

**DISADVANTAGED  
BUSINESS ENTERPRISE  
PLAN  
PART 26  
January, 2021**

**for  
LONG ISLAND MACARTHUR AIRPORT  
TOWN OF ISLIP  
NEW YORK**

**Submitted to:**

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

**Prepared By:  
Taffy Pippin Consulting, LLC**



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### ATTACHMENT

### Title

Attachment 1	Regulations: 49 CFR Part 26 website link
Attachment 2	Organizational Chart
Attachment 3	Bidder's List Collection Form
Attachment 4	DBE Directory or link to DBE Directory
Attachment 5	Overall Goal Calculations
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**DBE PROGRAM  
LONG ISLAND MACARTHUR AIRPORT  
TOWN OF ISLIP  
ISLIP, NEW YORK**

**POLICY STATEMENT**

**Section 26.1, 26.23 Objectives/Policy Statement**

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

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

Steve Siniski, Airport Administrative Supervisor, Long Island MacArthur Airport, Islip, New York has been delegated as the DBE Liaison Officer. In that capacity, Mr. Siniski is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Sponsor in its financial assistance agreements with the Department of Transportation.

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

  
Angie Carpenter, Islip Town Supervisor  
Islip, New York

Date: 2/9/2021



## **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**

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

### **Section 26.5 Definitions**

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

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

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

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

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT 26.11**

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

DBE participation will be reported to the FAA as follows:

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

#### **Bidders List 26.11(c)**

Sponsor will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on Sponsor 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 in the following way:

The Sponsor will collect this information as an attachment to the bid documents. All bidders must provide this information for themselves and all businesses who attempted to do business with them (i.e., all potential subcontractors who submitted bids/quote), see Attachment 3 to this Program.

**Records Retention and Reporting:**

All 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 agreement, whichever is longer.

**Section 26.13 Federal Financial Assistance Agreement**

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

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

"The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Sponsor'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 Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)"

**Contract Assurance:** Sponsor 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."



## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

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

Sponsor is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. Sponsor is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and Sponsor is in compliance with it and Part 26. Sponsor will continue to carry out this program until all funds from DOT financial assistance have been expended. Sponsor 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 Sponsor:

Steve Siniski  
Airport Administrative Supervisor  
Long Island MacArthur Airport  
100 Arrival Avenue, Suite 100  
Ronkonkoma, NY 11779  
631-467-3300 ext. 1383  
[www.MacArthurAirport.com](http://www.MacArthurAirport.com)

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

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

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

It is the policy of the Sponsor to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. Based on our search and the listings in the FDIC Minority Depository Program, <http://www.fdic.gov/regulations/resources/minority/mdi.html>. New York has eleven minority owned banks with multiple branches. These banks may be accessed by following the above referenced website.

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

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

"The Sponsor encourages you to make the greatest feasible use of the services offered by banks owned and controlled by DBEs. Information on these services may be obtained from the DBELO or by contacting the New York Bankers Association in New York, New York, (212) 297-1600."

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

Sponsor 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 Sponsor 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 Sponsor.

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

- (1) Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating

the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after our payment to the prime contractor.

To implement this measure, the Sponsor includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract.

“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. The Sponsor must ensure prompt and full payment of retainage from 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 Sponsor. When the Sponsor has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. From the total of the amount determined to be payable on a partial payment, not to exceed 10% of such total amount will be deducted and retained by the Sponsor until the final payment is made except as may be provided (at the Contractor’s option) in the subsection 90-08 title Payment of Withhold Funds of this section. The balance [Insert balance] of the amount payable, less all previous payments, shall be certified for payment. Should the Contractor exercise his or her option, as provided in subsection of 90-08 Payment of Withheld Funds of this section, no such percent retainage shall be deducted. When at least 95% of the work has been completed the Engineer shall, at the Sponsor’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 Sponsor may retain an amount not less than twice the contract value of estimated cost, whoever 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**

Sponsor is a non-certifying member of the State of New York 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**

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

### **Section 26.35 Business Development Programs**

Sponsor has not established a Business Development Program.

### **Section 26.37 Monitoring Responsibilities**

Sponsor 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 sets forth these mechanisms in Sponsor’s DBE program.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract remedies available to us in the event of non-compliance with the DBE regulation by a participant in our DBE Program.
3. We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records, monitored work sites and the Commercially Useful Function (CUF) process. This will be performed by the DBELO or the Sponsor's engineer and will be accomplished by:
  - a. Review bid package documentation thoroughly, obtaining clarification if necessary.
  - b. Review monthly reports regarding employment as well as DBE participation to ensure adherence to the plan as represented in bid documents and as stipulated in this program.
  - c. Monitor progress of payments to DBE through monthly reports from prime contractors.
  - d. Monitor progress of DBEs work through on-site visits and communication with DBEs.
5. We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

The Sponsor 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 Sponsor's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Sponsor or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

#### Monitoring Payments to DBEs and Non-DBEs

The Sponsor 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 Sponsor's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Sponsor or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Sponsor proactively reviews contract payments to subcontractors including DBEs no less than once a month. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to Sponsor by the prime contractor.

The Sponsor will actively implement the enforcement actions detailed above.

### Prompt Payment Dispute Resolution

Sponsor will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29. These steps will include but are not limited to 1) Written certification that Sponsor has reviewed contracting records and monitored work sites for this purpose, 2) Upon either party's written request to the DBELO for dispute resolution, a meeting will be voluntarily set within ten days of the request. The meeting will include representatives with authority to take enforcement action, including but not limited to, prime contractor, sub-contractor, and Sponsor representative(s).

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

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

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

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

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

### Prompt Payment Complaints

Subcontractors with complaints regarding the prompt payment requirements should adhere to the following procedure.

