

DISADVANTAGED BUSINESS ENTERPRISE

PLAN

FOR

FY 2006

PART 26

JANUARY 2006

UPDATED JULY 2011

UPDATED JUNE 2013

UPDATED JUNE 2014

UPDATED JUNE 2017

for the
City of West Point
McCharen Field
West Point, Mississippi

Submitted to:

Federal Aviation Administration
Office of Civil Rights, Southern Region
Atlanta, Georgia

Prepared By:

Taffy Pippin Consulting, LLC
Montgomery, Alabama

**DBE PROGRAM
MCCHAREN FIELD
WEST POINT, MISSISSIPPI
POLICY STATEMENT**

Objectives /Policy Statement (§§26.1, 26.23)

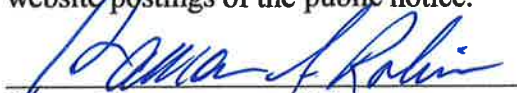
The West Point/Oktibbeha County Airport Board has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Sponsor has received Federal financial assistance from the Federal Aviation Administration, and is anticipating awarding prime contracts in excess of \$250,000.00 during this Fiscal Year and, as a condition of receiving this assistance, has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Sponsor 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; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
7. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.
8. To promote the use of DBEs in all types of federally-assisted contract and procurement activities.

Mr. Randy Jones, Chief Administrative Officer, West Point, Mississippi has been delegated as the DBE Liaison Officer (DBELO) and 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 Sponsor in its financial assistance agreements with the Federal Aviation Administration.

The Sponsor has disseminated this policy statement to all branches of the West Point City government, and posted it for public viewing in the City Offices. It will be distributed to DBE and non-DBE communities that perform work for the Sponsor on DOT-assisted contracts by website postings of the public notice.



Honorable Harmon A. Robinson

Mayor

City of West Point

Date: 6-14-17

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

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11

(b) The Sponsor will continue to provide data about our DBE Program to the Department as directed by DOT operating administrations.

The Sponsor will report DBE participation to DOT/FAA as follows:

The Sponsor will transmit to FAA annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form, found in Appendix B to this part. Sponsor will also report the DBE contractor firm information either on the FAA DBE Contractor’s Form or other similar format. Sponsor will begin using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY 2015 reports due December 1, 2015.

Bidders List: 26.11(c)

The Sponsor 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 bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

The Sponsor will collect this information as an attachment to the bid documents. All bidders will provide this above information pertaining to themselves and any subcontractor which they intend to employ, Attachment 3 to this Program.

Section 26.13 Federal Financial Assistance Agreement

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

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

“The Sponsor 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 Sponsor 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 DBE program for the Sponsor 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 Sponsor 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: 26.13b – The Sponsor will ensure that the following clause is included in each contract signed with a contractor and each subcontract the prime contractor signs with a subcontractor:

“The contractor, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Sponsor 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 Sponsor 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. Randy Jones
Chief Administrative Office/DBELO
204 Commerce Street
West Point, MS 39773
Ph. 662-494-2573

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Sponsor complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Honorable Mr. Harmon A. Robinson 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 an adequate 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 Board'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. Determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Acts as liaison to the Uniform Certification Process.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains the agency's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the Sponsor 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. Based on our search and the listings in the Federal Reserve Register of Minority Owned Banks, <http://www.federalreserve.gov/releases/mob/current/default.htm>, Mississippi has two minority owned banks. These banks may be accessed by following the above referenced website.

The Sponsor will investigate annually any new banks established in the area in the future that are owned by minorities and women and use their services, when feasible.

The Sponsor will provide the following notification to each prime contractor who will perform on a DOT-assisted project:

"The Sponsor encourages you to make the greatest feasible use of the services offered by banks owned and controlled by minorities and women. Information on these services may be obtained from the DBELO of the Sponsor or by contacting, the Mississippi Bankers Association, 640 N State St, Jackson, MS 39202 Phone:(601) 948-6366."

