



**SAN DIEGO COUNTY REGIONAL
AIRPORT AUTHORITY**

**DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM**

REVISED, January 23, 2025
San Diego County Regional Airport Authority
Disadvantaged Business Enterprise Program

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The San Diego County Regional Airport Authority (the “Authority”), owner of the San Diego International Airport, 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 Authority has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the Authority has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as “Part 26”).

It is the policy of the Authority to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also the Authority’s policy to engage in the following actions on a continuing basis:

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

Craig Ruiz, Manager, Small Business Development has been delegated as the DBE Liaison Officer (the “DBELO”). In that capacity, Craig Ruiz, Small Business Development Manager, is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the Department of Transportation.

The Authority has disseminated this policy statement to the Authority’s Board of Directors and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on Authority DOT-assisted contracts. The distribution was accomplished by posting this statement on its website.


Kim Becker (Jan 24, 2025 13:55 PST)

Kimberly J. Becker, President and CEO

Jan 24, 2025

Date

SUBPART A - GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.5 Definitions

The Authority will use terms in this program that have their meanings defined in 49 U.S.C. Part 26, §26.5.

Section 26.7 Non-Discrimination Requirements

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

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

Section 26.11 Data Collection and Reporting Requirements

Reporting to DOT

The Authority will provide data about its DBE Program to the Department as directed by DOT and its operating administrations.

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

The Authority will transmit to FAA annually, by or before December 1, the information required for the "Uniform Report of DBE Awards or Commitments and Payments", as described in Part 26. The Authority will similarly report the required information about participating DBE firms. All reporting will be done through the FAA's designated reporting system.

Bidders List

The Authority will collect bidders list information as described in §26.11(c) (2) and enter it into a system designated by the DOT. The purpose of the bidders list information is to

compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our federally assisted contracts for use in helping to set overall goals, and to provide the Department with data for evaluating the extent to which the objectives of §26.1 are being achieved.

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

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

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

The Authority will enter this data in the Department's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded. A sample Bidders List form is included as Attachment 3 to this program document.

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

Records retention and reporting

The Authority will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, the Authority will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with all applicable record retention requirements of Authority financial assistance agreement. Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

Section 26.13 Assurances Recipients and Contractors Must Make

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

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

The Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Authority shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Authority 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 Authority 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: Authority will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

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

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Craig Ruiz
Manager, Small Business Development
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, CA 92138-2776
619-400-2565
cruiz@san.org

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has two direct-report staff, consultant support and a Department Director. Further, the DBE program receives assistance and support from various Authority departments, including the Executive Office, General Counsel, Operations, Finance, Design and Construction, Procurement, Information Technology, Marketing, Revenue Generation, Planning, and External Relations. 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 Authority's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the Authority's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

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

The Authority shall use the State of California, Department of General Services online directory <https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx?psNewWin=true> to search for commercial banking, credit unions, and consumer lending businesses. This will be done on a periodic basis.

Section 26.29 Prompt Payment Mechanisms

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

California state law addressing prompt payment is more stringent than § 26.29, the provisions of which also apply. Accordingly, Pursuant to Business & Professions Code section 7108.5, the Contractor shall pay to any Subcontractor, not later than seven (7) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the Contractor on account of the work performed by the Subcontractors, to the extent of each Subcontract's interest therein.

Further, in accordance with Public Contract Code section 7107, Contractor shall pay each of its Subcontractors from whom retention has been withheld each Subcontractor's share of the retention received within seven (7) days from the time the Contractor receives retention proceeds. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Airport Authority, but under no circumstances exceed the limits established by § 26.29.

Pursuant to §26.29, the Authority has selected the following method to comply with this requirement:

The Authority will hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within seven (7) days after your payment to the prime contractor.

For every airport construction project funded under Federal grant assistance programs, the Authority includes the following clause from FAA Advisory Circular 150/5370-10 (Section 90-06) pertaining to the selected retainage method. The applicable clause will be included verbatim. However, if state or local prompt payment laws provide for payment in less than 30 days, any reference to "30 days" will be revised accordingly.

