

HILLSBOROUGH COUNTY AVIATION AUTHORITY

DISADVANTAGED BUSINESS ENTERPRISE

POLICY AND PROGRAM

FOR PROJECTS FUNDED BY

UNITED STATES DEPARTMENT OF TRANSPORTATION



HILLSBOROUGH COUNTY AVIATION AUTHORITY

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Revised August 6, 2026

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POLICY STATEMENT

Section 26.1, 26.23¹ Objectives/Policy Statement

The Hillsborough County Aviation Authority (Authority), owner of Tampa International Airport (Airport), has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 Code of Federal Regulations (CFR) part 26. The Authority has received Federal financial assistance from the USDOT, and as a condition of receiving this assistance, the Authority has signed an assurance that it will comply with 49 CFR part 26.

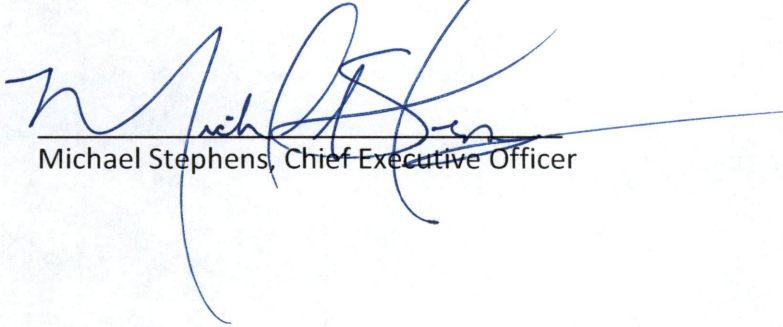
It is the policy of the Authority to ensure that DBEs, as defined in 49 CFR part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Authority to engage in the following actions on a continuing basis:

1. Ensure nondiscrimination in the award and administration of USDOT- assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. Ensure that the DBE program operates in a nondiscriminatory manner and without regard to race or sex, while maximizing efficiency of services;
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 USDOT-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 marketplace outside the DBE program; and
8. Make appropriate use of the flexibility afforded to the Authority of Federal financial assistance in establishing and providing opportunities for DBEs.

The Business Opportunity Programs Manager has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Business Opportunity Programs Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the USDOT.

¹ Section reference in headings throughout correspond to the applicable section of 49 CFR part 26.

The Authority has disseminated this policy statement to its Board of Directors and all of the components of the organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on Authority projects by posting the statement on the website.

A large, stylized handwritten signature in blue ink, appearing to read "Michael Stephens", is written over a horizontal line.

Michael Stephens, Chief Executive Officer

8/6/26

Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are elaborated in the policy statement on the first page of this program. A link to 49 CFR Part 26 (Part 26) can be found in Attachment 1.

Section 26.3 Applicability

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

Section 26.5 Definitions

The Authority will use terms in this program that have their meanings defined in 49 CFR part 26, § 26.5.

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Data Collection and Reporting Requirements

Reporting to USDOT

The Authority will provide data about its DBE program to the USDOT as directed by USDOT and its operating administrations.

DBE participation will be reported to the Federal Aviation Administration (FAA) as follows:

The Authority 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 49 CFR part 26. The Authority will similarly report the required information about participating DBE firms. All reporting for this purpose will be done through the FAA's designated reporting system.

Bidders List

The Authority will collect bidders list information as described in 49 CFR part 26, §26.11(c)(2) and in the form of Attachment 3 and enter the information into the system designated by USDOT. The purpose of the bidders list is to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on the Airport's federally assisted contracts for use in helping the Authority set overall goals, and to provide the USDOT with data for evaluating the extent to which the objectives listed above in 49 CFR part 26, §26.1 are being achieved.

The Authority will obtain the following bidders list information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each of our federally assisted contracts:

- Firm name;
- Firm address including ZIP code;
- Firm's status as a DBE or non-DBE;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;
- Age of the firm; and
- Annual gross receipts of the firm. The gross receipts can be obtained by asking each firm to indicate what gross receipts bracket they fit (e.g. less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million, etc.) rather than requesting an exact figure from the firm.

The Authority will collect the data from all bidders for its federally assisted contracts by requiring the information in 49 CFR part 26, §26.11(c)(2) to be submitted with their bids or initial responses to negotiated procurements.

The Authority will enter this data into the USDOT's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded.

In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to 49 CFR part 26, §26.53(e), the Authority will enter the data no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

The Authority will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, the Authority will keep a complete application package for each certified firm. These records will be retained in accordance with all applicable record retention requirements of the Authority financial assistance agreement. Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

Section 26.13 Assurances Recipients and Contractors Must Make

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

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

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

Contract Assurance: The Authority will ensure that the following clause is included in each USDOT-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 USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The Authority is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year.

The Authority is not eligible to receive USDOT financial assistance unless USDOT has approved this DBE program and the Authority is in compliance with the DBE program and 49 CFR part 26. The Authority will continue to carry out this program until all funds from USDOT financial assistance have been expended. The Authority does not have to submit regular updates of the DBE program document to the FAA, as long as it remains in compliance with the DBE program and 49 CFR part 26. However, significant changes in the program, including those required by regulatory updates, will be submitted to the FAA.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBE Liaison Officer for the Authority:

Business Opportunity Programs Manager
Tampa International Airport
P.O. Box 22287
Tampa, Florida 33622
(813) 554-1450
BusinessOpportunity@TampaAirport.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Authority complies with all provisions of 49 CFR part 26. The DBELO has direct, independent access to the Chief Executive Officer concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is included in Attachment 2 to this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of two (2) to assist in the administration of the program. The duties and responsibilities of the DBELO include the following:

1. Gathers and reports statistical data and other information as required by USDOT.

2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with various departments to set overall tri-annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both DBE-neutral methods and contract specific goals) and monitors results.
6. Analyzes the Authority's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Determines contractor compliance with good faith efforts.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the Authority to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on USDOT-assisted contracts to make use of these institutions. There are currently no certified DBE Financial Institutions in Florida.

Section 26.29 Prompt Payment Mechanisms

The Authority requires that all subcontractors performing work on USDOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant Federal, state, and local law. Prompt payment and return of retainage requirements also apply to lower-tier subcontractors.

In accordance with 49 CFR part 26, §26.29, the Authority established the following contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 10 days from the prime contractor's receipt of each payment from the Authority.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 calendar days from the receipt of each payment the prime contractor receives from the Authority. The prime contractor agrees further to release retainage payments to each subcontractor within 10 calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above

referenced time frame may occur only for good cause following written approval of the Authority. This clause applies to both DBE and non-DBE subcontractors.

Any exception to this prompt payment provision will only be for good cause with prior written notice to the Authority. On USDOT-assisted contracts, these prompt payment and prompt payment of retainage requirements apply to all sub-contractors on the prime contract, DBE and non-DBE.

