

CITY OF DAYTON, DAYTON INTERNATIONAL AIRPORT

# DAYTON INTERNATIONAL AIRPORT DBE PROGRAM 2018-2019-2020

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Implementation of 49 CFR Part 26

**Chrisondra Goodwine**

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

## Table of Contents

POLICY STATEMENT .....	4
Section 26.1, 26.23 Objectives/Policy Statement .....	4
SUBPART A – GENERAL REQUIREMENTS .....	5
Section 26.1 Objectives .....	5
Section 26.3 Applicability.....	5
Section 26.5 Definitions.....	5
Section 26.7 Non-discrimination Requirements .....	5
Section 26.11 Record Keeping Requirements.....	5
Reporting to DOT: 26.11(b).....	5
Bidders List: 26.11(c).....	6
Section 26.13 Federal Financial Assistance Agreement .....	6
SUBPART B - ADMINISTRATIVE REQUIREMENTS .....	7
Section 26.21 DBE Program Updates.....	7
Section 26.23 Policy Statement .....	7
Section 26.25 DBE Liaison Officer (DBELO).....	8
Section 26.27 DBE Financial Institutions.....	10
Section 26.29 Prompt Payment Mechanisms.....	10
Section 26.31 Directory.....	11
Section 26.33 Over-concentration.....	11
Section 26.35 Business Development Programs.....	11
Section 26.37 Monitoring and Enforcement Mechanisms .....	13
Section 26.39 Fostering small business participation.....	13
SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING.....	15
Section 26.43 Set-asides or Quotas .....	15
Section 26.45 Overall Goals .....	15
Section 26.47 Failure to meet overall goals.....	16
If the City of Dayton, Dayton International Airport awards and commitments are less than the goal for that year, we will: .....	16
(1) Analyze the reasons for difference .....	16
(2) Establish specific steps and milestones to meet the goal for the new fiscal year fully 16	
(3) As an Operational Evolution Partnership (OEP) Plan or primary airport we will submit, within 90 days of the end of that fiscal year, the analysis and corrective actions developed, to the appropriate FAA DBE Team.....	16
Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious .....	16
Section 26.51(d-g) Contract Goals .....	16
Section 26.53 Good Faith Efforts Procedures.....	17
Information to be submitted (26.53(b)) .....	17
Administrative reconsideration (Waiver Request) (26.53(d)) .....	18
Good Faith Efforts when a DBE is replaced on a contract (26.53(f)).....	18
Sample Bid Specification:.....	20

Section 26.55	Counting DBE Participation .....	20
SUBPART D – CERTIFICATION STANDARDS.....		20
Section 26.61 – 26.73	Certification Process .....	20
Section 26.81	Unified Certification Programs .....	21
Section 26.83	Procedures for Certification Decisions .....	21
Section 26.85	Interstate Certification.....	22
Section 26.86	Denials of Initial Requests for Certification .....	22
Section 26.87	Removal of a DBE’s Eligibility .....	22
Section 26.89	Certification Appeals.....	23
SUBPART F – COMPLIANCE AND ENFORCEMENT.....		23
Section 26.109	Information, Confidentiality, Cooperation.....	23
LIST OF ATTACHMENTS.....		25
Attachment 1: 49 CFR Part 26.....		26
Attachment 2: Organizational Chart .....		27
Attachment 3: Bidder’s List Collection Form .....		28
Attachment 4: Link to DBE Directory .....		29
Attachment 5: Section 26.45: Overall Goal Calculation .....		30
Public Participation.....		35
PUBLIC NOTICE.....		35
Contract Goals .....		36
Attachment 6: DBE Participation Form and Waiver Request Form (Demonstration of Good Faith Efforts .....		37
Attachment 7: Monitoring and Enforcement Mechanisms.....		41
Attachment 7 Addendum A: CITY OF DAYTON R.G.C.O. POWER AND DUTIES OF THE HUMAN RELATIONS COUNCIL.....		42
Attachment 7 Addendum B: HUMAN RELATIONS COUNCIL ELEMENTS FOR CREATING OPPORTUNITIES FOR DBE PARTICIPATION .....		44
Attachment 8: Certification Application Form link.....		47
Attachment 9: Procedures for Removal.....		48
Attachment 10: Signed UCP Agreement Form .....		49
Attachment 11: Reporting Forms.....		51
Attachment 12 – Fostering Small Business .....		56
Section 26.39.....		56

*City of Dayton, Dayton International Airport DBE PROGRAM*

**POLICY STATEMENT**

***Section 26.1, 26.23***

***Objectives/Policy Statement***

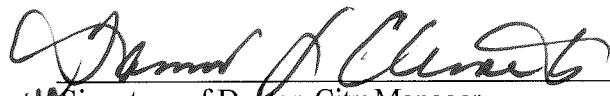
The City of Dayton has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Dayton, Dayton International Airport has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the city of Dayton has signed an assurance that it will comply with 49 CFR Part 26.

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

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

Chriondra Goodwine, the Contract Compliance Officer for the City of Dayton Human Relations Council, is delegated as the DBE Liaison Officer. In that capacity, Chriondra Goodwine implements all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Dayton in its financial assistance agreements with the Department of Transportation.

City of Dayton, Dayton International Airport has disseminated this policy statement to the Dayton City Commission and all of the components of our organization. We distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The Contract Compliance Officer maintains the contact list for distribution and utilizes electronic and non-electronic contact data.

  
Signature of Dayton City Manager,  
Shelley Dickstein

9.14.17  
Date

## **SUBPART A – GENERAL REQUIREMENTS**

### ***Section 26.1 Objectives***

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

### ***Section 26.3 Applicability***

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

### ***Section 26.5 Definitions***

The City of Dayton, Dayton International Airport will use terms in this program that have the meaning defined in Section 26.5.

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

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

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

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

#### **Reporting to DOT: 26.11(b)**

Since the City of Dayton, Dayton International Airport will receive an annual grant during the reporting period of \$250,000 or more we will continue to carry out this program until all funds from DOT financial assistance are expended. We will provide to DOT updates representing significant changes in the program. We will submit an updated goal annually on August 1 if we plan to award contracts exceeding \$250,000 in FAA funds in that Federal fiscal year.

We will report DBE participation to DOT as follows:

We will transmit to FAA annually on December 1, as required the Uniform Report of DBE Awards or Commitments and Payments, at the intervals stated on the form.

(b) The City of Dayton, Dayton International Airport will continue to provide data about the DBE Program to the Department as directed by DOT operating administrations.

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

We will transmit to FAA annually on December 1, the Uniform Report of DBE Awards form, found in Appendix B. We will also report the DBE Contractor firms contact information either on the FAA DBE Contractor's Form.

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

The City of Dayton, Dayton International Airport will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidder's list will include the name, address, DBE and non-DBE status, the age of firm, and annual gross receipts of firms.

We will collect this information in the following ways:

1. At bid opening, we will collect the names of the firms who placed bids on airport projects
2. Using the Ohio Unified Certification Programs list of DBEs, we will pull information regarding the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform
3. Contacting the certifying agent to determine what the firm's gross receipts

The City of Dayton, Dayton International Airport utilizes the Ohio Unified Certification Program list of certified DBEs as a directory identifying all firms eligible to participate as DBEs. The online directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The state of Ohio revises the Directory on a continuous basis. We make the Directory available as follows: [www.ohioucp.org](http://www.ohioucp.org).

