



Greater Asheville Regional Airport Authority
Disadvantaged Business Enterprise Program

December 2024

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I. POLICY STATEMENT

Administration Policy and Procedures
Disadvantaged Business Enterprise (DBE) Program

Section 124.00

Disadvantaged Business Enterprise (DBE) Program

OBJECTIVE The Greater Asheville Regional Airport Authority (GARAA) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The GARAA receives Federal financial assistance from the USDOT and Federal Aviation Administration (FAA). As a condition of receiving this financial assistance, the GARAA has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as “Part 26”).

Policy The GARAA will ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT/FAA assisted contracts. Within our program we will:

- a. Ensure non-discrimination in the award and administration of USDOT/FAA assisted contracts;
- b. Provide opportunities in which DBEs can compete fairly for USDOT/FAA assisted contracts;
- c. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- d. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- e. Promote the use of DBEs in all types of federally assisted contracts and procurement activities;
- f. Help remove barriers to the participation of DBEs in state and federal assisted contracts;
- g. Assist the development of firms that can compete successfully in the market place outside the DBE Program; and
- h. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

General The GARAA has designated the Planning Coordinator as the DBE Liaison Officer (DBELO). This DBELO will be responsible for implementing all aspects of the DBE Program at the Asheville Regional Airport, including maintenance and revisions to the DBE Program as required, on those schedules required. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the GARAA in its financial assistance agreements with the State and Federal Government.

The GARAA has disseminated this policy statement to all relevant components of the GARAA Board Members, the GARAA staff and have posted this program on the airport website. The GARAA will publicize this statement on the airport website to reach the registered companies, both DBE and non-DBE business communities, that perform work for the Airport on State and Federal assisted contracts.

APPROVAL AND UPDATE HISTORY:

Approval June 14, 2024
Supersedes August 10, 2018



Lew Bleiweis, President & CEO

12-5-24

Date

II. GENERAL PROGRAM REQUIREMENTS

- a. **Objectives.** The objectives are described in the policy statement of this program.
- b. **Applicability.** The GARAA is the recipient of Federal airport funds authorized by 49 U.S.C. 47101 and State funds according to the Federal transit laws in Title 49 sections.
- c. **Definitions and Terms.** The terms used in this program have the meanings defined in Part 26, §26.5.
- d. **Non-discrimination.** The GARAA will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in the 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 GARAA 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 any race, color, sex or national origin.

- e. **Data Collection and Reporting Requirements.** The DBELO will submit reports on DBE participation to FAA when Federal funding is included as part of a project. The GARAA will provide an annual report, by December 1st, required for the “Uniform Report of DBE Awards or Commitments and Payments”, as described in Part 26 and required information about participating DBE firms. All reporting will be done through the FAA’s designated reporting system.
- f. **Bidders List.** The GARAA will collect bidders list information as described in §26.11(c)(2) and enter it into the system designated by DOT. The purpose of the bidders list is to compile as accurate data as possible about the use of DBE and non-DBE contractors and subcontractors who seek work on federally assisted contracts. This will assist the GARAA in calculations to set overall goals, and to provide the Department with data for evaluating the extent to which the objectives of §26.1 are being achieved.

The GARAA will obtain the following bidders list information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each of the federally assisted contracts:

- Firm name
- Firm address including zip code
- Firm’s status as a DBE or non-DBE
- Race and gender information for DBE certified firms

- NAICS code applicable to each scope of work the firm sought to perform in its bid
- Age of the firm
- Annual gross receipts of the firm. The gross receipts can be obtained by asking each firm to indicate into what gross receipts bracket they fit (e.g. less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million, etc.) rather than requesting an exact figure from the firm.

The GARAA will enter this data in the Department's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded.

In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to §26.53(e), the GARAA will enter the data no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

- g. Records Retention and Reporting.** The GARAA will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, the GARAA will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with all applicable record retention requirements of the GARAA's financial assistance agreement. Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.
- h. Assurances Recipients and Contractors Must Make.** The GARAA has signed the following assurances, applicable to all FAA/USDOT assisted contracts and their administration:

Assurance: Each financial assistance agreement signed with FAA/USDOT operating administration (or primary recipient) will include the following assurance (to be used verbatim as stated in 26.13(a):

The GARAA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA/USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The GARAA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of FAA/USDOT-assisted contracts. The GARAA's DBE program, as required by 49 CFR Part 26 and as approved by FAA/USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the

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

Contract Assurance: The GARAA will ensure that the following clause is included in each FAA/USDOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor (to be used verbatim as stated in 26.13(b):

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FAA/USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

III. ADMINISTRATIVE REQUIREMENTS

- a. **DBE Program Updates.** The GARAA is not eligible to receive USDOT financial assistance unless USDOT has approved this DBE program and the GARAA is in compliance with it and Part 26. Upon receipt of FAA/USDOT assisted funding, the GARAA will continue to carry out this program until all funds from FAA/USDOT financial assistance have been expended. The GARAA will provide FAA/USDOT updates when applicable or upon significant changes in the program that occur for approval. If the GARAA is the recipient of federally assisted contracting for projects totaling \$250,000 or more per fiscal year, a DBE program is required and will be enforced and maintained per 49 CFR Part 26 sub Part B §26.21.
- b. **Policy Statement.** The policy statement is elaborated on the third page of this DBE Program.
- c. **Disadvantaged Business Enterprise Liaison Officer (DBELO).** The following individual has been appointed as the DBELO for the GARAA:

Anna Henderson
Planning Coordinator II
61 Terminal Drive, Suite 1

Fletcher, NC 28732
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In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the GARAA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the GARAA's President & CEO concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is included in Attachment 2.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has the assistance of the GARAA staff and engineering consultants to assist in the administration of the program. The DBELO carries out the following duties and responsibilities:

1. Gather and report statistical data and other information as required by FAA/USDOT.
2. Assess individual projects to set a DBE goal with assistance of the GARAA staff and/or engineering consultants.
3. Ensure that bid notices and requests for proposals are available to DBEs.
4. Identify contracts and procurements so that DBE goals are included in solicitations, both race-conscious and race-neutral specific goals, and monitor results.
5. Analyze the GARAA's DBE goal progress toward attainment and identify ways to improve progress.
6. Participate in pre-bid meetings to be available for clarification of the GARAA's DBE program, goal for projects, or answer questions.
7. Advise the GARAA President & CEO on DBE matters and achievements.
8. Review contractor compliance with good faith efforts to meet project goals.
9. Research certification of DBEs according to the criteria set by FAA/USDOT listed on the UCP website for the State of North Carolina, to ensure DBE compliance.
10. Participate with local government/private entities to provide outreach to DBEs and community organizations to advise them of opportunities.

DBE Financial Institutions. The GARAA may investigate the extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. If requested, the GARAA may make reasonable efforts to seek out the use of these institutions, and to advise the prime contractor of the availability of these institutions. The GARAA will investigate new/changes to financial institutions on an annual basis.

Tools to research and provide potential financial institutions can be found at <https://ncua.gov/support-services/credit-union-resources-expansion/resources/minority-depository-institution-preservation/mdi> for a Nation Credit Union Administration Minority Depository Institution or <https://www.fdic.gov/regulations/resources/minority/mdi.html> for resources of Minority Depository Institutions list, historical data and bank locations.

- d. Prompt Payment Mechanisms.** The GARAA requires that all subcontractors performing work on a FAA/USDOT-assisted contract shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state and local laws.

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

The GARAA will ensure prompt and full payment of retainage from the prime contractor to the subcontractor prior to 30 calendar days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29 the GARAA has selected the following method to comply with this requirement.

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

To implement this measure, the GARAA includes the following clause from FAA Advisory Circular 150/5370-10 in each USDOT-assisted prime construction contract (AC-150/5370-10H):

The GARAA may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the GARAA's payment to the prime contractor. The GARAA may elect to incrementally release retainage if the GARAA is satisfied its interest with completion of the project are protected in an adequate manner.

1. From the total of the amount determined to be payable on a partial payment, not to exceed 10% of such total amount will be deducted and retained by the GARAA

for protection of the GARAA's interests. Unless otherwise instructed by the GARAA, the amount retained by the GARAA will be in effect until the final payment is made except as follows:

- a.) Contractor may request release of retainage on work that has been partially accepted by the GARAA in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.
 - b.) In lieu of retainage, the contractor may exercise at its option the establishment of an escrow account per paragraph 90-08 of AC 150/5370-10H.
2. The contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the contractor has received a partial payment. Contractor must provide the GARAA evidence of prompt and full payment of retainage held by the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the GARAA. When the GARAA has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
 3. When at least 95% of the work has been completed to the satisfaction of the Resident Project Representative ("RPR"), the RPR shall, at the GARAA's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The GARAA may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the contractor.
- e. **Prompt Payment Monitoring for DBEs and Non-DBEs.** The GARAA clearly understands and acknowledges that reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism. Therefore, the GARAA undertakes proactive monitoring and oversight of prime contractors' compliance with subcontractor prompt payment and return of retainage requirements of 49 CFR Part 26.

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

monthly basis. Payment reviews will evaluate whether the actual amount paid to the DBE subcontractor is equivalent to the amount reported to the GARAA by the prime contractor.

- f. Prompt Payment Dispute Resolution.** The GARAA will take the following Alternative Dispute Resolution (ADR) steps to resolve disputes as to whether timely prompt payment and retainage releases are being made as required by §26.29.

A meeting between prime and subcontractors, either in person or via tele-conference call, along with a Resident Project Representative (RPR) and/or Project Manager (PM) will take place to resolve any payment disputes for the purpose of resolution. Individuals present, representing the GARAA, have the authority on behalf of the GARAA to take appropriate action.

