

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

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

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

Mr. Thomas Behan has been delegated as the DBE Liaison Officer. In that capacity, the DBELO 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 County of Broome in its financial assistance agreements with the Department of Transportation.

The County of Broome has disseminated this policy statement to the County of Broome management staff. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by placing a notice in the Press and Sun Bulletin.

Jason T. Garnar, County Executive

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.5 Definitions

The County of Broome will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11

The County will report DBE participation to DOT/FAA by submitting the “Uniform Report of DBE Awards or Commitments and Payments” form by December 1st of each year. We will also report the DBE contractor firm information on the FAA DBE Firm Listing.

Bidders List: 26.11(c)

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

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a) - Each financial assistance agreement the County of Broome signs with a DOT operating administration will include the following assurance:

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

Contract Assurance: 26.13(b) – The County will ensure that the following clause is included in each contract we sign with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The County of Broome is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Mr. Thomas Behan
County of Broome
P. O. Box 1766
Binghamton, NY 13902-1766
(607) 778-3887

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

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

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

Section 26.27 DBE Financial Institutions

It is the policy of the County to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the

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

Section 26.29 Prompt Payment Mechanisms

The County has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than thirty (30) days from receipt of each payment you make to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. We 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 thirty (30) days after our payment to the prime contractor.

The County will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the County. When the County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

This prompt payment clause will apply to all DBE and non-DBE subcontractors on DOT-assisted contracts, and will be enforced by the Resident Project Representative (RPR). The County may be required to resolve disputes over the holding of certain funds, etc. and assures that payments will be made in a timely fashion. Prime Contractors will be required to provide the RPR with documentation showing that payments to subcontractors have been made within the time limit stated within their contract. Failure to comply will result in the holding of additional monies, until the RPR are assured the payments to subcontractors have been made. Any delay or postponement of payment among parties may take place only for a good cause, with prior written approval from the RPR. It will also be noted in the contract between the County and the Prime Contractor that the Prime Contractor will not be reimbursed for work performed by subcontractors unless and until the Prime Contractor assures the County that the subcontractor has been promptly paid for the work they have performed.

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

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

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for three years following the performance of the contract, unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the County or DOT. This reporting requirement also extends to all subcontractors, both DBE and non-DBE.

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

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.

Section 26.31 Directory

The County maintains a directory identifying all firms eligible to participate as DBEs.

The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. We revise the Directory annually. The Directory may be found in Attachment 4.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

The County has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The County will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract

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

3. We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished during by regular job meetings, whereas inspections will be made to ascertain personnel, payments, etc., of which will be noted in the job meeting minutes.
5. We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 Fostering small business participation.

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

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

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

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the County does not anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any of the years within the three-year

reporting period, we will not develop an overall goal; however, this DBE Program will remain in effect and the County will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, “base figure”. We will use *DBE Directories and Census Bureau Data* as a method to determine our base figure. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the County of Broome would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on Contracts.

26.45 (g)(1) In establishing the overall goal, the County will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County’s efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the County’s goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review. We will document in our goal submission the consultation process that we engaged in. We will not implement our proposed goal until we have complied with this requirement.

In addition, the County will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on our official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be posted on our official internet web site. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the County and DOT/FAA will accept comments on the goals for thirty (30) days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

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

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

Section 26.45 (e) - Project Goals

If permitted or required by the FAA Administrator we will express our overall goals as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with

the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal should 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 your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

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

Section 26.45(f) - Prior Operating Administration Concurrence

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

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

Section 26.47 Failure to meet overall goals.

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

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

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;
- (3) Within 90 days of the end of the fiscal year, the analysis and corrective actions developed will be prepared. We will retain a copy of the analysis and corrective actions in records for a minimum of three years, and will make it available to FAA upon request.

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

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.
- (2) 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 County of Broome mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- (6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (8) Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

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

Section 26.51(d-g) Contract Goals

The County will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses

and by making contracts more accessible to small businesses, by means such as those provided under Part 26.39.

If our approved projection estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order meet our overall goal.

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

The County will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

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

Thomas Behan 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 responsible.

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

Information to be submitted (26.53(b))

In our solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, we will require the following:

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

- (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) We will require that the bidder/offeror present the information no later than five (5) days after bid opening as a matter of responsibility.

