

## POLICY STATEMENT

### Section 26.1, 26.23

### Objectives/Policy Statement

The Portland International Jetport 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 Portland International Jetport has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Portland International Jetport has signed an assurance that it will comply with 49 CFR Part 26.

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

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Zachary R. Sundquist, Assistant Airport Director, has been delegated as the DBE Liaison Officer. In that capacity, he 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 Portland International Jetport in its financial assistance agreements with the Department of Transportation.

Portland International Jetport has disseminated this policy statement to the Airport Director and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts via published newspaper notice in the Portland Press herald (regional daily newspaper), and through posting it on our website at [www.portlandjetport.org](http://www.portlandjetport.org).



\_\_\_\_\_  
Portland International Jetport Director

July 29, 2014

\_\_\_\_\_  
Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

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

### **Section 26.5 Definitions**

The Portland International Jetport will use terms in this program that have the meaning defined in Section 26.5.

### **Section 26.7 Non-discrimination Requirements**

The Portland International Jetport 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 Portland International Jetport 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)

We will report DBE participation to DOT as follows:

Portland International Jetport will submit tri-annually the Uniform Report of DBE Awards or Commitments and Payment Form, as modified for use by FAA recipients. See Attachment 8.

#### Bidders List: 26.11(c)

The Portland International Jetport 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.

We will collect this information by requesting a list of all bidders for Portland International Jetport projects from the previous year from the City of Portland's Purchasing Office. See Attachment 9.

### **Section 26.13 Federal Financial Assistance Agreement**

Portland International Jetport has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

#### Assurance: 26.13(a)

Portland International Jetport 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 recipient 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 Portland International Jetport's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Portland International Jetport of its failure to carry out its approved program, the Department may impose sanctions as provided for under 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.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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 recipient deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since the Portland International Jetport has received a grant of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program. We will submit an updated goal annually on August 1 if we plan to award contracts exceeding \$250,000 in FAA funds in that Federal fiscal year.

### **Section 26.23 Policy Statement**

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

### **Section 26.25 DBE Liaison Officer (DBELO)**

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

Zachary R. Sundquist  
 Assistant Airport Director  
 Portland International Jetport  
 1001 Westbrook Street  
 Portland, Maine 04102  
 Telephone: (207) 756-8027  
 Fax: (207) 756-8338  
 zrs@portlandmaine.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Portland International Jetport complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Airport Director 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 does not have a 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 Portland International Jetport 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. Chairs the DBE Advisory Committee.
10. Determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Acts as liaison to the Uniform Certification Process in the State of Maine.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the Portland International Jetport updated directory on certified DBEs.

### **Section 26.27 DBE Financial Institutions**

It is the policy of the Portland International Jetport 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. We called the Finance Authority of Maine at (800) 228-3734 on July 25<sup>th</sup>, 2014 and they are not aware of any DBE financial institutions in the State of Maine. We also checked with the Maine Banker's Association on July 28<sup>th</sup>, 2014 and they were also unaware of any DBE owned financial institutions in Maine. We will continue to check with these two businesses to see if any DBE financial institutions are opened in Maine.

### **Section 26.29 Prompt Payment Mechanisms**

The Portland International Jetport will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Portland International Jetport. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 Portland International Jetport. This clause applies to both DBE and non-DBE subcontractors.

**Section 26.31 Directory**

The Maine Department of Transportation maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The Maine Department of Transportation revises the directory weekly. We make the directory available as follows, also in Attachment 3:

Maine Department of Transportation  
Sherry Tompkins, DBE Program Administrator  
16 State House Station  
Augusta, ME 04333-0016  
(207) 624-3066

<http://www.maine.gov/mdot/civilrights/documents/WeeklyDBEVendorList.pdf>

**Section 26.33 Over-concentration**

Portland International Jetport has not identified that over-concentration exists in the types of work that DBEs perform.

**Section 26.35 Business Development Programs**

Portland International Jetport has not established a business development program.

