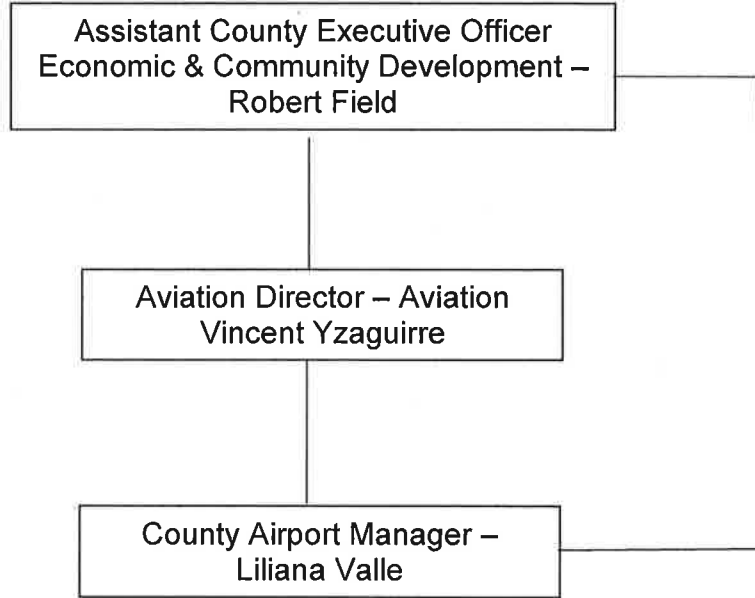
ATTACHMENT 1

Download a copy of 49 CFR Part 26 at:

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

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3

BIDDER'S LIST COLLECTION FORM

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

Link to State of California DBE Directory: http://www.dot.ca.gov/hq/bep/find_certified.htm



ATTACHMENT 5

Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: County of Riverside Economic Development Agency – Aviation Division, owner of (5) Airports: French Valley Airport (F70); Hemet-Ryan Airport (HMT); Jacqueline Cochran Regional Airport (TRM); Blythe Airport (BLH); and Chiriaco Summit Airport (L77).

Goal Period: FY 2019-2020-2021 (August 1, 2018 through July 30, 2021)

There are (3) projects that are expected to occur in FY 2019 – 2021 that would be eligible for AIP funding. The individual projects are listed in the chart below for this airport. The total AIP value of the contracts is projected to be \$1,292,400, and represents the portion that may be applicable to DBE goals.

Airport Name	Project Name	Assoc. City	Estimated Project Cost	AIP Eligible?	Eligible Percent ?	Total Cost by Calendar Year			
						2019	2020	2021	Subtotal 2019-2021
French Valley Airport	Runway 18-36, Taxiway A, Connector Taxiway Slurry Seal – Phase 2 - Construction	Murrieta	\$635,000	Yes	90%	\$635,000			\$635,000
French Valley Airport	Apron Pavement Rehabilitation - Design	Murrieta	\$118,000	Yes	90%		\$118,000		\$118,000
French Valley Airport	Apron Pavement Rehabilitation - Phase 1 - Construction, Middle Apron	Murrieta	\$683,000	Yes	90%			\$683,000	\$683,000
	Sub Total:		\$1,436,000			\$635,000	\$118,000	\$683,000	\$1,436,000
	Less 10% State/Local Match					\$63,500	\$11,800	\$68,300	\$143,600
	ESTIMATED GRANT TOTAL:								\$1,292,400

Market Area: The following map shows the market area in which it is expected that the substantial majority of the Airport's contractors and subcontractors that seek to do business with the Airport are located and the area in which it is expected that the Airport will spend the substantial majority of its contracting dollars. The market area surrounding the Airport includes Riverside County, San Bernardino County, Orange County, San Diego County and Los Angeles County. See Map below:



DBE Goal:

Step 1. 26.45(c) Actual relative availability of DBE's

CFR Part 26.45 recommends five methodologies for determining a base DBE goal based on relative availability of DBE's. The recommendations and examples are provided as a starting point but not intended as an exhaustive list.

The total certified DBE firms in a particular county may include other firms who possess an interstate certification (meaning they are physically located in a different state but have expressed an interest in doing business in California, thus obtaining California DBE certification.) For example, a DBE firm located in Arizona or Nevada can register to do business in Riverside County.

Since it is presumed that the market area is the area in which it is expected that the substantial majority of the Airport's contractors and subcontractors that seek to do business with the airport are located, data from State of California was further analyzed



to assess DBE firms physically located in the market area (Riverside County, San Bernardino County, Orange County, San Diego County and Los Angeles County).

