



CITY OF FINDLAY, OHIO

**DISADVANTAGED BUSINESS
ENTERPRISE (DBE) PROGRAM**

MAY 2016

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POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

The City of Findlay (City) 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 has received federal financial assistance from DOT, and as a condition of receiving this assistance, the City has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also 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 fully meeting the 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 market place outside the DBE program.
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Matt McVicker, Airport Manager, has been delegated as the DBE Liaison Officer. In that capacity, Mr. McVicker is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the DOT.

The City has disseminated this policy statement to the Federal Aviation Administration (FAA), the Findlay Airport, and all of the components of our organization. The City will distribute this statement to DBE and non-DBE business communities that perform work on DOT-assisted contracts by inclusion in all bid packages for which the DBE program is applicable, by means of a public notice offered in the local newspaper (The Courier), and is available on the City of Findlay website.


Lydia L. Mihaik, Mayor


Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

Refer to Page 1 for the objectives of the policy statement.

Section 26.3 Applicability

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

Section 26.5 Definitions

The City will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

The City 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 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)

The City will report DBE participation to DOT as follows:

The City will submit annually the Uniform Report of DBE Awards or Commitments and Payment Form, as modified for use by FAA recipients.

Bidders List: 26.11(c)

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

This list will be updated by the DBELO through future solicitations or firms that express an interest in working at the Findlay Airport.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE program

or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The City's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

Contract Assurance: 26.13b

The City 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, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the City has received a grant of \$250,000 or more for airport planning or development, the City will continue to carry out this program until all funds from DOT financial assistance have been expended. The City will provide to DOT updates representing significant changes in the program. The City will submit an updated goal annually on August 1 if planned contract awards will exceed \$250,000 in FAA funds in that federal fiscal year.

Section 26.23 Policy Statement

Refer to Page 1 for the policy statement details.

Section 26.25 DBE Liaison Officer (DBELO)

The City has designated the following individual as our DBE Liaison Officer:

Matt McVicker, Airport Manager, City of Findlay Airport, 1615 Gray Street, Findlay, OH 45840
Phone (419) 424-4182, email: mmcvicker@findlayohio.com.

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City of Findlay Mayor and Service-Safety Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

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

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes City's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Determines contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Acts as liaison to the Uniform Certification Program in the State of Ohio.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains the City's directory on certified DBEs.

Section 26.27 DBE Financial Institutions

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

Section 26.29 Prompt Payment Mechanisms

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

Section 26.31 Directory

The City has access to the Unified Certification Program (UCP) on the Ohio Department of Transportation (ODOT) website. The ODOT UCP creates and maintains a directory of DBE registered businesses.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

The City has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. The City will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or program fraud and civil penalties rules) provided in 26.107.
2. The City will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 6 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. The City will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. The engineering firm will review and verify that the information contained in the Letters of Intent is accurate. The inspector along with the DBELO will verify and track on the Daily Inspection Reports the name and work being completed by the DBEs working onsite.
4. In our reports of DBE participation to DOT, the City will show both commitments and attainments, as required by the DOT reporting form. The City will request that each contractor report the DBE participation on a monthly basis to allow the DBELO to monitor the actual DBE attainment.

Section 26.39 Fostering Small Business Participation

The City has a small business element structure for contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including but not limited to, unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The City's small business element is incorporated as Attachment 7 to this DBE policy. The City will actively implement the program elements to foster small business participation as a requirement of good faith implementation of the DBE policy.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The City will establish an overall DBE goal covering a 3-year Federal fiscal year period if DOT-assisted prime contracts are anticipated to be the cumulative total value exceeding \$250,000 during any one or more of the reporting fiscal years within the 3-year goal period.

The DBE goals will be established in accordance with the two-step process as specified in 49 CFR Part 26.45. If the City does not anticipate awarding more than \$250,000 in FAA funds in prime contracts within the Federal fiscal year, an overall goal will not be developed; however, the existing DBE program will remain in effect, and the City will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area "base figure". The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study, and/or information about barriers to entry 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 4 to this program.

In accordance with Section 26.45(f), the City will submit its overall goal to DOT on August 1 as required by the established schedule. In establishing the overall goal, the City will consult 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 City's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the City will publish a notice of the proposed overall goals informing the public that the proposed goal and its rationale are available for inspection during normal business hours at City of Findlay Municipal Building, 318 Dorney Plaza, Room 310, Findlay, OH 45840 for 30 days following the date of the notice, and informing the public that the City and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority-focused media, trade publications, and websites. Normally, the City will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The City's overall goal submission to DOT will include a summary of information and comments received during this public participation process along with responses.

