

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The Gary/Chicago International Airport Authority (GCIAA), owner of Gary/Chicago International Airport, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. GCIAA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, GCIAA has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

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

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

The Executive Director has been delegated as the DBE Liaison Officer. In that capacity, the Executive Director 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 GCIAA in its financial assistance agreements with the Department of Transportation.

GCIAA has disseminated this policy statement to each member of the GCIAA Board of Directors and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on GCIAA DOT-assisted contracts. The distribution was/will be accomplished by public notice in newspapers and by posting the notice on the Airport's website.



Duane Hayden, Executive Director

August 18, 2020
Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.5 Definitions

GCIAA will use terms in this program that have their meanings defined in Part 26, §26.5.

Section 26.7 Non-discrimination Requirements

GCIAA 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, GCIAA 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

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

DBE participation will be reported to DOT/FAA as follows:

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

Civil Rights Connect (dbeConnect) official reporting system, or another format acceptable to the FAA as instructed thereby.

Bidders List

GCIAA 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 GCIAA DOT-assisted contracts, for use in helping to set overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

This information will be collected through the use of the Bidder's List Collection Form included as Attachment 3.

Records Retention and Reporting:

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

The GCIAA, as a member of the Indiana UCP established pursuant to §26.81, will report to the Department of Transportation's Office of Civil Rights each year the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

- 1) Women;
- 2) Socially and economically disadvantaged individuals (other than women); and
- 3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

Section 26.13 Federal Financial Assistance Agreement

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

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

The GCIAA 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 GCIAA 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 GCIAA 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 GCIAA of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: GCIAA will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

The contractor, 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, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible.

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

GCIAA 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. GCIAA is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and GCIAA is in compliance with it and Part 26. GCIAA will continue to carry out this program until all funds from DOT financial assistance have been

expended. GCIAA does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Duane Hayden, Executive Director
6001-C Airport Road
Gary, IN 46406
(219) 949-4936
duane@gciaairport.com

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of nine (9) 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 GCIAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. 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. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the GCIAA 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.

GCIAA will include search language in the DBE notification publication on a triennial rotation.

Section 26.29 Prompt Payment Mechanisms

GCIAA requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the GCIAA established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the GCIAA.

GCIAA ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

GCIAA may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

To implement this measure, GCIAA includes the following clauses from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract:

- a. From the total of the amount determined to be payable on a partial payment, 10% percent of such total amount will be deducted and retained by the Owner for protection of the Owner's interests. Unless otherwise instructed by the Owner, the amount retained by the Owner will be in effect until the final payment is made except as follows:
 - (1) Contractor may request release of retainage on work that has been partially accepted by the Owner in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.
 - (2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c. When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

Section 26.31 Directory

GCIAA is a non-certifying member of the Indiana Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

GCIAA has not established a Business Development Program.

Section 26.37 Monitoring Responsibilities

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

GCIAA actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

Monitoring Payments to DBEs and Non-DBEs

GCIAA undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

Other affirmative steps to monitor prompt payment and retainage requirements. Contractors are required to provide payment information to all subcontractors upon demand. In addition, contractors are required to provide partial waivers of lien for previous payments before the next payment is processed.

GCIAA requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the GCIAA's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of GCIAA or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

GCIAA proactively reviews contract payments to subcontractors including DBEs with each partial pay request. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to GCIAA by the prime contractor.

Prompt Payment Dispute Resolution

GCIAA will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

- 1) GCIAA will chair *meetings between prime and sub, with resident project representative and/or project manager presence as appropriate. Any meeting for the purpose of dispute resolution shall include individuals authorized to bind each interested party, including recipient representative(s) with authority to take enforcement action.*
- 2) GCIAA may hold pending payments until the dispute is resolved satisfactorily.