EDA-Aviation has chosen to use the goal of another DOT recipient in the same or substantially similar market, Ontario International Airport, with a DBE goal of 13%, and by DBE historical data on Federal-Aid for Major Construction Contracts for the past (3) fiscal years, 2016, 2017 and 2018. The data source or demonstrable evidence used to derive the numerator was also based on past FAA awarded contracts based on the bidder chosen satisfying the requirement of the bid specification commitments. Listed below are the three contracts bid vs. what they committed to and the attainment:

Contract 1: AIP Grant 3-06-0025-010-2016 - Blythe Airport PCC Apron Rehabilitation
DBE Firm Contractor Commitment: 12.6%
Attainment: 13.5%

Contract 2: AIP Grant 3-06-0338-028-2015 – French Valley Airport South Apron Pavement Reconstruction
DBE Firm Contractor Commitment: 12.8%
Attainment: 12.8%

Contract 3: AIP Grant 3-06-0255-025-2018 – Jacqueline Cochran Regional Airport Runway 17/38, Taxiway F and Connector Taxiway Pavements Rehabilitation
DBE Firm Contractor Commitment: 7.5%
Attainment: In process

Based on these factors, EDA-Aviation determined our **base figure to be 12.5%**.

Step 2. 26.45(d): Adjustments to Step 1 base figure.

After calculating a base figure, evidence was examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the overall goal. An examination of the anticipated contracts for each fiscal year, the availability of the DBE firms by trade classification and the volume of work performed by DBE firms over previous years. As indicated above in Section 26.45(c), each of the contractors either exceeded the goal or showed good-faith efforts.

In reviewing DBE Commitment at Award by District for Fiscal Years 2016, 2017 and 2018, EDA-Aviation determined that for District 8 (the District that EDA-Aviation is located in), the DBE Commitment for Awarded Contracts during this timeframe was an average of 15.6%, followed by an average Contract Goal of 11.6%. Our DBE Goal of 12.5% is well within the range of these percentages.

As a condition of contract award, bidders were required, by Race/Gender Neutral means, to meet the DBE Goal of 12.5% for each of these contracts. The bidder was required, as a condition of award, to submit the following information in their bid document:



- The names and address of the DBE firms that will participate in the contract;
- A description of the work that each DBE firm would perform;
- The dollar amount of the participation of each DBE firm listed;
- Written statement from bidder that attests their commitment to use the DBE firm(s) listed to meet EDA-Aviation's project goal;
- If the bidder could not meet the advertised project DBE goal, evidence of good faith efforts undertaken by the bidder as described must be submitted to EDA-Aviation.

Past History Participation

Other data used to determine the adjustment to the base figure was the median of historical DBE accomplishments. EDA-Aviation owns (5) airports so this is broken out by airport:

FRENCH VALLEY AIRPORT - Airport Identifier: F70 - Murrieta, CA

FY	Grant #	Type of Work	Total FAA Grant Amount	Total State Grant Amount	DBE Goals		DBE Accomplishments	
					RC/RN	Total	RC/RN	Total
FY 14	3-06-0338-027-2014	South Apron Rehab/Design	\$ 113,738	\$ 5,687		N/A		N/A
FY 15	3-06-0338-028-2015	South Apron Rehab/Construction	\$ 1,635,168	\$ -	RN	12.5%	RN	12.8%
FY 16	No Projects							
FY 17	3-06-0338-029-2017	Rwy 18-36/TwyA/Connector Rehab-Design	\$ 76,700	\$ -		N/A		N/A
FY 18	Application Submitted	Rwy 18-36/TwyA/Connector Rehab-Construction	\$ 3,442,500	\$ 172,125	RN	12.5%		

HEMET-RYAN AIRPORT - Airport Identifier: HMT - Hemet, CA

FY	Grant #	Type of Work	Total Grant Amount		DBE Goals		DBE Accomplishments	
					RC/RN	Total	RC/RN	Total
FY 14	3-06-0104-014-2014	Twy D Recon/Design	\$ 81,180	\$ 4,059		N/A		N/A
FY 14	3-06-0104-015-2014	Wildlife Hazard Asmt-Mgmt Plan/HR-FV-JC	\$ 354,074	\$ -		N/A		N/A
FY 15	No Projects							
FV 16	3-06-0104-016-2016	ALP Update with Narrative	\$ 213,706	\$ -		N/A		N/A
FY 17	No Projects							
FY 18	Application Submitted	Land Acquisition of 5 AC RPZ	\$ 202,500	\$ 10,125		N/A		N/A

JACQUELINE COCHRAN REGIONAL AIRPORT - Airport Identifier: TRM - Thermal, CA

FY	Grant #	Type of Work	Total Grant Amount		DBE Goals		DBE Accomplishments	
					RC/RN	Total	RC/RN	Total
FY 14	No Projects							
FY 15	No Projects							
FV 16	No Projects							
FY 17	3-06-0255-023-2017	Rwy 17-35/Twy A/Connectors Rehab-Design	\$ 144,000	\$ -		N/A		N/A
FY 17	3-06-0255-024-2017	ALP Update with Narrative	\$ 225,000	\$ -		N/A		N/A
FY 18	3-06-0255-025-2017	Rwy 17-35/Twy A/Connectors Rehab-Construction	\$ 1,150,421	\$ 50,000	RN	12.5%	In Process	
FY 18	Application Submitted	Land Acquisition 25.6 AC RPZ	\$ 540,000	\$ 27,000		N/A		N/A