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

City of Dayton, Dayton International Airport has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

### **Assurance: 26.13(a)**

*City of Dayton, Dayton International Airport shall not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, disability, age, ancestry, marital status, place of birth or national origin in the award and*

performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The City of Dayton, Dayton International Airport'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 constitute a violation of this agreement. Upon notification to the City of Dayton, Dayton International Airport of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

### ***Contract Assurance: 26.13b***

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

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of *race, color, religion, sex, sexual orientation, gender identity, disability, age, ancestry, marital status, place of birth or national origin* in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

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

The City of Dayton, Dayton International Airport will receive an annual grant for airport planning or development totaling \$250,000 during one or more years of the reporting period. We will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program. We will submit an updated goal on August 1 as required, if we plan to award FAA funded contracts exceeding \$250,000 annually, during the reporting period.

### ***Section 26.23 Policy Statement***

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

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

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

Chrisondra Goodwine, Contract Compliance Officer  
City of Dayton Human Relations Council  
371 West Second Street Suite 100  
Dayton, OH 45402  
937.333.1405 Office, Chrisondra.Goodwine@daytonohio.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Dayton, Dayton International Airport complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has one staff member to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathering and reports statistical data and other information as required by DOT.
2. Reviewing third party contracts and purchase requisitions for compliance with this program.
3. Working with all departments to set overall annual goals.
4. Ensuring that bid notices and requests for proposals are available to DBEs promptly.
5. Identifying contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzing the City of Dayton, Dayton International Airport's progress toward attainment and identifies ways to improve progress.
7. Participating in all pre-bid meetings related to this program.
8. Advising the City Manager and Dayton City Commission on DBE matters and achievement.
9. Referring DBEs to the Minority Business Assistance Center to gain information and assistance in preparing bids, obtaining bonding and insurance.
10. Plan and participate in DBE training seminars.
11. Certifies DBEs according to the criteria set by DOT and acts as a liaison to the Uniform Certification Process in the state of Ohio.
12. Provides outreach to DBEs and community organizations for advising them of opportunities.
13. Attends FAA-sponsored training as needed to remain current on regulations.
14. Complete 6 hours of Contractor Continuing Education courses yearly.
15. Complete 6 hours of Business Administration Continuing Education courses yearly.
16. Successfully attend complete American Contract Compliance Association training yearly.
17. Reports the program performance to the FAA.



18. Monitors the grant until all funds from DOT financial assistance have been expended.
19. Maintains the project file, participates in progress meetings and conducts project site visits for compliance.

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

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

The Financial and Insurance DBE's identified include:

Hollinger Financial

Pinkney-Perry Insurance Agency

Seep, LLC

Tinsley and Associates, LTD

This list of certified Financial and Insurance DBE's is made available to anyone seeking financial services from the City of Dayton Human Relations Council and the Minority Business Assistance Center. The list will be updated upon every individual request.

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

The City of Dayton, Dayton International Airport 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 ten days from the receipt of each payment the prime contractor receives from City of Dayton, Dayton International Airport. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City of Dayton, Dayton International Airport. This clause applies to both DBE and non-DBE subcontractors.

The Human Relations Council tracks all payments to subcontractors and rigorously investigates any claims of slow or no payment within the specified period. Each prime contractor is required to report payments to DBE subcontractors monthly. The Human Relations Council may recommend that no further payments are issued to the prime contractor if the prime contractor fails to make prompt payments.

### ***Section 26.31 Directory***

The City of Dayton, Dayton International Airport uses the State of Ohio DBE directory, maintained by the State. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. Also, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The State of Ohio revises the Directory continuously. The Directory may be found at [www.ohiouncp.org](http://www.ohiouncp.org).

### ***Section 26.33 Over-concentration***

City of Dayton, Dayton International Airport has not identified that over-concentration exists in the types of work that DBEs perform.

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

City of Dayton, Dayton International Airport has a business development program. The rationale for the program is the Dayton City Commission adoption of the findings and conclusions of the MGT of America, Inc. Final Report dated August 8, 2008, and entitled "A Second-Generation Disparity Study for the City of Dayton, Ohio" and by this reference incorporates in the City of Dayton Revised Code of General Ordinances the Second-Generation Disparity Study.

On the basis of the foregoing and upon full consideration of all relevant facts, the Commission finds that:

- (A) Minorities and women continue to show disparities in entry into self-employment, after controlling for age, wealth, and other variables.
- (B) Minorities and women that were self-employed earned significantly less than non-minority males, after controlling for other factors.
- (C) Past discrimination in the private sector and the city's overall contracting process has had the effect of significant underutilization of minority and women-owned business enterprises in contracts awarded by the city and have contributed to the underdevelopment of such businesses.
- (D) The present effects of such past discrimination continue to impede the development of businesses owned by minorities and women.

- (E) Certain issues, such as difficulties in the financing and bonding markets, and problems obtaining credit and insurance, impede the development of minority and women-owned businesses as well as certain nonminority small business enterprises.
- (F) The city has long recognized the importance of small business enterprises to its economic vitality and has adopted several measures and programs in support thereof including, but not limited to, CityWide Development Corporation, the Office of Small Business Ombudsmen, the Small Business Advisory Council, the Minority Contractors Business Assistance Program, the Small business Retention Program and the Small Business Assistance Program.
- (G) It is in the best interest of the city to continue to promote the equitable utilization of small business enterprises, minority business enterprises and women's businesses enterprises in city contracting in order to eradicate the lingering effects of past discrimination and improve the city's economic viability.
- (H) The requirements of this division are necessary to overcome the present effects of past discrimination and are designed to achieve the goal of equitable utilization of small businesses and minority and women-owned businesses in contracting with the city.

The Greater Dayton Minority Business Assistance Center (MBAC) operates a comprehensive business development program aimed at enhancing the growth, development, and self-sufficiency of all DBE firms competing for DOT-assisted contracts and subcontracts.

The MBAC assists these firms in developing a comprehensive business plan, which:

- Provides an analysis of the participating DBE's market potential, the competitive environment, and other business analysis capable of estimating the prospects for profitable operation during the term of participation during and after the program;
- Provides an analysis of the firm's strengths and weaknesses, with particular attention to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts for work that historically has not been performed by DBEs;
- Sets specific targets, objectives, and goals for the business development of the participant DBE during their participation in the MBAC;
- Provides estimates of contract awards from the DBE Program and from other sources needed to meet the objectives and goals for the period covered by the MBAC; and
- Continuing professional networking opportunities that enhance the marketability of the companies.

All businesses are assessed using the same criteria when first engaged by the Dayton MBAC. The initial assessment is to ensure that all foundational elements are present with companies we assist. Some firms may have worked with other technical assistance providers or no one at all before working with the Dayton MBAC. Thus, it is critical to apply the same assessment or initial standards at the onset of the relationship to be sure no essential elements are overlooked.

After the assessment, companies are assigned a counselor and placed into one of the development stages. A technical assistance plan is then created to be used as a guide for the counselor, as well as to set expectations for the clients.

### ***Section 26.37      Monitoring and Enforcement Mechanisms***

The City of Dayton, Dayton International Airport 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. 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 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 the DBEs are performing work committed to DBEs at contract award. This mechanism will provide for a running tally of actual DBE attainments (e.g., verified payment 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 mechanism will be accomplished by requiring prime contractors to report all payments to DBE and non-DBE contractors and maintaining these reports in the project file.
4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

### ***Section 26.39      Fostering small business participation.***

The City of Dayton, Dayton International Airport has created an 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.