Section 26.29 Prompt Payment Mechanisms

The Sponsor has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 10 days from receipt of each payment we make to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. We will use the following methods to comply with this requirement:

- (1) 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 our payment to the prime contractor.

The Sponsor 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 Sponsor. When the Sponsor has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

The Sponsor will provide appropriate means to enforce the requirements of this section. These means include:

The Sponsor 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 ten (10) days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

Failure to comply with the prompt payment provision of the contract may result in sanctions under the contract, as listed below.

- A. Refusal to issue proposals
- B. Damages
- C. Suspension of work on the project
- D. No additional progressive payments may be processed
- E. Suspension of prequalification”

Monitoring Payments to DBEs

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

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.

Section 26.31 Directory

The Sponsor uses the State of Mississippi UCP DBE directory, maintained by the State.

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

The state UCP revises the Directory at least monthly. We make the Directory available as follows:

Mr. Randy Jones
Chief Administrative Officer
City of West Point
204 Commerce Street
West Point, Mississippi 39773
Phone No. (662) 494-2573

The Directory may be found at: <http://sp.mdot.ms.gov/Civil%20Rights/Pages/DBE.aspx> or contacting MDOT by telephone 601-359-7001.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

The Sponsor has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The Sponsor 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 event 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 by:
5.
 - a. Review bid package documentation thoroughly, obtaining clarification if necessary.
 - b. Review monthly reports regarding employment as well as DBE participation to ensure adherence to the plan as represented in bid documents and as stipulated in this program.
 - c. Monitor progress of payments to DBE through monthly reports from prime contractors.
 - d. Monitor progress of DBEs work through on-site visits and communication with DBEs.
6. 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 Sponsor 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 Sponsor'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 Sponsor does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

The Sponsor 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 Sponsor will submit its Overall Three-year DBE Goal to FAA by August 1st as required by the established schedule below.

Non-Primary (GAs, Relievers and State DOTs)	New England, Northwest Mountain, & Southern	August 1, 2014 (2015/2016/2017)	August 1, 2017 (2018/2019/2020)
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The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Sponsor 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 Sponsor will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

(c) Step 1. The first step is to determine the relative availability of DBEs in the market area, "base figure". We will use the Mississippi UCP DBE Directory and the US 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 Sponsor 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.

If we use a bidders list, we will do the following: Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on our DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in our market. When using this approach, we will establish a mechanism (documented in our goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on our DOT-assisted contracts.

Any methodology we choose 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 our market. We understand 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 paragraph (c)(2) of this section (above), is not an acceptable alternative means of determining the availability of DBEs.

(d) Step 2. Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

26.45 (g)(1) In establishing the overall goal, the Sponsor 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 Sponsors 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

Sponsor's goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, the Sponsor 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 Sponsor and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

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

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

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 our 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 Concurrent

The Sponsor 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 § 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 Sponsor 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 Sponsor 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 our 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 our goal for the new fiscal year;

Section 26.49 (e) How are overall goals established for transit vehicle manufacturers?

As an FAA recipient we may, with FAA approval, use the procedures of this section with respect to procurements of vehicles or specialized equipment. If we choose to do so, then the manufacturers of this equipment must meet the same requirements (including goal approval by FHWA or FAA) as transit vehicle manufacturers must meet in FTA-assisted procurements. See 26.49 (a) through (d)).

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

(a) The Sponsor 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) Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

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 Sponsor will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39.

If our approved projection under paragraph (c) of this section 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 to meet our overall goal.

We 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).

We 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.

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

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 Sponsor 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 to present the information required by paragraph (b)(2) of this section:

Under sealed bid procedures, as a matter of responsiveness.

Administrative reconsideration (26.53(d))

Within seven (7) business days of being informed by the Sponsor that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Mr. Orlando Richmond, Sr.
Attorney/Reconsideration Official
1020 Highland Colony Parkway
Suite 1400
Ridgeland, MS 39157

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. 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 our 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 listed in response to paragraph (b)(2) of this section (or an approved substitute 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 days to respond to the prime contractor's notice and advise us and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why we should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), we may provide a response period shorter than five days.