- g. Prompt Payment Complaints.** Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

1. Subcontractor affected by the non-payment should contact the RPR or PM regarding prompt payment to resolve any discrepancies with the Prime Contractor. The GARAA's DBELO should be kept informed of all complaints and resolutions.
2. The subcontractor, if not seeing any resolve, can contact the DBELO directly to resolve the prompt payment dispute.
3. If the subcontractor does not see resolve by the DBELO or Prime, the affected subcontractor may appeal the matter up to the GARAA's President & CEO.
4. If the matter is still unresolved, the subcontractor may contact the FAA Office of Civil Rights.

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

- h. Enforcement Actions for Noncompliance of Participants.** The GARAA will provide appropriate means to enforce the requirements of §26.29 and may include:

1. In accordance with the contract, assess liquidated damages against the prime contractor for each day beyond the required time period that the prime contractor fails to pay the subcontractor.
2. Issue a stop-work order until payments are released to subcontractors, which would be considered unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.
3. Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided

for in the contract.

The GARAA will actively implement the enforcement actions detailed above.

- i. **Directory of Certified Firms.** The GARAA is a non-certifying member of the North Carolina Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31. The directory lists all firms eligible to participate as a DBE in the program. In the listing for each firm, the UCP directory includes the following details about the firm:
- Business address
 - Business phone number
 - Firm website(s)
 - The type of work the firm has been certified to perform as a DBE. This is listed by using the most specific NAICS code available to describe each type of work the firm performs. Pursuant to §26.81(n)(1) and (3), the UCP directory allows for NAICS codes to be supplemented with specific descriptions of the type(s) of work the firm performs.
 - Potential additional data fields of other items readily verifiable in State or locally maintained databases, such as State licenses held, pre-qualifications, and bonding capacity.

The UCP directory is an online system that permits the public to search and/or filter for DBEs by: physical location, NAICS code(s), work descriptions, and all additional data fields of readily verifiable optional information described above.

Directory Link is <https://www.ebs.nc.gov/VendorDirectory/default.html> and contains a real-time consolidated list. It includes a prominently displayed disclaimer that states the information within the directory is not a guarantee of the DBE's capacity and ability to perform work.

- j. **Over-Concentration.** The GARAA has not identified that over-concentration exists in the types of work that DBEs perform.
- k. **Business Development and Mentor-Protégé Programs.** The GARAA has not established a DBE Business Development Program or a Mentor-Protégé Program as described by 49 CFR Part 26.
- l. **Monitoring Responsibilities.** The GARAA actively monitors participation with respect to each DBE commitment by using a running tally that provides for a frequent comparison of payments made to each listed DBE relative to the progress of work, including payments for such work to the prime contractor. The running tally for contract goal monitoring will be maintained by the prime contractor and reflected on each pay period

invoice. These contract-specific running tallies will be used to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to meet the contract goal pursuant to §26.53(g).

- m. Monitoring Contracts and Work Sites.** The GARAA reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (i.e. as the result of modification to the contract) is performed by the DBEs to which the work was committed. Work site monitoring is performed by the DBELO, Consultants, Project Managers or other GARAA staff. The GARAA will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.
- n. Fostering Small Business Participation.** The GARAA has a Small Business element to structure contracting requirements to facilitate competition by small businesses. The GARAA takes reasonable steps to eliminate obstacles to their participation, including unnecessary bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

Implementation of the small business element is required in order for the GARAA to be considered by FAA/USDOT as implementing this DBE program in good faith. This program is further described in Attachment 10 as part of this program document.

IV. GOALS, GOOD FAITH EFFORTS, AND COUNTING – Subpart C

- a. Set-asides or Quotas.** The GARAA does not use quotas in any way in the administration of this DBE program.
- b. Overall Goals.** The GARAA will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding FAA/USDOT funded prime contracts the cumulative total value of which exceeds \$250,000 in FAA/USDOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the GARAA will submit its Overall Three-Year DBE Goal to FAA by set date of the year in which the goal is due, according to the schedule established by and posted to the FAA website.
https://www.faa.gov/sites/aa.gov/files/about/office_org/headquarters_offices/acr/DBE_and_ACDDBE_Reporting_Requirements_Schedule_Final.pdf

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45.

Step 1: The first step is to determine a base figure for the relative availability of DBEs in the market area. The GARAA will use an assessment of bidders from similar recent

projects. Specifically, the market area is based on where the substantial majority of bidders, both successful and unsuccessful are located and where the substantial majority of funding was spent. The GARAA understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CRF Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

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

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

In establishing the overall goal, the GARAA will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the GARAA’s efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled interactive meeting to solidify information from interested stakeholders about the draft goal, as well as the availability of potential DBEs, the effects of discrimination on opportunities for DBEs, and the GARAA’s effort to increase DBE participation.

In addition to the consultation described above, the GARAA will publish a notice announcing the proposed overall goal before submission to the FAA every three years by August 1st. The notice will be posted on the GARAA’s official internet website and may be posted in other sources. If the proposed goal changes following review by FAA, the revised goal will be posted on the official internet website.

The Overall Three-Year DBE Goal submission to FAA will include any information and comments received during this public participation process and the GARAA responses.

The GARAA will begin using the overall goal on October 1st of the relevant period, unless otherwise instructed by FAA.