GCIAA has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

- 1) Alternative dispute resolution (ADR)

Prior to the Owner making final payment and releasing retainage, the Contractor shall furnish an unconditional waiver of lien from all subcontractors and major suppliers providing materials stating they have been paid all money to which they are due. The Contractor shall also agree and warrant to the Owner that no liens shall be attached to the project by virtue of the Contractor's default in paying his employees or any subcontractor or in paying material suppliers. Should such a lien be filed, payments otherwise due the Contractor shall not be due until the Contractor has delivered to the Owner a complete release of such lien or a bond satisfactory to the Owner indemnifying the Owner against such lien.

- 2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

If work is subcontracted out, the prime contractor shall submit along with each invoice, starting with the second invoice, proof of payment to his/her subcontractors/suppliers for any work invoiced during the prior period. Proof can be in the form of copies of canceled checks or a Partial Waiver of Lien. A sample Partial Waiver of Lien form can be found in the Attachments section of the Project Specifications. The Contractor must also indicate which item(s) of work have been performed by the subcontractors, and/or which item(s) material was delivered for. The prime contractor should also indicate if the subcontractor/supplier used is a DBE sub/supplier. A Subcontractor Payment Report form is included in the Attachments section of the Project Specifications, and is to be submitted with each invoice in which subcontractors were utilized during that pay period. If proof of payment is not submitted, the Engineer will not process the Contractor's invoice until such proof is received.

3) Other mechanisms

As required by the FAA grant program, retainage in the amount of 10% will be withheld from partial invoice requests. Retainage will be release upon final acceptance, and after submitting red-lines, waivers, DBE documentation, written warranty, and other forms required for final close-out of the grants.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure. Escalation steps shall begin with the prime contractor and escalate through the Resident Project Representative then the GCIAA DBELO.

- If affected subcontractor is not comfortable contacting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by GCIAA to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA contact.

[FAA Funding Recipients Only]

- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

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

- In accordance with the contract, assessing liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor or meet the required goals;
- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- We will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

- We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 4 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our DBE Program.
- We will monitor and enforce that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
- Other penalties for failure to comply, up to and including contract termination.

GCIAA will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

GCIAA reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by managers/consultants. Contracting records are reviewed by managers/consultant. GCIAA will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering small business participation

GCIAA has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The small business element is incorporated as Attachment 10 to this DBE Program. The program elements will be actively implemented to foster small business participation. **Implementation of the small business element is required in order for GCIAA to be considered by DOT as implementing this DBE program in good faith.**

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

GCIAA will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), GCIAA will submit its Overall Three-year DBE Goal to the FAA by August 1st of the year in which the goal is due, as required by the schedule established by and posted to the website of the FAA. The web link is as follows:

https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/DBE%20and%20ACDBE%20Reporting%20Requirements%20for%20Airport%20Grant%20Recipients.pdf

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

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. GCIAA will use the INDOT DBE Directory information and Census Bureau Data, or other alternative method that complies with §26.45] as a method to determine the base figure. GCIAA understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

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

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

In establishing the overall goal, GCIAA will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have

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

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

The public will also be informed that the proposed overall goal and its rationale are available for inspection during normal business hours at the principal office of GCIAA. This notice will provide that the GCIAA and FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. **The public comment period will not extend the August 1st deadline.**

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

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

Project Goals

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

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

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

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

Section 26.47 Failure to Meet Overall Goals

GCIAA cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless GCIAA fails to administer its DBE program in good faith.

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

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

- 1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- 2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
- 3) GCIAA will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to FAA upon request.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

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

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

- 1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- 2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- 3) Providing technical assistance and other services;
- 4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- 5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- 6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- 6) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- 7) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- 8) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

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

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

Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order to meet the overall goal.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established 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).

Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

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

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

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- 1) Award of the contract will be conditioned on meeting the requirements of this section;
- 2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each DBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (v) If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- 3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:
- 4) Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;

Administrative Reconsideration

Within five (5) days of being informed by GCIAA that it is not responsive because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the DBELO with contact information listed in Section 26.25 above. 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 the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do. The bidder/offeror will be sent 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 procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of GCIAA. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if GCIAA agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- 1) The listed DBE subcontractor fails or refuses to execute a written contract;
- 2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- 3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- 4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- 5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;

- 6) GCIAA determined that the listed DBE subcontractor is not a responsible contractor;
- 7) The listed DBE subcontractor voluntarily withdraws from the project and provides GCIAA written notice of its withdrawal;
- 8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- 9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- 10) Other documented good cause that GCIAA has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to GCIAA a 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 GCIAA, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

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

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.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of GCIAA as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

GCIAA will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If GCIAA requests documentation from the contractor under this provision, the contractor shall

submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor. GCIAA shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, the contracting office/representative of GCIAA may 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.

Section 26.55 Counting DBE Participation

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

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

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

GCIAA is a non-certifying member of the Indiana Unified Certification Program (UCP). Indiana UCP will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certifying Indiana UCP members make all certification decisions based on the facts as a whole.

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

Indiana Department of Transportation
Economic Opportunity Division, DBE Certification
100 N. Senate Ave., IGCN 750
Indianapolis, IN 46204
(317) 233-0891 FAX
ksons@indot.in.gov OR dcasson@indot.in.gov

The Uniform Certification Application form and documentation requirements are found in Attachment 8 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The State of Indiana is responsible for the certification of DBEs, and following the requirements of the certification process.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to GCIAA

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

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

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

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

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

and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

GCIAA, 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. GCIAA understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

Attachment 1 Regulations: 49 CFR Part 26 or website link

Attachment 2 Organizational Chart

Attachment 3 Bidder's List Collection Form

Attachment 4 DBE Directory or link to DBE Directory

Attachment 5 Overall Goal Calculations

Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2

Attachment 7 DBE Monitoring and Enforcement Mechanisms

Attachment 8 DBE Certification Application Form

Attachment 9 Not Used.

Attachment 10 Small Business Element Program

ATTACHMENT 1

Regulations: 49 CFR Part 26

<https://www.govinfo.gov/content/pkg/CFR-2017-title49-vol1/xml/CFR-2017-title49-vol1-part26.xml#:~:text=49%20CFR%20part%2026%20to,recipient's%20DBE%20program%2C%20as%20required&text=its%20failure%20to%20carry%20out,cases%2C%20refer%20the%20matter%20for>

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3

Bidder's List Collection Form

(SAMPLE BIDDERS LIST COLLECTION FORM)

[Reminder: the information below must be collected from every bidder who submits a quote/bid to the recipient and every potential subcontractor who submitted a quote/bid to each bidder. §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.]

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

ATTACHMENT 4

Indiana DBE Directory

<https://entapps.indot.in.gov/DBELocator/>

ATTACHMENT 5

Overall Goal Calculations

ATTACHMENT 5

Overall DBE Three-Year Goal Methodology

Name of Recipient: Gary/Chicago International Airport Authority (GYA), Gary/Chicago International Airport

Goal Period: FY-2022/2023/2024 – October 1, 2021, through September 30, 2024

Estimated DOT-assisted contract amount:

FY-2022	\$	2,147,778
FY-2023	\$	45,560,729
FY-2024	\$	250,000
Total	\$	47,958,507

Overall Three-Year Goal: 13.15%, to be accomplished through 13.15% RC and 0% RN

Total dollar amount to be expended on DBEs: \$ 5,626,805

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

FY 2022

Rehabilitate HIRL Runway "12-30" & Vault	\$ 2,000,000	Federal share	\$ 1,800,000
Wide-Body Ramp - Phase 1 NEPA	\$ 147,778	Federal share	\$ 133,000

FY 2023

TW "B: South Rehab & TW "C" Conversion	\$ 2,500,000	PFC share	\$ 2,500,000
Construct Control Tower	\$ 11,510,729	Federal share	\$ 10,359,656
Wide-Body Ramp - Phase 2 Construction	\$ 31,550,000	Federal share	\$ 28,395,000

FY 2024

Construct TW "A5" Connector	\$ 250,000	Federal share	\$ 225,000
-----------------------------	------------	---------------	------------

Market Area: Indiana Counties of Lake, Jasper, Newton & Porter for construction.
Indiana Counties of Marion, Hamilton, Hendricks, Hancock & Johnson for engineering.
Entire Indiana State of Indiana for Material Providers.