This element is included as Attachment 12. As part of this program element, we will include the following strategies:

- (1) Establish race-neutral small business inclusion goals for prime contracts under a stated amount (*e.g., \$1 million or another amount.*)
- (2) In multi-year design-build contracts or other large contracts (*e.g., for “megaprojects”*) we will require the bidders on prime contracts to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- (3) On prime contracts not having DBE contract goals, we will require the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
- (4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- (5) To meet the portion of our overall goal that we project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
- (6) Provide technical assistance to small businesses seeking to participate on airport projects

We will actively implement the program elements to foster small business participation. Doing so is a requirement of good faith implementation of our DBE program.

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

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

The City of Dayton, Dayton International Airport does not use quotas in any way in the administration of this DBE program.

### ***Section 26.45 Overall Goals***

The City of Dayton, Dayton International Airport will establish 3-year overall goals if we anticipate awarding FAA funded prime contracts exceeding \$250,000 annually within one or more of the reporting years within the 3-year goal period. Goals will be established by the 2-step process as specified in 49 CFR Part 26.45. If the City of Dayton, Dayton International Airport does not anticipate awarding more than \$250,000 in FAA funding annually during the 3-year reporting period, we will not develop an overall goal; however the existing DBE program will remain in effect and the City of Dayton, Dayton International Airport will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, “base figure.” The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and information about barriers to entry to past competitiveness of DBEs on projects.

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

In accordance with Section 26.45(f) the City of Dayton, Dayton International Airport will submit its overall goal to DOT on August 1 as required by the goal submittal timeline. In establishing the overall goal, City of Dayton, Dayton International Airport regularly consults with minority, women and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Dayton, Dayton International Airport’s efforts to establish a level playing field for the participation of DBEs.

As a result of these consultations, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at City of Dayton, Human Relations Council, 371 West Second Street, Suite 100, Dayton, Ohio 45402 for 30 days following the date of the notice, and informing the public that the City of Dayton, Dayton International Airport, and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media, and available minority and women-focused media, trade publications, and websites.

Normally, we will issue this notice by June 1 of the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

### ***Section 26.47 Failure to meet overall goals.***

If the City of Dayton, Dayton International Airport awards and commitments are less than the goal for that year, we will:

- (1) Analyze the reasons for difference
- (2) Establish specific steps and milestones to meet the goal for the new fiscal year fully
- (3) As an Operational Evolution Partnership (OEP) Plan or primary airport we will submit, within 90 days of the end of that fiscal year, the analysis and corrective actions developed, to the appropriate FAA DBE Team

### ***Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious***

#### ***Participation***

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program. The City of Dayton, Dayton International Airport intends to use both race-conscious and race-neutral participation goals due to the findings of the 2008 Disparity Study. When the availability of DBEs is deemed sufficient to provide competitive bids for subcontracting on the project, the City of Dayton, Dayton International Airport may set a participation goal of 21.0%.

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

The City of Dayton, Dayton International Airport's 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.



If our approved projection under paragraph (c) of this section estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary to meet our overall goal.

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

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

DBE percentage contract goals must be obtained on the base bid as well as all alternative bids.

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

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

The obligation of the bidder/offeree is to make good faith efforts. The bidder/offeree can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts, located in Attachment 6.

Chrisondra Goodwine, Contract Compliance Assistant is responsible for determining whether a bidder/offeree who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

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

City of Dayton, Dayton International Airport treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which there is an established contract goal will require all bidders/offerees to submit the following information at the time of bid:

1. The names and addresses of DBE firms that will participate in the contract;
2. A signed agreement between the Prime Contractor and each DBE subcontractor stating the price and scope of work to be performed on the contract (*Blanket orders or Blanket purchase agreements will not be counted as a valid signed agreement*);
3. A description of the work that each DBE will perform;

4. The dollar amount of the participation of each DBE firm participating;
5. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
6. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
7. If the bidder is unable to meet the DBE participation contract goal, the bidder must supply documented evidence that supports a notions that a good faith effort was made to secure DBE subcontractors.

### **Administrative reconsideration (Waiver Request) (26.53(d))**

Within ten business days of being informed by the City of Dayton, Dayton International Airport that it is not *responsive* because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Executive Director, Human Relations Council, 371 West Second Street, #100, Dayton, Ohio 45402. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### **Good Faith Efforts when a DBE is replaced on a contract (26.53(f))**

City of Dayton, Dayton International Airport will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the contractor and us of the reasons if any, why it objects to the proposed termination of its subcontract and why we should not approve the prime contractor's action. If required in a

particular case as a matter of public necessity (*e.g.*, safety), we may provide a response period shorter than five days.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

We will provide such written consent only if we agree, for reasons stated in our 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 under 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us 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 we have determined compels the termination of the DBE subcontractor. 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.

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

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

### **Sample Bid Specification:**

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Dayton, Dayton International Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract is conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 21% percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal as well as alternative bid goal of 21% for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information:

- (1) the names and addresses of DBE firms that will participate in the contract;
- (2) A signed agreement between the Prime Contractor and each DBE subcontractor stating the price and scope of work to be performed on the contract;
- (3) A description of the work that each DBE firm will perform;
- (4) The dollar amount of the participation of each DBE firm participating;
- (5) Written documentation of the bidder/offeror's commitment to using a DBE subcontractor whose participation it submits to meet the contract goal;
- (6) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (5); and (6) if the contract goal is not met, evidence of good faith efforts.

### ***Section 26.55      Counting DBE Participation***

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until payment to the DBE subcontractor is verified.

## **SUBPART D – CERTIFICATION STANDARDS**

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

City of Dayton, Dayton International Airport 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. We will make our certification decisions based on the site interview and the entire administrative record.

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

Chrisondra Goodwine  
Contract Compliance Officer  
City of Dayton Human Relations Council  
371 West Second Street, Suite 100  
Dayton, OH 45402  
937.333.1405  
Chrisondra.Goodwine@daytonohio.gov

See Attachment 8 for the certification application forms and documentation requirements for this program.

#### SUBPART E – CERTIFICATION PROCEDURES

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

City of Dayton, Dayton International Airport is the member of a Unified Certification Program (UCP) administered by Ohio UCP. The UCP will meet all of the requirements of this section. See Attachment 10 for the signed agreement page of the membership of the UCP.

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

#### Certification Review 26.83(a) & (c)

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

For firms that we ensure UCP have certified or reviewed and found eligible under Part 26, we will again review their eligibility every three years. These reviews will include the following components:

- 1) A review of the entire administrative record including an updated statement of personal net worth and an updated financial statement of annual revenues for the preceding three years;
- 2) An on-site review with the disadvantaged owner(s).

#### “No Change” Affidavits and Notices of Change (26.83(j))

The UCP requires all DBEs owners to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control

criteria of 49 CFR Part 26 or of any material changes in the information provided by City of Dayton, Dayton International Airport's application for certification.

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

I swear (or affirm) that there have been no changes in the circumstances of [*name of DBE firm*] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with [*name of DBE*]'s application for certification, except for any changes about which you have provided written notice to the City of Dayton, Dayton International Airport under 26.83(j). [*Name of firm*] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$20.41 million.