The City will begin using the overall goal on October 1 of the reporting period, unless other instructions are received from DOT. If a goal is established on a project basis, the City will begin using the goal by the time of the first solicitation for a DOT-assisted contract.

Section 26.47 Failure to meet overall goals.

If applicable, the City will maintain an approved DBE program and overall DBE goal, as well as administer the DBE program in good faith to be considered in compliance with this part.

If the City's 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 City will do the following in order to be regarded by DOT as implementing the DBE program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified in the analysis and to enable meeting the goal for that new fiscal year;

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 4 to this policy. This section of the policy will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The City will use contract goals to meet any portion of the overall goal. The City does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The City, the DBELO, and engineering firm will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The City need not establish a contract goal on every such contract, and the size of 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.)

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

Section 26.53 Good Faith Effort Procedures

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

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

The City will ensure through phone calls and verification of information provided by the contractor in the bid documents is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the City commits to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

The City treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness. All bidders must submit DBE information at the time of bid.

Each solicitation for which a contract goal has been established will require all bidders/offerors 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 description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by the City 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: City of Findlay Law Director, Municipal Building, 318 Dorney Plaza, Room 310, Findlay, OH 45840, Phone 419-424-7137. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The City 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 DOT.

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

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

In this situation, the City 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.

If the contractor fails or refuses to comply in the time specified, the City's 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.

Good Faith Efforts in situations when there are contract goals (26.53(f)(g))

The City will include the following provision in each prime contract:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent as provided in Paragraph 26.53(f); and

That, unless consent is provided under Paragraph 26.53(f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The City will require the contractor that is awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

In this situation, the City 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.

The City will require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without prior written consent. This includes, but not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The City will provide such 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 this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) The City has 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 the City has determined to compel the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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

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

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

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

The City 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 or such other remedies set forth in that section that the City deems appropriate if the prime contractor fails to comply with the requirements of this section.

If the contractor fails or refuses to comply in the time specified, the City 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 City 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 Findlay 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 will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders, including those who qualify as a DBE. A DBE contract goal of *[as determined in the goal calculation attachment]* percent has been established for this contract. The bidder shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The City has access to the Unified Certification Program (UCP) administered by the State of Ohio Department of Transportation.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City has access to the Unified Certification Program (UCP) administered by the State of Ohio Department of Transportation (ODOT). The State of Ohio is required to use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBE's in DOT-assisted contracts. The Certification Application Form can be found on ODOT's website.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

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

Notwithstanding any contrary provisions of state or local law, the City will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

The City 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 or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The City 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.

ATTACHMENTS

Attachment 1	Regulations: 49 CFR Part 26
Attachment 2	City Organizational Chart
Attachment 3	Bidder's List Collection Form
Attachment 4	Overall Goal Calculation: Breakout of Estimated Race-Neutral & Race-Conscious Participation, Public Participation, and Contract Goals
Attachment 5	Form 1 & 2 for Demonstration of Good Faith Efforts or Good Faith Effort Plan
Attachment 6	Monitoring and Enforcement Mechanisms
Attachment 7	Small Business Participation

Attachment 1

49 CFR Part 26

Available at the U.S. Department of Transportation website

Attachment 2

Organizational Chart

City of Findlay Service-Safety

City of Findlay
 City Manager
 Charles

Mayor of Findlay
 Lydia Mark

City Director
 Andrew Thomas

Service Safety Director
 Paul St. John

Public Resources
 Mark Esser

City Engineer
 Brian Thomas

Public Works
 Jeff McHenry

Water Pollution
 Chris Benson

Public Works
 Robert Stewart

Public Works
 Robert Stewart

Recreation
 Ed Draper

Alumni
 Mark Matlock

Building Maintenance
 Rodney Clapper

Engineering
 [Name]

Fire
 Josh Harris

Police
 Greg Malone

Water Distribution
 Jeff Brice

Water Pollution
 Chris Benson

Public Works
 Robert Stewart

Recreation
 Ed Draper

Alumni
 Mark Matlock

Building Maintenance
 Rodney Clapper

Engineering
 [Name]