Actual relative availability of DBEs:

The base figure for the relative availability was calculated as follows:

Method: Use Indiana DBE Directory <https://entapps.indot.in.gov/DBELocator/>

and Census Bureau Data from <https://data.census.gov/cedsci/table>

Step 1 Analysis: Actual relative availability of DBEs

Utilizing the DBE Directories and the designated market area (<http://osdbu.dot.gov/DBEProgram/StateDOTDBESites.cfm>) and Census Bureau Data (PROVIDERS) A map of the Market Area is included at the end of this section.

FY2022 Rehabilitate HIRL Runway "12-30" & Vault (FAA Discretionary)

NAICS Code	Type of Work	Total DBEs	Total All Firms
236220	Building Construction	5	72
238210	Electrical Contractors	4	119
423390	Construction Materials (Statewide)	20	68
423610	Electrical Materials (Statewide)	6	270
541330	Design, Bid & CA Services	19	375
541370	Surveying Services	2	9
Total		56	913

FY2022 Wide-Body Ramp & Infrastructure Ph. 1 NEPA (BIL Funded)

NAICS Code	Type of Work	Total DBEs	Total All Firms
541330	Design, Bid & CA Services	19	375
Total		19	375

Divide the total number of DBEs by the total number of All Firms = base figure for each project.

$$75 \div 1288 = 0.0582 \text{ or } \underline{5.82\%}$$

FY2022 Base Figure Total = 5.82%

FY2023 T/W "B" South Rehab & T/W "C" Road Conversion (PFC Funded)

NAICS Code	Type of Work	Total DBEs	Total All Firms
237310	Highway Construction	2	12
238910	Site Preparation Contractors	6	70
238990	Specialty Contractors	8	95
423390	Construction Materials (Statewide)	20	68
541330	Design, Bid & CA Services	19	375
541370	Surveying Services	2	9
561730	Landscaping Services	10	232
Total		67	861

FY2023 Construct Control Tower (BIL Funded)

NAICS Code	Type of Work	Total DBEs	Total All Firms
236220	Building Construction	5	72
238210	Electrical Contractors	4	119
238910	Site Preparation Contractors	6	70
238990	Specialty Contractors	8	95
423390	Construction Materials (Statewide)	20	68
423610	Electrical Materials (Statewide)	6	270
541330	Design, Bid & CA Services	19	375
Total		68	1069

FY2023 Wide-Body Ramp & Infrastructure Ph. 2 (BIL Funded)

NAICS Code	Type of Work	Total DBEs	Total All Firms
237310	Highway Construction	2	12
238910	Site Preparation Contractors	6	70
238990	Specialty Contractors	8	95
423390	Construction Materials (Statewide)	20	68
541330	Design, Bid & CA Services	19	375
Total		55	620

Divide the total number of DBEs by the total number of All Firms = base figure for each project.

$$190 \div 2550 = 0.0745 \text{ or } \underline{7.45\%}$$

FY 2021 Base Figure Total = 7.45%

FY2024 Construct Taxiway A5 Connector - Design (FAA Discretionary)

NAICS Code	Type of Work	Total DBEs	Total All Firms
541330	Design, Bid & CA Services	19	375
Total		19	375

Divide the total number of DBEs by the total number of All Firms = base figure for each project.

$$19 \div 375 = 0.0507 \text{ or } \frac{5.06\%}{\text{FY 2021 Base Figure Total} = 5.06\%}$$

Step 2 Analysis: Adjustments to Step 1 Base Figure

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the overall

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.