If affected subcontractor's relationship with contracting prime responsible for direct payment does not exist in order to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint. If filing a prompt payment complaint with the DBELO does not produce a timely resolution, the subcontractor may contact the Islip Town Supervisor, and then the FAA.

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

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

The Sponsor will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This mechanism will include a written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by requiring DBE utilization updates at each pay request and at final contract closeout. The Airport Engineer along with the DBELO will review all pay requests and DBE utilization forms, ensuring that DBE utilization is in accordance with all contract requirements.
4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

The Sponsor will actively implement the enforcement actions detailed above.

### Monitoring Contracts and Work Sites

Sponsor 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 DBELO/ and or Engineering Consultant, Contracting records are reviewed by the DBELO/ENGINEER. Sponsor 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**

The Sponsor has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to

eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. The 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 Sponsor 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**

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

**Section 26.45 Overall Goals**

The Sponsor will establish an overall DBE goal covering a three-year federal fiscal year period if 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), Sponsor will submit its Overall Three-year DBE Goal to the FAA by August 1<sup>st</sup> of the year in which the goal is due, as required by the schedule established by and posted to the website of the Airport:

DBE and ACDBE Reporting Requirements for Airport Grant Recipients (faa.gov)

<u>Primary Small Hub</u>	<u>Eastern Region</u>	<u>August 1, 2020 (2021/2022/2023)</u>
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The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If Sponsor 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 Sponsor 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. Sponsor will use DBE Directory information and Census Bureau Data, as a method to determine the base figure. Sponsor 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. Sponsor 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 Sponsor market.

26.45 (g)(1) In establishing the overall goal, Sponsor will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by Sponsor 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 Sponsor 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 Sponsor 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, Sponsor will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on FAA'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 the 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 Sponsor. This notice will provide that the Sponsor 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 1<sup>st</sup> deadline.**

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

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

### **Section 26.45 (e) 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.

#### **Section 26.45 (f) Prior Operating Administration Concurrence**

Sponsor 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 Sponsor for calculating goals is inadequate, FAA may, after consulting with Sponsor, adjust the overall goal or require that the goal be adjusted by Sponsor. 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**

Sponsor 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 Sponsor fails to administer its DBE program in good faith.

Sponsor 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.

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

Sponsor will require transit vehicle manufacturers (TVM), as a condition of being authorized to bid or propose on any FTA-assisted transit vehicle procurements, to certify that they have complied with the requirements of §26.49.

- (1) Sponsor affirms that only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.
- (2) A TVM's failure to implement the DBE Program in the manner as prescribed in this section and throughout Part 26 will be deemed as non-compliance, which will result in removal from FTA's certified TVMs list, resulting in that manufacturer becoming ineligible to bid.
- (3) Sponsor is aware that failure to comply with the requirements set forth in Part 26, §26.49(a) may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).
- (4) Sponsor will submit, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract in the manner prescribed in the grant agreement.

### **Section 26.51 (a-c) Means Recipients Use to Meet Overall Goals**

#### **Breakout of Estimated Race-Neutral & Race-Conscious Participation**

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages

other than English, where appropriate);

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

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

(7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

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

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

### **Section 26.51(d-g) 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 Federal share 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.

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

Sponsor 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.
  - (vi) 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 (26.53(d))

Within 5 days of being informed by Sponsor 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 following reconsideration official:

John R. Dicioccio  
655 Main Street  
Islip, NY 11751  
Phone: 613-224-5550  
townattorney@islipny.gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with 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 Sponsor. 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 Sponsor 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) Sponsor determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides Sponsor 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 Sponsor 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 Sponsor 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 Sponsor, 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 Sponsor 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 Sponsor 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.

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

### **SUBPART D – CERTIFICATION STANDARDS**

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

Sponsor is a non-certifying member of the New York DOT Unified Certification Program (UCP). New York 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 New York 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:

New York Department of Transportation  
Johnny Cisneros, Supervisor  
Phone: (518) 417-6631  
Fax: (518) 457-1675  
DBECert@dot.ny.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**

Sponsor is the member of a Unified Certification Program (UCP) administered by New York DOT. The UCP will meet all of the requirements of this section.

### **SUBPART F – COMPLIANCE AND ENFORCEMENT**

#### **Section 26.101 Compliance Procedures Applicable to Sponsor**

Sponsor understands that if it fails to comply with any requirement of this part, Sponsor 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**

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

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

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

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



**ATTACHMENTS**

- Attachment 1 Regulations: 49 CFR Part 26 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 State's UCP Agreement
- Attachment 10 Small Business Element Program