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

The Sponsor 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 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the Sponsor 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 § 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 Sponsor 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/offers, including those who qualify as a DBE. A DBE contract goal of __ percent as determined in the goal calculation Attachment 5 has been established for this contract. The bidder/offers shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offers 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/offers'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, except as provided for in 26.87(j).

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

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

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

MISSISSIPPI DEPARTMENT OF TRANSPORTATION
401 North West Street
Jackson, Mississippi 39201
Telephone: 601-359-7001 Fax: 601-359-7834

Our 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 State of Mississippi Department of Transportation is the member of a Unified Certification Program (UCP) administered by the State.

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. This includes applications for DBE certification and supporting information. However, we will transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

All participants in the Department's DBE program (including, but not limited to, the City, 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 the DOT and the Sponsor 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 the Sponsor 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 Sponsor 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 website link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory or link to 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

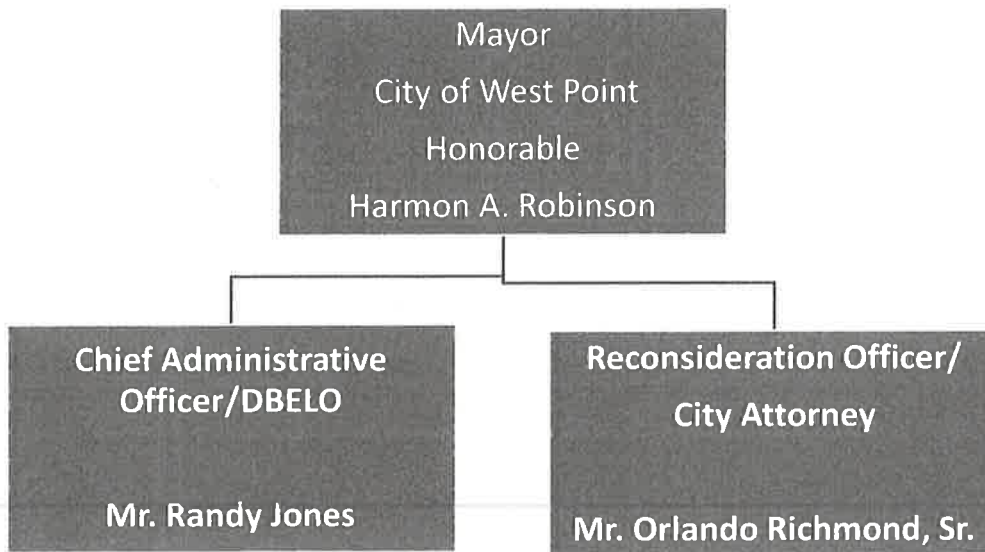
ATTACHMENT 1

Regulations: 49 CFR Part 26 link to website:

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

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3
Bidder's List Collection Form

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

ATTACHMENT 4

The Mississippi DBE web link to DBE directory is

<http://sp.mdot.ms.gov/Civil%20Rights/Pages/DBE.aspx>

ATTACHMENT 5**Section 26.45: Overall DBE Three-Year Goal Methodology**

UPDATE OF GOALS - To make the program as useful as possible to the public, The City of West Point, Mississippi will update the "amount," "method," and "breakout" portions of this section of the program annually or as required. The following sections will be submitted to the FAA every year, or as required, for approval: Amount of Overall goal section, Method used for establishing overall goals, Process, the Race-neutral/race conscious breakout, and Contract goals. The material on overall goals in the DBE program will be a shorter summary of the material submitted annually, or as required, in the overall goal submission.

AMOUNT OF GOAL - The City's overall goal for FY 2017 is 9.28% of the Federal financial assistance we will expend in DOT-assisted contracts. With \$382,570.00 proposed for the DOT-assisted contract, the overall goal to be expended is \$35,502.00 with DBE's during this fiscal year. The City of West Point, Mississippi expects to let during FY 2017 \$382,570.00 in construction contracts which means that we have set a goal of expending \$35,502.00 with DBEs for this Fiscal Year. This overall goal is intended for information of public users of the program, and does not imply that the FAA, as such, has approved the goal.