FY2022 Rehabilitate HIRL Runway "12-30" & Vault (FAA Discretionary)

Trade Description A	NAICS Description B	NAICS C	Trade (\$) D	Census E	DBE Directory F	DBE (%) (F/E) G	DBE (\$) (D x G) H
Vertical Construction	Building Construction	236220	420,000	72	5	6.94%	29,167
Electrical Trades	Electrical Contractors	238210	532,500	119	4	3.36%	17,899
Construction Material Procurement (60%)	Construction Materials (Statewide)	423390	280,000	68	20	29.41%	82,353
Electrical Material Procurement (60%)	Electrical Materials (Statewide)	423610	382,500	270	6	2.22%	8,500
Professional Services	Design, Bid & CA Services	541330	355,000	375	19	5.07%	17,987
Construction Engineering	Surveying Services	541370	30,000	9	2	22.22%	6,667
			2,000,000	913	56	8.13%	162,572
			2,000,000			8.13%	162,572

FY2022 Wide-Body Ramp & Infrastructure Ph. 1 NEPA (BIL Funded)

Trade Description A	NAICS Description B	NAICS C	Trade (\$) D	Census E	DBE Directory F	DBE (%) (F/E) G	DBE (\$) (D x G) H
Professional Services	Design, Bid & CA Services	541330	147,778	375	19	5.07%	7,487
			147,778	375	19	5.07%	7,487
			147,778			5.07%	7,487

$$\begin{array}{rclcl}
 5.82\% & + & 7.92\% & = & 13.74\% \\
 \text{Step 1 Goal} & & \text{Step 2 Goal} & & \\
 & & & & \div 2 \\
 & & & & \hline
 & & & & \mathbf{6.86\% \text{ FY2022 Goal}}
 \end{array}$$

FY2023 T/W "B" South Rehab & T/W "C" Road Conversion (PFC Funded)

Trade Description A	NAICS Description B	NAICS C	Trade (\$) D	Census E	DBE Directory F	DBE (%) (F/E) G	DBE (\$) (D x G) H
Paving Trades	Electrical Contractors	238210	1,396,900	12	2	16.67%	232,817
Grading & Drainage	Specialty Contractors	238990	75,000	70	6	8.57%	6,429
Specialty Trades	Construction Materials (Statewide)	423390	177,000	95	8	8.42%	14,905
Construction Material Procurement (60%)	Electrical Materials (Statewide)	423610	262,500	68	20	29.41%	77,206
Professional Services	Surveying Services	541370	455,000	375	19	5.07%	23,053
Construction Engineering	Material Testing	541380	95,000	9	2	22.22%	21,111
Erosion Control & Mulched Seeding	0	Total	38,600	232	10	4.31%	1,664
			2,500,000	861	67	15.09%	377,185
			2,500,000			15.09%	377,185

FY2023 Construct Control Tower (BIL Funded)

Trade Description A	NAICS Description B	NAICS C	Trade (\$) D	Census E	DBE Directory F	DBE (%) (F/E) G	DBE (\$) (D x G) H
Vertical Construction	Building Construction	236220	2,446,033	72	5	6.94%	169,863
Electrical Trades	Electrical Contractors	238210	1,467,916	119	4	3.36%	49,342
Grading & Drainage	Site Preparation Contractors	238910	1,229,232	70	6	8.57%	105,363
Specialty Trades	Specialty Contractors	238990	1,252,350	95	8	8.42%	105,461
Construction Material Procurement (60%)	Construction Materials (Statewide)	423390	1,199,171	68	20	29.41%	352,697
Electrical Material Procurement (60%)	Electrical Materials (Statewide)	423610	480,003	270	6	2.22%	10,667
Professional Services	Design, Bid & CA Services	541330	3,436,025	375	19	5.07%	174,092
			11,510,729	1,069	68	8.41%	967,485
			11,510,729			8.41%	967,485

FY2023 Wide-Body Ramp & Infrastructure Ph. 2 (BIL Funded)