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

Administrative Reconsideration (26.53(d))

Within seven (7) business days that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Kevin McManus, the Deputy County Executive, County of Broome, P. O. Box 1766, Binghamton, NY 13902. 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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

We will include in each prime contract a provision stating:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph 26.53(f); and

That, unless our consent is provided under this paragraph 26.53(f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

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

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

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

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

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

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

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

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

The County will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that we established for the procurement. The good faith efforts shall be documented by the contractor. If we request documentation from the contractor under this provision, the contractor shall submit the documentation to us within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the contractor, and the County of Broome shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

We will include in each prime contract the contract clause required by Section 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 we deem appropriate if the prime contractor fails to comply with the requirements of this section.

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

Sample Bid Specification:

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

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

Section 26.55 Counting DBE Participation

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

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

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, DBE firms certified with NAICS code 237310 that exceed the business size standard in § 26.65(b) will remain eligible for DBE credit for work in that category as long as they do not exceed the small business size standard for that category, as adjusted by the United States Small Business Administration.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

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

NY State Department of Transportation
Office of Civil Rights
50 Wolf Road, 6th Floor
Albany, NY 12232
Tel. (518) 457-1129

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

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The County is a member of a Unified Certification Program (UCP) administered by New York State Department of Transportation. The UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information.

All participants in the Department's DBE program (including, but not limited to, County of Broome's, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and County of Broome compliance 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 County of Broome's, a finding of noncompliance; with respect to DBE firms, 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 County, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.

ATTACHMENTS

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

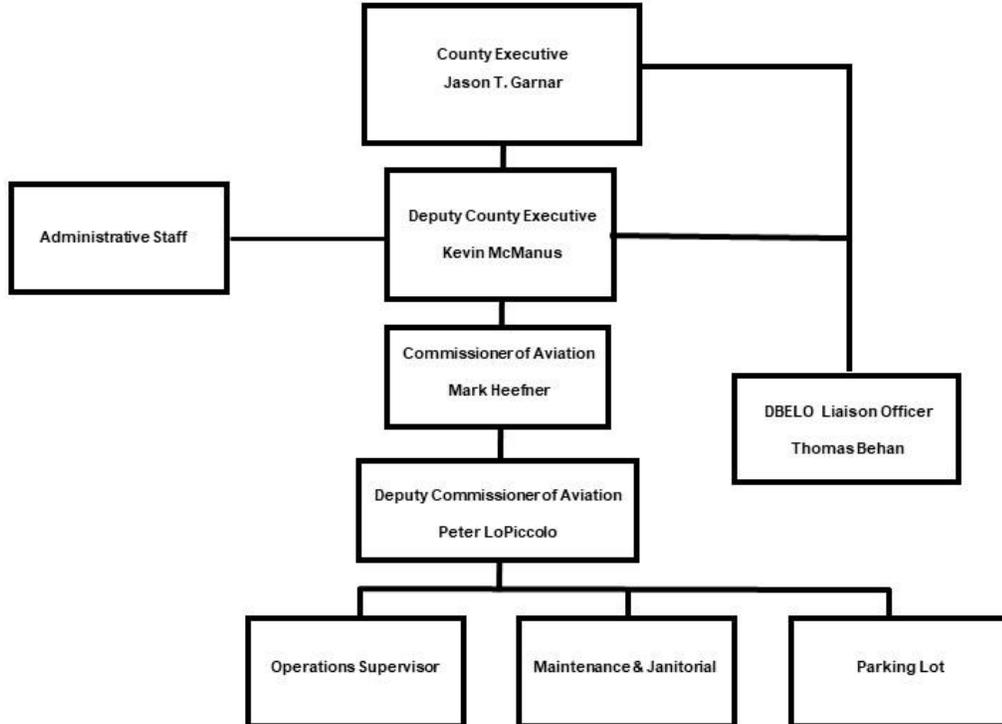
ATTACHMENT 1

Regulations 49 CFR Part 26 can be found at:

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

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3
Bidder's List Collection Form