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

The UCP will notify all currently certified DBE firms of these obligations by U.S. Mail and by electronic mail eight weeks before the anniversary of the certification. This notification will inform DBEs that to submit the "no change" affidavit; their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. The obligation to submit a notice of change applies when a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth).

#### **Section 26.85 Interstate Certification**

When a firm currently certified in its home state ("State A") applies to another State ("State B") for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures. We will follow the procedures defined in Section 26.85.

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

If we deny a firm's application or decertify it, it may not reapply until 12 months have passed from our action.

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

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87. Attachment 9 to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, the UCP has determined that the City of Dayton Human Relations Council Executive Director or Designee will serve as the decision-maker in

decertification proceedings. The UCP has established an administrative “firewall” to ensure that City of Dayton Human Relations Council Business and Technical Assistance Administrator will not have participated in any way in the decertification proceeding against the firm (including the decision to initiate such a proceeding).

## **Section 26.89      Certification Appeals**

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

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

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

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

### **Section 26.109      Information, Confidentiality, Cooperation**

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. [*Program should summarize applicable state and local law, such as state FOIA laws and how they apply.*]

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. Confidentiality includes applications for DBE certification and supporting information. However, we must 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.

### ***Monitoring Payments to DBEs***

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Dayton, Dayton

International Airport or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

The City of Dayton also requires Sub-Contractor Drawdowns to be submitted monthly to track payments to certified subcontractors. Reports should be submitted on the tenth day of each month to [Chrisondra.goodwine@daytonohio.gov](mailto:Chrisondra.goodwine@daytonohio.gov).



## LIST OF ATTACHMENTS

Attachment 1	Regulations: 49 CFR Part 26 website link
Attachment 2	Organizational Chart
Attachment 3	Bidder's List Collection Form
Attachment 4	DBE Directory website link
Attachment 5	Overall Goal Calculation (Include Breakout of Estimated Race-Neutral & Race- Conscious Participation, Public Participation, and Contract Goal)
Attachment 6	DBE Participation Form and Waiver Request Form (for Demonstration of Good Faith Efforts)
Attachment 7	Monitoring and Enforcement Mechanisms
Attachment 8	Certification Application Form <a href="http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP.aspx">[http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP.aspx]</a>
Attachment 9	Procedures for Removal of DBE's Eligibility or copy of the State's UCP
Attachment 10	Signed UCP Agreement Form ( <i>signature page only- recipient signing with UCP</i> )
Attachment 11	Reporting Forms
Attachment 12	Small Business set-aside program

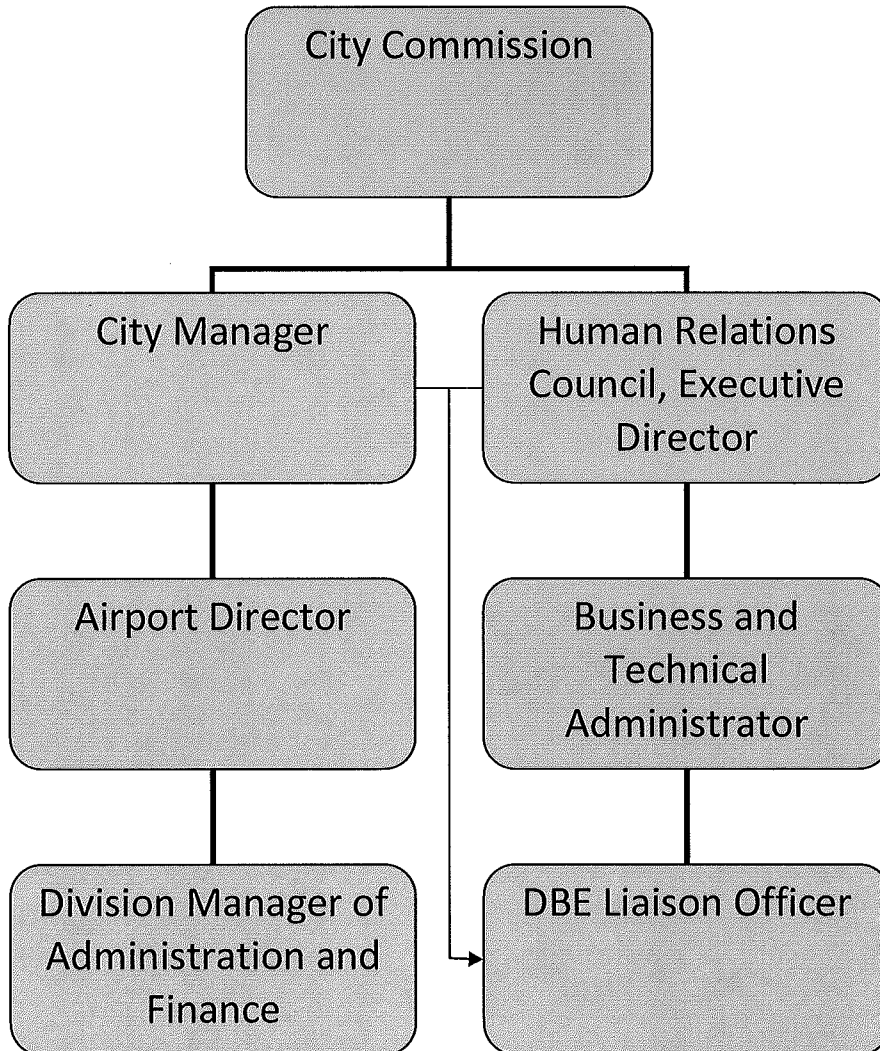
**Attachment 1: 49 CFR Part 26**

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

[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**

City of Dayton DBE Program Organizational Chart



Should it prove necessary for the integrity of the DBE Program, the DBE Liaison Officer will contact the City Manager.

### Attachment 3: Bidder's List Collection Form

The City of Dayton collects attendance cards at each Pre-bid meeting. The list of potential bidders is published at the City's web site:

<https://oh-dayton.civicplus.com/DocumentCenter/Index/101>

A sample cards is shown here.

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RF-32	<b>DEPARTMENT OF PUBLIC WORKS PRE-BID CONFERENCE</b>		
		DATE	_____
NAME OF COMPANY	_____	PHONE	_____
EMAIL ADDRESS	_____	FAX	_____
ADDRESS	_____	_____	_____
	(NUMBER)		(STREET)
_____	(CITY)	(STATE)	(ZIP CODE)
REPRESENTED BY	_____	_____	_____
	(NAME)	(TITLE)	
PROJECT NAME(S)	_____		
AREA OF INTEREST	_____		
	(PRIME-SUBCONTRACTOR-MATERIAL SUPPLIER-OTHER (SPECIFY))		

**Attachment 4: Link to DBE Directory**

[www.ohioucp.org/](http://www.ohioucp.org/)

[http://odotext.rpt.dot.state.oh.us/ViewReport.aspx?reportPath=%2fprd%2fpreconstruction%2fpublic%2fprecon\\_naics\\_mailmerge\\_report](http://odotext.rpt.dot.state.oh.us/ViewReport.aspx?reportPath=%2fprd%2fpreconstruction%2fpublic%2fprecon_naics_mailmerge_report)

**Attachment 5: Section 26.45: Overall Goal Calculation**

**Name of Recipient:** City of Dayton, Dayton International Airport

**Goal Period:** FY-2018–2020 October 1, 2017, through September 30, 2020

**Market Area:** Montgomery, Butler, Clark, Greene, and Miami Counties.

**Determination of Market Area:** A majority (at least 50%) of the contractors and subcontractors come from this area, and

- a. Substantial majority (at least 80%) of the contracting dollars will be spent in this area.