- c. Project Goals.** If permitted or required by the FAA, an overall goal may be expressed as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal and must meet all the substantive and procedural requirements pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by the project goal, is calculated.
- d. Prior Operating Administration Concurrence.** The GARAA understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the GARAA for calculating goals is inadequate, FAA may, after consulting with the GARAA, adjust the overall goal or require that the goal be adjusted.

The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the FAA/USDOT will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9. The GARAA's DBE methodology and three-year goal can be found in Attachment 5.

- e. Failure to Meet Overall Goals.** The GARAA cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the GARAA fails to administer its DBE program in good faith. To be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained and this DBE Program must be administered in good faith.

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

1. Identify and analyze the reason for the difference between the overall goal and the awards and commitments in that fiscal year.
2. If necessary, develop actionable steps to enable the goal for the new fiscal

- year to be fully met.
3. The GARAA will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The GARAA will retain a copy of the analysis and corrective actions in records for a minimum of three years and will make it available to FAA upon request.

- f. **Race Neutral & Race Conscious Participation.** The following is a definition for each participation category:

Race Neutral: A method used to assist all small businesses which include:

1. DBE wins a prime contract through customary competitive procurement procedures.
2. DBE is awarded a subcontract on a prime contract that did not have a DBE contract goal.
3. DBE participation achieved in excess of the DBE race-conscious goal.

The GARAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation.

Race Conscious: A method that is focused specifically on assisting DBEs, a conscious action to achieve DBE participation; an example is a DBE contract goal for a project.

This allows DBE companies to bid on a project for the GARAA. We bid projects based on the NC State requirement to accept the lowest responsive and responsible bidder. The breakout of estimated race-neutral and race-conscious participation can be found in the three-year DBE methodology goal. (Attachment 5)

- g. **Contract Goals.** If the approved projection of the three-year DBE goal estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order to meet the overall goal.

The GARAA will set contract goals to meet any portion of the overall goal that the GARAA does not project being able to meet using race-neutral means. Contract goals are established so that, if race-neutral means are not possible, the DBE goal can be met for that FY or overall goal.

The GARAA establishes DBE goals on contracts that have FAA/USDOT funding assistance and have subcontracting possibilities. The GARAA will 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. The GARAA will express its contract goals as a percentage of the total amount of the FAA/USDOT-assisted contract.

h. Good Faith Efforts Procedures. Good Faith procedures are as follows:

- 1. Demonstration of Good Faith Efforts.** The obligation of the bidder is to make good faith efforts. The bidder can demonstrate by either meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A of Part 26. The DBELO or the GARAA Representative will be responsible for determining whether a bidder who has NOT met the contract goal has documented sufficient good faith efforts to be regarded as responsive. Information provided will be verified to be complete and accurate, and adequately documented with the bidder's good faith efforts before committing to the performance of the contract by the bidder.

- 2. Information to be submitted.** The GARAA treats a bidders' compliance with good faith effort requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders to submit the following information and will be conditioned on meeting the requirements of this section. (see Attachment 6)
 - a)** The names and addresses of DBE firms that will participate in the contract;
 - b)** A description of the work that each DBE will perform with correct NAICS codes in which the subcontractor is certified;
 - c)** The dollar amount of the participation of each DBE firm participating;
 - d)** Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
 - e)** Written and signed confirmation using the DBE Letter of Intent (Attachment 6) from the DBE that is participating in the contract as provided in the prime contractors' commitment; and
 - f)** If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A Part 26) must be provided. This must include all subcontractor quotes submitted to the bidder when a non-DBE firm was selected over a DBE firm.

This information falls under sealed bid procedures, a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

For each DBE listed as a regular dealer or distributor the GARAA will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The bidder is responsible for verifying that the information provided by the DBE supplier is

consistent with the counting of such participation toward the contract goal.

The GARAA will apply the requirements of this section to DBE bidders for prime contracts. In determining whether a DBE bidder for a prime contract has met a contract goal, the GARAA will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

Within five (5) days of being informed by the GARAA that it is not responsive because it has not documented adequate good faith efforts, a bidder may request administrative reconsideration.

Bidder should make this request in writing to the following reconsideration official: President & CEO, 61 Terminal Drive, Suite 1, Fletcher, NC 28732, (828) 684-2226. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder 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 will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder made adequate good faith efforts to do so. The bidder will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

- 3. Contracts.** The GARAA will include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract.

