

DBE REPORT



DISADVANTAGED BUSINESS ENTERPRISE PROGRAM 2019-2021

Prepared for:

Boulder City Municipal Airport

1201 Airport Rd Suite 200

Boulder City, NV 89005

Prepared by:

Kimley»»Horn

June 2018

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BOULDER CITY MUNICIPAL AIRPORT



**DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM
2019-2021**

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Prepared for:

Boulder City Municipal Airport
1201 Airport Rd Suite 200
Boulder City, NV 89005

Prepared by:

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1. OBJECTIVES/POLICY STATEMENT (26.1,26.23)

The City of Boulder City (the “CITY”) owner of Boulder City Municipal Airport is located in the State of Nevada, has developed this Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT) 49 CFR Part 26, “Participation by Disadvantaged Business Enterprise in DOT Programs” (hereinafter referred to as Part 26). The CITY will be receiving federal financial assistance from the DOT, and as a condition of receiving this assistance, the CITY has signed an assurance that it will comply with 49 CFR Part 26.

All reference sections indicated within the body of this document are directly correlated to the subsections found in Part 26. It is the policy of the CITY 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 CITY’s policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBE’s.

Marissa Adou, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBE Liaison Officer 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 CITY in its financial assistance agreements with the DOT.

The CITY will disseminate this policy statement to the Airport Manager and all the components of its organization. This statement will be distributed to DBE and non-DBE business communities that perform work for the CITY on DOT-assisted contracts as a part of the invitation for bid.

Date: 3/15/2019

Marissa Adou

City of Boulder City, Nevada



2. GENERAL REQUIREMENTS

2.1. Objectives (26.1)

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

2.2. Applicability (26.3)

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

2.3. Definitions (26.5)

The terms used in this program have the meanings defined in 49 CFR 26.5.

2.4. Non-Discrimination (26.7)

The CITY will not 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 CITY 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.

2.5. RECORD KEEPING REQUIREMENTS (26.11)

2.5.1. Reporting to DOT (26.11(b))

The CITY will continue to provide data about the DBE Program to the Department as directed by DOT operating administrations.

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in **Appendix B**. We will also report the DBE contractor firm information either on the FAA DBE Contractor's Form or other similar format.

2.5.2. Bidders List (26.11(c))

The CITY will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. 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 CITY will collect this information by including a contract clause in each bid document requiring prime bidders to report the company name, owner's name, address, DBE/non-DBE status, length of time in business, and annual gross receipts of firms.



2.6. FEDERAL FINANCIAL ASSISTANCE AGREEMENT (26.13(a) & (b))

2.6.1. Assurance (26.13(a))

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

The CITY 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 recipient'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 CITY 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.).

2.6.2. Contract Assurance (26.13(b))

The CITY will ensure that the following clause is placed in every DOT-assisted contract and subcontract for all construction, equipment and professional services procured in accordance with this plan:

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.



3. ADMINISTRATIVE REQUIREMENTS

3.1. DBE PROGRAM UPDATES (26.21)

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

3.2. POLICY STATEMENT (26.23)

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

3.3. DBE LIAISON OFFICER (DBELO) (26.25)

The CITY has designated the following individual as its DBE Liaison Officer:

Marissa Adou
1201 Airport Road Suite 200
Boulder City, Nevada 89005
(702) 293-9405

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the CITY complies with all provisions of 49 CFR Part 26. DBELO has direct, independent access to the Airport Coordinator concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Appendix B**.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

- Gathers, compiles and reports statistical data and other information that may be required by DOT, FAA, or the State of Nevada.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with all departments to set overall annual DBE goals.
- Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
- Reviews contracts and procurements to ensure that DBE goals are included in solicitations and monitors results.
- Analyzes the CITY's progress toward goal attainment and, if necessary, identifies ways to improve progress.
- Ensures participation of appropriate the CITY personnel in pre-bid meetings.



- Advises the CITY governing body on DBE matters and achievement.
- Participates with appropriate management (i.e. legal counsel, project manager, etc.) to determine contractor compliance.
- Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- Plans and participates in DBE training seminars, as required.
- Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Nevada.
 - Provides outreach to DBEs and community organizations to advise them of opportunities.
 - Maintains the CITY's updated directory on certified DBEs.

3.4. DBE FINANCIAL INSTITUTIONS (26.27)

It is the policy of the CITY 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 CITY has made the following efforts to identify and use such institutions: The State of Nevada DBE database was searched for financial institutions in and around the CITY, and surrounding counties. The results of the database search returned no DBE financial institutions in the area.