The Authority ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. Pursuant to 49 CFR part 26, § 26.29, the Authority has selected the following method to comply with this requirement:

(Option 3) The Authority will hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 10 days after the Authority's payment to the prime contractor.

For every airport construction project funded under Federal grant assistance programs, the Authority includes the applicable clause (Option 3) from FAA Advisory Circular 150/5370-10 (Section 90-06) pertaining to the selected retainage method. The applicable clause will be included verbatim, and thirty (30) days will be revised to reflect Authority's 10-day payment requirement.

Prompt Payment Monitoring for DBEs and Non-DBEs: The Authority clearly understands and acknowledges that reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism. Therefore, the Authority undertakes proactive monitoring and oversight of prime contractors' compliance with subcontractor prompt payment and return of retainage requirements of 49 CFR part 26.

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

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

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

Enforcement Actions for Noncompliance of Participants

In the event of the contractor's non-compliance with the Authority's DBE Policy and Program or failure to meet the prescribed DBE goal set forth in a contract, or to establish a good faith effort to do so, the Authority, after due process, will impose such contract sanctions as the Authority, the FAA or both may determine to be appropriate, including but not limited to:

1. Withholding of partial or full payments to the contractor under the contract until the contractor complies; and/or
2. Assessing sanctions; and/or
3. Liquidated damages; and/or
4. Cancellation, termination or suspension of the contract in whole or in part; and/or
5. Suspension or debarment of contractor from eligibility to contract with the Authority in the future or to receive bid packages or Request for Proposal (RFP)/Request for Qualifications (RFQ) packages, pursuant to the Authority's Policy P414, Suspension/Debarment of Contractors.

The Authority will actively implement the enforcement actions detailed above.

Section 26.31 Directory of Certified Firms

The Authority is a certifying member of the Florida Unified Certification Program (FLUCP). A link to the directory may be found at (<https://www.fdot.gov/BusinessGrowth>).

The UCP will maintain a directory identifying all firms eligible to participate as DBEs and/or ACDBEs, and it contains all the elements required by §26.31. The directory lists all firms eligible to participate as a DBE and/or ACDBE in the program. In the listing for each firm, the UCP directory includes the following details about the firm:

- Business address
- Business phone number
- Firm website(s)

- The types of work the firm has been certified to perform as a DBE and/or ACDBE.
- The type of work a DBE and/or ACDBE is eligible to perform is listed by using the most specific NAICS code available to describe each type of work the firm performs. Pursuant to § 26.81(n)(1) and (3), the UCP directory allows for NAICS codes to be supplemented with specific descriptions of the type(s) of work the firm performs.
- The UCP directory may include additional data fields of other items readily verifiable in State or locally maintained databases, such as State licenses held, Pre-qualifications, and Bonding capacity.
- The UCP directory is an online system that permits the public to search and/or filter for DBEs by:
 1. Physical location
 2. NAICS code(s)
 3. Work descriptions
 4. All additional data fields of readily verifiable optional information described above.

The directory includes a prominently displayed disclaimer that states the information within the directory is not a guarantee of the DBE's capacity and ability to perform work.

Section 26.33 Over-Concentration

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

Section 26.35 Business Development and Mentor-Protégé Programs

The Authority has not established a Business Development Program or a Mentor-Protégé Program as described by 49 CFR Part 26.

Section 26.37 Monitoring Responsibilities

The Authority implements and carries out appropriate mechanisms to ensure compliance with 49 CFR part 26 program requirements by all program participants and describes and sets forth these mechanisms in this DBE Policy and Program.

The Authority actively monitors attainment toward overall goals by 49 CFR part 26, §26.53(g).

Monitoring Contracts and Work Sites

The Authority reviews contracting records and engages in active monitoring of worksites 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, and such work is counted according to the requirements of 49 CFR part 26, §26.55.

Worksite monitoring for counting and commercially useful function review is performed by the DBELO or staff designated by the DBELO. The monitoring of worksites to assess commercially useful functions will include interviews with staff members and supervisors at the job site, photographic documentation of people and equipment performing the work, reviews of invoices and supply payments, vehicle and equipment ownership or lease verification (such as registration or lease agreements), and any other supporting documents necessary to determine the business is performing a commercially useful function.

Contracting records are reviewed by the DBELO or staff designated by the DBELO. The Authority will require prime contractors to provide copies of subcontracts for review. Reviews of contracting records will include verifying mandatory contract language is included in prime and subcontracts, verifying prohibited terms and conditions are not present, and to confirm the type and amount of work described in a subcontract aligns with representations made by the prime and subcontractor in any related letters of intent. The Authority will maintain written certification that contracting records have been reviewed and work sites have been monitored to ensure the counting of each DBE's participation is consistent with its function on the contract.

Additional DBE monitoring and enforcement mechanisms are contained in Attachment 5 to this DBE Policy and Program.

Section 26.39 Fostering Small Business Participation

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

The small business element is incorporated as Attachment 9 to this DBE Policy and Program. The program elements will be actively implemented to foster small business participation. The Authority acknowledges that implementation of the small business element is required for it to be considered by USDOT as implementing its DBE Program in good faith.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-Asides or Quotas

The Authority does not use DBE-conscious quotas or set-asides in any way in the administration of this DBE Policy and Program.

Section 26.45 Overall Goals

The Authority will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding USDOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in USDOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with 49 CFR part 26, §26.45(f), the Authority will submit its overall three-year DBE goal to the FAA by August 1 of the year in which the goal is due, as required by the schedule established by the FAA.

The DBE goals will be established in accordance with the two-step process as specified in 49 CFR part 26, §26.45. If the Authority does not anticipate awarding prime contracts the cumulative total value of which exceeds \$250,000 in USDOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Policy and Program will remain in effect, and the Authority will seek to fulfill the objectives outlined in 49 CFR part 26, §26.1.

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The Authority will use the FLUCP directory information and Census Bureau Data as a method to determine the base figure. The Authority understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR part 26, §26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

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

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

In establishing the overall goal, the Authority will provide for consultation and publication. This includes consultation with general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, and the efforts by the Authority to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the

goal setting process, and it will occur before the Authority is required to submit the goal methodology to the operating administration for review pursuant to 49 CFR part 26, §26.45(f). The goal submission will document the consultation process in which the Authority engaged. Notwithstanding 49 CFR part 26, §26.45(f)(4), the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the Authority will publish a notice announcing the proposed overall goal before submission to the FAA on August 1. The notice will be posted on the Airport's official internet website and may be posted in other sources (e.g., trade association publications). If the proposed goal changes following review by the FAA, the revised goal will be posted on the Airport's official internet website.

The overall three-year DBE goal submission to the FAA will include any information and comments received, who provided the comment, and how the Authority considered and responded to any comments and information received before finalizing the goal.