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

Prime Contractors will be required to obtain the GARAA's approval of any substitution of a DBE company and to provide copies of a new/amended subcontract. If a DBE firm is unable to be contracted in the same NACIS code to maintain the contracted DBE goal, documentation of Good Faith Efforts will be provided to the GARAA. Approval from the GARAA must be received before the

prime contractor terminates any subcontracts. This includes instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The GARAA will include in each prime contract a provision stating that:

- a)** The contractor must utilize the specific DBEs listed in the prime contractor's bid to perform the work and supply the materials for which each is listed unless the contractor obtains the GARAA's written consent as provided in §26.53(f); and
- b)** Unless the GARAA's consent is provided under §26.53(f), the prime contractor must not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The GARAA will provide written consent only if in agreement, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of §26.53(f)(3), good cause could include the following circumstances:

- a)** The listed DBE subcontractor fails or refuses to execute a written contract;
- b)** The listed DBE subcontractor fails or refused 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;
- c)** The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements;
- d)** The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- e)** The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to applicable state law;
- f)** The GARAA has determined that the listed DBE subcontractor is not a responsible contractor;
- g)** The listed DBE subcontractor voluntarily withdraws from the project and provides written notice of the withdrawal;
- h)** The listed DBE subcontractor is ineligible to receive DBE credit for the type of work required;
- i)** A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract;
- j)** Other documented good cause that the GARAA has determined compels the termination of the DBE subcontractor.

The prime contractor must provide notice in writing to the DBE subcontractor, with a copy to the GARAA of its intent to request to terminate and/or substitute the DBE with the reason for the request.

The prime contractor must give the DBE subcontractor five (5) business days to respond to the prime contractor's notice and advise the GARAA and the prime contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the GARAA should not approve the prime contractor's request. If required in a particular case as a matter of public necessity (i.e., safety), the GARAA may provide a response period shorter than five (5) days.

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

The GARAA will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE firm to perform at least the same amount of work under the contract as the DBE that was terminated and to the extent needed to meet the contract goal that is established for the project. The good faith efforts shall be documented by the contractor. If the GARAA request documentation from the contractor under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days, if necessary, at the request of the contractor. The GARAA will provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

- 4. Counting DBE Participation.** The GARAA will count DBE participation towards overall and contract goals as provided in 49 CFR Part 26 (26.55). The GARAA will not count the participation of a DBE subcontractor toward a prime contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE firm. If the firm is not currently certified as a DBE at the time of the execution of the contract, the GARAA will not count the firm's participation toward the DBE goal, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in §26.65(b) will remain eligible for DBE certification and may be counted for DBE credit on FAA-funded projects, as long as they do not

exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

V. CERTIFICATION STANDARDS – Subpart D

Certification Process. The GARAA is a non-certifying member of the NC Unified Certification Program (UCP). The NC UCP will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE firm, the firm must meet all certification eligibility standards.

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

Benny F. Sloan, Jr.
DBE Program Manager
Office of Civil Rights
NC Department of Transportation
1511 Mail Service Center
Raleigh, NC 27699-1511
(984) 236-1260
bfsloan@ncdot.gov

The GARAA requires Contractors and Subcontractors to inform and keep an updated status of DBE certification during any contract period that is FAA/USDOT-assisted. The GARAA also requires notification of any changes of DBE status or circumstances affecting the ability to meet contract DBE goal obligations.

VI. COMPLIANCE AND ENFORCEMENT – Subpart F

- a. Compliance Procedures Applicable to the GARAA.** The GARAA understands that if it fails to comply with any requirement of this part, the GARAA may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied.
- b. Enforcement Actions Applicable to FAA Programs.** Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

- c. Enforcement Actions Applicable to Participating Firms.** If a firm that does not meet the eligibility criteria of Subpart D of this part attempts to participate in a USDOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.

In a suspension or debarment proceeding, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action.

- d. DBE Fraud.** Any fraud discovered by the Prime Contractor, Project RPR, or the GARAA staff will be reported to the DBELO, who will notify the President & CEO and all other appropriate state or federal agencies immediately. Work associated with the DBE in question will cease and be placed on hold to be investigated. If found negligible, the Prime Contractor will be notified that the DBE subcontractor will be removed from the project without payment. A potential DBE replacement will need to be sought and contracted with to keep work on schedule.
- e. Information, Confidentiality, Cooperation and Intimidation or Retaliation.** In responding to requests for information concerning any aspect from the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

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

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

The GARAA, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The GARAA understands that it is in noncompliance with Part 26 if it violates this prohibition.

PROGRAM CONCLUDED

Attachment 1

Regulations: 49 CFR Part 26

DBE program regulations are codified in Title 49 of the Code of Federal Regulations, Part 26. The full **49 CFR Part 26** document can be found on the following websites.

General DBE Program Federal Regulations:

www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program

Or specifically here: www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1

Attachment 2

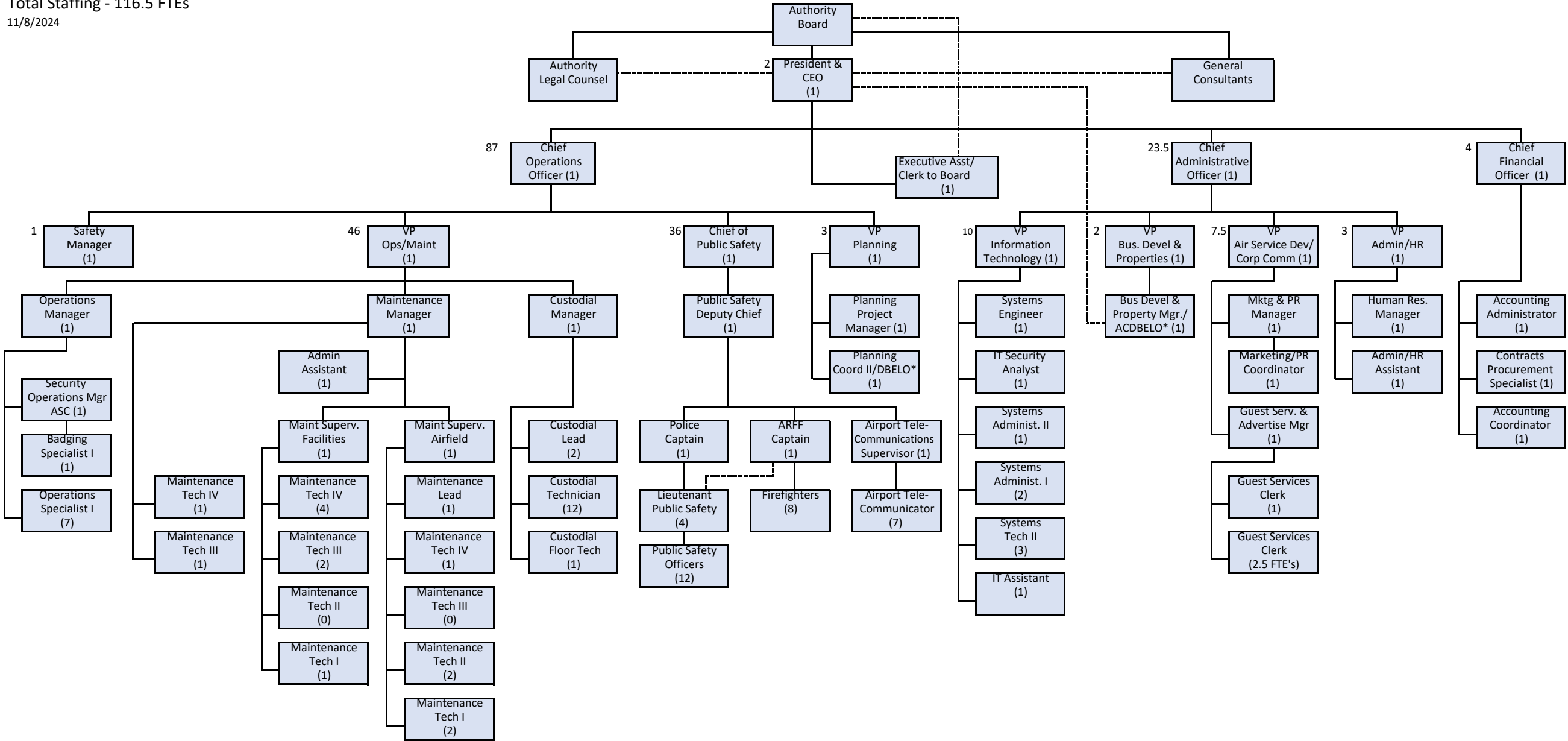
Organizational Chart

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Organizational Chart - Fiscal Year 2025

Total Staffing - 116.5 FTEs

11/8/2024



*DBE reports indirectly to President & CEO

Attachment 3

Bidder's List Collection Form

Bidder's Affidavit of Subcontractors

Note: §26.11(c) requires the GARAA to collect bidders list information from **all bidders** at the time of bid submittal, and to enter it into USDOT's designated system. The data must be collected for all firms who bid as prime contractors or subcontractors (successfully or not).

Firm Name & Address (including ZIP code)	NAICS Codes of Bid Scope	DBE Certified (Yes/No)	Race/Gender of Majority Owner	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M

			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> Less than 1 yr <input type="checkbox"/> 1 - 3 years <input type="checkbox"/> 4 - 7 years <input type="checkbox"/> 8 - 10 years <input type="checkbox"/> 10+ years	<input type="checkbox"/> Less than \$1 M <input type="checkbox"/> \$1-3 M <input type="checkbox"/> \$3-6 M <input type="checkbox"/> \$6-10 M - \$5M <input type="checkbox"/> More than \$10 M

* You must attach additional sheets if necessary to ensure ALL BIDDERS are listed.

Affiant Signature

Company Name

Date

Attachment 4

[Link to UCP Directory of Certified Firms](#)

North Carolina UCP Directory can be found on the following website:

www.ebs.nc.gov/VendorDirectory/default.html

Attachment 5

DBE 3-Year Goal & Methodology

The full **FY 2024 – FY 2026 Disadvantaged Business Enterprise (DBE) Program Methodology** for Asheville Regional Airport, as submitted to and approved by the FAA, can be found on the following website:

<https://flyavl.com/about-the-airport/doing-business-with-avl/dbeacdbe-programs>

Attachment 6

Demonstration of Good Faith Efforts Forms

DISADVANTAGED BUSINESS ENTERPRISE (DBE) - UTILIZATION

PROJECT TITLE: _____

LEGAL NAME OF BIDDING COMPANY : _____

The undersigned Bidder has satisfied the requirements of the bid specification in the following manner:

- Bidder has *met* the DBE contract goal. The Bidder is committed to a minimum of _____% DBE utilization on this contract.
- Bidder has *not met* the DBE contract goal. The Bidder is committed to a minimum of _____% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts.