Prompt Payment Monitoring for DBEs and Non-DBEs

The Authority clearly understands and acknowledges that reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism. Therefore, Authority undertakes proactive monitoring and oversight of prime contractors' compliance with subcontractor prompt payment and return of retainage requirements of 49 CFR Part 26. Such monitoring activities will be accomplished through the following method(s):

- Unless otherwise agreed to by the Authority, the contractor and subcontractors shall report payments on a monthly basis to the Authority using the Authority's web-based Compliance and Diversity Management System (CDMS) on or before the 10th of every month. CDMS allows contractors to manage their own records, maintain accurate contract information, and report payment details online. The Contractor and subcontractors shall be provided login/password information upon execution of this Contract.
- The CDMS automatically creates a monthly report showing payments to prime and subcontractors. Payment records that indicate prompt payment was not made are followed up by Authority staff to obtain the reason for the late payment and ensure payment are made.

The Authority requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of four (4) years unless otherwise provided by applicable record retention requirements for the Authority's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of Authority or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Authority proactively reviews contract payments to subcontractors including DBEs on a monthly basis. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Authority by the prime contractor.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- The affected contractor shall notify the Project Manager (PM) and/or Resident Representative (RPR) in writing within 10 days of non-payment. The PM or RPR shall contact the prime to inquire and resolve the issue.
- If the affected contractor is not satisfied within 30 days of non-payment they shall notify the DBELO in writing clearly defining the issue including the dates of non-payment.
- If the affected contractor is not satisfied within 90 days of the complaint, they shall notify the FAA Office of Civil Rights.
- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

The Authority will provide appropriate means to enforce the requirements of §26.29. These means include:

- Bring to the attention of the Department of Transportation (DOT) 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.
- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract.
- Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.

- Other penalties for failure to comply, up to and including contract termination.

The Authority will actively implement the enforcement actions detailed above.

Section 26.31 Directory of Certified Firms

The Authority is a certifying member of the California Unified Certification Program (CUCP). The CUCP maintains a directory identifying all firms eligible to participate as DBEs and/or ACDBEs, and it contains elements required by §26.31. The directory lists all firms eligible to participate as a DBE and/or ACDBE in the program. In the listing for each firm, the CUCP directory includes the following details about the firm:

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

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

The CUCP Directory or a link to the directory may be found on Attachment 4.

Section 26.33 Over-concentration

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

Section 26.35 Business Development and Mentor-Protégé Programs

The Authority has not established a Business Development Program.

Section 26.37 Monitoring Responsibilities

The Authority implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, and describes and set forth these mechanisms in Authority's DBE program.

The Authority actively monitors attainment toward overall goals by maintaining a running tally that provides for a frequent comparison of cumulative DBE awards/commitments to DOT-assisted prime contract awards to determine whether our race neutral means is projected to be sufficient to meet the annual goal. The running tally for overall goal monitoring will be maintained by the Authority on a monthly basis utilizing the B2G software system report functions. This mechanism to maintain a running tally of overall goal attainment will be used to inform decisions to modify our program and incorporate additional race neutral means

The Authority actively monitors participation with respect to each DBE commitment by using a running tally that provides for a frequent comparison of payments made to each listed DBE relative to the progress of work, including payments for such work to the prime contractor. The running tally for DBE participation will be maintained by the Authority on a monthly basis utilizing the B2G software system report functions. These contract-specific running tallies will be used to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to meet the DBE commitment.

Monitoring Contracts and Work Sites

The Authority reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed, and such work is counted according to the requirements of § 26.55. Work site monitoring for counting and commercially useful function review is performed by the DBELO and compliance team. Contracting records are reviewed by DBELO and compliance team. The monitoring of work sites to assess commercially useful functions may include interviews with staff members and supervisors at the job site, photographic documentation of people and equipment performing the work, reviews of invoices and supply payments, vehicle and equipment ownership or lease verification (such as registration or lease agreements), and any other supporting documents necessary to determine the business is performing a commercially useful function.

Contracting records are reviewed by DBELO and compliance team. The Authority will require prime contractors to provide, upon request by the Authority, copies of

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

Section 26.39 Fostering small business participation

The Authority has created a small business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation,

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

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-Asides or Quotas

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

Section 26.45 Overall Goals

The Authority will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding 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 §26.45(f), the Authority will submit its Overall Three-year DBE Goal to FAA by August 1 of the year in which the goal is due, as required by the schedule established by the FAA.