BLYTHE AIRPORT - Airport Identifier: BLH - Blythe, CA

FY	Grant #	Type of Work	Total Grant Amount		DBE Goals		DBE Accomplishments	
					RC/RN	Total	RC/RN	Total
FY 14	No Projects					N/A		N/A
FY 15	3-06-0025-009-2015	PCC Apron Rehab/Design	\$ 144,000	\$ 8,000		N/A		N/A
FV 16	3-06-0025-010-2016	PCC Apron Rehab/Construction	\$ 546,919	\$ -	RN	12.5%	RN	13.5%
FY 17	3-06-0025-011-2017	Environmental Assessment	\$ 198,000	\$ -		N/A		N/A
FY 18	No Projects							

CHIRIACO SUMMIT AIRPORT - NON-NPIAS AIRPORT - STATE FUNDS ONLY - Airport Identifier: L77 - Chiriaco Summit, CA

FY	Grant #	Type of Work	Total Grant Amount		DBE Goals		DBE Accomplishments	
					RC/RN	Total	RC/RN	Total
FY 14	RIV-4-14-1	Rwy 6/24 Rehab Design/Construction	\$ -	\$ 353,116		N/A		N/A
FY 15	No Projects							
FV 16	No Projects							
FY 17	No Projects							
FY 18	No Projects							

Arranging this historical data from low to high, (12.8% and 13.5% the median is 13.2%).

The proposed Overall DBE Goals are as follows:

- Fiscal Year 2018-2019 – 12.5%
- Fiscal Year 2019-2020 – 12.5%
- Fiscal Year 2020-2021 – 12.5%

To arrive at an overall goal, EDA-Aviation added our Step 1 base figure with our Step 2 adjustment figure and then averaged the total arriving at an overall goal of 13%; however, EDA-Aviation feels the current overall goal of 12.5% will accurately reflect DBE participation that can be achieved for the type of work being awarded during this 3-year period.

Further, the information available in the State of California Department of Transportation office does not show any evidence of barriers to entry or competitiveness of DBEs in Riverside County.

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

EDA-Aviation will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation through our contractors and subcontractors by:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
- Providing technical assistance and other services;



- Carrying out information and communications programs on contracting procedures and specific contract opportunities;

The recipient estimates that it will meet its overall goal 12.5% from RN participation. This breakout is based on past performance:

EDA-Aviation has a history of DBE participation and achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, we are applying the entire goal of 12.5% to race-neutral participation.

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

PUBLIC PARTICIPATION

In accordance with Public Participation Regulatory Requirements of 45 CFR Part 26, minority, women, local businesses, chambers and community organizations within EDA-Aviation's market area will be provided an opportunity to review this goal analysis. EDA-Aviation will issue a Public Notice to community groups, publish the notice in minority-focused media and EDA-Aviation's website, www.rivcoeda.org.

Contract Goals

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



FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Age of Firm: _____

Annual Gross Receipts of Firm: _____

Description of work to be performed by DBE firm:

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

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and that the firm is DBE certified to perform the specific trades.

By _____
(Signature)

Date: _____

(Title)

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



ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to California Civil Code, Article 1. Damages for Breach of Contract 3300-3322

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

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



ATTACHMENT 8

Link to DBE Certification Application Form:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/obtaining-certification>



ATTACHMENT 9

State's UCP Agreement

<http://www.dot.ca.gov/hq/bep/ucp.htm>

ATTACHMENT 10

Small Business Element

1. Objective/Strategies

As part of this program element, we will include the following strategies:

- In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”) require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- To meet the portion of our overall goal we project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

2. Definition

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

3. Verification

- Diligently attempt to minimize fraud and abuse in the Small Business element of our DBE program by verifying program eligibility of firms.

4. Monitoring/Record Keeping

- Organize the information by specific grant, identifying the firm(s) that are listed as DBE firms and what portion of the DBE goal they will supply.
- Small Business element will be monitored through the State of California Department of Transportation website, DBE Firms list.

5. Implementation Timeline

- We will implement this program within 6-9 months of the FAA's approval of said program

6. Assurances

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

ATTACHMENT 11

APPENDIX A TO PART 26 – GUIDANCE CONCERNING GOOD FAITH EFFORTS

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract for procuring construction, equipment, services, or any other purpose, a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix.

The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (*i.e.*, obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in

the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. (1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in §26.53(b)(2)(vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.