**Step 1. Base Figure:** Used data from the City of Dayton contract compliance database, Citybots- City of Dayton Vendors and certified small, minority-owned, women-owned and local business enterprises in contracting for construction services and in the procurement of goods, services, and supplies with the City of Dayton.

1. There is currently 1,248 business that ready, willing, and able to conduct business as a City of Dayton Vendor.
2. There are currently 144 minority businesses that either is certified as a DBE or have the ability to be certified as a DBE.
3.  $144/1248 = 11.5\%$  Rounded to a whole number equals 12%

PEP Certifications by Type and Category				
	MBE	WBE	SBE	DLSB
<b>TOTAL</b>	<b>96</b>	<b>74</b>	<b>181</b>	<b>50</b>
<b>CONSTRUCTION</b>	<b>35</b>	<b>29</b>	<b>74</b>	<b>19</b>
<b>SERVICES</b>	<b>72</b>	<b>54</b>	<b>134</b>	<b>36</b>
<b>GOODS</b>	<b>20</b>	<b>18</b>	<b>37</b>	<b>9</b>

**Subcontractor Utilization and Availability**

The tables below illustrate the City of Dayton's Procurement enhancement program of all certified firms that are ready, willing, and able to compete for DOT-assisted contracting in the City of Dayton:

Contract Awards	Minority-owned	Woman-owned	Small Businesses	Dayton Local Small Businesses
<b>2016 PEP GOAL ACHIEVEMENT</b>				
<b>2016 Contract Award \$ 20,444,025</b>	<b>\$4,129,199</b>	<b>\$2,478,993</b>	<b>\$4,351,754</b>	<b>\$779,081</b>
<b>2016 PEP Award %</b>	<b>20%</b>	<b>12%</b>	<b>21%</b>	<b>4%</b>
<b>2016 PEP Goal %</b>	<b>10%</b>	<b>5%</b>	<b>20%</b>	<b>9%</b>

Contract Awards	Minority-owned	Woman-owned	Small Businesses	Dayton Local Small Businesses
<b>2015 PEP GOAL ACHIEVEMENT</b>				
<b>2015 Contract Awards \$44,302,826</b>	<b>\$2,964,482</b>	<b>\$520,854</b>	<b>\$3,533,105</b>	<b>N/A</b>
<b>2015 PEP Award %</b>	<b>7%</b>	<b>1%</b>	<b>8%</b>	<b>N/A</b>
<b>2015 PEP Goal %</b>	<b>2%</b>	<b>1.5%</b>	<b>7%</b>	<b>N/A</b>

Contract Awards	Minority-owned	Woman-owned	Small Businesses	Dayton Local Small Businesses
<b>2016 PEP GOAL ACHIEVEMENT</b>				
<b>2014 Contract Awards \$48,237,721</b>	<b>\$2,106,877</b>	<b>\$476,300</b>	<b>\$2,672,083</b>	<b>N/A</b>
<b>2014 PEP Award %</b>	<b>4%</b>	<b>1%</b>	<b>6%</b>	<b>N/A</b>
<b>2014 PEP Goal %</b>	<b>3%</b>	<b>2%</b>	<b>7%</b>	<b>N/A</b>

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

Two factors to consider in the adjustment of Step 1 base figure:

a. First, the recipient addressed other factors by researching and contacting the following offices:

1. Organizations serving or representing DBE's, minority-owned or women-owned businesses

i. *The Minority Business Partnership (MBP)), a division of the Dayton Area Chamber of Commerce meets with minority-owned businesses each month. The City of Dayton sends a representative to this monthly meeting who serves on the Facilities Committee for the organization. The MBP collects MBE utilization reports from the public and private sector.*

2. State or local offices of procurement

i. *The City of Dayton works with the Minority Business Assistance Center to increase awareness of opportunities and provide technical assistance to minority-owned women-owned businesses and small businesses.*

3. Federal offices responsible for enforcing Civil Rights laws

i. *The City of Dayton Human Relations Council is a certifying agency for the Ohio Unified Certification Program and regularly conducts contract compliance site visits for federally funded projects.*

b. Second, the recipient examined the historical overall DBE goals accomplishments at the airport in recent years, i.e., 3-4 years, specifically, the annual "Report of DBE Goal Accomplishments," Form 4630, Uniform Report of DBE Awards or Commitments and Payments supplemented by contractual closeout information, and summarized below:

1. According to the available data, the contract awards for FAA projects in 2015 were \$316,335. DBE companies were awarded \$65,800.46 or 27.77%.

2. The contract awards for FAA projects in 2014 were \$ 16,059,970. DBE companies were awarded \$2,029,144 or 15.96%.

3. The contract awards for FAA projects in 2013 were \$ 5,090,808. DBE companies were awarded \$1,001,955 or 24.50%.



Recipients Historic DBE Accomplishments for DOT-Assisted Contracts  
*(3-4 years analysis of similar or the same type of work)*

Fiscal Year	Goal	Accomplishments	Type of Work
2013	21.00%	24.50%	Architecture & Engineering, Testing, Pavement, and Trucking
2014	21.00%	15.96%	Architecture & Engineering, Testing, Pavement, and Trucking
2015	25.00%	27.77%	Architecture & Engineering, Testing, Pavement, and Trucking
2016	N/A	N/A	No - No AIP grants were awarded.

The median percentage of accomplishments for all similar projects over recent years is 24.50%. When we compare this median with the proposed base figure for FY-2018 (12%), we determine that our adjusted overall goal is 18%.

12% base figure + 25.00% (historical median rounded up) = 37% divided by 2 = 19% (18.50% rounded up) adjusted race-conscious goal. Using the overall adjusted goal achieved by race-conscious means compared to the overachievement our adjusted race-neutral goal is 4%. Although the goal methodology comes up to 19%, we are adjusting the goal upward to 23% because we believe we can achieve at least 23% in DBE participation.

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

26.51(b)(1-9)

The City of Dayton, Dayton International Airport will meet the maximum feasible portion of its 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 facilitate DBE, and other small businesses, participation;
2. Referring DBEs for assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
4. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBE's and other small businesses;
5. Participate in matchmaking sessions for Joint Ventures, Strategic Partnerships and Protégé Mentor Program.
6. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
7. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
8. Assist DBE's and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and

The recipient estimates that in meeting its overall goal 23%, it will obtain 4% from RN participation and 19% through RC measures.

Summary of the basis for the RN and RC goals: There will be some projects for which no goal will be stated to provide prime contractors with the opportunity to seek a diverse list of subcontractors. All invitations to bid will contain the statement:

**The City of Dayton, Dayton International Airport encourages all bidders to review the list of certified DBE companies in the Ohio Unified Certification Program at [www.ohioucp.org](http://www.ohioucp.org).**

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

## Public Participation

**Consultation:** Section 26.45(g)(1). In establishing the proposed goal, we consulted with minority, women's and general contractor groups, community organizations who can share information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and the City of Dayton, Dayton International Airport's efforts to establish a level playing field for the participation of DBE's.