METHOD STEP 1: In the development of the DBE goal for McCharen Field Airport the first step was to establish the availability of ready, willing and able DBE businesses that were capable of participating in the type of contracts that were programmed during FY 2017. The grant that is anticipated involves Obstruction Removal, Runway/Taxiway Lighting, Electrical Service, along with the professional efforts associated with such a project. An analysis of the project indicates that funds will be expended in the following areas.

MCCHAREN FIELD PROJECT ANALYSIS FY 2017			
TASK	NAICS	AMOUNT	PERCENTAGE
General Contractor	236220	\$96,600	25.25%
Electrical	238210	\$211,750	55.35%
Trucking	484110	\$10,000	2.61%
Engineering	541330	\$64,220	16.79%
TOTAL		\$382,570.00	100.00%

The formula to be used to calculate the Base Figure for the DBE goal is as follows:

$$\frac{\text{Total DBE Firms in State listed by NAICS Code of Work to be Performed}}{\text{Total Firms in the State listed by NAICS Code of Work to be Performed}} \times 100 = \text{Base Figure}$$

Historically over 83% of the contractors and subcontractors who have taken part in airport projects in Mississippi have come from the State of Mississippi. Therefore the market area for the development of the Base Figure was established as the State of Mississippi. A search was initiated with a series of DBE agencies within Mississippi that included the Contract Division of

the Mississippi Department of Transportation (MDOT), The Office of Minority Business Development (OMBD), and The Small Business Administration, for an appropriate DBE directory. It was agreed, that the most comprehensive directory for DBE firms in the State of Mississippi was the "MS UCP Listing of All Certified DBEs" that is developed and published by the Mississippi Department of Transportation.

The most recent directory, dated April 2017, contains the names of 583 DBE certified firms that are located both in and out of the State of Mississippi. Historically most of the contractors who have performed work at the airport along with a major portion of the funds expended have gone to firms located within the State of Mississippi. Due to the above, the universe to be used for the establishment of the Base Figure will be limited to the state of Mississippi, and thus a total of 310 out of state firms were eliminated from consideration. This reduced the number of considered firms, to a total of 273. Identifying those firms that could participate in the project from the appropriate NAICS further refined the directory. The resulting number will be used as the numerator in determining the Base Figure.

The next step in establishing the Base Figure was to determine our denominator. This was accomplished through the use of the Census Bureau's County Business Pattern (CBCBP) and the identification of the NAICSs that were the same as those identified from the Directory. With these figures in hand we compute our Base Figure using the following mathematics:

$$\frac{\text{Base Figure}}{\text{Base Figure}} = .2525 \left(\frac{\text{MNAICS 236220}}{\text{NAICS 236220}} \right) + .5535 \left(\frac{\text{MNAICS 238210}}{\text{NAICS 238210}} \right) + .0261 \left(\frac{\text{MNAICS 484110}}{\text{NAICS 484110}} \right) + .1679 \left(\frac{\text{MNAICS 541330}}{\text{NAICS 541330}} \right)$$

MNAICS- Mississippi DBE Directory NAICS
NAICS – Census Bureau's County Business Pattern (CBCBP) Data Base

$$\frac{\text{Base Figure}}{\text{Base Figure}} = .2525 \left(\frac{18}{340} \right) + .5535 \left(\frac{12}{194} \right) + .0261 \left(\frac{26}{187} \right) + .1679 \left(\frac{15}{334} \right)$$

$$\frac{\text{Base Figure}}{\text{Base Figure}} = .0134 + .0342 + .0036 + .0075$$