Fire
 Josh Harris

Police
 Greg Malone

Water Pollution
 Chris Benson

Water Pollution
 Chris Benson

Public Works
 Robert Stewart

Recreation
 Ed Draper

Alumni
 Mark Matlock

Building Maintenance
 Rodney Clapper

Engineering
 [Name]

Fire
 Josh Harris

Police
 Greg Malone

Water Pollution
 Chris Benson

Water Pollution
 Chris Benson

Public Works
 Robert Stewart

Recreation
 Ed Draper

Alumni
 Mark Matlock

Building Maintenance
 Rodney Clapper

Engineering
 [Name]

Fire
 Josh Harris

Police
 Greg Malone



Attachment 3

Bidder's List Collection Form

(SAMPLE BIDDERS LIST COLLECTION FORM)

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

Attachment 4

Section 26.45: Overall Goal Calculation

Name of Recipient: City of Findlay, Ohio

Goal Period: October 1, 2015 through September 30, 2018

DOT-assisted contract amount: \$2,349,000 **DBE Goal:** 6%

Total dollar amount to be expended on DBE's: \$140,940

Describe the Number and Type of Projects for this goal period:

FY 2016 Runway 18-36 Rehabilitation (6,498' x 100') Construction

FY 2017 The City does not anticipate receiving federal funds that will require a goal

FY 2018 The City does not anticipate receiving federal funds that will require a goal

The City has not recently completed a project similar to the project to be funded in FY 2016. The City did however accept bids for their FY 2016 Resurfacing program with federal funding through the Ohio Department of Transportation (ODOT). The DBE goal established by ODOT for the project was 6%. The City will therefore be adopting that goal for the FY 2016 project at the Findlay Airport.

The City will meet the goal through race conscious participation.

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

Public Participation

Consultation: Section 26.45(g)(1). The City will be presenting their program and goals at a consultation meeting on March 23rd. Invitations were sent to the following: Helms & Sons Excavating, M&B Asphalt, The Shelly Company, Bluffton Paving, Shelly & Sands, Kokosing, Garza Construction, Ebony Construction, Eaton Construction, Woodlawn Acres & Lane Trucking. Representatives from the following attended the meeting: The Shelly Company, Helms & Sons Excavating, City of Findlay and CHA Consulting. Comments received were that the goals should be able to be met, but that it is becoming more difficult with paving projects to find DBE firms interested in those type of projects.

Published Notice: Section 26.45 (g)(2). The City will be placing the program on the City of Findlay website and also a notice in the local newspaper (The Courier) to announce the program. Any comments received within the 45 day review period will be included with the submission of the program to the FAA.

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

Matt McVicker, Airport Manager
City of Findlay Airport
1615 Gray Street, Findlay, OH 45840
Phone (419) 424-4182
email: mmcvicker@findlayohio.com.

or

Federal Aviation Administration
Office of Civil Rights Staff
2300 E. Devon Ave., Ste. 440
Des Plaines, IL 60018

Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

By _____
Signature

Printed Name & Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Description of work to be performed by DBE firm:

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

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
Signature Printed Name & Title

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

[Submit this page for each DBE subcontractor.]

Attachment 6

Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Ohio Revised Code 2305.06.

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

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

Attachment 7

Section 26.39: Small Business Participation

The City of Findlay 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. For clarification purposes, 49 CFR Part 26.5 states, "*Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b)." 13 CFR 121.402 defines "What size standards are applicable to Federal Government Contracting programs?"

In compliance with this policy, the City's DBE Program in regard to §26.39 Fostering Small Business Participation will meet its objectives using a combination of the following methods and strategies:

1. **Set asides:** Where feasible, the City will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A "set-aside" is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the City and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.
2. **Unbundling:** The City, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The City will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. Similarly, the City will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

Definitions

1. **Small Business:** A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).
2. **Disadvantaged Business Enterprise (DBE):** A for-profit small business (as defined by the Small Business Administration) that meets the requirements for DBE certification under the Unified Certification Program (UCP) administered by the State of Ohio.

Certification and Verification Procedures

The City will accept the following certifications for participation in the small business element of the Authority's DBE Program with applicable stipulations:

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

Implementation

The Special Conditions of the Contract will indicate the amount of small business participation as determined by the City.

Assurances

The City makes the following assurances:

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