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

Project Goals

If permitted or required by the FAA, 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 it must meet all the substantive and procedural requirements 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.

Prior Operating Administration Concurrence

The Authority understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the Authority for calculating goals is inadequate, the FAA may, after consulting with the Authority, adjust the overall goal or require that the goal be adjusted by the Authority. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the USDOT operating administration will be guided by the goal setting principles and best practices identified by the USDOT in guidance issued pursuant to 49 CFR part 26, §26.9.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this DBE Policy and Program and may be updated upon approval by the Board of Directors, without amendment to this DBE Policy and Program.

Section 26.47 Failure to Meet Overall Goals

The Authority cannot be penalized or treated by the USDOT as being in noncompliance with 49 CFR part 26, because DBE participation falls short of an overall goal, unless the Authority fails to administer its DBE Program in good faith.

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

The Authority 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 USDOT as implementing this DBE Policy and 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; and
3. Submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (1) and (2) above to the FAA for approval.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated DBE-Neutral and DBE-Conscious Participation

The Authority will meet the maximum feasible portion of its overall goal by using DBE-neutral means of facilitating DBE participation. DBE-neutral 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.

DBE-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 in 49 CFR part 26, §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 availability of the FLUCP DBE directory to the widest feasible universe of potential prime contractors; and
 9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated DBE-neutral and DBE-conscious participation can be found in Attachment 4 to this program.

Contract Goals

If the approved projection under 49 CFR part 26, §26.51(c) estimates that the entire overall goal for a given year can be met through DBE-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 USDOT-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 USDOT-assisted contract.

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

Demonstration of Good Faith Efforts (Pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to 49 CFR part 26.

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

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

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

1. Award of the contract will be conditioned on meeting the requirements of paragraphs 2 and 3;
2. All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph 3:
 - a. The names and addresses of DBE firms that will participate in the contract;
 - b. A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - c. The dollar amount of the participation of each DBE firm participating;
 - d. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal in the form of DBE Assurance and Participation, Letter of Intent and DBE Subcontractor Good Faith Effort form (Attachment 6); and
 - e. Written confirmation in the form of a letter of intent (Attachment 6) for 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. Each DBE listed to perform work as a regular dealer or distributor must confirm its participation according to the requirements of 49 CFR part 26, §26.53(c)(1) in the form of Form 3: DBE Regular Dealer/Distributor Affirmation Form (Attachment 7).
 - f. If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26 including any amendments thereto) in the form of DBE Assurance and Participation, Letter of Intent and DBE Subcontractor Good Faith Effort (Attachment 6). The documentation of good faith efforts

must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

3. The bidder/offeror will be required to present the information stipulated in 49 CFR part 26, §26.53.
 - a. Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

Provided that, in a negotiated procurement, such as a procurement for professional services, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by 49 CFR part 26, §26.53(b)(2) before the final selection for the contract is made by the Authority. 49 CFR part 26, §26.53(b)(3)(ii) does not apply to a design-build procurement, which must follow the provisions in 49 CFR part 26, §26.53(e).

For each DBE listed as a regular dealer or distributor the Authority will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in 49 CFR part 26, §26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The preliminary determination will be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor, the Authority will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

In a design-build contracting situation, in which the Authority solicits proposals to design and build a project with minimal project details at time of letting, the Authority may set a DBE goal that proposers must meet by submitting an Open-Ended DBE Performance Plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information required in 49 CFR part 26, §26.53(b). To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amounts) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, the Authority will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. The Authority and the design-builder may agree to make written revisions of the OEPP throughout the life of the project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

The Authority will apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, the Authority will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

Administrative Reconsideration of Good Faith Efforts Determinations

Within five (5) days of being informed by the Authority that it is not responsive because it has not met the DBE goal or 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:

Vice President of Procurement
Hillsborough County Aviation Authority
Tampa International Airport
P.O. Box 22287
Tampa, Florida 33622-2287
E-mail: vpofprocurement@tampaairport.com

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with 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 reconsideration official will send 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 USDOT.

Good Faith Efforts Procedural Requirements (Post-solicitation/award)

The Authority will include in each prime contract the contract clause required by 49 CFR part 26, §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section that the Authority deems appropriate if the prime contractor fails to comply with the requirements of this section.

The Authority will require the awarded contractor 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 49 CFR part 26.

The Authority will require that a prime contractor not terminate a DBE or any portion of its work listed in response to 49 CFR part 26, §26.53(b)(2) (or an approved substitute DBE firm per 49 CFR part 26, §26.53(g)) without prior written consent, unless the Authority causes the termination or reduction. A termination includes any reduction or underrun in work listed for a DBE not caused by a material change to the prime contract by the recipient. This requirement applies to instances that include but are not limited to when a prime contractor seeks to perform work originally designed for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The Authority will include in each prime contract a provision stating that:

1. The contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the Authority's written consent as provided in 49 CFR part 26, §26.53(f); and
2. Unless the Authority's consent is provided, under 49 CFR part 26, §26.53(f), the prime contractor must not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Authority may provide such written consent only if it agrees, for reasons stated in its concurrence document, that the prime contractor has good cause to terminate the listed DBE or any portion of its work.

Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that is 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. For purposes of 49 CFR part 26, §26.53(f)(3), 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, nondiscriminatory bond requirements;
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit worthiness;
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 1200 or applicable state law;

6. The Authority has determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides the Authority 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; and
10. Other documented good cause that the Authority determines compels the termination of the DBE subcontractor.

Before transmitting to the Authority, the request to terminate a DBE subcontractor or any portion of its work, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Authority sent concurrently, of its intent to request to terminate and the reason for the proposed request.

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

In addition to post-award terminations, the provisions of this section apply to pre-award deletions or changes to DBEs or their listed work put forward by offerors in negotiated procurements.

When a DBE subcontractor or a portion of its work is terminated by the prime contractor as provided in 49 CFR part 26, §26.53(f), or if work committed to a DBE is reduced due to overestimations made prior to award, the prime contractor must use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal. The good faith efforts shall be documented by the contractor. If the Authority requests documentation under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days, if necessary, at the request of the contractor. The Authority shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in 49 CFR part 26, §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 49 CFR part 26, §26.87(j).

For FAA-funded projects only, firms that exceed the business size standard in 49 CFR part 26, §26.65(b) will remain eligible for DBE certification and may be counted for DBE credit toward overall and contract goals on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Authority is a certifying member of the Florida Unified Certification Program (FLUCP). The Authority will use the certification standards of subpart D of 49 CFR part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The Authority makes all certification decisions based on the facts as a whole. Detailed certification processes are described in the FLUCP agreement (see link in Attachment 10). Any procedures included here are highlights only.