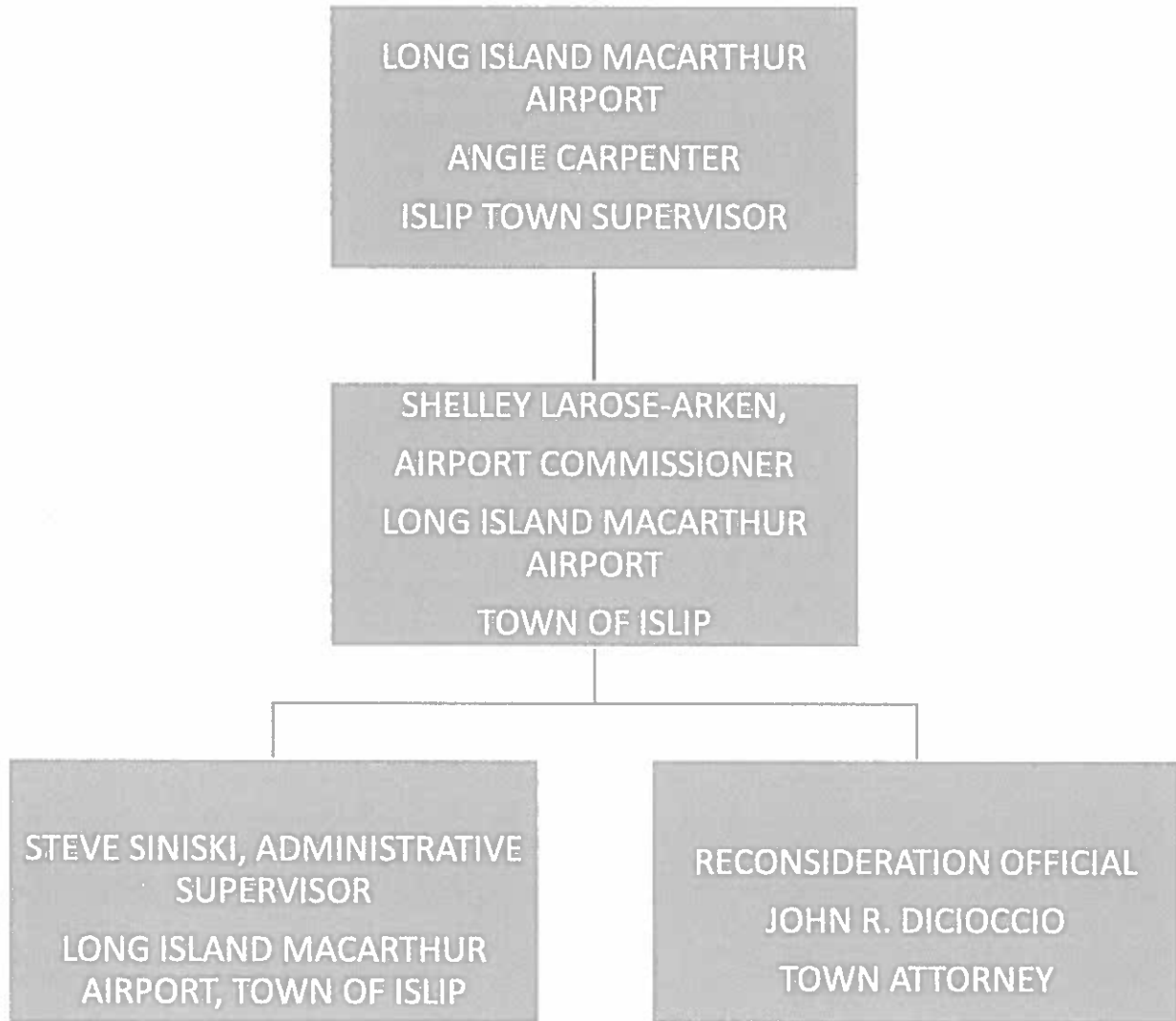
**ATTACHMENT 1**

Regulations: 49 CFR Part 26 link to website:

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)



**ATTACHMENT 2**  
**ORGANIZATIONAL CHART**





**ATTACHMENT 3**  
Bidder's List Collection Form

*(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
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million





**ATTACHMENT 4**

*The New York UCP DBE web link to DBE directory is:*

<https://nysucp.newnycontracts.com/>



**ATTACHMENT 5**

Overall DBE Three-Year Goal Methodology

Overall DBE Three-Year Goal Methodology

**Name of Recipient:** Long Island MacArthur Airport/The Town of Islip, Islip, New York

**Goal Period:** FY-2021-2022-2023 – October 1, 2020 through September 30, 2023

<b>DOT-assisted contract amount:</b>	FY-2021	\$ 18,326,351
	FY-2022	\$ 4,279,500
	FY-2023	\$ <u>2,002,500</u>
	<b>Total</b>	<b>\$ 24,608,351</b>

**Overall Three-Year Goal:** 8.74%, to be accomplished through 8.74% RC and 0.00% RN

**Total dollar amount to be expended on DBEs:** \$2,150,770

**Description of the Number and Type of Contracts that the airport anticipates awarding:**

**Contracts Fiscal Year 2021**

1. Taxiway E/F Reconstruction and Rehabilitation (Construction) - \$6,717,991
2. Taxiway S Rehabilitation (Design and Construction) - \$3,667,851
3. Runway 15R-33L Rehabilitation (Design and Construction) - \$7,940,509

**Contracts Fiscal Year 2022**

1. Rehabilitation Main Terminal, Baggage Claim and Vestibule Door (Construction) – \$4,279,500

**Contracts Fiscal Year 2023**

1. Taxiway B & W Rehabilitation (Design) - \$ 652,500
2. Environmental Study - \$1,350,000  
\$2,002,500

**Market Area:**

Contractors of federally-funded projects at Long Island Mac Arthur Airport are predominately from Nassau and Suffolk counties. Ninety five percent of bidders and contract dollars come from this area. It was considered reasonable to also include the following surrounding counties. The market area is as follows: Nassau, Suffolk, Bronx, Kings, New York, Queens, Westchester and Richmond counties in New York State.

An analysis of the projects indicates that funds will be expended in the following areas:

**FY 2021**

<b>Long Island MacArthur Airport Taxiway E/F Rehabilitation FY 2021</b>			
<b>TASK</b>	<b>NAICS</b>	<b>AMOUNT</b>	<b>PERCENTAGE</b>
General Contractors	236220	\$427,500	6.36%
Street/Highway	237310	\$3,154,500	46.96%
Electrical	238210	\$1,242,000	18.49%
Site Prep	238910	\$483,300	7.19%
Engineering	541330	\$204,691	3.05%
Survey	541370	\$164,700	2.45%
Testing	541380	\$67,500	1.00%
Consulting	541611	\$535,500	7.97%
Landscaping	561730	\$166,500	2.48%
Traffic Control	561990	\$271,800	4.05%
<b>TOTAL</b>		<b>\$6,717,991</b>	<b>100.00%</b>

The weighting factor is the value of each work item based on cost as a fraction of the whole project, and will be applied throughout the methodology.