**Section 26.37 Monitoring and Enforcement Mechanisms**

The Portland International Jetport 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 consider similar action under our own legal authorities, including responsibility determinations in future contracts. The regulations, provisions, and contract remedies available to us, in the events of non-compliance with the DBE regulation by a participant in our procurement activities, can include, but are not limited to: (1) the criteria regarding awarding of contracts to include a contractor's past performance in utilizing DBE's, and (2) the including as part of a current package a contractor's statement indicating commitment to the DBE program and steps they have taken to utilize them in prior contracts as well as the current contract in question.
3. We will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished by requiring proof of payment to DBEs from contractors.
4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT reporting form.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The Portland International Jetport does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

Portland International Jetport will annually establish overall goals if we anticipate that we will award prime contracts exceeding \$250,000 in FAA funds in a Federal fiscal year in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Portland International Jetport does not anticipate awarding more than \$250,000 in FAA funds in prime contracts within the Federal fiscal year, we will not develop an overall goal; however the existing DBE program will remain in effect and the Portland International Jetport will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Portland International Jetport will annually establish overall goals in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step is to determine the relative availability of DBEs in the market area, "base figure". The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

In accordance with Section 26.45(f) the Portland International Jetport will submit its overall goal to DOT on August 1 of each year. In establishing the overall goal each year, Portland International Jetport will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Portland International Jetport's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Portland International Jetport administration office for 30 days following the date of the notice, and informing the public that Portland International Jetport and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority-focus media and trade publications, websites. Normally, we will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 every three years, unless we have received other instructions from DOT. 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 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program. This section of the program will be updated tri-annually when the goal calculation is updated.

### **Section 26.51(d-g) Contract Goals**

The Portland International Jetport will use contract goals to meet any portion of the overall goal Portland International Jetport does not project being able to meet using race-neutral 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 our overall goal that is not projected to be met through the use of race-neutral means.

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 federal share of a DOT-assisted contract.

### **Section 26.53 Good Faith Efforts Procedures**

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

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

Zachary R. Sundquist, Assistant Airport Director is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

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

#### Information to be submitted (26.53(b))

Portland International Jetport treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information within 7 business days of being notified that they are the successful bidders, but before the contract is executed:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

#### Administrative reconsideration (26.53(d))

Within 7 business days of being informed by Portland International Jetport that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Paul Bradbury, Director, Portland International Jetport 1001 Westbrook Street, Portland, Maine

04102, (207) 756-8027, [phb@portlandmaine.gov](mailto:phb@portlandmaine.gov). 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 when a DBE is replaced on a contract (26.53(f))

Portland International Jetport 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, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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.

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 Portland International Jetport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal has been established for this contract. The bidder/offeror 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/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (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.



## **SUBPART D – CERTIFICATION STANDARDS**

### **Section 26.61 – 26.73 Certification Process**

Portland International Jetport has an agreement with the Maine Department of Transportation (MDOT) to certify that the standards of Subpart D of Part 26 to are used by MEUCP 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:  
Maine Department of Transportation  
#16 State House Station  
Augusta, Maine 04333-0016  
(207) 624-3066

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

Portland International Jetport has an agreement with MDOT, which provides Maine's Unified Certification Program (UCP). A copy of the Maine UCP program and a signed copy of our agreement to the DBE program are in Attachments 6 and 7.

### **Section 26.83 Procedures for Certification Decisions**

#### Re-certifications 26.83(a) & (c)

We will ensure the UCP reviews the eligibility of DBEs that are certified under former Part 23, to make sure that they will meet the standards of Subpart E of Part 26. We will complete this review no later than three years from the most recent certification date of each firm.

We ensure Maine UCP has certified or reviewed and found eligible under Part 26, and we will again review their eligibility every three years. These reviews will include the following components: Portland International Jetport will make these determinations on a case-by-case basis.

#### "No Change" Affidavits and Notices of Change (26.83(j))

The Maine UCP requires all DBEs owners to inform them, in a written affidavit, of any change in its circumstances affecting its 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 Portland International Jetport application for certification.

The Maine UCP also requires all DBE owners that are certified to submit every year, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [*name of DBE firm*] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with [*name of DBE*]'s application for certification, except for any changes about which you have provided written notice to the Portland International Jetport under 26.83(j). [*Name of firm*] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$22.41 million.