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

Hillsborough County Aviation Authority
DBE/ACDBE Certification
Tampa International Airport
P. O. Box 22287
Tampa, FL 33622
Telephone: (813) 554-1450
Email: BusinessOpportunity@Tampaairport.com
Application portal: <https://tampaairport.gob2g.com/>

Section 26.83 Procedures for Certification Decisions

The Authority will take all required steps outlined in 49 CFR part 26, §26.83(c) in determining whether a DBE firm meets the standards of subpart D of 49 CFR part 26. In the case of a denial of certification, the Authority will make an entry in the Department of Civil Rights' Online Portal within five (5) days of the denial. The Authority will enter the name of the firm, names(s) of the firm's owner(s), date of decision, and the reason(s) for the decision.

Once a firm has been certified as a DBE, it shall remain certified until and unless its certification has been removed, in whole or in part (*i.e.*, NAICS code removal), through the procedures of 49 CFR part 26, §26.87.

The Authority will not require a DBE to reapply for certification, renew its certification, undergo a recertification, or any functionally equivalent requirement. However, a certification review of a certified DBE firm may be conducted at a reasonable time and/or at a regular interval of three years. The certification review may, at the Authority's discretion, include a new onsite review. The Authority may also make an unannounced visit to the DBE's offices and/or job site. The Authority may also rely on another certifier's report of its onsite review of the DBE.

Notices of Change and Annual Declarations of Eligibility

The FLUCP requires all DBEs to submit every year, on the anniversary of the date in which they were certified in their Jurisdiction of Original Certification (JOC), a new Declaration of Eligibility (DOE) along with documentation verifying the gross receipts for its most recently completed fiscal year, calculated on a cash basis regardless of the DBE's overall accounting method. The sufficiency of documentation may vary by business type, size, history, resources, and overall circumstances. However, the FLUCP will generally consider the following documents to be safe harbors, provided that they include all reportable receipts, properly calculated, for the full reporting period: audited financial statements, a CPA's signed attestation of correctness and completeness, or all income-related portions of one or more (when there are affiliates) signed Federal income tax returns as filed. The FLUCP will treat non-compliance, whether full or partial, as a 49 CFR part 26, §26.109(c) failure to cooperate.

The FLUCP also requires all DBEs to provide written notice of any change in circumstances affecting their ability to meet size, disadvantaged status, ownership, or control criteria of 49 CFR part 26, or of any material changes in the information provided with DBEs' applications for certification. DBEs must provide the FLUCP with written notice of material changes affecting their continued eligibility within 30 days of the occurrence, explain the change fully, and include a duly executed DOE with the notice.

Section 26.85 Interstate Certification

The Authority complies with certification procedures requirements of subpart E of 49 CFR part 26 in all matters related to interstate certification. Any procedures included here are highlights only. Detailed interstate certification procedures are enumerated in the full FLUCP agreement.

When a DBE certified in any UCP applies to the Authority for certification, the Authority will accept the DBE's certification from its JOC. To obtain interstate certification, the DBE must provide:

1. A cover letter with its application that specifies that the DBE is applying for interstate certification, identifies all UCPs in which the DBE is certified (including the UCP that originally certified it);
2. An electronic image of the UCP directory of the original UCP that shows the DBE certification; and
3. A new DOE.

Within ten (10) business days of receiving the documents required above, the Authority will confirm the certification of the DBE by reference to the UCP directory of the JOC. If the DBE fulfills the requirements of this section and the Authority confirms the DBE's certification, the Authority will certify the DBE immediately without undergoing further procedures and provide the DBE with a letter documenting its certification.

The Authority will require DBEs to provide an annual DOE with documentation of gross receipts, under 49 CFR part 26, §26.83(j), on the anniversary date of the DBE's original certification by its JOC.

If the Authority has reasonable cause to remove a DBE's certification, in whole or in part (*i.e.*, NAICS code removal), the Authority will notify the other UCPs in which the DBE is certified (other jurisdictions) via email. The notice will explain the Authority's reasons for believing the DBE's certification should be removed.

If the Authority receives such a notification from another UCP, within 30 days of receiving the notice the Authority will email the UCP contemplating decertification a concurrence or non-concurrence with the proposed action. The Authority's responses may provide written arguments and evidence and may propose additional reasons to remove certification. The Authority understands a failure to timely respond to the reasonable cause notice from another UCP will be deemed to be a concurrence.

If the Authority finds a DBE firm ineligible the firm immediately loses certification in all jurisdictions in which it is certified. The Authority will email a copy of its decision to the other jurisdictions within three (3) business days.

Section 26.86 Decision Letters

When the Authority denies a firm's request for certification or decertifies the firm, the Authority will provide the firm a Notice of Decision (NOD) explaining the reasons for the adverse decision, specifically referencing the evidence in the record that supports each reason. The Authority will also include, verbatim, the instructions found on the Departmental Office of Civil Rights' web page, available at <https://www.transportation.gov/dbeappeal>. If a currently certified DBE firm is decertified, or if an applicant firm's initial application is denied, the affected firm may not reapply for at least 12 months. The waiting period begins to run the day after the date the decision letter is emailed to the firm. After the waiting period expires, the denied firm may reapply to any

member of the UCP that denied the application. The Authority will inform the applicant of that right, and specify the date the waiting period ends, in its decision letter.

If an applicant appeals this decision to the USDOT pursuant to 49 CFR part 26, §26.89 below, such an appeal does not extend the waiting period.

Section 26.87 Decertification

The Authority complies with all decertification procedures requirements of subpart E of 49 CFR part 26 in all decertification proceedings. The procedures included here are highlights only. Detailed decertification procedures are enumerated in the full Florida UCP agreement.

The Authority's first step in any decertification proceeding will be to email a Notice of Intent (NOI) to the DBE. The NOI will clearly and succinctly state each reason for the proposed action and specifically identify the supporting evidence for each reason. The NOI will notify the DBE of its right to respond in writing, at an informal hearing, or both. The NOI will inform the DBE of the hearing scheduled on a date no fewer than 30 days and no more than 45 days from the date of the NOI.

If the ground for decertification is that the DBE has been suspended or debarred for conduct related to the DBE Program, the Authority will issue a NOD decertifying the DBE. In this case, there is no NOI or opportunity for a hearing or written response.

The Authority has determined that the Vice President of Procurement will serve as the hearing officer for informal hearings provided pursuant to 49 CFR part 26, §26.87(c)-(e). The hearing is an informal proceeding with rules set by the hearing officer. The Vice President of Procurement does not report to any staff member involved in the original decision.

The Authority will send the firm a NOD no later than 30 days from the date of the informal hearing and/or receiving written arguments/evidence from the firm in response to the NOI. The NOD will conform in all respects to the requirements of 49 CFR part 26, §26.87(g). The Authority will make an entry in DOCR's Online Portal within 5 days of the action, entering the name of the firm, names(s) of the firm's owner(s), date of decision, and the reason(s) for its decision. DBEs will remain certified until the Authority issues a NOD.