Trade Description A	NAICS Description B	NAICS C	Trade (\$) D	Census E	DBE Directory F	DBE (%) (F/E) G	DBE (\$) (D x G) H
Paving Trades	Highway Construction	237310	13,350,000	12	2	16.67%	2,225,000
Grading & Drainage	Site Preparation Contractors	238910	7,305,000	70	6	8.57%	626,143
Specialty Trades	Specialty Contractors	238990	1,487,500	95	8	8.42%	125,263
Construction Material Procurement (60%)	Construction Materials (Statewide)	423390	6,827,500	68	20	29.41%	2,008,088
Professional Services	Design, Bid & CA Services	541330	2,580,000	375	19	5.07%	130,720
			31,550,000	620	55	16.21%	5,115,214
			31,550,000			16.21%	5,115,214

$$\begin{array}{rclcl}
 7.45\% & + & 15.00\% & = & 22.45\% \\
 \text{Step 1 Goal} & & \text{Step 2 Goal} & & \div 2 \\
 & & & & \hline
 & & & & \mathbf{11.22\% \text{ FY2023 Goal}}
 \end{array}$$

FY2024 Construct Taxiway A5 Connector - Design (FAA Discretionary)

Trade Description A	NAICS Description B	NAICS C	Trade (\$) D	Census E	DBE Directory F	DBE (%) (F/E) G	DBE (\$) (D x G) H
Professional Services	Design, Bid & CA Services	541330	250,000	375	19	5.07%	12,667
			250,000	375	19	5.07%	12,667
			250,000			5.07%	12,667

$$\begin{array}{rclcl}
 5.06\% & + & 5.07\% & = & 10.13\% \\
 \text{Step 1 Goal} & & \text{Step 2 Goal} & & \div 2 \\
 & & & & \hline
 & & & & \mathbf{5.06\% \text{ FY2024 Goal}}
 \end{array}$$

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 Payments	DBE Goals (%)			Accomplishments (%)			Type of Work
		RC	RN	Total	RC	RN	Total	
2021	\$4,120,356	11.85%	0.00%	0.00%	11.85%	10.25%	22.10%	Taxiway A Rehabilitation, Phase 2
2020	\$4,261,258	11.85%	0.00%	0.00%	11.85%	10.68%	22.53%	Taxiway A Rehabilitation, Phase 1
2019	\$575,000	11.85%	0.00%	0.00%	11.52%	0.00%	11.52%	Taxiway A Rehab Design
2019	\$6,800,718	11.85%	0.00%	0.00%	11.85%	3.49%	15.34%	Runway 12-30 Rehabilitation

Weighted Average: 11.84% 7.07% 18.91%

The weighted average of the historical accomplishments is: 18.91%

The proposed Overall DBE Goal is as follows:

FY 2022	6.86%	+	18.91%	=	25.77%	+ 2 =	12.89%
FY 2023	11.22%	+	18.91%	=	30.13%	+ 2 =	15.07%
FY 2024	5.06%	+	18.91%	=	23.97%	+ 2 =	<u>11.99%</u>
							13.31%

To arrive at an overall goal, we added our Step 2 base figure with our Historical Participation figure and then averaged the total arriving at an overall goal of 4.59%. 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.

Further, there are no applicable disparity studies for the local market area or recent legal case information available from the State of Indiana Equal Employment Opportunity Commission (EEOC) to show any evidence of barriers to entry or competitiveness of DBEs in the utilized counties.

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

GYG will meet the maximum feasible portion of the 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. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
9. Assist DBEs and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

GYG estimates that in meeting the established overall goal of 13.15%, it will obtain 5.00% from RN participation and 8.15% through RC measures.

This breakout is based on the fact that GYG does have a history 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.

GYG will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation [see §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:

In establishing the overall goal, GYY provided for consultation and publication. This process included consultation with minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and GYY's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process and was conducted before the goal methodology was submitted to the FAA for review. Details of the consultation are as follows.