Step 1: The formula to be used to calculate the Base Figure for the DBE goal is as follows:

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

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

$$\frac{\text{Base Figure}}{\text{Figure}} = .0636 \left( \frac{\text{NYNAICS236220}}{\text{NAICS236220}} \right) + .4696 \left( \frac{\text{NYNAICS237310}}{\text{NAICS237310}} \right) + .1849 \left( \frac{\text{NYNAICS238210}}{\text{NAICS238210}} \right) + .0719 \left( \frac{\text{NYNAICS238910}}{\text{NAICS238910}} \right) + .0305 \left( \frac{\text{NYNAICS541330}}{\text{NAICS541330}} \right) + .0245 \left( \frac{\text{NYNAICS541370}}{\text{NAICS541370}} \right) + .0100 \left( \frac{\text{NYNAICS541380}}{\text{NAICS541380}} \right) + .0797 \left( \frac{\text{NYNAICS541611}}{\text{NAICS541611}} \right) + .0248 \left( \frac{\text{NYNAICS561730}}{\text{NAICS561730}} \right) + .0405 \left( \frac{\text{NYNAICS561990}}{\text{NAICS561990}} \right)$$

NYNAICS- New York State DBE Directory NAICS  
 NAICS – Census Bureau's County Business Pattern (CBP) Data Base

$$\frac{\text{Base}}{\text{Figure}} = .0636\left(\frac{92}{1565}\right) + .4696\left(\frac{16}{122}\right) + .1849\left(\frac{69}{3475}\right) + .0719\left(\frac{68}{545}\right) + .0305\left(\frac{118}{1352}\right) + .0245\left(\frac{11}{137}\right) + .0100\left(\frac{9}{128}\right) + .0797\left(\frac{87}{4294}\right) + .0248\left(\frac{11}{3963}\right) + .0405\left(\frac{10}{464}\right)$$

$$\frac{\text{Base}}{\text{Figure}} = .0037 + .0616 + .0037 + .0090 + .0027 + .0020 + .0007 + .0016 + .0001 + .0009$$

$$\frac{\text{Base}}{\text{Figure}} = 8.60\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions that have occurred at the Long Island MacArthur Airport. The Town has considered the suggested options outlined in 49 CFR Part 26 and determined that due to lack of current history, and after conversations with airport personnel regarding previous projects, at this time no adjustment will be made to the base figure. The Percentage of 8.60% is established as the goal for DBE participation for this Taxiway E/F Rehabilitation project at the Long Island MacArthur Airport for FY 2021.

Long Island MacArthur Airport Taxiway S Rehabilitation FY 2021			
TASK	NAICS	AMOUNT	PERCENTAGE
General Contractors	236220	\$288,000	7.85%
Street/Highway	237310	\$2,459,700	67.06%
Electrical	238210	\$133,200	3.63%
Engineering	541330	\$254,781	6.95%
Survey	541370	\$95,670	2.61%
Testing	541380	\$31,500	0.86%
Consulting	541611	\$261,900	7.14%
Traffic Control	561990	\$143,100	3.90%
<b>TOTAL</b>		<b>\$3,667,851</b>	<b>100.00%</b>

Step 1: The formula to be used to calculate the Base Figure for the DBE goal is as follows:

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

The next step in establishing the Base Figure was to determine our denominator. This was accomplished through the use of the Census Bureau's County Business Pattern (CBCBP) and

the identification of the NAICSs that were the same as those identified from the Directory. This formula will be applied throughout the methodology. With these figures in hand we compute our Base Figure using the following mathematics:

$$\frac{Base}{Figure} = .0785\left(\frac{92}{1565}\right) + .6706\left(\frac{16}{122}\right) + .0363\left(\frac{69}{3475}\right) + .0695\left(\frac{118}{1352}\right) + .0261\left(\frac{11}{137}\right) + .0086\left(\frac{9}{128}\right) + .0714\left(\frac{87}{4294}\right) + .0390\left(\frac{10}{464}\right)$$

**NYNAICS- New York DBE Directory NAICS**  
**NAICS – Census Bureau’s County Business Pattern (CBP) Data Base**

$$\frac{Base}{Figure} = .0046 + .0879 + .0007 + .0061 + .0021 + .0001 + .0014 + .0008$$

$$\frac{Base}{Figure} = 10.37\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions that have occurred at the Long Island MacArthur Airport. The Town has considered the suggested options outlined in 49 CFR Part 26 and determined that due to lack of current history, and after conversations with airport personnel regarding previous projects, at this time no adjustment will be made to the base figure. The Percentage of 10.37% is established as the goal for DBE participation for this Taxiway S Rehabilitation project at the Long Island MacArthur Airport for FY 2021.