Once a firm is decertified the Authority will take appropriate actions related to contract and overall goals and DBE participation as described in 49 CFR part 26, §26.87(j).

Section 26.88 Summary Suspension of Certification

The Authority will follow procedures consistent with 49 CFR part 26, §26.88 regarding the suspension of a DBE's certification.

The Authority will mandatorily and immediately suspend a DBE's certification when the Authority has clear and credible evidence of the DBE's or its Socially and Economically Disadvantaged Owner's (SEDO) involvement in fraud or other serious criminal activity, or when directed to suspend the firm by the Operating Administration with oversight responsibility.

The Authority may elect to suspend a DBE's certification when the Authority has clear and credible evidence that the DBE's continued certification poses a substantial threat to program integrity, or when an owner upon whom the firm relies for eligibility does not timely file the declaration and gross receipts documentation that 49 CFR part 26 §26.83(j) requires.

The Authority will notify the firm, by email, of its summary suspension notice (SSN) on a business day during regular business hours. The SSN will explain the action, the reason for it, the consequences, and the evidence on which the Authority relies. Elective SSNs will not cite more than one reason for the action. Mandatory SSNs may state multiple reasons. Regardless of whether it is elective or mandatory, the SSN will demand that the DBE show cause why it should remain certified and provide the time and date of a virtual show-cause hearing at which the firm may present information and arguments concerning why the Authority should lift the suspension. The SSN will also advise that the DBE may provide written information and arguments lieu of or in addition to attending the hearing.

After sending the SSN to the suspended firm, the Authority will follow all procedures required under 49 CFR part 26, §26.88(d)(2)-(5).

Section 26.89 Appeals to the Department

Applicants and decertified firms may appeal adverse NODs to the USDOT. An ineligibility complainant or applicable Operating Administration (the latter by the terms of 49 CFR part 26, §26.87(c)) may appeal to the USDOT if the Authority does not find reasonable cause to issue an NOI to decertify or affirmatively determines that the DBE remains eligible.

Appellants must email appeals as directed in the Authority's NOD within 45 days of the date of NOD. The appeal must at a minimum include a narrative that explains fully and specifically why the firm believes the decision is in error, what outcome-determinative facts the certifier did not consider, and/or what 49 CFR part 26 provisions the Authority misapplied.

The UCP will promptly implement any USDOT certification appeal decisions affecting the eligibility of DBEs for its USDOT-assisted contracting (e.g., certify a firm if USDOT has determined that the denial of its application was erroneous).

Section 26.91 Actions Following USDOT Certification Appeal Decisions

If the Authority is a certifier to which a USDOT determination under 49 CFR part 26, §26.89 is applicable, it will take any and all required action(s) pursuant to 49 CFR part 26, §26.91.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to the Authority

The Authority understands that if it fails to comply with any requirement of this part, the Authority may be subject to formal enforcement action under 49 CFR part 26, §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. §47106(d), §47111(d), and §47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

The Authority understands that, as provided in statute, it will not be subject to compliance actions or sanctions for failing to carry out any requirement of 49 CFR part 26, §26.101 because it has been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

Section 26.105 Enforcement Actions Applicable to FAA Programs

Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. §47106(d), §47111(d), and §47122, and regulations implementing them.

The provisions of 49 CFR part 26, §26.103(b) and this section apply to enforcement actions in FAA programs. The language in the provision states:

- (2) **Compliance Reviews.** The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

Section 26.107 Enforcement Actions Applicable to Participating Firms

If a firm that does not meet the eligibility criteria of subpart D of this part attempts to participate in a USDOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the USDOT may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

If a firm, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the USDOT may initiate suspension or debarment proceedings against it under 2 CFR parts 180 and 1200.

In a suspension or debarment proceeding brought under 49 CFR part 26, §26.107(a) or (b), the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the USDOT from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

The USDOT may take enforcement action under 49 CFR part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

The USDOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any USDOT-assisted program or otherwise violates applicable Federal statutes.

Section 26.109 Confidentiality, Cooperation, and Intimidation or Retaliation

In responding to requests for information concerning any aspect of the DBE program, the USDOT complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The USDOT may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to USDOT in any certification appeal proceeding under 49 CFR part 26, §26.89 or to any other state to which the individual's firm has applied for certification under 49 CFR part 26, §26.85.

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

which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The Authority, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The Authority understands that it is in noncompliance with 49 CFR part 26 if it violates this prohibition.

ATTACHMENTS

Attachment 1	Regulations: Link to 49 CFR part 26 (eCFR)
Attachment 2	Organizational Chart
Attachment 3	Bidders List Collection Form
Attachment 4	Overall Goal Methodology
Attachment 5	DBE Monitoring and Enforcement Mechanisms
Attachment 6	DBE Assurance and Participation, Letter of Intent and Worksheet
Attachment 7	Form 3: DBE Regular Dealer/Distributor Affirmation Form
Attachment 8	Link to Certification Application Form and Personal Net Worth Statement
Attachment 9	Small Business Element
Attachment 10	FLUCP Memorandum of Understanding

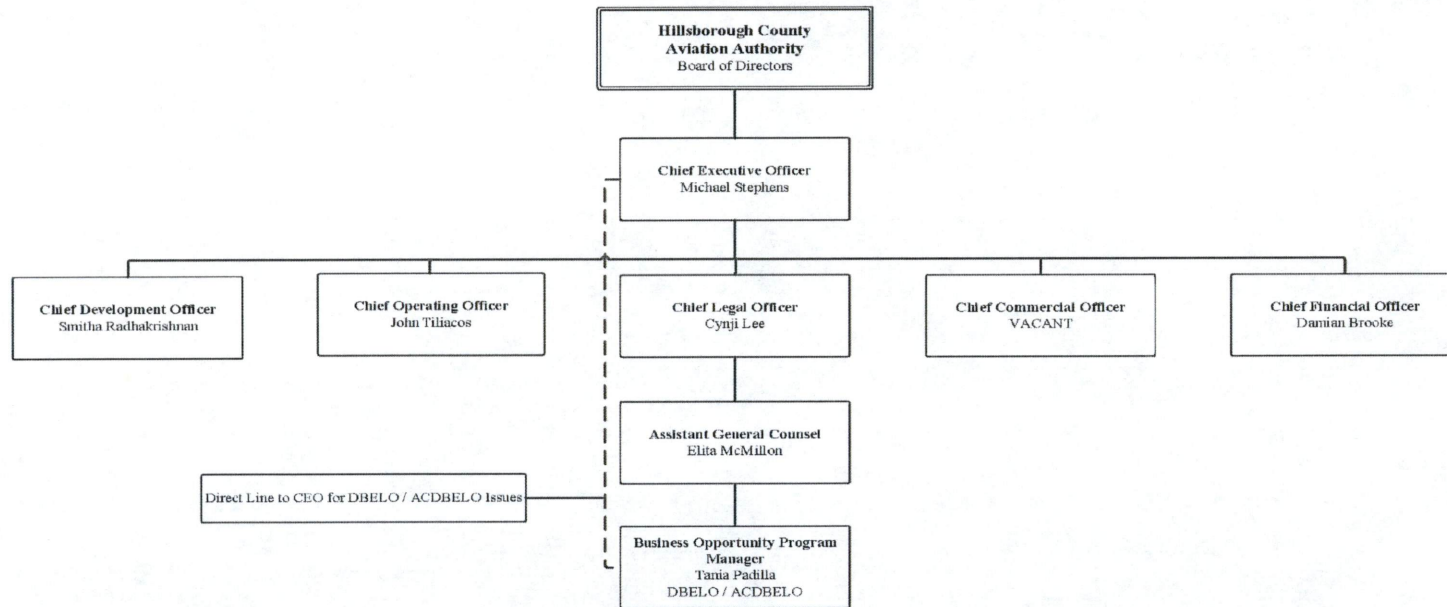
Attachment 1 - Regulations: Link to 49 CFR part 26 (eCFR)