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

ATTACHMENT 4

DBE DIRECTORY

NAME OF FIRM	ADDRESS	PHONE NUMBER	TYPE OF WORK
A&K Slip Forming, Inc.	P.O. Box 250, Cobleskill, NY 12043	(518) 296-8633	Curbing and Gutters
All Around Excavating	660 Riverside Drive, Johnson City, NY 13790	(607) 729-3156	Excavation
Alpine Seeding Company	2030 Old Market Road, Winthrop, NY 13697	(315) 268-1056	Landscaping
Annseal Inc.	P. O. Box 615, Bible School Park, NY 13737	(607) 797-3737	Construction
Apex Pinnacle Corporation	326 Water Street, Binghamton, NY 13901	(607)296-7466,x205	Supplier
Barney & Dickenson, Inc.	520 Prentice Road, Vestal, NY 13850	(607) 729-1536	Supplier
Between the Lines	2 Bayless Avenue, Binghamton, NY 13903	(607) 651-0851	Electrical
Bruce Caro, P.E.	340 Andrews Avenue, Johnson City, NY 13790	(607) 797-8263	Engineering
Buffalo Concrete Accessories	243 Manhattan Avenue, Buffalo, NY 14214	(716) 332-2800	Supplier
Certified Safety Products of NY, Inc.	807 State Route 417, Andover, NY 14806	(607) 478-8467	Supplier
Daniel J. Lynch, Inc.	3000 Wayne Street, Endwell, NY 13760	(607) 748-3342	Trucking
Donnelly Construction, Inc.	P. O. Box 150, Mechanicville, NY 12118	(518) 664-9435	Site Preparation/Landscaping
Dunn Electric Supply Co., Inc.	76 Robinson Street, Binghamton, NY 13901	(607) 771-9434	Supplier
EJ Construction	4522A Wetzel Road, Liverpool, NY 13090	(315) 622-4158	Excavation
EMI Guide Rail, LLC	693 River Road, Schenectady, NY 12306	(518) 887-2030	Construction
Hydro Seed It., Co.	114 Deyo Hill Road, Johnson City, NY 13790	(607) 797-5055	Landscaping
J.H.P. Industrial Supply Co., Inc.	321 W. Taylor Street, Syracuse, NY 13202	(315) 422-0050	Supplier
Joanne Darcy Crum, L.S.	479 W. Main Street, Cobleskill, NY 12043	(518) 234-4650	Land Surveying
John W. Francisco, Inc.	P. O. Box 279, Ravena, NY 12143	(518) 756-2116	Supplier
KHM, Inc.	744 Conklin Road, Binghamton, NY 13903	(607) 773-0076	Construction
Kocher-O'Brien Construction Co., Inc.	5821 Bull Hill Road, Lafayette, NY 13084	(315) 469-1882	Structural Steel
Link Environmental Services, Inc.	8 Broome Street, Binghamton, NY 13903	(607) 724-6051	Testing
Marie Turner, Inc.	6178 Kingsley Road, Kingsley, PA 18826-6560	(570) 289-4461	Supplier
MS Unlimited	6828 Ellicott Drive, E. Syracuse, NY 13057	(315) 437-1291	Safety Products Supplier
Northern Scapes, Inc.	2553 Dutch Town Road, Endicott, NY 13760	(607) 748-9186	Landscaping
NuWave General Contracting	126 Bernice Street, Johnson City, NY 13790	(607) 383-5800	General Contractor
Prudent Engineering, LLP	6390 Fly Road, East Syracuse, NY 13057	(315) 432-9823	Engineering
Royal Contracting, LLC	114 Mary Street, Binghamton, NY 13901	(607) 761-9287	Electrical
Shumaker Engineering & Land Surveying	143 Court Street, Binghamton, NY 13901	(607) 798-8081	Land surveying
William H. Construction	115 Park Avenue, Binghamton, NY 13903	(607) 348-4471	Painting/Drywall
Woolfolk Paving Corporation	837 Murray Hill Road, Vestal, NY 13850	(607) 770-7134	Paving/Excavation

Note: All firms listed are either certified by NYSDOT or Empire State Development.

ATTACHMENT 5

Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: County of Broome, Greater Binghamton Airport

Goal Period: FY-2021-2022-2023 – October 1, 2020 through September 30, 2022

DOT-assisted contract amount: FY-2021 - \$ 188,000
 FY-2022 - \$2,391,000
 FY-2023 - \$ 990,000
Total \$3,569,000

Overall Three-Year Goal: 4.1%, to be accomplished through 4.1% RC and 0% RN

Total dollar amount to be expended on DBE's: \$146,329

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

- FY 2021 – Contract #1 - Vault Relocation - Design
 Contract #2 - Install Wind Code - Design
- FY 2022 – Contract #1 - Vault Relocation -Construction
 Contract #2 - Construct Install Wind Cone
- FY 2023 – Contract #1 - Acquire SRE-MTE (Replacement)
 Contract #2 - ARFF Building Rehabilitation – Design