The Maine UCP requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

The Maine UCP will notify all currently certified DBE firms of these obligations. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Personal Net Worth. (26.67(b))

All disadvantaged owners of applicant firms and currently certified DBE firms whose eligibility under Part 26 is reviewed are required to submit a statement of personal net worth.

**Section 26.86 Denials of Initial Requests for Certification**

If the MDOT denies a firm's application or decertify it, it may not reapply until 12 months have passed from their action.

**Section 26.87 Removal of a DBE's Eligibility**

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87. Attachment 6 to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, the Portland Jetport will follow the UCP's determination regarding the decision-maker in de-certification proceedings. The UCP have established an administrative "firewall" to ensure that the decision-maker will not have participated in any way in the de-certification proceeding against the firm (including the decision to initiate such a proceeding).

**Section 26.89 Certification Appeals**

Any firm or complainant may appeal MDOT's decision in a certification matter to DOT. Such appeals may be sent to:

US Department of Transportation  
 Departmental Office of Civil Rights  
 External Civil Rights Program Division (S-33)  
 1200 New Jersey Ave., S.E.  
 Washington, DC 20590  
 Phone: 202-366-4754  
 TTY: 202-366-9696  
 Fax: 202-366-5575

The UCP 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 our denial of its application was erroneous).

**SUBPART F – COMPLIANCE AND ENFORCEMENT**

**Section 26.109 Information, Confidentiality, Cooperation**

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 contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

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 Portland International Jetport 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.

**ATTACHMENTS**

Attachment 1	Regulations: 49 CFR Part 26
Attachment 2	Organizational Chart
Attachment 3	DBE Directory
Attachment 4	Overall Goal Calculation (Include Breakout of Estimated Race-Neutral & Race-Conscious Participation, Public Participation, and Contract Goal)
Attachment 5	Form 1 & 2 for Demonstration of Good Faith Efforts or Good Faith Effort Plan
Attachment 6	Maine's UCP
Attachment 7	Signed UCP Agreement Form
Attachment 8	Doors reporting form
Attachment 9	Letter to Purchasing Office

**Attachment 1**

**Regulations: 49 CFR Part 26**

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

**Attachment 2**  
**Organizational Chart**



**Attachment 3**

**DBE Directory**

<http://www.maine.gov/mdot/civilrights/documents/WeeklyDBEVendorList.pdf>

**Attachment 4**

**Section 26.45: Overall Goal Calculation**

**Name of Recipient:** Portland International Jetport

**Goal Period:** FY 2015 – FY 2017 – October 1, 2014 through September 30, 2017

**DOT-assisted contract amount:** \$5,720,031

**DBE Goal:** 2.19 percent

**Total dollar amount to be expended on DBE's:** \$57,200

**Describe the Number and Type of Projects for these Fiscal Years:**

- a. Master Plan Update, Phase 1
- b. Master Plan Update, Phase 2
- c. North GA Ramp & Snow Shoulders for Taxiway C
- d. Terminal Apron, Phase 4 – Gate 1 Ramp Reconstruction

**Market Area:** The State of Maine is the market area based on the last year's bidders list. The majority of firms on this list were from within the State of Maine; therefore the market area used in calculating the goal is the State of Maine.

**Determination of Market Area:**

- a. Substantial majority (at least 80% of the contractors and subcontractors come from this area), and
- b. Substantial majority (at least 80% of the contracting dollars will be spent in this area.)

**Step 1. Analysis:** Actual relative availability of DBE's

Method: Use DBE Directories and Census Bureau Data

NAICS	Type of Work	Total DBE's	Total All Firms
541611	Administrative Management and General Management Consulting Services (Master Plan Update, Phase 1)	1	226
541611	Administrative Management and General Management Consulting Services (Master Plan Update, Phase 2)	1	226
237310	North GA Ramp & Snow Shoulders for Taxiway C	2	80
237310	Gate 1 Ramp Reconstruction	2	80