3.5. PROMPT PAYMENT MECHANISMS (26.29)

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

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

3.6. DIRECTORY (26.31)

The State of Nevada Department of Transportation (NDOT) maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, telephone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. A link to the directory may be found in **Appendix D**.

The Nevada State Directory is updated periodically. The Airport will assemble a Directory using data collected from bidders on recent airport projects. The Airport Directory will be maintained by the DBELO.



3.7. OVER CONCENTRATION (26.33)

The CITY has not identified an over concentration of DBE firms in required service specialty areas.

3.8. BUSINESS DEVELOPMENT PROGRAM (26.35)

The CITY does not have a Business Development Program to assist new firms in gaining the ability to compete in the marketplace outside the DBE Program.

3.9. MONITORING AND ENFORCEMENT MECHANISMS (26.37)

The CITY will bring to the attention of the United States 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 49 CFR 26.109. The CITY also will consider similar action under our own legal authorities, including responsibility determinations in future contracts and possible prosecution under applicable Nevada law.

Remedies available to the CITY for false, fraudulent, or dishonest conduct include, but are not limited to, withholding of payment (if applicable), requiring certified participation letters, lien release letters, and/or breach of contract proceedings.

The CITY will investigate and act on complaints regarding lack of prompt payment. If the prime contractor is determined to be delinquent with prompt payments, the CITY will notify the prime contractor that immediate payment to the subcontractor is required, and may recommend suspending the prime contractor's pre-qualification status for bidding on future projects.



4. GOALS, GOOD FAITH EFFORTS, AND COUNTING

4.1. SET-ASIDES OR QUOTAS (26.43)

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

4.2. OVERALL GOALS (26.45)

The CITY will establish an overall goal covering a three-year Federal Fiscal year period. Three-year overall goals if we anticipate awarding FAA funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f), the CITY will submit its Overall Three-year DBE goal to the FAA by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Hub Primary	All Regions	August 1, 2018 (2019,2020,2021)	August 1, 2021 (2022,2023,2024)

DBE goals will be established for those fiscal years we anticipate awarding DOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the 2-step process as specified in 9 CFR Part 26.4. If the CITY does not anticipate awarding more than \$250,000 in DOT-assisted prime contracts during any of the years within the three-year reporting period, we will not develop an overall goal. However, this DBE program will remain in effect and the CITY will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area or the “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 from past competitiveness on projects.

In accordance with Section 26.45(f) the CITY will submit its overall goal to DOT on or about August 1 of each year. Before establishing the overall goal each year, the CITY will consider State of Nevada, Department of Transportation, Unified Certification Program, and available minority and contractor groups to obtain information regarding the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the CITY’s efforts to establish a level playing field for the participation of DBEs. The CITY will take into consideration 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 DBEs and non-DBEs.

The CITY 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 hour at the City of Boulder, 1201 Airport Road Suite 200 Boulder City, Nevada 89005 for 30 days following the date of the notice, and informing the public that the CITY and DOT/FAA 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 the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall three-year DBE goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

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

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Appendix E**.

4.2.1. Failure to meet overall goals (26.47)

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

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

- Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in a fiscal year;
- Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully our goal for the new fiscal year;
- The CITY will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c) (1) and (2) of this section to the FAA for approval.

4.3. BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE CONSCIOUS PARTICIPATION (26.51(a-c))

The CITY will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. These may include, but are not limited to, the following:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small business participation.
- Carrying out information programs on specific contract opportunities (e.g., ensuring that the DBE's and other small businesses on receipt mailing list for bidders) ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors.
- Ensuring distribution of your DBE directory, through print and electronic means to the widest feasible universe of potential prime contractors.



4.4. CONTRACT GOALS (26.51 (d-g))

The CITY will use contract goals to meet any portion of the overall goal the CITY 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.

The CITY will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The CITY 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.

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

4.5. GOOD FAITH EFFORTS PROCEDURES (26.53)

4.5.1. Demonstration of Good Faith Efforts (26.53 (a) & (c))

The obligation of the bidder is to make good faith efforts. The bidder 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. A link to this document is found in **Appendix A**.

The CITY will ensure that all information is complete and accurate and adequately documents the bidder good faith efforts before the CITY commits to the performance of the contract by the bidder.

4.5.2. Information to be Submitted (26.53 (b))

The CITY treats bidder compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidder to submit the following information:

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



4.5.3. Administrative Reconsideration (26.53(d))

Within 7 business days of being informed by the CITY that it is not responsible because it has no 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:

Marissa Adou
1201 Airport Road Suite 200
Boulder City, Nevada 89005
(702) 293-9405

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 effort 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.