*The Minority Business Partnership (MBP), a division of the Dayton Area Chamber of Commerce meets with minority-owned businesses each month. The City of Dayton sends two representatives to this monthly meeting who serve on the Facilities Committee for the organization. The MBP collects MBE utilization reports from the public and private sector.*

*The Local Advisory Committee of The South Central Ohio Minority Supplier Diversity Council (SCOMSDC) meets regularly and is comprised of representatives from local government, the private sector, and supporting agencies. The City of Dayton attends these meetings to exchange ideas on strategies to develop a diversified supplier group.*

*The Dayton Hispanic Chamber hosts monthly Lunch and Learns for its members. The City of Dayton has presented procurement assistance to the attendees on a quarterly basis.*

## PUBLIC NOTICE

The City of Dayton, Dayton International Airport hereby affirms its fiscal year 2018 goal of 23% for Disadvantaged Business Enterprise (DBE) airport construction projects. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at City of Dayton Human Relations Council, 371 West Second Street, Suite 100, Dayton, OH 45402 by appointment.

Comments on the DBE goal will be accepted throughout the three-year period of this program and can be sent to the following:

Chrisondra Goodwine Contract Compliance Officer City of Dayton Human Relations Council 371 West Second Street, Suite 100 Dayton OH 45402 <a href="mailto:Chrisondra.Goodwine@daytonohio.gov">Chrisondra.Goodwine@daytonohio.gov</a>	Or	FAA Office of Civil Rights 2300 E Devon Avenue Des Plaines, IL 60018
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### **Contract Goals**

The City of Dayton, Dayton International Airport will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the Airport's overall goal that is not projected to be met through the use of RN means.

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

The City of Dayton, Dayton International Airport will express its contract goals as a percentage of the total contract award including *the Federal share of a DOT-assisted contract*.

**Attachment 6: DBE Participation Form and Waiver Request Form (Demonstration of Good Faith Efforts)**

**DEMONSTRATION OF GOOD FAITH EFFORTS – FORMS 1 & 2**

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

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

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

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

Name of bidder/offeror's firm:

\_\_\_\_\_

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

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

**DEMONSTRATION OF GOOD FAITH EFFORTS – FORMS 1 & 2**

**FORM 2: LETTER OF INTENT**

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

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

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

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

**OR:** \_\_\_\_\_ *Check here if bidder/offeror is using its own DBE certification to meet the participation goal.*

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

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

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

Email address: \_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The bidder/offeror is committed to utilizing the above-mentioned DBE firm for the work

described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

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

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

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

**IF THE BIDDER/OFFEROR DOES NOT RECEIVE AWARD OF THE PRIME CONTRACT,**  
**ANY AND ALL REPRESENTATIONS IN THE LETTER OF INTENT**  
**AND AFFIRMATION SHALL BE NULL AND VOID.**

Submit this page for each DBE subcontractor.

### **WAIVER REQUEST FORM**

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the DBE Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the waiver form at the time the bid is submitted. If no explanation is provided, the waiver form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the DBE goal based on your good faith efforts, and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract goal. For example, when the apparent low bidder fails to meet the contract goal but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal. The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.

<b>Check if completed</b>	<b>Activity Description</b>
	Solicited the interest of all certified DBE subcontractors having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before the bid submittal deadline in order to allow the DBEs sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith efforts if it is the sole method of communication used.
	Divided contract work items into economically feasible units to facilitate DBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
	Negotiated with DBE subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected DBEs as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
	Provided interested DBEs with plans and specifications at no cost, or directed DBEs to the Greater Dayton Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them

	in responding to a solicitation.
	Sought the assistance of the Greater Dayton Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as DBE. Contacting the HRC for a list of certified companies will not be deemed as sufficient good faith efforts.
<b>Bidding Company Name:</b>	



## **Attachment 7: Monitoring and Enforcement Mechanisms**

The City of Dayton, Dayton International Airport has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, under the terms of the contract;
2. Breach of contract action, under DBE regulations 49 CFR part 26
3. The City of Dayton, Dayton International Airport will enforce the following Penalties for noncompliance.

A contractor or subcontractor who fails to comply with any portion of this program, and whose failure to comply continues for a period of 30 calendar days after the contractor or subcontractor receives written notice of such noncompliance from the Human Relations Council, shall be subject to any or all of the following penalties:

- (A) Withholding of ten percent of all future payments for the eligible project until the Human Relations Council determines that the contractor or subcontractor is in compliance with this division.
- (B) Withholding of all future payments under the eligible project until it is determined that the contractor or subcontractor is in compliance with this program.
- (C) Complete Cancellation of the eligible project.
- (D) Refusal of all future contracts or subcontracts with the city for a minimum of one year and a maximum of five years from the date upon which this penalty is imposed.

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

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

***Attachment 7 Addendum A: CITY OF DAYTON R.G.C.O. POWER AND DUTIES OF THE HUMAN RELATIONS COUNCIL***

Sec. 32.16. - Powers and duties of Council.

The Council shall have the power, and it shall be its duty:

- (A) To process any complaint, whether initiated by the Human Relations Council or by the filing of a complaint with it, of discrimination against any person because of race, color, religion, sex, national origin, ancestry, age, marital status, familial status, and disability in violation of any ordinance of the city or any laws of the state or of the United States, in accordance with the provisions of such ordinance or law.
- (B) To make such investigations and to hold such hearings as may be provided for by the ordinance or law under which the complaint provided for in subsection (A) above is made.
  - (1) In conducting any investigation or holding any hearing, the Human Relations Council, acting through its Chairman, Executive Director, or hearing examiner may compel the attendance of any person believed to have knowledge of the facts relevant to such investigation or hearing to appear before the person or persons conducting such investigation or such hearing, and may compel the production of books, papers, records, or other evidence relevant to such investigation or hearing by the issuance of a subpoena upon the request of the Executive Director of the Human Relations Council or any member thereof, or upon the request of any respondent in such an investigation or hearing, either personally or through his attorney, and upon showing that there is probable cause to the person having such knowledge or having custody or control of such books, papers, records, or other evidence before the person or persons conducting the investigation or hearing.
  - (2) The person or persons making such investigation or holding such hearings may administer oaths, take the testimony of any person under oath, make findings of fact and orders, and do all other things necessary or incidental of the carrying out of the intent and purpose of the ordinance or law under which the investigation is being conducted, or the hearing held.
- (C) Require or permit any person to keep any records which the Council deems necessary to accomplish the purposes of this chapter.
- (D) Investigate and study housing patterns and group relationships within the city and the extent of discrimination and segregation in employment, apprenticeship programs, on-the-job training programs, housing and related fields such as real estate, mortgage lending, and insurance, and the effect of such discrimination in the areas mentioned above. The Human Relations Council from time to time makes recommendations to the

Mayor and City Commission for the betterment of housing patterns and inter-group relations with the city.