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

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The Authority will use the DBE Directory information and Census Bureau Data, as a method to determine the base figure. The Authority

understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

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

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

In establishing the overall goal, the Authority 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 efforts by the Authority to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before the Authority is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the Authority engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

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

The Overall Three-Year DBE Goal submission to the FAA will include any information and comments received, who provided the comment, and how Authority considered and responded to any comments and information received before finalizing the goal.

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

Project Goals

If permitted or required by the FAA Administrator, an overall goal may be expressed as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

Prior Operating Administration Concurrence

The Authority understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the Authority for calculating goals is inadequate, the FAA may, after consulting with the Authority, adjust the overall goal or require that the goal be adjusted by the Authority. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the 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 Authority cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the Authority fails to administer its DBE program in good faith.

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

The Authority understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;

(3) The Authority will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (1) and (2) above to the FAA

Section 26.51 Means Recipients Use to Meet Overall Goals

The Authority is currently operating a strictly race-neutral DBE program and contract goals are not applicable on Airport procurements. The Airport will endeavor to meet its overall DBE goal and increase DBE participation on, the Airport's U.S. DOT-assisted contracts, by utilizing the following race-neutral measures:

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by small businesses, by means such as those provided under §26.39.

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

(5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;

(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

(7) Ensuring distribution of the DBE directory, through print (as requested) and electronic means, to the widest feasible universe of potential prime contractors; and

(8) 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 at Attachment 5 to this program.

The Authority 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.

Contract Goals

The Authority is in the jurisdiction of the United States Court of Appeals for the Ninth Circuit and is governed by that court's opinions. Following the findings of the *Western States Paving v. Washington State DOT* (WSP), the Authority must provide evidence of discrimination prior to establishing contract specific goals. Currently, the Authority only use race neutral means.

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

As the Authority is currently operating a strictly race-neutral DBE Program and contract goals are not applicable on Airport procurements, Good Faith Efforts procedures for contract goals are not applicable.

Should the Authority implement a race-conscious component to this DBE Program, the DBE Program will be amended to provide the procedures for the administrative reconsideration process and to specify the Airport Reconsideration Official.

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in § 26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

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

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Authority is a certifying member of the California Unified Certification Program (CUCP). The Authority 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. Authority makes all certification decisions based on the facts as a whole. Detailed certification processes are described in the CUCP agreement. The full CUCP agreement can be found in Attachment 8.

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

Craig Ruiz
Manager, Small Business Development
San Diego County Regional Airport Authority
PO BOX P.O. Box 82776
San Diego, California 92138-2776
T - 619-400-2565
cruiz@san.org

Program information can be found at: www.san.org/smallbusiness. The application can be found at: <https://san.gob2g.com/>.

The Uniform Certification Application form, Personal Net Worth statement, and documentation requirements can be reviewed at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>.

SUBPART E - CERTIFICATION PROCEDURES

Any procedures included here are highlights only. Detailed certification procedures are enumerated in the full CUCP agreement. The full CUCP agreement can be found in Attachment 8.

Section 26.81 Unified Certification Programs

The Authority is the member of a Unified Certification Program (UCP) administered by California Department of Transportation (CalTrans). The UCP will meet all standards and procedures requirements of Subparts D and E of Part 26.

Section 26.83 Procedures for Certification Decisions

The Authority will take all required steps outlined in § 26.83(c) in determining whether a DBE firm meets the standards of subpart D of Part 26. In the case of a denial of

certification, the Authority will make an entry in DOCR's Online Portal within five (5) days of the denial. The Authority will enter the name of the firm, names(s) of the firm's owner(s), date of decision, and the reason(s) for the decision.

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

The Authority will not require a DBE to reapply for certification, renew its certification, or any functionally equivalent requirement. However, a certification review of a certified DBE firm may be conducted at a reasonable time and/or at a regular interval of five (5) or more years. The certification review may, at the Authority's discretion, include a new onsite review (OSR). The Authority may also make unannounced visits to the DBEs offices and/or job sites. Authority may also rely on another certifier's report of its OSR of the DBE.

Notices of Change and Annual Declarations of Eligibility

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

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

Section 26.85 Interstate Certification

The Authority complies with certification procedures requirements of Subpart E of Part 26 in all matters related to interstate certification. Any procedures included here are

highlights only. Detailed interstate certification procedures are enumerated in the full CUCP agreement.