DBE program regulations are codified in Title 49 of the Code of Federal Regulations, part 26. The following is a link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

Attachment 2 - Organizational Chart

HCAA Organizational Chart



Attachment 3 - Bidders List Collection Form

Bidder's List Form

This form is required to be submitted with the bid/proposal. Failure to submit this form may result in a finding of non-responsiveness. The form must include information for every sub bidder/supplier that provided a verbal or written quote to the bidder for this project.

Prime Contractor (Bidder) Name	Bidder Address/ Phone #	DBE or Non- DBE Status	NAICS Code Applicable to the Work Bid for this Contract	Age of Firm	Annual Gross Receipts
		☐ DBE ☐ Non-DBE		☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than \$1 million ☐ \$1-3 million ☐ \$3-6 million ☐ \$6-10 million ☐ Greater than \$10 million
		☐ DBE ☐ Non-DBE		☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than \$1 million ☐ \$1-3 million ☐ \$3-6 million ☐ \$6-10 million ☐ Greater than \$10 million
		☐ DBE ☐ Non-DBE		☐ Less than 1 year ☐ 1- 3 years ☐ 4-7 years ☐ 8-10 years ☐ More than 10 years	☐ Less than \$1 million ☐ \$1-3 million ☐ \$3-6 million ☐ \$6-10 million ☐ Greater than \$10 million

(Use additional pages as necessary)

Attachment 4 – Link to Overall Goal Methodology

The overall goal methodology for FY 2026 – 2028 can be found at the following link:

<https://www.tampaairport.com/business/business-opportunities/policies-and-programs>

Attachment 5 - DBE Monitoring and Enforcement Mechanisms

The Authority has available the following remedy to enforce the DBE requirements contained in its contracts: breach of contract action, pursuant to the default and termination terms of the contract.

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 Authority will implement various mechanisms to monitor program participants to ensure they comply with 49 CFR part 26, including, but not limited to the following:

- 1) The Authority will monitor the compliance and good faith efforts of contractors in meeting the requirements of this Program. The Authority will have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this Program, including, but not limited to records of expenditures, subcontracts between contractor and the DBE participant(s), and other records pertaining to the DBE participation plan. Without limiting the requirements of the agreement, the Authority reserves the right to review and approve all subcontracts utilized by the contractor for the achievement of its goals.
- 2) The Authority will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payments made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished by observation (e.g., site visits) and monthly reporting of payments to the Authority's online compliance system. In carrying out these monitoring and enforcement activities, the Authority will analyze its organization structure and staff resources needed to ensure compliance with these DBE regulations and recommend additional staff as needed.
- 3) The Authority will insert paragraph 1 above into its federally funded contracts.

Attachment 6 – DBE ASSURANCE AND PARTICIPATION, LETTER OF INTENT AND WORKSHEET

SECTION 00417 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE AND PARTICIPATION

TITLE OF PROJECT
AUTHORITY PROJECT NO.
_____ AIRPORT

Select one of the following responses. Failure to complete this section may be grounds for rejection of the Bid.

☐ **Yes – Bidder Assures Prescribed DBE Goal.**

The Bidder assures that it will meet the DBE requirements stated in this Solicitation and the Hillsborough County Aviation Authority's DBE Policy and Program, and will subcontract with DBE firms certified under the Florida Unified Certification Program (FLUCP) in an amount equal to at least ____% of the total dollar amount of the awarded Contract. The DBE goal stated above is the minimum prescribed goal; however, additional DBE participation is encouraged. The Bidder is required to submit a Letter of Intent for each DBE that will participate in the awarded Contract at the time the Bid is submitted to the Owner. The actual DBE contractual commitment will be the total amount of participation shown on the validated Letter(s) of Intent submitted by the Bidder. It is understood that the amounts shown on the Letter(s) of Intent are estimates and that actual amounts paid to DBE subcontractors may vary depending on the final adjustments of the estimated quantities; however, the Bidder's DBE contractual commitment can only be modified by an amendment or change order.

OR

☐ **No - Bidder Does NOT Assure Prescribed DBE Goal.**

The Bidder is unable to assure DBE participation of the prescribed goal of ____%, but will subcontract with DBE firms in an amount equal to at least ____% of the total dollar amount of the awarded Contract. The Bidder must submit with its Bid a completed DBE Subcontractor Good Faith Effort Worksheet documenting Bidder's good faith efforts to meet the prescribed goal. In determining whether or not the Bidder made sufficient good faith efforts to meet the goal, the Owner will consider the factors listed in the DBE Policy and Program. The Bidder is required to submit a Letter of Intent for each DBE that will participate in the awarded Contract at the time the Bid is submitted to the Owner. The actual DBE contractual commitment will be the total amount of participation shown on the validated Letter(s) of Intent submitted by the Bidder. It is understood that the amounts shown on the Letter(s) of Intent are estimates and that actual amounts paid to DBE subcontractors may vary depending on the final adjustments of the estimated quantities; however, the Bidder's DBE contractual commitment can only be modified by an amendment or change order.

By: Name of Bidder: _____

Date: _____

Bidder Representative's Name: _____

Title: _____

(Bidder Representative's Signature)

SECTION 00417 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE AND PARTICIPATION

TITLE OF PROJECT
AUTHORITY PROJECT NO. _____
_____ AIRPORT

Letter of Intent Instructions Checklist

Follow this checklist when completing the Letter of Intent.