$$\frac{\text{Base Figure}}{\text{Base Figure}} = 5.87\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions which have occurred at McCharen Field. Currently there are no known disparity studies completed in this area of the State of Mississippi. Contact was initiated with the State of Mississippi Insurance Department, The State of Mississippi Department of Banking and Consumer Financing and the Associated General Contractors of America, Inc. office in Jackson, Mississippi to determine if there had been any recent known incidents of discrimination associated with financing, insurance or bonding of minorities on projects. Each agency contacted indicated there had been no reported incidents. The City of West Point, Mississippi has considered the suggested

options outlined in 49 CFR Part 26 and determined that past performance is the only information available to determine if an adjustment to our Base Figure is warranted. To more finely tailor the DBE goal, it was felt that a sampling of like type projects that have taken place in Mississippi would be appropriate for use in determining if an adjustment was required to the Base Figure. To this end, we investigated other airports with like type projects. Listed below are the projects that were included for analysis. As you will note, each of these projects contains similar elements and is similar in nature as the project that is being anticipated in the FY 2017 time frame at the McCharen Field Airport:

MCCHAREN FIELD AIRPORT LIKE TYPE FAA PROJECTS				
YEAR	LOCATION	PROJECT EXPENSES	PROJECT TYPE	% OF DBE PARTICIPATION
2002	Olive Branch	\$272,430	RW Lighting	12.69%*
2002	Columbus	\$372,451	RW Lighting	22.41%
2003	Hattiesburg Laurel	\$600,000	RW Lighting	11.47%
MEDIAN *				

The next step was to determine if any adjustment might be needed to the Base Figure. It was determined that the Median of the three projects was 12.69% and it was felt that the Base Figure should be adjusted to cater for this variance.

A summary of this analysis yields the following:

MEDIAN PERCENTAGE	5.87%
BASE FIGURE	<u>+12.69%</u>
	18.56% ÷ 2 = 9.28%

Satisfied that this percentage was valid, the final step in the comparison was the development of a simple average of the Like Type FAA Project Median and the Base Figure. It was felt that the Base Figure of 5.87% should be adjusted for this variance. The Base Figure and the Like Type FAA Project Median were combined and yielded an average of 9.28%, which is established as the goal for DBE participation at McCharen Field Airport for FY 2017.

PROCESS - The City of West Point, Mississippi submitted its overall goal to the FAA in April, 2017 for their consideration and approval. Before establishing the overall goal each year, the City has consulted with the Mississippi Department of Transportation, and the Office of Minority Business Development to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, and the effects of discrimination on opportunities for DBEs. The City's efforts are to establish a level playing field for the participation of DBEs. Following this consultation, The City has published a notice 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 City's principal office for 30 days following the date of the notice, and informing the public that the City and FAA will accept comments on the goals for 30 days from the date of the notice. This information was published on the City of West Point website, www.wpnet.org and

made available to the Office of Minority Business Development at the State of Mississippi. Normally, the City will issue this notice by June 1 of each year with submittal to FAA by August 1 of each year. The notice will include the City's addresses to which comments may be sent. The overall goal submission to the FAA will include a summary of information and comments received during this public participation process and the City's responses. We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT (or if the goal is established on a project basis, by the time of the first solicitation for a DOT-assisted contract for the project). Consultation discussions were held with the following agencies and persons:

MCCHAREN FIELD AGENCIES/PERSONS CONSULTED WITH	
<i>Agency/Organization</i>	<i>Discussion/Information</i>
MDOT-Director of Aeronautics Mr. Tommy Booth	Availabilities of DBEs, Directories and DBE contracting experience.
MDOT – Minority & Small Business Team Ms. Joycie Lenoir	Availabilities of DBEs, Directories and DBE contracting experience.
MDOT – Civil Rights Director Ms. Carolyn Bell	Availabilities of DBEs, Directories, and Small and DBE contracting experience.

Public comments have been requested for the FY 2017 goal and the 30 day comment period has been met with no comments received.