Name of Bidder's Authorized Representative (Print)

Title

Signature of Bidder's Authorized Representative

Date

DISADVANTAGED BUSINESS ENTERPRISE (DBE) - LETTER OF INTENT

Submit this page for each DBE subcontractor

PROJECT TITLE: _____

LEGAL NAME OF BIDDING COMPANY _____

NAME OF COMPANY REPRESENTATIVE _____

Name of DBE Subcontractor Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE's Authorized Representative: _____

Phone: _____ Email: _____

The DBE status of the above-named Subcontractor is certified by the North Carolina Department of Transportation. The above-named Subcontractor is prepared to perform the described work listed in connection with the above project upon execution and award. Work to be performed by DBE Firm:

Description of Work	NAICS	Dollar Amount / %*	Manufacturer/Regular Dealer/Distributor/Broker**

**Percentage is to be used only in negotiated procurements*

***For DBE suppliers only, state how the DBE will perform. For dealer/distributor/broker, Form 3 must be included.*

The above-named DBE Subcontractor mutually accepts the Dollar Amount for the bid prices and quantities. Final compensation will be based on actual quantities of work performed and accepted during the pursuance of work. A separate Subcontractor Agreement will describe in detail the contractual obligations of the DBE Subcontractor.

Bidder understands that upon submitting this form with its bid, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

Signature of Bidder's Authorized Representative

Date

The above-named DBE Subcontractor affirms that it will perform the portion(s) of the contract for the dollar value as stated above. This document is null and void if the bidding company is not awarded the project.

Signature of DBE's Authorized Representative

Date

DBE Regular Dealer/Distributor Affirmation Form

Bidder Name:



U.S. Department of
Transportation

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DISCLAIMER: This form has not yet received OMB/PRA approval and is subject to change. We are making it available for your voluntary use.

DBE Name:	Total Subcontract/Purchase Order Amount:
Authorized DBE Representative (Name and Title):	NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will **all** items sold or leased be provided from the on-hand inventory at your establishment? **YES** **NO**
 (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)
- a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)? **YES** **NO** (If "YES," Go to Question 2. If "NO" Continue.)
- b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?
YES **NO*** (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate? **YES** **NO¹**
 (If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)
¹ If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)? **YES²** **NO³**
- a) Will you be using sources **other than** the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased? **YES²** **NO³**
- ² If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased **may** be counted at 40%.
- ³ If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

Attachment 7

Subcontractor Report Form

Subcontractor Report

Date Submitted: _____
 Name of Prime Contractor: _____
 Project Name: _____
 Total # DBE Sub Contracts: _____
 Dates Covered This Period: _____

Prime Invoice # _____
 Prime Project #: _____
 Contract Amount \$: _____
 Total Non-DBE Sub Contracts: \$ _____
 Percentage of DBE Goal Completed %: _____

AIP Grant #: _____
 DBE Goal %: _____

DBE (Yes/No)	Subcontractor Company	Physical Address of Company	Vendor/Sub# (NCDOT)	Description of Work	\$ Contract Amount	Change Order (+Add/-Sub)	\$ Earned This Period	\$ Paid This Period	Total Overall Paid	% Work Complete
Sum of Column Totals:					\$0	\$0	\$0	\$0	\$0	0.00%

The undersigned hereby affirms and declares that the above listed Companies were actually employed and performed work/services under this contract and further that each listed Company earned and has been paid the stated amount for their respective efforts. If a DBE Subcontractor is a Supplier, count 60% of their contract towards the goal and if a DBE is a Manufacturer, count 100% of their contract towards the goal.

Preparer's Signature: _____ Title: _____
 Sworn and subscribed before me, this _____ day of _____, 20 _____. (Seal)

Notary Public Signature: _____ My Commission Expires: _____

**** Contractor shall attach a typewritten explanation of any differences in DBE participation, including any changes in DBE and Non-DBE Subcontractor companies employed. THIS FORM MUST BE COMPLETED AND SUBMITTED WITH CONTRACTORS REQUEST FOR MONTHLY AND FINAL PAYMENT APPLICATIONS. ****

Attachment 8

Certification Application Form

USDOT's Certification Application Form and Personal Net Worth Statement can be found on the following website:

www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply

Attachment 9

North Carolina's UCP Agreement

North Carolina's UCP agreement is current being revised. A completion date for this updated document is still to be determined. This page serves as a place holder for that document.