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

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

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

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

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

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

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

Section 26.86 Decision Letters

When the Authority denies a firm's request for certification or decertifies the firm, the Authority will provide the firm a notice of decision (NOD) explaining the reasons for the adverse decision, specifically referencing the evidence in the record that supports each reason. The Authority will also include, verbatim, the instructions found on the

Departmental Office of Civil Rights' web page, available at <https://www.transportation.gov/dbeappeal>. If a currently certified DBE firm is decertified, or if an applicant firm's initial application is denied, the affected firm may not reapply for at least twelve (12) months. The waiting period begins to run the day after the date the decision letter is emailed to the firm. After the waiting period expires, the denied firm may reapply to any member of the UCP that denied the application. The Authority will inform the applicant of that right, and specify the date the waiting period ends, in its decision letter.

If an applicant appeals this decision to the Department of Transportation pursuant to §26.89, such an appeal does not extend the waiting period.

Section 26.87 Decertification

The Authority complies with all decertification procedures requirements of Subpart E of Part 26 in all decertification proceedings. The procedures included here are highlights only. Detailed decertification procedures are enumerated in the full California UCP agreement.

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

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

The Authority has determined that the CUCP will oversee and conduct the hearing process as prescribed by the Memorandum of Agreement for the California Unified Certification Program. The hearing is an informal proceeding with rules set by the hearing officer.

- The Officer is knowledgeable in both the operation of both an ACDBE and DBE program and the certification process.
- The Officer will maintain a complete record of the hearing and provide that record to the DOT and the DBE if the DBE appeals to the DOT.

The Authority will send the firm a NOD no later than 30 days from the date of the informal hearing and/or receiving written arguments/evidence from the firm in response to the NOI. The NOD will conform in all respects to the requirements of § 26.87(g). The Authority will make an entry in DOCR's Online Portal within 5 days of the action, entering the name of

the firm, names(s) of the firm's owner(s), date of decision, and the reason(s) for its decision. DBEs will remain certified until Authority issues a NOD.

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

Section 26.88 Summary Suspension of Certification

The Authority will follow procedures consistent with §26.88 regarding the suspension of a DBE's certification.

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

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

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

After sending the SSN to the suspended firm, the Authority will follow all procedures required under §§ 26.88(d)(2)-(6).

Section 26.89 Appeals to the Department

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

Appellants must email appeals as directed in the Authority's NOD within 45 days of the date of NOD. The appeal must at a minimum include a narrative that explains fully and specifically why the firm believes the decision is in error, what outcome-determinative

facts the certifier did not consider, and/or what Part 26 provisions the Authority misapplied.

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

Section 26.91 Actions Following DOT Certification Appeal Decisions

The Authority is a certifier to which a DOT determination under § 26.89 is applicable, we will take any and all required action(s) pursuant to § 26.91.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to Authority

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

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

Section 26.103 Enforcement Actions Applicable to FHWA and FTA Programs

The provisions of this section apply to enforcement actions under FHWA and FTA programs. ONLY the following part of this section is applicable in FAA programs.

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

Section 26.105 Enforcement Actions Applicable to FAA Programs

Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United

States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The provisions of § 26.103(b) and this section apply to enforcement actions in FAA programs.

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

Section 26.107 Enforcement Actions Applicable to Participating Firms

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

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

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

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

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

Section 26.109 Information, Confidentiality, Cooperation and Intimidation or Retaliation

In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any

information concerning the DBE program release of which is not prohibited by Federal law.

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

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

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

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 (Website Link)
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Form
- Attachment 4 DBE Directory (Website Link)
- Attachment 5 Overall Goal Calculations
- Attachment 6 DBE Monitoring and Enforcement Mechanisms
- Attachment 7 DBE Certification Application Form
- Attachment 8 State's UCP Agreement
- Attachment 9 Small Business Element Program