- ☐ A separate Letter of Intent has been completed for each proposed DBE firm.
- ☐ The Bidder's name, address, telephone number, FAX number and e-mail address has been entered.
- ☐ The proposed DBE firm's name, address, telephone number, FAX number and e-mail address has been entered.
- ☐ The description of the work to be performed by the DBE firm has been entered.
- ☐ The amount of the proposed DBE firm's subcontract has been entered.
- ☐ The Bidder has completed and signed the Commitment section.
- ☐ The DBE firm has completed and signed the Affirmation section.
- ☐ A copy of the DBE firm's certification letter under the Florida Unified Certification Program (FLUCP) is attached to the Letter of Intent. DBE firm should be certified in the NAICS code and/or description of work that Bidder has indicated as scope of services DBE will perform under the Contract.

SECTION 00417 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE AND PARTICIPATION

TITLE OF PROJECT
AUTHORITY PROJECT NO. _____
_____ AIRPORT

Letter of Intent

NOTE: Failure to complete this section may be grounds for rejection of the Bid.

Name of Bidder's firm: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____ Fax number: _____
E-mail: _____

Name of DBE firm: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____ Fax number: _____
E-mail: _____

Description of work to be performed by DBE firm: _____

Amount of the DBE firm's subcontract \$ _____

Commitment

The Bidder is committed to utilizing the above-named DBE firm for the work described above.

By: Name of Bidder: _____ Date: _____

Bidder Representative's Name: _____ Title: _____

(Bidder's Representative Signature)

Affirmation

By: Name of DBE Firm: _____ Date: _____

DBE Representative's Name: _____ Title: _____

(DBE Representative's Signature)

SECTION 00417 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE AUTHORITY PROJECT NO. _____ _____ AIRPORT

Letter of Intent

If the Bidder does not receive award of the Contract, any and all representations in this Letter of Intent will be null and void.

NOTE: The cost of materials and/or supplies obtained and/or equipment leased by the DBE to perform the subcontract work (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate) may be included in the subcontract amount. In addition, the Owner will count 100% of the expenditures on materials and/or supplies obtained from a DBE manufacturer and 60% of the expenditures on materials and/or supplies obtained from a DBE regular dealer toward the DBE contract goal. The Owner will count 40% of the expenditures on distributors. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the Owner will count only the amount of fees or commissions charged for assistance with the procurement of the material or supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site.

SECTION 00417 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE
 AUTHORITY PROJECT NO. _____
 _____ AIRPORT

DBE Subcontractor Good Faith Effort Worksheet

In determining if the Bidder made sufficient good faith efforts to meet the prescribed DBE Contract Goal, the Owner will consider the factors listed in the DBE Policy and Program. If the Bidder is unable to meet the prescribed DBE contract goal, this Worksheet must be completed and submitted with the Bid. Failure to complete this Worksheet may be grounds for rejection of the Bid. Bidders must attach to this form sufficient documentation to enable the Owner to verify the information provided. Failure to complete this Worksheet form or provide sufficient supporting documentation may be grounds for rejection of the Bid. The Owner reserves the right to conduct further investigation concerning the Good Faith Efforts indicated and reserves the right to find that the Bidder did not make a Good Faith Effort even if this form is filled out. The Bidder may, although it is not required, document any other good faith efforts on separate sheets.

NOTE: Thorough written backup documentation in addition to this worksheet is required to substantiate the good faith effort.

Name of DBE Firm	Date of contact with DBE Firm	How DBE Firm contacted	Follow-Up (Telephone calls, e-mails, other contact)	Response to Follow-Up	Did DBE Firm submit a quote?		Explain
					Yes	No	
					☐	☐	
					☐	☐	
					☐	☐	
					☐	☐	
					☐	☐	
					☐	☐	
					☐	☐	
					☐	☐	
					☐	☐	

SECTION 00417 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE AUTHORITY PROJECT NO. _____ _____ AIRPORT

The following is a list of types of actions which the Owner will 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. Other examples of good faith efforts are found in 49 CFR, part 26. The Owner reserves the right to conduct further investigation concerning the Good Faith Efforts indicated and reserves the right to find that the Bidder did not make a Good Faith Effort even if this form is filled out. The Bidder may, although it is not required, document any other good faith efforts on separate sheets.

Good Faith Efforts: (Check Yes or No for each statement below)	Yes	No	Explain
1. Advertised in newspapers of general circulation, websites, trade associations, and small business-focused media concerning subcontracting opportunities prior to the Bid Due Date.	☐	☐	
2. Selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the prescribed DBE goal including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation.	☐	☐	
3. Provided interested DBEs with adequate information about the plans, specifications or requirements of the Contract.	☐	☐	
4. Negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons after a thorough investigation of their capabilities.	☐	☐	
5. Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the Owner or the Bidder.	☐	☐	
6. Effectively used the services of available community organizations; trade or business groups; local, state and federal business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.	☐	☐	
7. Submitted a scope of work to DBE subcontractors, DBE sub-subcontractors, DBE suppliers, DBE sub-suppliers and so on, either directly or indirectly, with the intention of achieving, in whole or in part, the specified DBE goal.	☐	☐	
8. Fairly represented the DBE quotations in the formulation of its Bid.	☐	☐	
9. Conducted Outreach Meeting(s)	☐	☐	

END OF SECTION

Attachment 7 - Form 3: DBE Regular Dealer/Distributor Affirmation Form

OMB Approval Pending 04/17/2024



U.S. Department of
Transportation

DBE Regular Dealer/Distributor Affirmation Form

Bidder Name:

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DISCLAIMER: This form has not yet received OMB/PRA approval and is subject to change. We are making it available for your voluntary use.

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

- a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?

☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

- b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

☐ YES ☐ NO* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

*If I, I.a), and I. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO¹

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

¹ If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)?

☐ YES² ☐ NO³

- a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES² ☐ NO³

² If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

³ If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

Attachment 8 - Links to Certification Application Form and Personal Net Worth Statement

The USDOT is in the process of revising the DBE Certification Application Form and Personal Net Worth Statement and will be available when the revisions are completed.

Certification Application and Personal Net Worth Statement:

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

B2Gnow Certification Portal:

<https://tampaairport.gob2g.com/>

Attachment 9 - Small Business Element

I. SMALL BUSINESS ENTERPRISE PROGRAM POLICY

The Hillsborough County Aviation Authority (Authority) is committed to ensuring that small businesses are offered an equitable opportunity to participate in the contracting and procurement process. The Authority has a long history of supporting small businesses, including DBEs, through its DBE Policy and Program for projects that include federal funding. This Small Business Enterprise Program was created as an element of the DBE Policy and Program to provide additional opportunities for small businesses to participate in contracting at airports operated by the Authority.