THREE YEAR GOAL:

The Three Year DBE Goal based on the current information available is as follows:

G. THREE YEAR GOAL

The Three Year DBE Goal based on the current information available is as follows:

FY - 2015 DBE GOAL	-%
FY - 2016 DBE GOAL	-%
FY - 2017 DBE GOAL	9.28%
	<u>9.28%</u>

Breakout of Estimated "Race and Gender Neutral" (RN) and "Race and Gender Conscious" (RC) Participation.

26.51(b) (1-9)

The recipient will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation. We estimate that, in meeting our overall goal of 9.28%, we will obtain 4.79% of the goal from race-conscious participation and 4.49% via race-neutral participation measures.

This breakout was established by computing the median of the variance of the level of DBE participation vs. DBE goal on the three projects considered in Step 2 of the Like Type FAA Project. The Median is 4.49%, and we felt it is an attainable goal for race-neutral participation. The

following is the data base upon which the level of variance was computed using the “Like Type FAA Project” information:

MCCHAREN FIELD AIRPORT LIKE TYPE FAA PROJECTS PROJECT DBE GOAL VARIANCE				
YEAR	LOCATION	DBE GOAL	% OF DBE PARTICIPATION	VARIANCE
2000	Olive Branch	8.20%	12.69%	4.49%*
2002	Columbus	11.36%	22.41%	11.05%
2003	Hattiesburg Laurel	10.59%	11.47%	0.88%
* MEDIAN PERCENTAGE				

PUBLIC PARTICIPATION

Consultation: Section 26.45(g)(1).

In establishing the overall goal, the Sponsor 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 Sponsor’s efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it occurred before we were required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

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

Before establishing the overall goal, the Sponsor consulted with Taffy Pippin, Taffy Pippin Consulting, LLC MDOT, Civil Rights Director Ms. Carolyn Bell, Tommy Booth, Director of Aeronautics, Joycie Lenoir, Mississippi Development Agency, 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 Sponsor efforts to establish a level playing field for the participation of DBEs

Following the consultation, we published a notice on the MDOT website 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 30 days following the

date of the notice, and informing the public that the Sponsor and DOT will accept comments on the goals for 30 days from the date of the notice

No comments have been received.

PUBLIC NOTICE

**LEGAL NOTICE
THE CITY OF WEST POINT
DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION IN FEDERALLY FUNDED
AIRPORT IMPROVEMENT PROJECTS**

The City of West Point has established an overall goal of 9.28% for Disadvantaged Business Enterprise participation in Federal Aviation Administration funded projects at McCharen Field, West Point, Mississippi, for Fiscal Year 2017 in accordance with 49 CFR Part 26.

The methodology for establishing this goal is available for review from 8:00am until 5:00pm, Monday through Friday in the offices of the Chief Administrative Office, City of West Point, Mississippi, Mr. Randy Jones, 204 Commerce Street, West Point, Mississippi 39773.

Comments should be delivered to The Chief Administrative Office, City of West Point, Mississippi, Mr. Randy Jones, 204 Commerce Street, West Point, Mississippi 39773 or to the FAA Southern Region. The City and FAA will receive and consider public comments on the proposed goal for 30 days from the date of this advertisement. These goals are established in accordance with 49 CFR Part 26. Written comments may be forwarded to the addresses sited below.

Mr. Randy Jones
City of West Point
Mr. Randy Jones
204 Commerce Street
West Point, Mississippi 39773
Ph. 662-494-2573
Fax 662-495-2007
rjones@wpnet.org

or

FAA Southern Regional Office
Ms. Keturah Pristell
EEO Compliance Specialist
1701 Columbia Ave., ASO-9
College Park, GA 30337
keturah.pristell@faa.gov

Contract Goals

The Sponsor will use contract goals to meet any portion of the overall goal that the recipient 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 recipient's overall goal that is not projected to be met through the use of RN means.

The Sponsor 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).