Unified Certification Program (UCP) for DBE Firms:

<https://connect.ncdot.gov/business/SmallBusiness/Pages/UCP%20Certification%20Process%20for%20DBE%20firms.aspx>

Attachment 10

Small Business Enterprise Program

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY
61 Terminal Drive Suite 1 Fletcher NC 28732 (828) 684-2226

SMALL BUSINESS ENTERPRISE (SBE) PROGRAM

1. Objective (49CFR Part 26.39)

Recognizing that the SBE program goals should be met through a mixture of size standards and race neutral methods and, that by definition, Disadvantaged Business Enterprise (DBE) firms can also be considered small businesses; the Greater Asheville Regional Airport Authority (GARAA) seeks to implement a small business plan separate from its current DBE policy in accordance with the applicable law. GARAA will use this plan to facilitate competition by and expand opportunities for small businesses. GARAA is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. GARAA will meet its objectives using the combination of the following methods and strategies:

- a. Outreach and Technical Assistance: GARAA will look into working with sponsors and participate in outreach and training opportunities for small businesses through various partnerships. GARAA is looking at methods to establish an annual participation in business outreach sessions conducted by local municipalities and non-profit agencies which are designed to introduce small businesses to GARAA's procurement processes and practices. GARAA currently advertises contracting opportunities through various outlets, including local newspapers and GARAA website/social media pages. To broaden the outreach efforts, GARAA may add additional methods to reach out by submitting advertisements to small business publications, trade publications and their websites.
- b. Unbundling: GARAA, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for SBE participation. GARAA will review if an FAA-assisted contract is feasible to unbundle and determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with "unbundling." Similarly, GARAA encourages its prime consultants or contractors to unbundle contracts to facilitate participation by small businesses. GARAA may assist prime consultants and contractors in identifying portions of work which may be unbundled and performed by small businesses.
- c. Set Asides: Where feasible, GARAA may establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A "set aside" is the reserving of a contract or a portion of a contract exclusively for

participation by small businesses. This requires that GARAA and its prime consultants or contractors set aside a portion of the value of a potential contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location. GARAA's Project Manager and DBE Liaison Officer (DBELO) will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work. This set aside is *in addition to* the DBE contract goals which may be required pursuant to applicable law or policy.

GARAA will utilize a variety of methods to facilitate small business participation. Another method may be to list qualified small businesses on a directory for solicitation and provide information concerning the registration for notifications of potential projects through GARAA website. GARAA may utilize the Small Business Administration (SBA), Department of Commerce and Minority Business Development Agencies as a service and assistance guide. In an FAA-assisted contract, a review and possible establishment of the method in which the small business plan may be implemented (i.e., set aside, unbundling and/or outreach) may be considered.

2. Definitions

- a. Small Business: A small business must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration (SBA) regulations implementing it (13CFR Part 121).
 - 1) A small business is a business that is independently owned and operated, is organized for profit, is not race related and is not dominant in its field.
 - 2) Depending on the industry, size standard is based on the average number of employees for the preceding twelve months or based on sales volume averaged over a three year period to meet eligibility.
- b. Disadvantaged Business Enterprise: A for-profit small business (as defined by the SBA).
 - 1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
 - 2) Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49CFR Part 26 or current regulation;
 - 3) Whose average annual gross receipts, as defined by the current SBA regulations (PL85-536) over the firm's previous three fiscal years is less than the amount specified;

- 4) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- 5) That has been certified as a DBE by the North Carolina Department of Transportation (NCDOT) in accordance with 49CFR Part 26.

For the purposes of GARAA's SBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals may be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

3. Certification and Verification Procedures

GARAA may accept the following certifications for participation in GARAA's SBE Program with applicable stipulations:

- a. NCDOT Small Business Enterprise – Will require submittal of three years of business tax returns and page 2 of the NCDOT DBE Certification application before contract award.
- b. North Carolina Department of Administration HUB Certification – Will require submittal of three years of business tax returns and page 2 of the NCDOT DBE Certification application before contract award.
- c. SBA 8(a) Business Development Certification (as described in 13CFR Parts 121 and 124) – Will require submittal of three years of business tax returns.

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

4. Implementation Schedule

GARAA approved and submitted its SBE Participation Program by February 28, 2012 to the FAA and has implemented this program.

5. Assurances

GARAA makes the following assurances:

- a. The SBE Program is not prohibited by state law;
- b. The utilization of the services and guidance of the State and Federal agencies;
- c. That certified SBEs which meet the size criteria established under the DBE Program are presumptively eligible to participate in the SBE program;
- d. The small and minority businesses and women's business enterprises (WBE) are solicited whenever they are potential sources;

- e. Requesting the prime contractor, if subcontracts are to be let, to take affirmative steps to ensure participation of SBE, DBE and WBE's;
- f. That there is no geographic or local preferences or limitations imposed on FAA-assisted contracts and the SBE Program is open regardless of their location;
- g. There is no limits on the number of contracts awarded to firms participating in the SBE Program;
- h. A reasonable effort will be made to avoid creating barriers to use the new, emerging, or untried businesses;
- i. To make efforts to establish a database for solicitation of SBE's; and
- j. That supportive steps may be taken to encourage those minority and women owned businesses participating in the SBE Program to become certified for DBE, if eligible.