The Authority's Small Business Enterprise Program, as described herein, applies to certain federally funded contracts and expenditures. The program does not replace the DBE program or otherwise operate as a substitute for the DBE program. It operates as a race-and gender-neutral tool that may assist small businesses, including DBEs, to more fully participate in contracting opportunities at the Airport.

This Small Business Enterprise Program will not be used to discriminate against any company or groups of companies. The Program is designed to include all segments of the business community and is open to participation without regard to race, color, sex, religion, national or ethnic origin, age, disability or geographic location. The Program is designed to create a level playing field on which small businesses can compete fairly.

The Small Business Enterprise Program will utilize procedures that promote inclusion and opportunity, while maintaining race and gender-neutral measures in their operations.

II. AUTHORIZATION

In accordance with the regulations governing the USDOT Disadvantaged Business Enterprise (DBE) Program, the Authority is required to set triennial overall DBE goals for contracts that are funded in whole or in part with federal funds. The Authority is obligated to meet the maximum feasible portion of its overall goal through race and gender-neutral means of facilitating DBE participation (49 CFR part 26, § 26.51). In January 2011, 49 CFR part 26 was amended and the following section entitled "Fostering Small Business Participation" was added:

§26.39 Fostering small business participation.

- (a) Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.*

- (b) *This element must be submitted to the appropriate USDOT operating administration for approval as a part of your DBE program by February 28, 2012. As part of this program element you may include, but are not limited to, the following strategies:*
- (1) *Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).*
 - (2) *In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”) requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.*
 - (3) *On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.*
 - (4) *Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.*
 - (5) *To meet the portion of your overall goal you project to meet through DBE-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.*
- (c) *You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your DBE program.*

This Small Business Enterprise Program has been developed in compliance with the above stated sections of 49 CFR part 26 and further guidance issued by USDOT in December 2011, which are incorporated herein.

It is the policy of the Authority, that the Airports, their contractors and subcontractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and performance of contracts and subcontracts and to remove barriers for small businesses, including businesses owned by minority, women and disadvantaged individuals, to compete for contracts and subcontracts awarded by the Authority.

This Small Business Enterprise Program has been developed in furtherance of these policies.

III. SMALL BUSINESS ENTERPRISE DEFINITION

A Small Business Enterprise (SBE) shall be defined as follows:

1. An SBE, for purposes of this 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 121.201) who is at least 51% owned by an

individual who is economically disadvantaged and has been in business for at least one year prior to applying for certification.

The owner(s) having a minimum of 51% of the firm must submit a personal net worth statement demonstrating that their personal net worth does not exceed \$2,047,000 excluding the value of their ownership in the applicant firm, their primary residence, and retirement accounts. The rules for evaluating an individual's personal net worth will be consistent with 49 CFR part 26, § 26.68 which may be found at: <https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-D/section-26.68>.

IV. SMALL BUSINESS ENTERPRISE VERIFICATION

A firm who wishes to participate as an SBE on an Authority project may apply for certification as an SBE. DBE firms who have been recertified under the new certification standards, as set forth in the October 3, 2025, Interim Final Rule (IFR), will be automatically eligible for certification as an SBE.

Firms applying for certification as an SBE must provide all required information and documentation necessary to verify that they meet the definition of a Small Business Enterprise and the personal net worth standard defined in 49 CFR part 26. The SBE application form can be accessed through the Tampa International Airport - Business Opportunity Management System certification portal at <https://tampairport.gob2g.com/>. The Authority manages the DBE certification process and will follow the administrative procedures currently in place for the DBE program.

V. SCOPE OF THE PROGRAM

The intent of the Authority's Small Business Enterprise Program is to provide full and fair opportunities for equal participation by small businesses in federally-funded Airport contracting and procurement opportunities.

The Small Business Enterprise Program requires contractors to make good faith efforts to use small businesses in certain contracting and procurement opportunities when a small business goal is set. Good faith efforts will be measured utilizing guidance provided in 49 CFR part 26, Appendix A.

All construction, professional services, goods and services solicitations that include federal funding shall be reviewed by the DBELO to determine if a race-neutral SBE set aside or goal is appropriate for the solicitation. SBE contract goals may be set for a contract when it has been determined that a DBE-conscious contract goal will not be set and that, instead, DBE-neutral measures will be used. An SBE goal may be used as a DBE-neutral measure for contracts that have subcontracting opportunities. SBE goals do not replace DBE goals but merely provide a DBE-neutral method for achieving neutral DBE participation which can be used in concert with other established DBE-neutral measures discussed in 49 CFR part 26, § 26.51 (a) - (c).

A decision to use DBE-neutral goals will be made in accordance with 49 CFR part 26, § 26.51, including a determination that DBE-neutral methods are sufficient to meet the Authority's overall DBE goal. The Authority may determine that an SBE goal is an appropriate DBE-neutral measure to be used for certain contracts. The criteria used to set a DBE-neutral SBE goal shall include small business capacity, small business availability, nature of the contract, past experiences with small business participation with similar contracts, price competitiveness, and subcontracting opportunities.

Procedures for implementation, including good faith efforts requirements, forms and information submitted with bid and reporting procedures shall be consistent with procedures utilized in the Authority's DBE Policy and Program under a DBE-neutral environment.

Good faith efforts to achieve a DBE-neutral goal shall apply only when an SBE goal has been set for a project. Other DBE-neutral methods, including those listed in 49 CFR part 26, §26.51, are not subject to good faith efforts on the part of the bidder.

VI. TRACKING SBE PARTICIPATION

The Authority will monitor and track participation by SBEs in federally-funded projects. Only small businesses that are also certified as DBEs will be counted as DBE-neutral participation, towards the Authority's overall DBE goal. Participation by SBEs who are not certified as DBEs will be tracked separately from DBE participation.

VII. COMPLIANCE PROCEDURES

Monitoring and enforcement procedures applicable to a DBE-neutral environment for this element of the DBE Policy and Program will be implemented as indicated in the Authority's DBE Policy and Program.

VIII. ASSURANCES

The Authority provides the following assurances regarding the development and implementation of the Small Business Enterprise Program described herein:

1. The development of this Small Business Enterprise Program is not prohibited by Florida law.
2. Certified DBEs that meet the size and personal net worth criteria established under the program are presumptively eligible to participate in the Authority's Small Business Enterprise Program.

3. There will be no geographic preferences or limitations imposed on any federally assisted procurement included in the Authority's Small Business Enterprise Program.
4. There will be no limits on the number of contracts awarded to firms participating in the program.
5. The Authority will make every effort to avoid creating barriers to the use of new, emerging, or untried businesses.
6. The Authority's Small Business Enterprise Program is open to small businesses regardless of their location. There will be no local or other geographic preference.

Attachment 10 - FLUCP Memorandum of Understanding

The Florida Memorandum of Understanding can be accessed at:

<https://www.tampaairport.com/business/business-opportunities/policies-and-programs>