<b>LONG ISLAND MACARTHUR AIRPORT Runway 15R-33L Rehabilitation FY 2021</b>			
<b>TASK</b>	<b>NAICS</b>	<b>AMOUNT</b>	<b>PERCENTAGE</b>
General Contractors	236220	495,900	6.24%
Street/Highway	237310	\$5,935,500	74.75%
Electrical	238210	\$294,300	3.71%
Site Prep	238910	\$25,425	0.32%
Engineering	541330	\$333,484	4.20%
Survey	541370	\$172,800	2.18%
Testing	541380	\$54,000	0.68%
Consulting	541611	\$263,700	3.32%
Landscaping	561730	\$27,900	0.35%
Traffic Control	561990	\$337,500	4.25%
<b>TOTAL</b>		<b>\$7,940,509</b>	<b>100.00%</b>

Step 1: The formula to be used to calculate the Base Figure for the DBE goal is as follows:

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

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

$$\begin{aligned} \frac{\text{Base}}{\text{Figure}} = & .0624 \left( \frac{\text{NYNAICS236220}}{\text{NAICS236220}} \right) + .7475 \left( \frac{\text{NYNAICS237310}}{\text{NAICS237310}} \right) + .0371 \left( \frac{\text{NYNAICS238210}}{\text{NAICS238210}} \right) + \\ & .0032 \left( \frac{\text{NYNAICS238910}}{\text{NAICS238910}} \right) + .0420 \left( \frac{\text{NYNAICS541330}}{\text{NAICS541330}} \right) + .0218 \left( \frac{\text{NYNAICS541370}}{\text{NAICS541370}} \right) + \\ & .0068 \left( \frac{\text{NYNAICS541380}}{\text{NAICS541380}} \right) + .0332 \left( \frac{\text{NYNAICS541611}}{\text{NAICS541611}} \right) + .0035 \left( \frac{\text{NYNAICS561730}}{\text{NAICS561730}} \right) + \\ & .0425 \left( \frac{\text{NYNAICS561990}}{\text{NAICS561990}} \right) \end{aligned}$$

NYNAICS- New York DBE Directory NAICS  
 NAICS – Census Bureau's County Business Pattern (CBP) Data Base

$$\begin{aligned} \frac{\text{Base}}{\text{Figure}} = & .0624 \left( \frac{92}{1565} \right) + .7475 \left( \frac{16}{122} \right) + .0371 \left( \frac{69}{3475} \right) + \\ & .0032 \left( \frac{68}{545} \right) + .0420 \left( \frac{118}{1352} \right) + .0218 \left( \frac{11}{137} \right) + \\ & .0068 \left( \frac{9}{128} \right) + .0332 \left( \frac{87}{4294} \right) + .0035 \left( \frac{11}{3963} \right) + \\ & .0425 \left( \frac{10}{464} \right) \end{aligned}$$

$$\begin{aligned} \frac{\text{Base}}{\text{Figure}} = & .0037 + .0980 + .0007 + \\ & .0004 + .0037 + .0018 + \\ & .0005 + .0007 + .0001 + \\ & .0009 \end{aligned}$$

$$\frac{\text{Base}}{\text{Figure}} = 11.05\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions that have occurred at the Long Island MacArthur Airport. The Town has considered the suggested options outlined in 49 CFR Part 26 and determined that due to lack of current history, and after conversations with airport personnel regarding previous projects, at

this time no adjustment will be made to the base figure. The Percentage of 11.05% is established as the goal for DBE participation for this Runway 15R-33L Rehabilitation project at the Long Island MacArthur Airport for FY 2021.

A summary of the FY 2021 Goals is as follows:

PROJECT	DBE GOAL PERCENTAGE
Taxiway E/F Rehabilitation	8.60%
Taxiway S Rehabilitation	10.37%
Runway 15R-33L Rehabilitation	11.05%
<b>TOTAL</b>	<b>30.02% ÷ = 10.01% FY 2021 Goal</b>

**FY 2022**

LONG ISLAND MACARTHUR AIRPORT Rehabilitate Main Terminal, Baggage Claim and Vestibule Doors FY 2022			
TASK	NAICS	AMOUNT	PERCENTAGE
General Contractors	236220	\$3,150,000	73.60%
Electrical	238210	\$697,500	16.30%
Survey	541370	\$13,500	0.32%
Testing	541380	\$13,500	0.32%
Consulting	541611	\$405,000	9.46%
<b>TOTAL</b>		<b>\$4,279,500</b>	<b>100.00%</b>

Step 1: The formula to be used to calculate the Base Figure for the DBE goal is as follows:

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

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

$$\frac{\text{Base Figure}}{\text{Figure}} = .7360 \left( \frac{\text{NYNAICS236220}}{\text{NAICS236220}} \right) + .1630 \left( \frac{\text{NYNAICS238210}}{\text{NAICS238210}} \right) + .0032 \left( \frac{\text{NYNAICS541370}}{\text{NAICS541370}} \right) + .0032 \left( \frac{\text{NYNAICS541380}}{\text{NAICS541380}} \right) + .0946 \left( \frac{\text{NYNAICS541611}}{\text{NAICS541611}} \right)$$

NYNAICS- New York DBE Directory NAICS  
NAICS – Census Bureau's County Business Pattern (CBP) Data Base



$$\frac{Base}{Figure} = .7360\left(\frac{92}{1565}\right) + .1630\left(\frac{69}{3475}\right) + .0032\left(\frac{11}{137}\right) + .0032\left(\frac{9}{128}\right) + .0946\left(\frac{87}{4294}\right)$$

$$\frac{Base}{Figure} = .0433 + .0032 + .0003 + .0002 + .0019$$

$$\frac{Base}{Figure} = 4.89\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions that have occurred at the Long Island MacArthur Airport. The Town has considered the suggested options outlined in 49 CFR Part 26 and determined that due to lack of current history, and after conversations with airport personnel regarding previous projects, at this time no adjustment be made to the base figure. The Percentage of 4.89% is established as the FY 2022 DBE goal for Rehabilitation of the Main Terminal, Baggage Claim and Vestibule Doors.

FY 2022 DBE GOAL	
TASK	DBE GOAL PERCENTAGE
Rehabilitation of Main Terminal Baggage Claim And Vestibule Doors	4.89%
<b>TOTAL</b>	<b>4.89%</b> FY 2022 DBE Goal

**FY 2023**

Long Island MacArthur Airport Taxiway W & B Rehabilitation Design and Environmental Study FY 2023			
TASK	NAICS	AMOUNT	PERCENTAGE
Engineering	541330	\$652,500	32.58%
Environmental Study	541620	\$1,350,000	67.42%
<b>TOTAL</b>		<b>\$2,002,500</b>	<b>100.00%</b>

The weighting factor is the value of each work item based on cost as a fraction of the whole project, and will be applied throughout the methodology.