ATTACHMENT 1
Regulations: 49 CFR Part 26

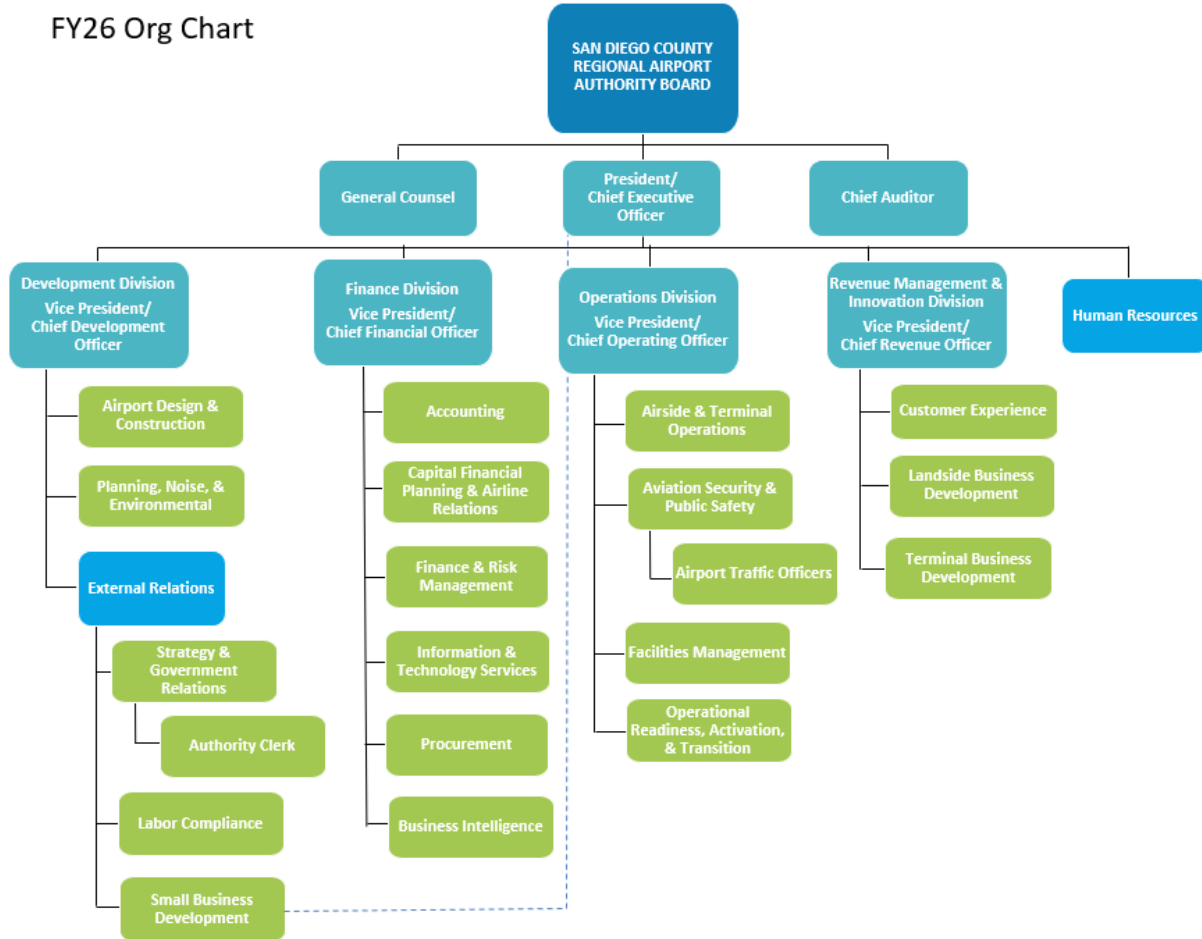
DBE program regulations are codified in Title 49 of the Code of Federal Regulations, Part 26. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

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

ATTACHMENT 2

Organizational Chart

FY26 Org Chart



ATTACHMENT 3

Bidders List Form

The San Diego County Regional Airport Authority (Authority) is required by 49 CFR 26.11(c) to create and maintain a comprehensive Bidders List.

RFB or RFP # _____
Project Name: _____
*To be completed by Airport Authority SBD

Instructions

1. All fields are required to be completed.
2. Information must be provided for **all DBE and non-DBEs** who bid as prime contractors and subcontractors. Each Bidders List is a compilation of bidders and subcontractors who have submitted bids or proposals during the advertising period of this solicitation. Please submit a form for the Bidder and a separate form for each subcontractor at all tiers.
3. Provide the applicable North American Industry Classification System (NAICS) code for each scope of work to be performed in the bid. The NAICS Is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes can be found at <https://www.census.gov/naics/>.
4. For Annual gross receipts, select the applicable gross receipts bracket.
5. **Failure to submit a completed Bidders List Form for the prime contractor along with separate completed Bidders List Form(s) for each and every subcontractor may result in rejection of the bid on the grounds that the bid is non-responsive.**