- (E) Formulate and carry out a comprehensive educational program designed to prevent and eliminate discrimination in accordance with the provisions of this chapter.
- (F) Discover all practices and policies written, calculated to create conflicts and tensions and recommend ways and means for their elimination.
- (G) Report and recommend means of eliminating an unfair or unjust discrimination against any person or group, including persons of Spanish ancestry, and others which would be deemed detrimental to the best interest of the community.
- (H) Initiate and conduct voluntary surveys, assemble pertinent data, conduct public hearings and expedite the work of the Council by making investigations and surveys.
- (I) Advise the Executive Director and the professional staff, assisting such staff in planning, designing, and implementing the programs to carry out the policies established by the Commission.
- (J) Recommend to the Commission legislation to promote and ensure equal rights and opportunities for all persons regardless of their race, color, religion, sex, ancestry, national origin, place of birth, marital status, age, or handicap.
- (K) Adopt such rules and regulations as may be necessary to carry out the purpose and intent of this chapter.
- (L) Appoint qualified persons to act as hearing examiners to conduct public hearings held upon complaints filed with the Council or initiated by the Council, at such fees and upon such other terms and conditions as shall be agreed upon by the hearing examiner and the Council. The hearing examiner shall be an attorney at law admitted to practice in the state of Ohio. The hearing examiner shall conduct the hearing and rule on all questions of law and facts and admissibility of evidence and exhibits. At the conclusion of the hearing, the hearing examiner shall submit a report to the Council, which report shall contain findings of fact, conclusions of law, and recommendations.

***Attachment 7 Addendum B: HUMAN RELATIONS COUNCIL ELEMENTS FOR CREATING OPPORTUNITIES FOR DBE PARTICIPATION***

9.03 Bidding and RFP Policies and Procedures

A. CONSTRUCTION BIDDING POLICIES

- a. The City conducts public-bid construction projects, sub-recipient agreement projects, and special economic development projects by RFPs. The City of Dayton currently implements a centralized bidding process for all public construction projects, including projects from and for the Water Department, Aviation, Public Works, Housing Inspection, Planning and Community Development, and Economic Development. This centralized bidding for all City public bid construction projects is performed by the Department of Public Works.
- b. The Department of Public Works conducts a Pre-Bid meeting on Tuesdays at 11:00 AM and conducts Public Bid Openings on Thursdays at 12:00 noon.
- c. The HRC, at all Pre-bid meetings, discusses the project Goals, Responsive Bidder Approach, Affirmative Action Worker utilization, Good Faith Waiver Policies, and Policy on Counting Materials and Goods by MBE, WBE, and SBE subcontractors, and provides a current and updated listing of all certified PEP companies based on the nature or type of project inclusion goal.
- d. The bidding Department discusses the technical and engineering aspects of the project, answers questions, and issues any addendum and instructions for the bid. The Public Bid Opening is conducted by Public Works Department and HRC.

B. PUBLIC-BID CONSTRUCTION PROCESS

- a. Project Funding Secured by the Department.
- b. Department Engineer's Estimate and Scope of Work finalized; determines if the Project requires Pre-qualifications of Prime Contractors.
- c. Department Engineer's Estimate and Scope of Work Sent to HRC for setting inclusion Goals on a Project-By-Project Basis.
- d. The HRC provides to Department Engineer its recommended MBE, WBE or SBE goals within three (3) days of receiving the Department Engineer's Estimate and Scope of Work.
- e. The Department Manager forwards a Request for Bidding Services and all project documents to the Department of Public Works for centralized bidding and advertising. Department Manager creates the project folder in City Bots and notifies Public Works of same.
- f. Public Works prepares the Invitation to Bid, the Legal Notice and Instructions to Bidders, the S/M/W/BE Participation Forms, the Affirmative Action packages, and Worker Utilization Form and forwards them to the HRC for review and approval.
- g. The HRC approves the Invitation to Bid and the Legal Notice and forwards them to the Department of Public Works within three days for publication in a

newspaper of general circulation. Public Works Department and the bidding Department complete the CityBOTS project folder and begin the process of notifying Plan Rooms, plan houses, its plan holders, and its customary bidders of the upcoming bid opportunity.

- h. The HRC notifies its Minority Business Assistance Center (MBAC) office, which in turn gives notice to MBEs, WBEs and SBEs of the upcoming bid opportunity. MBAC also provides cost estimating and other technical assistance to MBEs, WBEs and SBEs before the pre-bid and bid opening dates.
- i. Public Works also sends notice of invitation to workforce development agencies to attend the Pre-Bid meeting and to discuss their services to the pre-bid attendees.
- j. A mandatory Pre-bid meeting may be held, and the HRC discusses the projects Goals, Responsive Bidder Approach, Affirmative Action Worker utilization, Goals and Good Faith Waiver Policies, and Policy on Counting Materials and Goods by MBE, WBE, and SBE subcontractors.
- k. Bid Opening conducted by Public Works Department and HRC.
- l. HRC sends contract compliance communications to the Prime contractor and all MBE, WBE, and SBE subcontractors regarding the scope of work to be performed applies Responsive bidder approach to any issues in the inclusion goal and evaluates any Waiver/ Good Faith documentation.
- m. HRC conducts Contract Compliance Evaluation for Public bid Construction Projects / Bid Submission Requirements for Projects Subject to MBE, WBE, and SBE Goals.
  - i. After the Evaluation the Bid is awarded to Lowest and Best Bid.
    - 1. Responsive Bidder Approach on City-funded projects.
  - ii. Good Faith Efforts/ Recommendation from HRC.
    - 1. Documentation of Sufficient Commitments to Meet MBE/WBE/SBE Goals.
    - 2. Waiver Request Procedure/Form (Attached Appendix C).
    - 3. Good Faith Efforts Points and Grading System
    - 4. HRC Contract Compliance review of Project Bids and pending award of Goods and Professional Services Contracts.
  - iii. HRC Counting and Evaluation of SBE, MBE, WBE and DLSB Participation and Efforts.
    - 1. Responsive Bid Approach
    - 2. M/W/SBE as Material Suppliers
    - 3. Truckers [Sample Participation Counting and Evaluation]
    - 4. Joint Ventures and Others
- n. HRC and Department conduct a Pre-construction meeting with awarded Prime Contractor and inclusion subcontractors. HRC discusses SBE, MBE, and WBE goals, Manpower utilization goals and monthly reports, job site visits by HRC, subcontractor drawdown/payment forms, and other compliance issues.
- o. HRC Monitoring and Reporting Requirements for Workforce, Prevailing Wages, Inclusion and Subcontracting Goals (by CityBOTS and Banner).

- p. HRC and Public Works monitor the project until completion and resolve issues with MBE, WBE, and SBE performance, specifications, inspections, and workforce.
  - q. HRC intervenes on any complaint or issues relating to the performance and prompt payments to MBEs, WBEs and SBEs.
- C. Goods and Services – a similar element for 49 CFR Part 23 will be included in the City of Dayton, Dayton International Airport program for Airport Concessions.

**Attachment 8: Certification Application Form link**

<http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/UCP.aspx>

## **Attachment 9: Procedures for Removal**

### **Removal of Existing Certification**

If a certifying agency has reasonable cause to remove a DBE firm's eligibility, the DBE firm must be given notice of the intended removal and an opportunity for a hearing. A DBE firm receiving notice that its eligibility is going to be removed by a certifying agency may make a written request to appeal that decision to the Ohio UCP Certification Committee within thirty (30) days of the letter of removal.

Appeals should be sent to The Ohio UCP Certification Committee, ATTENTION: Division of Equal Opportunity, 1980 West Broad Street, Columbus, Ohio 43223.

The Ohio UCP Certification Committee shall consist of not fewer than three members of the Ohio UCP Executive Committee. The decertifying agency will not have a representative on the committee hearing the appeal. During the hearing, only the controlling owner may speak on behalf of the firm, respond to questions or otherwise make a presentation.