Total DBEs = 3  
Total Firms = 306

Since the cost of Planning projects is \$858,000 or 15% of the total combined project costs and the cost of Construction projects is \$4,862,031 or 85% of total combined project costs, we have weighted the calculation of the relative availability of firms by the same percentages, as follows:

$$[(.15 * 1 \text{ DBE planning business} / 226 \text{ total planning businesses}) + (.85 * 2 \text{ DBE Construction businesses} / 80 \text{ total construction businesses})] * 100$$

$$[(.15 * .0044) + (.85 * .0250)] * 100$$

$$(.0007 + .0213) * 100 = 2.19\% \text{ DBE participation}$$

**Step 2. Analysis:** Adjustment to Step 1 base figure to make it more precise.

As shown in step one above, the Portland International Jetport adjusted its original goal of 1% DBE participation by assigning weights to our calculations. We weighted our planning business DBEs with a 15% factor due to our estimated costs of upcoming planning projects being 15% of the total costs, and we assigned a weight of 85% to our construction DBE businesses since our construction projects account for 85% of our estimated total project costs. Our original calculation of 1% DBE participation, therefore, was increased to 2.19%.

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

26.51(b)(1-9)

The recipient will meet the maximum feasible portion of its overall goal by using RC means of facilitating DBE participation.

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

The recipient estimates that in meeting its overall goal of 1 percent, it will obtain 1 percent from RC participation and 0 percent through RN measures. Because the Portland International Jetport does not have any previous records of goals or reporting for previous years, there is not enough supporting documentation for using RN measures. Therefore the contract goals will be obtained by RC participation.

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

**Public Participation**

**Consultation:** Section 26.45(g)(1). The Portland International Jetport works in cooperation with Maine DOT's efforts for public participation in our DBE goals. As stated below in Maine DOT's "Goal Methodology" document:

Maine DOT works closely with Eastern Maine Development Corporation (EMDC), which contracts with us to implement our DBE Supportive Service Program and the work to counsel women and minority owned businesses on the DBE program. The DBE goal methodology was shared with them and they in turn sent it to all Maine DBE firms. EMDC is a Small Business Development Center and is also a small business lender.



MaineDOT consults on a regular basis with Women Unlimited, Inc. a non-profit agency that recruits, educates and provides assistance to women and minorities seeking employment in construction trades.

MaineDOT meets with AGC and Maine Asphalt Paving Association and Associate Building Contractors of Maine. MaineDOT Civil Rights Office (CRO) provided training to members of ABC in October 2011 and CRO was on the December 2011 AGC agenda and spoke specifically to DBE issues and also is in conversation with AGC staff on questions pertaining to Civil Rights issues.

The entire document can be seen at: <http://www.maine.gov/mdot/civilrights/dbegoals.htm>

**Published Notice:** Section 26.45 (g)(2). The Portland International Jetport advertised the DBE goal on the Portland International Jetport webpage at [http://www.portlandjetport.org/DBE\\_Plan.asp](http://www.portlandjetport.org/DBE_Plan.asp), as well as in the Portland Press Herald on July 31st, 2014.

In addition, the Portland Jetport also contacted the Finance Authority of Maine to determine if there were any DBE-owned financial institutions in the State of Maine, and was told that they were unaware of any financial institutions registered as DBEs.

#### **Public Notice Language:**

#### **PUBLIC NOTICE**

Portland International Jetport's (PWM) Disadvantaged Business Enterprise Program is available for public review at Airport Administration offices located on the second floor of the terminal building at 1001 Westbrook St. in Portland during normal business hours between 8:00 am and 4:30 pm. The report is also posted on the Jetport's website at [http://www.portlandjetport.org/DBE\\_Plan.asp](http://www.portlandjetport.org/DBE_Plan.asp). The DBE program will be available for review until August 31st, 2014. Portland International Jetport's overall DBE goal for FAA Fiscal Years 2015 to 2017 (Oct 1, 2014 – Sep 30, 2017) is 2.19%. The deadline to submit comments on the program is September 15<sup>th</sup>, 2014. Comments can be dropped off at Airport Administration, e-mailed to [zrs@portlandmaine.gov](mailto:zrs@portlandmaine.gov) or mailed to Airport Manager's Office, 1001 Westbrook St., Portland, ME 04102. Comments may also be submitted to the Federal Aviation Administration, Office of Civil Rights, 800 Independence Avenue, Washington, D.C., 20591.

#### **Contract Goals**

The recipient 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 recipient 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 recipient will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

**Attachment 5**

**Forms 1 & 2 for Demonstration of Good Faith Efforts**

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

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

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

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

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

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

.....