4.5.4. Good Faith Efforts when a DBE is Replaced on a Contract (26.53 (f))

The CITY 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.

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

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

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



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.

4.6. COUNTING DBE PARTICIPATION (26.55)

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

If the firm is not currently certified as a DBE in accordance with the standards of subpart D at the time of the execution of the contract, we will not count the firm's participation toward any DBE goals, except as provided for in 26.87(j).



5. CERTIFICATION STANDARDS

5.1. CERTIFICATION PROCESS (26.61- 26.73)

The CITY will rely upon DOT Unified Certification Program, their certifying agencies, certification procedures (Part 26, Section 26.81), and decisions. The CITY will require documentation from DBE's supporting their approval and certification status. The CITY will utilize the DBE firms listed in the Nevada State Certified Directory and will not certify DBE firms directly.

Certification application form is available to view and download within the link provided in **Appendix H**.

For information about the certification process, firms should contact:

Marissa Adou
1201 Airport Road Suite 200
Boulder City, Nevada 89005
(702) 293-9405

5.1.1. Personal Net Worth (26.67(b))

All disadvantaged owners of applicant firms and of currently-certified DBEs whose eligibility under Part 26 is reviewed are required to submit a statement of personal net worth (PNW) on an annual basis or upon recertification. The CITY will use SBA Form 413 (2-94) as documentation submitted by respondent.



6. CERTIFICATION PROCEDURES

6.1. UNIFIED CERTIFICATION PROGRAMS (26.81)

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

6.2. PROCEDURES FOR CERTIFICATION DECISIONS (26.83)

6.2.1. Re-certifications (26.83 (a) & (c))

The CITY did not certify any firms under former Part 23.

The CITY will rely upon procedures in place by NDOT.

6.2.2. "No Change" Affidavits and Notices of Change (26.83(j))

The CITY will rely upon procedures in place by NDOT.

6.3. DENIALS OF INITIAL REQUESTS FOR CERTIFICATION (26.85)

The CITY will rely upon procedures in place by NDOT.

6.4. REMOVAL OF A DBE'S ELIGIBILITY (26.87)

The CITY will rely upon procedures in place by NDOT.

6.5. CERTIFICATION APPEALS (26.89)

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

U.S. Department of Transportation

Departmental Office of Civil Rights

1200 New Jersey Ave., S.E.

Washington, DC 20590-0001

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



7. COMPLIANCE AND ENFORCEMENT

7.1. INFORMATION, CONFIDENTIALITY, COOPERATION AND INTIMIDATION OR RETALIATION (26.109)

The CITY 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, the CITY 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.

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 CITY, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.

7.2. MONITORING PAYMENT TO DBE'S

The CITY requires prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. Any authorized representative of the CITY or DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor. The CITY will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

The CITY may 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 the amount reported.



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APPENDIX A

REGULATIONS: 49 CFR PART 26 WEB LINK



The FAA regulations: 49 C Part 26 is available to view electronically online at:

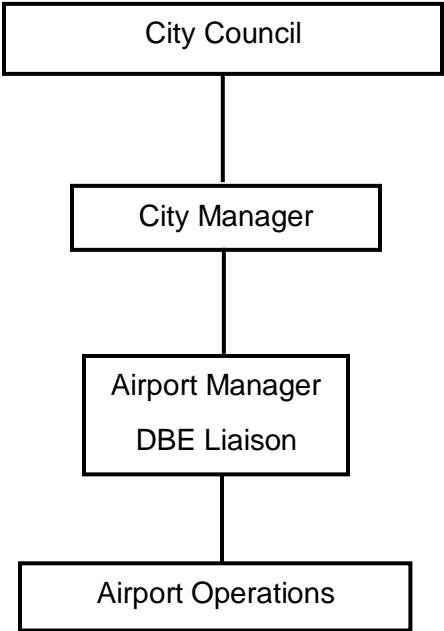
http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl



APPENDIX B
ORGANIZATIONAL CHART



Organizational Chart





APPENDIX C
BIDDER'S LIST COLLECTION FORM



Bidder's List Collection Form:

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)
American Civil Contractors Southwest	4615 N. Lamb Blvd. Suite A, Las Vegas, NV 89115	No
Granite Construction	2370 Corporate Circle #120 Henderson, NV 89074	No
Las Vegas Paving Corporation	4420 South Decatur Blvd. Las Vegas, Nevada 89103	No
Patriot Contractors, LLC	7770 Spring Mountain Rd. Las Vegas, NV 89117	No
Rummel Construction, Inc.	7520 E. Adobe Dr. Scottsdale, AZ 85255	No
TAB Contractors, Inc.	412 East Gowan Road North Las Vegas, NV 89032	No
Target Construction, Inc.	2470 St. Rose Pkwy #308 Henderson, NV 89074	No
Wadley Construction, Inc.	1045 Palms Airport Dr. #110 Las Vegas, NV 89119	No



APPENDIX D
DBE DIRECTORY WEB LINK



The DBE directory is available to view electronically online at:

<http://nevadadbe.com/wfebsite/dbe-vendors.php>



APPENDIX E

OVERALL GOAL CALCULATION, BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE CONSCIOUS PARTICIPATION, PUBLIC PARTICIPATION, AND CONTRACT GOAL



Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: City of Boulder City, State of Nevada, Boulder City Municipal Airport

Goal Period: FY-2019-2020-2021 – October 1, 2018 through September 30, 2021

DOT-assisted contract amount:	FY-2019	<u>\$1,800,000</u>
	FY-2020	<u>\$1,800,000</u>
	FY-2021	<u>\$1,800,000</u>
	Total	<u>\$5,400,000</u>

Overall Three-Year Goal: 6.1%, to be accomplished. RC and RN to be adjusted as needed (see Step 2).

Total dollar amount to be expended on DBE’s: \$329,400 (6.1% x \$5,400,000)

Projects Fiscal Year 2019

1. Construct Taxiway ‘E’, Design - \$500,000
2. Construct Taxiway ‘E’ – Phase 1, Construction - \$1,300,000

Contracts Fiscal Year 2020

1. Construct Taxiway ‘E’ – Phase 2, Construction - \$1,800,000

Contracts Fiscal Year 2021

1. Construct South Apron and Taxiway, Design - \$500,000
2. Construct South Apron and Taxiway – Phase 1, Construction - \$1,300,000

Market Area: The market area used to develop the contractor list includes The City of Boulder City and the surrounding counties from which DBE contractors would be expected to participate. These counties are identified as the area in which the majority of the Airport’s contractors and subcontractors that seek to do business with the Airport are located and the area in which the Airport spends the substantial majority of its contracting dollars. The following Counties include: Clark, Esmeralda, Nye and Lincoln.



STEP 1 - DETERMINE A BASE FIGURE REPRESENTING THE RELATIVE AVAILABILITY OF DBEs.

A Base Figure of 6.4% was determined by utilizing the Disparity Study that was conducted for the McCarran International Airport dated July 1, 2010. The McCarran International Airport is another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule.

STEP 2 - EXAMINE DATA TO DETERMINE WHAT ADJUSTMENT, IF ANY, IS NEEDED TO THE BASE FIGURE.

We have determined that it is necessary to adjust the goal since not all trades utilized in the Disparity Study will be utilized in the planned projects for the goal period.

An examination of the anticipated projects for each fiscal year, the availability of the DBE firms by trade classification and the volume of work performed by DBE firms over previous years.

Fiscal Year #1

For FY-2019, we anticipate the award of the following:

Contract Name	Trade Description	NAICS Description	NAICS	Trade (\$)
Contract #1 - Construct Taxiway 'E' – (Design)	Design Services	Engineering Services	541330	\$405,000
	Geo-technical	Geophysical Surveying and Mapping	541360	\$30,000
	Survey and Mapping	Surveying and Mapping	541370	\$65,000
Total Contract				\$500,000
Contract #2 - Construct Taxiway 'E' - Phase 1 (Construction)	Drainage Construction	Water and Sewer Construction	237110	\$140,000
	Demolition, Excavation, Earthwork	Highway, Street, and Bridge Construction	237310	\$250,000
	Electrical	Electrical Contractors	238210	\$350,000
	Trucking Transportation	General Freight Trucking Local	484110	\$50,000
	Contract Management	Engineering Services	541330	\$400,000
	Geo-technical	Geophysical Surveying and Mapping	541360	\$100,000
	Survey and Mapping	Surveying and Mapping	541370	\$10,000
Total Contract				\$1,300,000
Total FY-2019				\$1,800,000



For FY-2020, we anticipate the award of the following:

Contract Name	Trade Description	NAICS Description	NAICS	Trade (\$)
Contract #1 - Construct Taxiway 'E' Phase 2	Demolition, Excavation, Earthwork	Highway, Street, and Bridge Construction	237310	\$1,300,000
	Electrical	Electrical Contractors	238210	\$100,000
	Trucking Transportation	General Freight Trucking Local	484110	\$150,000
	Contract Management	Engineering Services	541330	\$190,000
	Geo-technical	Geophysical Surveying and Mapping	541360	\$50,000
	Survey and Mapping	Surveying and Mapping	541370	\$10,000
Total Contract				\$1,800,000
Total FY-2020				\$1,800,000

For FY-2021, we anticipate the award of the following:

Contract Name	Trade Description	NAICS Description	NAICS	Trade (\$)
Contract #1 - Construct South Apron and Taxiway – (Design)	Design Services	Engineering Services	541330	\$405,000
	Geo-technical	Geophysical Surveying and Mapping	541360	\$30,000
	Survey and Mapping	Surveying and Mapping	541370	\$65,000
Total Contract				\$500,000
Contract #2 - Construct South Apron and Taxiway – Phase 1 (Construction)	Drainage Construction	Water and Sewer Construction	237110	\$150,000
	Demolition, Excavation, Earthwork	Highway, Street, and Bridge Construction	237310	\$250,000
	Electrical	Electrical Contractors	238210	\$350,000
	Trucking Transportation	General Freight Trucking Local	484110	\$50,000
	Contract Management	Engineering Services	541330	\$400,000
	Geo-technical	Geophysical Surveying and Mapping	541360	\$100,000
	Survey and Mapping	Surveying and Mapping	541370	\$10,000
Total Contract				\$1,300,000
Total FY-2021				\$1,800,000



Disparity Study – Weighted Average

The disparity study developed three different percentages for construction, one for professional services, and one for subcontractors and one for prime contractors. We looked at the utilization information from the disparity study to determine the allocation of dollars between prime contractors and subcontractors for fiscal years 2016 – 2018.

Split of Prime/Subcontractor Payments FY 2016 - FY 2018				
	Non-DBE	DBE	Total	% of Total
Professional Services	\$1,197,718.00	\$0.00	\$1,197,718.00	17.9%
Construction Prime	\$3,684,108.88	\$0.00	\$3,587,880.20	55.0%
Construction Sub	\$1,499,207.20	\$318,528.07	\$1,913,963.95	27.1%
Total Construction	\$6,284,805.40	\$414,756.75	\$6,699,562.15	100.0%

The disparity study provides availability by business category as follows:

Business Category	Availability
Construction - Prime Contractors	5.58%
Construction - Subcontractors	23.08%
Architecture and Engineering - Prime	11.22%
Architecture and Engineering - Subconsultants	14.89%
Professional Services	4.29%
Other Services	4.55%
Goods and Services	5.23%

Based on the above, the weighted availability for construction is as follows

Professional Services – 4.3% (availability) X 17.9% (percentage of \$) = 0.8%

Prime Contractors – 5.6% (availability) X 55.0% (percentage of \$) = 3.1%

Subcontractors – 23.1% (availability) X 27.1% (percentage of \$) = 6.2 %

Weighted percentage availability = 0.8% + 3.1% + 6.2% = 10.1%



Past History Participation

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

FY	Total Grant \$ Amount	DBE Goals			Accomplishments			Type of work
		RC	RN	Total	RC	RN	Total	
FY 16	\$1,642,928	0%	5.24%	5.24%	0.00%	6.74%	6.74%	Construction/Engineering
FY 17	\$2,294,581	0%	5.24%	5.24%	0.00%	5.63%	5.63%	Construction/Engineering
FY 18	\$2,295,975	0%	5.24%	5.24%	NA	NA	NA	Construction/Engineering

Arranging this historical data from low to high, (5.24%, 5.63%, 6.74%) the median is 5.63%.

The proposed Overall DBE Goals are as follows:

- Average of the three years $(5.24+5.63+6.74)/3 = 5.87\%$

Proposed DBE Goal

Our proposed overall three-year goal would be reflected as an average of the three-year historical data along with the weighted average from the disparity study. However, our three-year goal will be reflected as the average of our three-year historical data along with the base figure from the disparity study. This was determined to be a more realistic measure as the subcontractor numbers from our weighted average were inflated and found to be an outlier. This was deemed an outlier because the prime contractor in 2017 was trying to reestablish themselves in the local market and thus subbed out 49% of that year’s overall contract.