The consultation was conducted at a meeting held on March 11, 2022 at 1:30 pm local time at the Gary/Chicago International Airport.

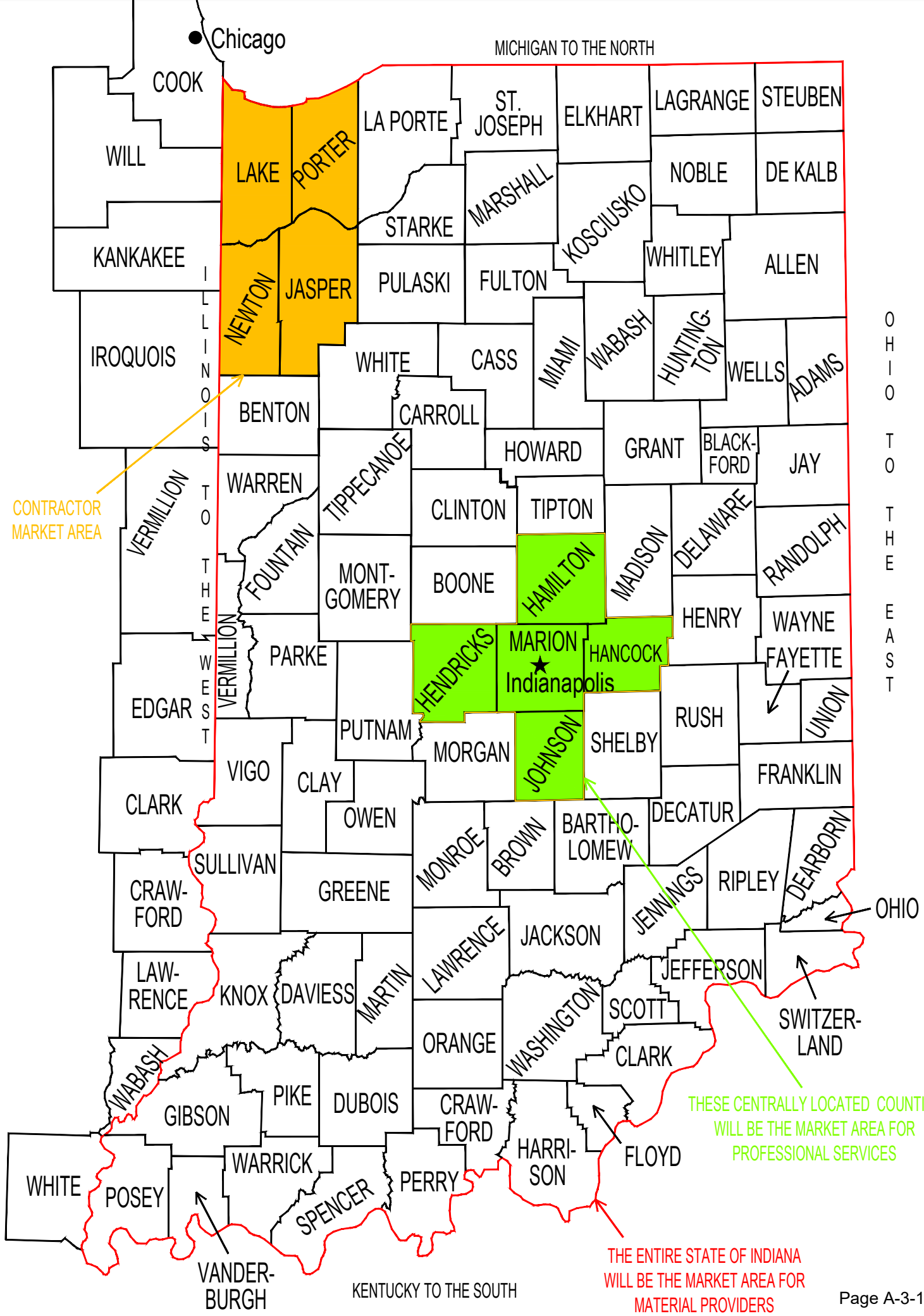
The following comments were received during the course of the consultation:

No comments were received.