Market Area

The market area includes: Broome, Chenango, Cortland and Tioga

Fiscal Year #1 - FY-2021, we anticipate the award of the following:

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Vault Relocation - Design	Engineering	Engineering	541330	160,000	36	2	5.6	8,960
	Surveying	Surveying	541370	15,000	3	2	66.7	10,005
	Geotech Testing	Geotech Testing	541380	5,000	8	1	12.5	625
<i>Total Contract #1</i>				<i>\$180,000</i>				<i>19,590</i>
Install Wind Code - Design	Engineering	Engineering	541330	6,500	36	2	5.6	364
	Surveying	Surveying	541370	1,000	3	2	66.7	667
	Geotech Testing	Geotech Testing	541380	500	8	1	12.5	63
<i>Total Contract #2</i>				<i>\$8,000</i>				<i>1,094</i>
<i>Total FY-2021</i>				<i>\$188,000</i>			<i>11.0</i>	<i>20,684</i>

Fiscal Year #2 - FY-2022, we anticipate the award of the following:

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Vault Relocation - Construction	Engineering	Engineering	541330	220,000	36	2	5.6	12,320
	Earthwork	Site Prep.	238910	45,000	48	2	4.2	1,890
	Electrical	Electrical	238210	1,501,000	56	2	3.6	54,036
	Drainage	Drainage	237990	30,000	3	0	0	0
	Paving	Paving	238990	500,000	48	1	2.1	10,500
<i>Total Contract #1</i>				<i>\$2,296,000</i>				<i>78,746</i>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Construct Install Wind Cone	Engineering	Engineering	541330	10,000	36	2	5.6	560
	Earthwork	Site Prep.	238910	20,000	48	2	4.2	840
	Electrical	Electrical	238210	65,000	56	2	3.6	2,340
<i>Total Contract #2</i>				<i>95,000</i>				<i>3,740</i>
<i>Total FY-2022</i>				<i>\$2,391,000</i>			<i>3.4</i>	<i>82,486</i>

Fiscal Year #3 - FY-2023, we anticipate the award of the following:

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Acquire SRE-MTE (Replacement)	Equipment Only			855,000				0
<i>Total Contract #1</i>				<i>\$855,000</i>				
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
ARFF Building Rehabilitation - Design	Engineering	Engineering	541330	120,000	36	2	5.6	6,720
	Surveying	Surveying	541370	15,000	3	2	66.7	10,005
<i>Total Contract #2</i>				<i>135,000</i>				<i>16,725</i>
<i>Total FY-2023</i>				<i>\$990,000</i>			<i>1.7</i>	<i>16,725</i>

Divide the total number of DBE dollar's by the total contract amount per fiscal year = a weighted base figure

$$\text{FY21 (11.0) + FY22 (3.4) + FY23 (1.7) / 3}$$

Base figure (weighted) = 5.37% of all firms ready, willing and able.

Past History Participation

Other data used to determine the adjustment to the base figure was the median of historical DBE accomplishments as follows:

FY	Total Grant \$ Amount	DBE Goals			Accomplishments			Type of work
		RC	RN	Total	RC	RN	Total	
FY 17	1,799,302	8	0	8	3.07	0	3.07	Construction, Equipment
FY 18	785,837	8	0	8	0	0	0	Construction, Equipment
FY 19	4,347,468	4.50	0	4.50	1.77	0	2.73	Construction,Lighting
Total	\$6,932,607							

The median DBE participation on recent FAA-funded projects is 2.73%.

To arrive at an overall goal, we added our Step 1 base figure (5.37%) with our Step 2 adjustment figure (2.73%) and then averaged the total arriving at an overall goal of 4.1%. We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of work being awarded during this three-year period.

Further, there are no applicable disparity studies for the local market area or recent legal case information available from the State of New York Department of Transportation office to show any evidence of barriers to entry or competitiveness of DBEs in the market area.

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

The County of Broome will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
4. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
5. Assist DBE’s and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and

The County of Broome estimates that in meeting its overall goal 4.1%, it will obtain 0% from RN participation and 4.1% through RC measures.

The County of Broome does not have a history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through

the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, we are applying the entire goal of 4.1% to race-conscious participation.

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

PUBLIC PARTICIPATION

Consultation: Section 26.45(g)(1).

In establishing the proposed goal, consult with minority, women's and general contractor groups, community organizations who can share information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and the County's efforts to establish a level playing field for the participation of DBE's.