Step 1: The formula to be used to calculate the Base Figure for the DBE goal is as follows:

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

The next step in establishing the Base Figure was to determine our denominator. This was accomplished through the use of the Census Bureau’s County Business Pattern (CBCBP) and the

identification of the NAICSs that were the same as those identified from the Directory. This formula will be applied throughout the methodology. With these figures in hand we compute our Base Figure using the following mathematics:

$$\frac{Base}{Figure} = .3258 \left( \frac{NYNAICS541330}{NAICS541330} \right) + .6742 \left( \frac{NYNAICS541620}{NAICS541620} \right)$$

NYNAICS- New York State DBE Directory NAICS  
 NAICS – Census Bureau’s County Business Pattern (CBP) Data Base

$$\frac{Base}{Figure} = .3258 \left( \frac{118}{1352} \right) + .6742 \left( \frac{35}{278} \right)$$

$$\frac{Base}{Figure} = .0284 + .0849$$

$$\frac{Base}{Figure} = 11.33\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions that have occurred at the Long Island MacArthur Airport. The Town has considered the suggested options outlined in 49 CFR Part 26 and determined that due to lack of current history, and after conversations with airport personnel regarding previous projects, at this time no adjustment will be made to the base figure. The Percentage of 11.33% is established as the goal for DBE participation for the Taxiway W and B Rehabilitation Design and Environmental Study projects at the Long Island MacArthur Airport for FY 2023.

**THREE YEAR GOAL**

The Three Year Goal is as follows:

<b>FY 2021</b>	<b>10.01%</b>
<b>FY 2022</b>	<b>4.89%</b>
<b>FY 2023</b>	<b>+ 11.33%</b>

Three Year Goal                      26.23% ÷ 3 = 8.74%

References:  
 New York List of Certified DBE Firms, December, 2020  
 2018 – U.S. Census Bureau, December, 2020

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

Sponsor will meet the maximum feasible portion of the overall goal by using RN 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. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
3. 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;
4. 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;
5. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;

**RACE CONSCIOUS AND RACE NEUTRAL GOALS:** Each time The Sponsor submits an overall goal for review by the FAA, The Sponsor will also submit a projection of the portion of the goal that is expected to be met through race-neutral means and the basis for that projection. This projection is subject to approval by the FAA, in conjunction with its review of the Sponsor’s overall goal. The Sponsor will establish contract goals to meet any portion of an overall goal when the Sponsor does not project being able to meet goals using race-neutral means.

**FY 2021**

**RACE CONSCIOUS AND RACE NEUTRAL GOALS:** The Town/Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Each time The Long Island MacArthur Airport, Islip, New York submits an overall goal for review by the FAA, The Town will also submit a projection of the portion of the goal that is expected to be met through race-neutral means and the basis for that projection. This projection is subject to approval by the FAA, in conjunction with its review of the Town’s overall goal. The Town will establish contract goals to meet any portion of an overall goal when the Town does not project being able to meet its goals using race-neutral means.

We estimate that in meeting our overall goal of 10.01%, we will obtain 10.01% of the goal from race-conscious participation and 0.00% via race-neutral participation measures. This estimate was established after consideration of the lack of recent history to evaluate achievements and variances, the DBE goal of 10.01% will be met through race-conscious efforts

**FY 2022**

**RACE CONSCIOUS AND RACE NEUTRAL GOALS:** The Town/Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Each time the Long Island MacArthur Airport submits an overall goal for review by the FAA, The

Town will also submit a projection of the portion of the goal that is expected to be met through race-neutral means and the basis for that projection. This projection is subject to approval by the FAA, in conjunction with its review of the Town's overall goal. The Town will establish contract goals to meet any portion of an overall goal when the Town does not project being able to meet its goals using race-neutral means.

We estimate that in meeting our overall goal of 4.89%, we will obtain 4.89% of the goal from race-conscious participation and 0.00% via race-neutral participation measures. This estimate was established after consideration of the lack of recent history to evaluate achievements and variances. The DBE goal of 4.89% will be met through race-conscious efforts.

### **FY 2023**

**RACE CONSCIOUS AND RACE NEUTRAL GOALS:** The Town/Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Each time the Long Island MacArthur Airport submits an overall goal for review by the FAA, The Town will also submit a projection of the portion of the goal that is expected to be met through race-neutral means and the basis for that projection. This projection is subject to approval by the FAA, in conjunction with its review of the Town's overall goal. The Town will establish contract goals to meet any portion of an overall goal when the Town does not project being able to meet its goals using race-neutral means.

We estimate that in meeting our overall goal of 11.33%, we will obtain 11.33% of the goal from race-conscious participation and 0.00% via race-neutral participation measures. This estimate was established after consideration of the lack of recent history to evaluate achievements and variances. The DBE goal of 11.33% will be met through race-conscious efforts.

## Public Participation

### Consultation: Section 26.45(g)(1).

In establishing the overall goal, the Sponsor provided for consultation and publication. This included consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Sponsor's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it occurred before we were required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement. . Over thirty stakeholders were invited to the Zoom meeting via e-mail. Consultations were held January 6, 2021 @ 1:30 ET with the following stakeholders listed below, with a question regarding primes meeting the DBE goal and good faith efforts.