At the conclusion of the hearing, the UCP Certification Committee shall within thirty (30) days provide the firm with written notice of the committee's decision, including the grounds and reasoning for the decision. The notice will inform the firm of the consequences of the decision and of the availability of an appeal to the U. S. Department of Transportation within ninety (90) days of the date of the final decision at the following address: Department of Transportation, Office of Civil Rights, 400 7th Street, SW, Room 5414, Washington D.C 20590.

Instead of a hearing, the firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, the denying agency bears the same burden of providing, by a preponderance of the evidence, that the firm does not meet the certification standards, as would be required during a hearing.

A firm remains an eligible DBE during the pendency of the proceeding to remove its eligibility. The firm does not become ineligible until the issuance of the notice of decision from the Certifying Agency.

### **CONFIDENTIALITY**

The certifying agencies shall safeguard from disclosure to unauthorized person(s) information that may responsibly be considered confidential business information, consistent with federal, state, and local law. Notwithstanding any contrary provisions of state or local law, the certifying agencies shall not release personal financial information submitted in response to the personal net worth requirement to a third party (other than a state DOT) without written consent of the submitter.

(Revised November 29, 2010)



**Attachment 10: Signed UCP Agreement Form**

Signature page was not available. We have provided a letter describing the agreement in place.



OHIO DEPARTMENT OF TRANSPORTATION  
1980 W. BROAD STREET, COLUMBUS, OHIO 43223  
OFFICE OF CONTRACTS

April 20, 2006

Jerald L. Steed  
Executive Director  
Human Relations Council  
371 West Second Street, Suite 100  
Dayton, Ohio 45402

Dear Mr. Steed:

The Ohio Department of Transportation (ODOT) is proposing a minor change be made to the Ohio Unified Certification Program (UCP) with regard to the certification appeals process. Currently the appeal is heard by a hearing officer with a court reporter and all costs are borne by ODOT.

We are proposing to have an internal hearing officer hear all appeals. All decisions would be written by the State of Ohio Assistant Attorney General who is assigned to ODOT. If the firm which has been denied wishes to appeal the decision of the hearing officer, their recourse would be to appeal to the U.S. Department of Transportation (USDOT).

As a result of this change, in most cases, the hearing officer would be Mark Kelsey, Esq., Deputy Director, Division of Contract Administration. Mr. Kelsey will hear all initial denial appeals for ODOT as well as the initial denials and the certification removals from all other certifying agencies. However, on a removal of certification, the regulations require there to be a separation of functions which would preclude Mr. Kelsey from acting as the hearing officer for any removal of certifications by ODOT. Therefore, I am requesting both The City of Dayton Human Relations Council and the Greater Cleveland Regional Transit Authority identify a hearing officer that can be utilized when a removal of certification appeal arises from and ODOT determination.

The reason for the change is one of economics. It would be more cost effective for ODOT with the changes we are proposing. There would be no need for an external hearing officer.

AN EQUAL OPPORTUNITY EMPLOYER

City of Dayton, Dayton International Airport

next page (Right Arrow)

Page 2  
April 20, 2006  
UCP Appeal Process

A copy of the Ohio UCP is attached. The proposed changes are highlighted in red. Please review the changes and if you are in agreement with the proposed changes, or if you have any comments regarding the proposed changes, please notify ODOT in writing no later than May 4, 2006.

The UCP Executive Committee worked on developing a UCP Charter to further define the roles and responsibilities of the Ohio UCP. A copy of the Ohio UCP Charter is also enclosed. Please review the document and provide any comments no later than May 4, 2006. At that time, a final document will be prepared and forwarded for your signature.

If you have any questions or would like to discuss either of these matters, I can be reached at 1-800-459-3778.

Respectfully,

Kerry Yoakum, Esq.  
Administrator  
Office of Contracts

Attachments (2)

**Attachment 11: Reporting Forms**

**DEMONSTRATION OF GOOD FAITH EFFORTS – FORMS 1 & 2**

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

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

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

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

Name of bidder/offeror's firm:

\_\_\_\_\_

By:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Date:

\_\_\_\_\_

**DEMONSTRATION OF GOOD FAITH EFFORTS – FORMS 1 & 2**

**FORM 2: LETTER OF INTENT**

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

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

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

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

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

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

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

Email address: \_\_\_\_\_

**OR:** \_\_\_\_\_ Check  
here if  
bidder/offeror  
is using its  
own DBE  
certification to  
meet the  
participation  
goal.

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The bidder/offeror is committed to utilizing the above-mentioned DBE firm for the work

described above. The estimated dollar value of this work is \$\_\_\_\_\_.

**Affirmation**

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

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

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

**IF THE BIDDER/OFFEROR DOES NOT RECEIVE AWARD OF THE PRIME  
CONTRACT,  
ANY AND ALL REPRESENTATIONS IN THE LETTER OF INTENT  
AND AFFIRMATION SHALL BE NULL AND VOID.**

Submit this page for each DBE subcontractor.

### **WAIVER REQUEST FORM**

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the DBE Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the waiver form at the time the bid is submitted. If no explanation is provided, the waiver form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the DBE goal based on your good faith efforts, and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract goal. For example, when the apparent low bidder fails to meet the contract goal but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal. The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.

<b>Check if completed</b>	<b>Activity Description</b>
	Solicited the interest of all certified DBE subcontractors having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before the bid submittal deadline in order to allow the DBEs sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith efforts if it is the sole method of communication used.
	Divided contract work items into economically feasible units to facilitate DBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
	Negotiated with DBE subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected DBEs as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
	Provided interested DBEs with plans and specifications at no cost, or directed DBEs to the Greater Dayton Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them in responding to a solicitation.
	Sought the assistance of the Greater Dayton Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as DBE. Contacting the HRC for a list of certified companies will not be deemed as sufficient good faith efforts.
<b>Bidding Company Name:</b>	



## SUBCONTRACTOR PAYROLL AND DRAWDOWN FORM

PROJECT NAME & Contract Number

CT17-xxxx

PRIME CONTRACTOR'S NAME

TOTAL PRIME CONTRACT AWARDED (\$)

SUBCONTRACTOR'S NAME

AMOUNT OF THIS SUBCONTRACT (\$)

SUBCONTRACTOR TRADE AREA:

PAYMENT TO SUBCONTRACTOR THIS MONTH

TOTAL PAYMENTS TO SUBCONTRACTOR TO DATE (\$)

BALANCE DUE TO SUBCONTRACTOR

I hereby certify that the above payments are correct and that the work has been performed in accordance with the subcontract agreement.

For

For

Prime Contractor Signature

Subcontractor Signature

Printed Name for Prime

Printed Name for Sub

Date Signed by Prime

Date Signed by Sub

REPORT

OF

MONTH

, 20

RETURN TO: Human Relations Council

371 West Second Street, Suite 100, Dayton OH 45402

Telephone: (937) 333-1403

You may obtain original signatures, scan and e-mail this document to:

[bta@daytonohio.gov](mailto:bta@daytonohio.gov)

## **Attachment 12 – Fostering Small Business**

### ***Section 26.39***

The City of Dayton, Dayton International Airport has created an 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.

As part of this program element, we will include the following strategies:

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

The City of Dayton, Dayton International Airport actively implements these program elements to foster small business participation through its ongoing Procurement Enhancement Program administered by the City of Dayton Human Relations Council as described above as part of our approved DBE Program for 2018-2019-2020. Applying these principles is a requirement of good faith implementation of our DBE program.