In establishing the overall goal, the County provided for consultation and publication. This included consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The consultation included 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 County goal setting process, and it occurred before we were required to submit our goal methodology to the operating administration for review. We will not implement our proposed goal until we have complied with this requirement.

The County submits its overall DBE three-year goal to DOT on August 1 as required by the set schedule.

Before establishing the overall goal, the County consulted with groups and organizations, without limiting consultation to these persons or groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The following groups and organizations were notified of a scheduled teleconference which was held on July 8, 2020 from 10:00 – 11:00 a.m. and no comments were received:

Associated General Contractors of New York State, LLC
10 Airline Drive, Suite 203
Albany, NY 12205
(518) 456-1134

Women's Business Center of New York State
200 Genesee Street
Utica, NY 13502
(877) 844-9848

Binghamton Small Business Development Center
Binghamton University
120 Hawley Street
Binghamton, NY 13901
(607) 777-4024

Broome County Urban League
P. O. Box 1608
88 Main Street
Binghamton, NY 13902
(607) 723-7303

Director of the Entrepreneurial Assistance Program
Broome Community College
P.O. Box 1017
907 Upper Front Street
Binghamton, NY 13902
(607) 778-5203

Tioga County Chamber of Commerce
80 North Avenue
Owego, NY 13827
(607) 687-2020

Following the consultation, the County published a notice in the Press and Sun Bulletin of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport administration building for thirty (30) days following the date of the notice, and informing the public that the County of Broome and DOT will accept comments on the goals for thirty (30) days from the date of the notice. No comments have been received to date.

PUBLIC NOTICE

The County of Broome hereby announces its fiscal years 2021 through 2023 goal of 4.1% for Disadvantaged Business Enterprise (DBE) airport construction Contracts. The proposed goals and rationale is available for inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the County of Broome, 60 Hawley Street, Binghamton, NY 13901, for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for thirty (30) days from the date of this publication and can be sent to Mr. Thomas Behan, County of Broome, P. O. Box 1766, Binghamton, NY 13902.

CONTRACT GOALS

The County will use contract goals to meet any portion of the overall goal that the County of Broome does not project being able to meet using RN means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the County's overall goal that is not projected to be met through the use of RN means.

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

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

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

Forms 1 and 2 should be provided as part of the solicitation documents.

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature)

Date: _____

(Title)

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

Submit this page for each DBE subcontractor.

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract
2. New York State Constitution
3. New York State General Municipal Law Article 5-A – Public Contracts
4. New York State Labor Law Article 8 – Public Work
5. New York State Finance Law Article IX – Contracts
6. New York State Transportation Law
7. New York State Executive Law
8. New York State Civil Practice Law and Rules, including injunctions and restraining orders.
9. New York State Freedom of Information Law
10. NYS Public Officers Law Articles 6 and 6-A

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

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

ATTACHMENT 8
DBE Certification Application Form

<https://nysdot.newnycontracts.com/>

ATTACHMENT 9

State's UCP Agreement

APPENDIX C

FEDERAL AVIATION ADMINISTRATION (FAA) FUNDED AIRPORTS AND GRANTEES **(Corresponding Grantees are listed in parentheses after each facility)**

Adirondack Regional Airport (Town of Harrietstown)
Akron Airport (Christian Airmen, Inc.)
Albany County Airport (Albany County Airport Authority)
Binghamton Regional Airport/Edward A. Link Field (County of Broome)
Brick Yard Road Airport (Ontario County Industrial Development Agency)
Brookhaven Airport (Town of Brookhaven)
Buffalo Niagara International Airport (Niagara Frontier Transportation Authority)
Chautauqua County - Jamestown Airport (County of Chautauqua)
Clinton County Airport (County of Clinton)
Columbia County Airport (County of Columbia)
Cortland County Airport/Chase Field (County of Cortland)
Dansville Municipal Airport (Town of North Dansville)
Dutchess County Airport (Dutchess County)
East 34th Street Heliport (City of New York, Dept. of Business Services)
East Hampton Airport (Town of East Hampton)
Elizabeth Field (Town of Southhold)
Elmira/Corning Regional Airport (County of Chemung)
Finger Lakes Regional Airport (County of Seneca)
Floyd D. Bennett Airport (County of Warren)