<b>LONG ISLAND MACARTHUR AIRPORT AGENCIES CONSULTED WITH</b>	
<b>Agency/Organization</b>	<b>Discussion/Information</b>
Shelley Larose-Arken, Airport Commissioner Long Island MacArthur Airport, Town of Islip	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Rob Schneider, Airport Deputy Commissioner Long Island MacArthur Airport, Town of Islip	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Steve Siniski, Administrative Supervisor Long Island MacArthur Airport, Town of Islip	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Andrea R. Luft, Senior Project Engineer JKL Engineers	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
John Califano, Estimator Peter Scalamandre & Sons, Inc.	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Tom Boccard, Project Administrator Peter Scalamandre & Sons, Inc.	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Joan Schroder Haugland Group, LLC	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Joseph Symington, Assistant Vice President Roland's Electric, Inc.	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Alyssa Whitehouse Roland's Electric, Inc.	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Laurie De Luca-Cardillo, Project Manager Asst. Roland's Electric, Inc.	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
David Brackett, PE Grace Industries, LLC	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Janak Shah DBE Electric Corporation	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Amir Gal, President BelAir Electric	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting

Lindsey Riello Haugland Group, LLC	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Gerri Mulligan, Executive Assistant to the Commissioner, Long Island MacArthur Airport, Town of Islip	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Taffy Pippin Consulting, LLC Taffy Pippin, Consultant	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting
Taffy Pippin Consulting, LLC Clayton Pippin, Planner	Availabilities of DBEs, Directories, DBE Goals, Good Faith Efforts, Monitoring and Reporting

**PUBLIC NOTICE**

The Long Island MacArthur Airport operated by the Town of Islip, New York, hereby publishes a proposed overall goal for its Disadvantaged Business Enterprise (DBE) Program for FY 2021-FY 2023 for the Town of Islip, Long Island MacArthur Airport. The proposed three-year DBE goal is 8.74% for FAA-AIP funded projects for FY 2021-FY 2023. The proposed overall DBE goal for FY 2021 is 10.01% for all FAA-AIP funded projects, the proposed overall goal for FY 2022 is 4.89% for all FAA-AIP funded projects, and the proposed overall goal for all FAA-AIP funded projects for FY 2023 is 11.33%. The methodology used in developing this goal will be available for inspection at the airport offices located at 100 Arrival Avenue, Suite 100, Ronkonkoma, NY 11779, Monday through Friday 8:00 AM until 5:00 PM. The Town will accept written comments concerning the goal for 30 days. These goals are established in accordance with 49 CFR Part 26. Written comments may be forwarded to the addresses cited below.

**Steve Siniski**  
**Airport Administrative Supervisor**  
**Long Island MacArthur Airport**  
**100 Arrival Avenue, Suite 100**  
**Ronkonkoma, NY 11779**  
**631-467-3300 ext. 1383**  
**[www.MacArthurAirport.com](http://www.MacArthurAirport.com)**

**and**

**Mr. Alexander Horton**  
**FAA South Florida Flight Standards**  
**District Office**  
**2895 SW 145th Avenue, Suite 291**  
**Miramar, FL 33027**  
**[alexander.horton@faa.gov](mailto:alexander.horton@faa.gov)**





**ATTACHMENT 6**

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

**[The following "Form 1" and "Form 2" are provided for illustrative purposes ONLY, and are not promulgated or endorsed by the USDOT.]**

*[Any forms recipients develop and use for purposes of assessing bidders'/offerors' good faith efforts should be provided as part of the solicitation documents.]*

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

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner:

- Bidder/offeror has met the DBE contract goal  
The bidder/offeror is committed to a minimum of \_\_\_\_ % DBE utilization on this contract.
  
- Bidder/offeror has not met the DBE contract goal  
The bidder/offeror is committed to a minimum of \_\_\_\_ % DBE utilization on this contract and has submitted [or "will submit," if recipient made compliance a matter of responsibility] documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm: \_\_\_\_\_

Bidder/Offeror Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FORM 2: LETTER OF INTENT**

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

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

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name & title of DBE firm's AR: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Work to be performed by DBE firm:

<i>Description of Work</i>	<i>NAICS</i>	<i>Dollar Amount / %*</i>	<i>Dealer/Manufacturer**</i>

*\*Percentage is to be used only in negotiated procurements, including design-build contracts*

*\*\*For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is \$ \_\_\_\_\_. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

\_\_\_\_\_  
Signature of Bidder/Offeror's Authorized Representative

Date: \_\_\_\_\_

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

\_\_\_\_\_  
Signature of DBE's Authorized Representative

Date: \_\_\_\_\_

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

**Submit this page for each DBE subcontractor.**

**ATTACHMENT 6**

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

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*[Any forms recipients develop and use for purposes of assessing bidders'/offerors' good faith efforts should be provided as part of the solicitation documents.]*

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

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner:

Bidder/offeror has met the DBE contract goal  
The bidder/offeror is committed to a minimum of \_\_\_\_ % DBE utilization on this contract.

Bidder/offeror has not met the DBE contract goal  
The bidder/offeror is committed to a minimum of \_\_\_\_% DBE utilization on this contract and has submitted [or "will submit," if recipient made compliance a matter of responsibility] documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm: \_\_\_\_\_

Bidder/Offeror Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FORM 2: LETTER OF INTENT**

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

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

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name & title of DBE firm's AR: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Work to be performed by DBE firm:

<i>Description of Work</i>	<i>NAICS</i>	<i>Dollar Amount / %*</i>	<i>Dealer/Manufacturer**</i>

*\*Percentage is to be used only in negotiated procurements, including design-build contracts*

*\*\*For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is \$ \_\_\_\_\_. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

\_\_\_\_\_  
Signature of Bidder/Offeror's Authorized Representative

Date: \_\_\_\_\_

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

\_\_\_\_\_  
Signature of DBE's Authorized Representative

Date: \_\_\_\_\_

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

**Submit this page for each DBE subcontractor.**

## **ATTACHMENT 7**

### **DBE Monitoring and Enforcement Mechanisms**

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

The Sponsor will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. The Sponsor may also use New York Statutes in prosecution for fraud in a government contract, and refer such matters to the proper audit authority, the District Attorney, or the Attorney General of the State of New York for enforcement of any and all applicable laws, both civil and criminal, of the State of New York.