.....

.....

.....

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

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(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 6**

**State of Maine UCP**

<http://www.maine.gov/mdot/civilrights/>

**Attachment 7**

**Signed UCP Agreement Form**

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PORTLAND JETPORT

PAGE 02

**AGREEMENT**

**Between the**

**MAINE DEPARTMENT OF TRANSPORTATION  
OFFICE OF HUMAN RESOURCES**

**And**

CITY OF PORTLAND, PORTLAND JETPORT

**This Agreement** is made this 12<sup>th</sup> day of APRIL, 2002, by and between the **State of Maine**, through its **Department of Transportation (MDOT)**, with an address of 16 State House Station, Augusta, Maine, and PORTLAND INT'L JETPORT, with an address of 1001 WESTBROOK ST PORTLAND, Maine.

**I. AGREEMENT**

**MDOT and the named party hereby agrees as follows:**

1. The named party agrees that as a recipient of USDOT financial assistance it will cooperate fully with the Maine Department of Transportation in the certification of Disadvantaged Business Enterprises.
2. The named party agrees it shall utilize the MDOT Disadvantaged Business Enterprise Certification program.
3. The named party agrees to refer potential applicants for DBE Certification to MDOT.
4. The named party agrees to honor the decisions made by MDOT with respect to certification decisions made in accordance with 49 CFR Parts 23 and 26 Subpart E Certification Procedures.
5. MDOT will accept, review, and make determinations about DBE Certification for those entities referred to it by the named party.

**II TERMS**

This Agreement remains in place indefinitely.

**SEEN AND AGREED TO BY:**

**MAINE DEPARTMENT OF TRANSPORTATION**

Penny Plourde

**By: Penny Plourde Manager, Small Business Programs**

Jeffrey Scholtes  
**By: Jeffrey Scholtes**

4/12/02  
**Title ACCOUNT MANAGER**

**Attachment 8**

**Doors Reporting Form**

**UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS**

\*\*Please refer to the instructions sheet for directions on filling out this form\*\*

1. Submitted to (check only one):  FHWA  FAA  FTA-Vendor Number

2. AIP Numbers (FAA Recipients Only):

3. Federal fiscal year in which reporting period falls: FY \_\_\_\_\_ 4. Date This Report Submitted: \_\_\_\_\_

5. Reporting Period  Report due June 1 (for period Oct. 1-Mar. 31)  Report due Dec. 1 (for period April 1-Sept. 30)

6. Name of Recipient: \_\_\_\_\_

7. Annual DBE Goal(s): \_\_\_\_\_ % Race Conscious Goal \_\_\_\_\_ % Race Neutral Goal \_\_\_\_\_ % OVERALL Goal \_\_\_\_\_ %

AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts awarded or committed during this reporting period)	Race Conscious Goal			Race Neutral Goal			OVERALL Goal								
	A Total Dollars	B Total Number	C Total to DBEs (dollars)	D Total to DBEs (number)	E Total to DBEs /Race Conscious	F Total to DBEs/Race Conscious (number)	G Total to DBEs/Race Neutral (dollars)	H Total to DBEs/Race Neutral (number)	I Percentage of total dollars to DBEs						
8. Prime contracts awarded this period															
9. Subcontracts awarded/committed this period															
<b>TOTAL</b>															
DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY & GENDER	A			B			C								
	Black American	Hispanic American	Native American	Subcont. Asian American	Asian-Pacific American	Non-Minority Women	Other (i.e. not or any other group listed here)	TOTALS (for this reporting period only)	Year-End TOTALS						
10. Total Number of Contracts (Prime and Sub)															
11. Total Dollar Value															
ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	A			B			C			D			E		
12. Race Conscious	Number of Prime Contracts Completed			Total Dollar Value of Prime Contracts Completed			DBE Participation Needed to Meet Goal (Dollars)			Total DBE Participation (Dollars)			Percentage of Total DBE Participation		
13. Race Neutral															
14. Totals															
15. Submitted by (Print Name of Authorized Representative)													16. Signature of Authorized Representative		
17. Phone Number													18. Fax Number		