Part A: Business Data

1. Business Name: _____
2. Business Address: _____
City _____ Street _____
Zip _____ State _____
3. Age of Business: _____ Years _____ Month
4. Race of firm's majority owner: _____
5. Gender of firm's majority owner: _____
6. Name of Contact Person: _____
7. Phone: (_____) _____

8. Email Address: _____
9. Is this business certified as a Disadvantaged Business Enterprise? a. Yes b. No
10. Business Annual Gross Receipts:
a. Less than \$1 million b. \$1-\$3 million c. \$3-\$6 million d. \$6-\$10 million
e. \$10-\$15 million f. \$15-\$20 million g. \$20-\$25 million h. \$25-\$30.72 million

Part B: Project and Work Description

1. Provide brief description of scope of work, services, and/or materials to be performed/furnished and the applicable NAICS code(s):

2. Will you subcontract any of the work? a. Yes * b. No (* If "Yes," the subcontractor(s) must complete a separate Bidders List Form which must be submitted with the Bid)

Part C: Signature

The undersigned declares that the information on this Bidders List Form is complete and accurate.

Authorized Signature: _____

Date:

Printed Name: _____

Title:

ATTACHMENT 4

California DBE Directory

California Unified Certification Program

<https://californiaucp.dbesystem.com/>

ATTACHMENT 5

Overall Goal Calculations

https://www.san.org/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=16517&language=en-US&PortalId=0&TabId=225

ATTACHMENT 6

DBE Monitoring and Enforcement Mechanisms

The Authority 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, as follows:
The Airport Authority may, without prejudice to any other right or remedy, serve written notice upon contractor of its intention to terminate this Contract in whole or in part if the contractor:
 - Fails to make prompt payment to Subcontractors or for material or labor;
 - Disregards applicable laws, other requirements or instructions of the Airport Authority; or
 - Violates any of the provisions of the Contract Documents.
2. Breach of contract action, pursuant to California Civil Code, Article 1 Damages for Breach of Contract 3300-3322
3. In the event of the Contractor's willful non-compliance with Authority's DBE Program or its intentional failure to meet the prescribed DBE portion of the Contract requirements, the Airport Authority may impose such contract sanctions as the Airport Authority may determine to be appropriate including:
 - a. Withholding payments to the Contractor until the Contractor complies; or
 - b. Cancellation, termination, or suspension of this Contract in whole or in part; or
 - c. Debarment or suspension of the Contractor from eligibility to contract with the Airport Authority in the future or to receive bid packages or request for proposal packages.

ATTACHMENT 7

DBE Certification Application Form and Personal Net Worth Statement:

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

ATTACHMENT 8

California UCP Agreement can be found here:

https://www.san.org/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=17562&language=en-US&PortalId=0&TabId=225

ATTACHMENT 9
DBE Small Business Element

DBE Small Business Element

The Authority has established a small business element included in the DBE Program designed to facilitate competition by small business concerns (SBC). The Authority will take all reasonable steps to eliminate obstacles to their participation, including the removal of unnecessary and unjustified requirements that may preclude small business participation in solicitations.

The program's elements will be actively implemented to foster small business participation. The Authority acknowledges that active use of the small business element is a requirement of the good faith implementation of this DBE Program.

A. Objective/Strategies

- 1) The Authority will develop a plan that will work with local chambers of commerce, trade associations, business development organizations and employee development agencies to develop a plan to create construction opportunities of a specific size that would allow specified contracts to be set-aside for small businesses. Only those firms meeting the definition of a small business, as described below, will be eligible for award of these contracts.
- 2) In multi-year design-build contracts or other large contracts (e.g., for "megaprojects") the Authority may revise Request for Proposal (RFP) and Request for Qualifications (RFQ) policies to require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- 3) The Authority may require prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved. If there are not sufficient small businesses, or if the inclusion of the small businesses significantly increases the cost of the project, the prime contractor must demonstrate those increased costs are too prohibitive to construct the project.
- 4) **Unbundling:** The Authority, where feasible, may "unbundle" projects or separate large contracts into smaller contracts to make the contracting opportunity more suitable for small business participation. The Authority will conduct a contract review of each FAA- assisted contract to determine whether portions of the project could be "unbundled" or bid separately to facilitate participation by small businesses. Similarly, the Authority will encourage its prime contractors and prime consultants to unbundle contracts to facilitate participation by small businesses.
- 5) **Bidder Outreach Requirements:** When projects have subcontracting opportunities, the Authority may require the following:
 - i. Requiring the successful bidder to submit a letter of intent (LOI) that commits the prime contractor to use the subcontractors that were identified in the RFB/RFP/Q response;
 - ii. Bidders may be required to conduct appropriate outreach to DBEs and small businesses. The Airport Authority will require bidders to provide documentation detailing their outreach efforts for all DBEs and small businesses that were contacted. The Airport Authority will conduct follow-up with the DBEs and small businesses to verify outreach.
- 6) **Authority Outreach efforts:** Outreach conducted by the Authority may include:

- i. Hosting a series of pre-solicitation outreach sessions with Airport project managers, potential primes and small business subcontractors. In these meetings we will discuss the scope of work, certification and the NAICS codes required to perform the project.
 - ii. Conducting pre-solicitation meetings with adequate time to allow DBEs and small businesses to get certified and have the correct NAICS. Those SBEs who are certified with the NAICS codes for the business opportunity will be identified and invited to these events.
 - iii. Making a special effort to invite business who may not be certified but have the ability to obtain certification.
 - iv. Following up with the potential small businesses to see if they were contacted by the primes, and conducting follow up with businesses that attend outreach events to see if further assistance is needed.
- 7) **Small Business Goals:** Where feasible, the Authority may establish a percentage goal of the total value of a contract for small business participation where the prime contractor must meet or exceed the goal or provide evidence of a good faith effort to meet the small business participation goal on FAA-assisted contracts. A small business goal is open to all small businesses regardless of the owner's gender, race or geographic location. The project manager and Disadvantaged Business Enterprise Liaison Officer (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 small business percentage goal. In the event that a small business participation goal is not established on an FAA-assisted contract, the project manager and DBELO will document why a small business goal is not in the best interest of the Authority.

B. Small Business Definition

All businesses meeting the criteria outlined in this element will be considered small businesses, without regard to race or gender.

DBE firms are eligible for participation in the small business element.

The Authority defines a small business as a profit-making corporation, sole proprietorship, or partnership that meets these criteria:

- a) A business concern that is certified as a DBE or ACDBE, or
- b) A business concern that possesses valid certification issued by an agency, approved by the Authority, that verifies the firm is within the Small Business Administration (SBA) size standards, or
- c) Is an airport concessionaire that provides evidence that its business size is within standards 13 CFR Part 121 and consistent with 49 CFR Part 23, Section 23.33.

C. Verification

If a firm has a certification with North American Industry Classification System (NAICS) codes to be performed on the contract and meets the SBA size standards, it is not required to obtain another certification. However, if a firm's NAICS code does not meet the SBA size standards, the firm should submit a self-certification to the Authority, evidencing compliance with SBA size standards or provide verification from another agency that the firm is compliance with SBA size standards.

The Authority will accept the following certifications for participation as a small business:

1. Small Business Administration 8(a) Business Development Certification
2. Women-Owned Small Business (WOSB)
3. Veteran-Owned Small Businesses (VOSB)
4. Service-Disabled Veteran-Owned small businesses (SDVOSB)
5. Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) certification from any state Unified Certification Program
6. California Department of General Services Micro Small Business, Small Business Enterprise (SBE), and Small Business for Public Works (SB-PW)
7. Valid certification issued by an agency, approved by the Authority, that verifies the firm is within the SBA size standards.

D. Monitoring/Record Keeping

- The Authority will track and monitor participation by DBEs and other small businesses that results from the implementation of this small business element through a web-based compliance and diversity management system.
- Small business element participation will be reported annually as part of the Uniform Report of DBE Participation.
- Based on the strategies implemented and annual small business element participation, the Authority will revise the small business element as needed.

E. Assurance

- The program is permitted under state law;
- Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;
- No limits are placed on the number of contracts awarded to firms participating in the program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
- Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
- The program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference).






DBE_Plan_FINAL 01_23_2025

Final Audit Report

2025-01-24

Created:	2025-01-24
By:	Arely Valenzuela (avalenzu@san.org)
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