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) The use of liquidated damages for failing to utilize the DBE or replacing the DBE with another.
- (2) The inclusion as part of a current package a contractor's statement indicating commitment to the DBE program and steps they have taken to utilize them in prior contracts as well as the current contract.
- (3) The use of federal debarment (48CFR Section 9.402(b)).
- (4) Actions outlined in "New York State Code".
- (5) Other legal mechanisms as necessary.



**ATTACHMENT 8**  
**DBE Certification Application Form**

Web link:

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





## ATTACHMENT 7

### **DBE Monitoring and Enforcement Mechanisms**

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

The Sponsor will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. The Sponsor may also use New York Statutes in prosecution for fraud in a government contract, and refer such matters to the proper audit authority, the District Attorney, or the Attorney General of the State of New York for enforcement of any and all applicable laws, both civil and criminal, of the State of New York.

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) The use of liquidated damages for failing to utilize the DBE or replacing the DBE with another.
- (2) The inclusion as part of a current package a contractor's statement indicating commitment to the DBE program and steps they have taken to utilize them in prior contracts as well as the current contract.
- (3) The use of federal debarment (48CFR Section 9.402(b)).
- (4) Actions outlined in "New York State Code".
- (5) Other legal mechanisms as necessary.



**ATTACHMENT 8**  
**DBE Certification Application Form**

Web link:

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



**ATTACHMENT 9  
State's UCP Agreement**

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



for


7/28/2021

Date

Town of Islip

Agency



 <p><b>Department of Transportation</b></p> <p><b>POLICY</b></p>	<p><b>CODE:</b> 1.1-6</p> <p><b>SUPERSEDES:</b> 1.1-6 DATED 9/17/2012</p> <p><b>TITLE:</b> DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY STATEMENT</p>
<p><b>APPROVED:</b></p> <p><i>Cathy Calloun</i>      3/23/14</p> <p>Cathy Calloun CHIEF OF STAFF      DATE</p>	<p><b>ORGANIZATION RESPONSIBLE FOR INTERPRETATION:</b></p> <p>Office of Civil Rights</p>

**I. POLICY STATEMENT**

It is the policy of the New York State Department of Transportation (NYSDOT) to ensure that Disadvantaged Business Enterprises (DBE) as defined in Title 49, Code of Federal Regulations, Part 26 (49 CFR Part 26) have equal opportunity to receive and participate in U.S. Department of Transportation (USDOT) assisted contracts.

**II. POLICY SCOPE AND GUIDANCE**

NYSDOT has established a DBE Program in accordance with requirements prescribed by USDOT regulations (49 CFR Part 26) for highway, transit and airport financial assistance programs. This Program seeks to:

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

NYSDOT's DBE Program shall enable small businesses, including those owned and controlled by minorities, women and other disadvantaged individuals, an equal opportunity to compete for contract funds on federally aided transportation projects. The DBE Program requirements apply to all parts of the NYSDOT and all subrecipients.

NYSDOT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. In administering the DBE Program, NYSDOT will not directly or through contractual or other arrangements, use

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criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex or national origin.

The Director of NYSDOT's Office of Civil Rights has been designated as the DBE Liaison Officer. In that capacity, the Director of the Office of Civil Rights is responsible for the day-to-day implementation of all aspects of NYSDOT's DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with other legal obligations incurred by NYSDOT in its financial assistance agreements with USDOT.

All NYSDOT employees are required to adhere to the DBE Program requirements. NYSDOT's Office of Civil Rights is responsible for monitoring compliance with these requirements.

This DBE policy statement shall be disseminated to all NYSDOT managers throughout the agency and shall be made available on NYSDOT's internal (IntraDOT) and external websites.

### **III. RELATED POLICY AND AUTHORITATIVE SOURCES**

49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

49 CFR Part 23 - Participation by Disadvantaged Business Enterprises in Airport Concessions



**ATTACHMENT 10**  
**SMALL BUSINESS PARTICIPATION**

**A. OBJECTIVE (49 CFR PART 26.39)**

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the Sponsor seeks to implement a small business element into its current DBE policy in accordance with applicable law. The Sponsor is including this element to facilitate competition by and expand opportunities for small businesses. The Sponsor is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The Sponsor will meet its objectives using a combination of the following methods and strategies:

1. **Set asides:**

Where feasible, the Sponsor will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the Sponsor and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work regardless of DBE status. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and DBELO will document why a small business set-aside is inappropriate and the factors which were considered in making that determination, including project scope and estimated availability of firms.

2. **Unbundling:**

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

Sponsor will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. The Sponsor will document the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.

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

## **B. DEFINITIONS**

### **1. Small Business:**

Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121). A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period.

### **2. Disadvantaged Business Enterprise:**

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose average annual gross receipts, do not exceed the size limitations standard as defined in Part 26.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the New York Department of Transportation (NYDOT) in accordance with 49 CFR 26.
- For the purposes of the small business element of the Sponsor's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification.

### **C. CERTIFICATION AND VERIFICATION PROCEDURES**

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

1. NYDOT DBE Certification – DBE Certification by the NYDOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by NYDOT.
2. NYDOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the NYDOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

### **D. IMPLEMENTATION SCHEDULE**

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

### **E. ASSURANCES**

The Sponsor makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.