The Sponsor will express our contract goals as a percentage of the Federal share 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 _____ Title _____
(Signature)

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 _____

Date: _____

(Signature)

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

The Sponsor will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the 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 §26.109. The Sponsor may also use Mississippi Code Section 97-7-10, prosecution for fraud in a government contract, and refer such matters to the proper audit authority, the District Attorney, or the Attorney General of the State of Mississippi for enforcement of any and all applicable laws, both civil and criminal, of the State of Mississippi.

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

Web link:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/new-dbe-uniform-certification-application>

ATTACHMENT 9
State's UCP Agreement

Zack Stewart
Northern District Commissioner

Dick Hall
Central District Commissioner

Wayne H. Brown
Southern District Commissioner



W. Hugh Long
Executive Director

James H. Kopf
Deputy Executive Director/
Chief Engineer

Mississippi Department of Transportation / P.O. Box 1850 / Jackson, Mississippi 39215-1850 / Telephone (601) 359-7001 / FAX (601) 359-7110

December 15, 2000

To: To Whom It May Concern

Subject: MDOT CFR Part 26 DBE Program Directory

The approved MDOT DBE Directory entitled "Mississippi Department of Transportation, List of Certified DBE Contractors" is made up entirely of DBE contractors but the format also includes their designation as either a MBE or WBE.

Sincerely,

Stephen L. McMahan
Assistant Chief Engineer-Operations

Northern District Commissioner

Dick Hall
Central District Commissioner

Wayne H. Brown
Southern District Commissioner



Kenneth I. Warren
Executive Director

James H. Kopf
Deputy Executive Director
Chief Engineer

Mississippi Department of Transportation P.O. Box 1850 / Jac

(601) 359-7001 / FAX (601) 359-7110

June 5, 2000

To: Whom it May Concern

Subject: DBE Certification under FAR Part 26

The Mississippi Department of Transportation, Disadvantaged Business Enterprise Program for United States Department of Transportation Assisted Contracts, was approved by the Federal Highway Administration on October 18, 1999.

This document includes an approved process for certifying construction and consultant firms to participate as a Disadvantaged Business Enterprise pursuant to the requirements of FAR Part 26. Firms that meet the certification requirements are included in a List of Certified DBE Contractors that is updated monthly and is available to the public on request. MDOT reviews requests from all firms requesting certification for highway type construction work in the state without being "project specific". Contractors desiring to perform airport work can apply for certification under this procedure since the same type work is involved in both highway and airport construction.

I trust that this will verify that the MDOT is available for providing Part 26 DBE certification for qualifying contractors in the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. McMahan".

Stephen L. McMahan
Assistant Chief-Operations

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 Sponsor seeks to implement a small business element into its current DBE policy in accordance with applicable law. The Sponsor is including this element to facilitate competition by and expand opportunities for small businesses. The Sponsor 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 Sponsor will meet its objectives using a combination of the following methods and strategies:

1. Set asides:

Where feasible, the Sponsor will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. 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 Sponsor 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. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work regardless of DBE status. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and DBELO will document why a small business set-aside is inappropriate and the factors which were considered in making that determination, including project scope and estimated availability of firms.

2. Unbundling:

The Sponsor, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The Sponsor will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, the Sponsor will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses. The Sponsor will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. The Sponsor will document

the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.

As described above, the Sponsor may utilize several methods to facilitate small business participation. In each FAA-assisted contract, the DBELO will document the method in which the small business element will be implemented (i.e. set-aside, unbundling and/or outreach) and the process by which those methods were considered.

B. Definitions

1. Small Business:

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). 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.

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) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$23.98 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 Mississippi Department of Transportation (MDOT) in accordance with 49 CFR 26.

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

C. Certification and Verification Procedures

The Sponsor will accept the following certifications for participation in the small business element of the Sponsor's DBE Program with applicable stipulations:

1. MDOT DBE Certification – DBE Certification by the MDOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by MDOT.

2. MDOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the MDOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: 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.

D. Implementation Schedule

The Sponsor will approve the small business element of the Small Business Participation element of the DBE Program and will implement it upon the FAA's approval of this element.

E. Assurances

The Sponsor 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.