A notice of the proposed goal was published on the GYY's official website before the methodology was submitted to the FAA.

If the proposed goal changes following review by the FAA, the revised goal will be posted on GYY's official website.

Notwithstanding paragraph (f)(4) of §26.45, GYY proposed goals will not be implemented until this requirement has been met.



CONTRACTOR MARKET AREA

THESE CENTRALLY LOCATED COUNTIES WILL BE THE MARKET AREA FOR PROFESSIONAL SERVICES

THE ENTIRE STATE OF INDIANA WILL BE THE MARKET AREA FOR MATERIAL PROVIDERS

Sample Public Notice Language:

PUBLIC NOTICE

The Gary/Chicago International Airport Authority (GCIAA) hereby announces its fiscal years 2022 to 2024 goal of **13.15%** for Disadvantaged Business Enterprise (DBE) airport construction projects. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at the Gary/Chicago International Airport Administration Building, 6001 Airport Road, Gary, IN 46406 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 45 days from the date of this publication and can be sent to the following:

Dan Vicari, Executive Director
6001-C Airport Road
Gary, IN 46406

Or

Federal Aviation Administration
Office of Civil Rights Staff
Attn: Nancy Cibic, AGL-9
2300 East Devon Avenue
Des Plaines, IL 60618

Contract Goals

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

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

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

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: _____

Date: _____

(Signature)

(Title)

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

Submit this page for each DBE subcontractor.

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to State Codes

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

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

ATTACHMENT 8

DBE Certification Application Form

<https://www.in.gov/indot/files/New%20Application%20and%20Quick%20Reference%20Guide.pdf>

ATTACHMENT 9

NOT USED

ATTACHMENT 10

SMALL BUSINESS ELEMENT

A. Objective

The GCIAA is taking steps to facilitate competition by small businesses in airport projects with the approval of the Federal Aviation Administration (FAA) to eliminate obstacles for small business participation as follows:

1. When feasible, the GCIAA may “unbundle”, or bid separately, large projects into smaller projects to assist small business participation. The Commission will review FAA-assisted contracts to determine if portions of a project can be unbundled. This will be based upon the availability of small businesses to provide specific work for the project. Administrative costs associated with unbundling the project will also be considered. The GCIAA will assist prime contractors in identifying portions of the work which may be unbundled and performed by a small business.
2. The GCIAA will work with local governments to help facilitate opportunities for small businesses that may arise from airport projects. The GCIAA has participated in local job and business fairs and area-sponsored Disadvantaged Business Enterprise (DBE) outreach programs. Additionally, the GCIAA advertises all FAA-assisted projects through state-wide plan rooms and local newspapers and publications.

B. Small Business Definition

According to the Small Business Administration (SBA), “A small business is one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the size of the industry, size standard eligibility is based on the average number of employees for the preceding 12 months or on sales volume averaged over a 3-year period”.

The Small Business Element of this plan is based on business size, not minority ownership. If a small business meets the criteria for DBE certification, the GCIAA will assist with the process. Certified DBEs that meet the size criteria established under the DBE program are presumably eligible to participate in the Small Business Element of the DBE program. Only DBE-certified firms may be counted toward the DBE participation on FAA-assisted contracts.

C. Mega Projects

Projects that involve multiple year design-build or other large contracts can be considered as “mega” projects. Prime contract bidders will specify elements of the contract or subcontract that are of a size that small businesses, including DBEs, can reasonably be expected to perform.

D. Good Faith Implementation

There will be no geographic or local preferences or limitations imposed on FAA-assisted contracts and this program will be open to small businesses regardless of location. There will be no limits on the number of contracts awarded to a firm participating in the program. Reasonable effort will be made to avoid creating barriers for new or untried businesses. The implementation process will occur after the small business participation element has been approved by the FAA.

E. Assurances

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