Therefore, to arrive at an overall goal, we added our base figure (6.4%) with our past three-year history participation figure calculated above (5.9%). We then averaged the total arriving at an overall goal of 6.1% $(6.4+5.9/2)$.

We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of project work being awarded during this three-year period. Our proposed overall three-year goal will be reflected as 6.1%.



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

26.51(b) (1-9)

The recipient will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation. Below are some of the measures that the CITY will take to increase DBE participation:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
- Providing technical assistance and other services;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities;
- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBE’s and other small businesses;
- 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;
- Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors

The recipient estimates that in meeting its overall goal 6.1%, it will obtain 3.1% from RN participation and 3.0% through RC measures.

This breakout is based on past performance regarding DBE participation at the Boulder City Municipal Airport.

- *The Recipient does not have a history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, we are applying a portion of the goal, 3.0 to race-conscious participation.*

The CITY 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).

Before establishing the FY2019-2021 goals, the CITY provided a consultation and publication of the proposed DBE goal. Firms listed on a State-wide DBE list who 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 CITY's efforts to establish a level playing field for the participation of DBEs, were sent a meeting announcement via e-mail with the DBE Goal and instructions on how to attend. NDOT's Disadvantaged Business Enterprise Program staff department provided the State-wide DBE list for e-mailing. The consultation was provided by teleconference on January 24, 2019 at 10:00 am.

The CITY will submit its overall DBE three-year goal to DOT as required by the set schedule.

Following the consultation, we published a notice in the Las Vegas Review-Journal of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport administration building for 30 days following the date of the notice, and informing the public that the CITY and DOT will accept comments on the goals for 30 days from the date of the notice

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

No comments have been received.



PUBLIC NOTICE

The CITY hereby announces its fiscal years 2019 through 2021 goal of 6.1 % for Disadvantaged Business Enterprise (DBE) airport construction Contracts. The proposed goals and rationale are available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at the Airport Administration Office located at 1201 Airport Road Suite 200, Boulder City Nevada 89005 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 30 days from the date of this publication and can be sent to the following:

Marissa Adou
1201 Airport Road Suite 200
Boulder City, Nevada 89005
(702) 293-9405

CONTRACT GOALS

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

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



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APPENDIX F

DEMONSTRATION OF GOOD FAITH EFFORTS OR GOOD FAITH EFFORT PLAN – FORMS 1 & 2



Demonstration of Good Faith Efforts - Forms 1 & 2

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title



FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature)

Date: _____

(Title)

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

Submit this page for each DBE subcontractor.



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APPENDIX G
DBE MONITORING AND ENFORCEMENT MECHANISMS



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

- Breach of contract action, pursuant to the terms of the contract;
- Breach of contract action, pursuant to 49 CFR Part 26.
- The CITY 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.

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

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



APPENDIX H

DBE CERTIFICATION APPLICATION FORM WEB LINK



The DBE certification form is available to view electronically online at:

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



APPENDIX I
STATE’S UCP AGREEMENT & AMENDMENT



The Nevada Department of Transportation's DBE website can be found at:

<http://www.nevadadbe.com/website/index.php>



APPENDIX J
SMALL BUSINESS ELEMENT



1. Objective/Strategies

As part of this program element you may include, but are not limited to, the following strategies:

- Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).
- In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”) requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
- Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

2. Definition

- DBE firms should be identified in the Small Business element of the recipient’s DBE program as eligible for the program unless there is a DBE micro-Small Business Program element in place.
- Size standard should be consistent with 49 CFR 26.5 and must be no larger than the Small Business Administration’s size standards. DBE firms and small firms eligible for the program should be similarly sized to reduce competitive conflict between DBE and non-DBE firms.
- Personal Net Worth standards (optional) – should be consistent with 49 CFR Part 26 thresholds.

3. Verification

- Should diligently attempt to minimize fraud and abuse in the SB element of its DBE program by verifying program eligibility of firms.

4. Monitoring/Record Keeping

- How will the information will be organized (for counting purposes)
- SB element should be reasonably monitored

5. Implementation Timeline

- Identify implementation schedule/timeline, within 6 or 9 months of FAA’s approval.

6. Assurance

- Include the following assurances:
 - assurance that the program is authorized under state law;
 - assurance that certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;



- assurance that there are no geographic preferences or limitations imposed on any federally assisted procurement included in the program;
- assurance that there are no limits on the number of contracts awarded to firms participating in the program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
- assurance that aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
- assurance that the program is open to small businesses regardless of their location (i.e., that there is no local or other geographic preference).