Francis Grabeski Airport (County of Suffolk)
Fulton County Airport (County of Fulton)
Genesee County Airport (County of Genesee)
Greater Rochester International Airport (County of Monroe)
Hamilton Municipal Airport (Village of Hamilton)
Hornell Municipal Airport (City of Hornell)
JFK International Airport (Port Authority of New York & New Jersey)
Joseph Y. Resnick Airport (Town of Wawarsing)
Kingston Airpark (Kingston Airpark, Inc.)
LaGuardia Airport (Port Authority of New York & New Jersey)
Lake Placid Airport (Town of North Elba)
Lancaster Airport (Lancaster Airport, Inc.)
Ledgedale Airport (Big Fella Enterprises, Inc.)
LeRoy Airport (LeRoy Aviation Services, Inc.)
Long Island/MacArthur Airport (Town of Islip)
Lt. Warren Eaton Chenango County Airport (County of Chenango)
Malone Airport (Town of Malone)
Massena International Airport (Town of Massena)
Montauk Airport (Montauk Airport, Inc.)
Niagara Falls International Airport (Niagara Frontier Transportation Authority)
Ogdensburg International Airport (Ogdensburg Bridge & Port Authority)
Olean Municipal Airport (City of Olean)

Oneida County Airport (County of Oneida)
Oneonta Municipal Airport (City of Oneonta)
Orange County Airport (County of Orange)
Oswego County Airport (County of Oswego)
Perry-Warsaw Municipal Airport (Town of Perry)
Plattsburgh International Airport (County of Clinton)
Potsdam Municipal Airport (Village of Potsdam)
Randall Airport (Aerodrome Development Corp.)
Republic Airport (New York State Department of Transportation)
Saratoga County Airport (County of Saratoga)
Schenectady County Airport (County of Schenectady)
Sidney Municipal Airport (Village of Sidney)
Sky Acres Airport (Sky Acres Enterprises, Inc.)
Stewart International Airport (National Express Corp.)
Sullivan County Airport (County of Sullivan)
Syracuse-Hancock International Airport (City of Syracuse)
Ticonderoga Municipal Airport (Town of Ticonderoga)
Tompkins County Airport (County of Tompkins)
Tri-Cities Airport (Village of Endicott)
Watertown International Airport (City of Watertown)
Wellsville Municipal Airport (Town of Wellsville)
Westchester County Airport (County of Westchester)

ATTACHMENT 10
Small Business Element

A. Objective (49 CFR Part 26.39)

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the County has created a small business element in its current DBE policy in accordance with applicable law. The County is including this element to facilitate competition by and expand opportunities for small businesses. The County is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The County will meet its objectives using a combination of the following methods and strategies:

1. Set asides: Where feasible, the County will establish a race-neutral small business set-aside on prime contracts less than \$250,000. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the County and its prime contractors/consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage.
2. On Prime contracts not having DBE contract goals, the County will require prime contractors to provide subcontracting opportunities that small businesses, including DBEs, can reasonably perform, rather than self-performing all of the work.
3. The County and Consulting Engineer will encourage prime contractors to utilize BID Express – Small Business Network administered by the New York State Department of Transportation Office of Civil Rights. BID Express is a Web-based service that provides for the electronic submission of bids by contractors. The Small Business Network (SBN) is within the Bid Express Basic Service and allows prime contractors to solicit subcontractors. SBN includes a function that allows prime contractors to search for small businesses, and even allows prime contractors to filter the results for only DBE firms if desired. The Small Business Network is helpful in bringing prime contractors and small businesses, as well as DBE firms together to meet the specific requirements of a project. The SBN service also aids prime contractors by documenting Good Faith Efforts to obtain DBE participation. Subcontractors can search for quote requests by the type of materials and/or services they provide, location or by prime contractor name. Users can also filter for contracts that only include a DBE Goal if desired. This information will be provided to prime contractors. Information regarding SBN can be found on: [https://www.dot.ny.gov/main/business-center/civil- rights/bidexpress](https://www.dot.ny.gov/main/business-center/civil-rights/bidexpress) or by e-mail at OCR-SBN@dot.state.ny.us.

B. Definitions

1. Small Business:

A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) does not exceed the described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the New York State Department of Transportation Unified Certification Program (NYSUCP) in accordance with 49 CFR 26.

For the purposes of the small business element of the County's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. In addition, minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

C. Certification and Verification Procedures

The County will accept the following certifications for participation in the small business element of the County's DBE Program:

- a. NYS DOT DBE Certification
- b. NYS DOT Small Business Enterprise (SBE) Certification
- c. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124)

D. Assurances

The County makes the following assurances:

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