



Manchester·Boston

REGIONAL AIRPORT

**FAA AIRPORT IMPROVEMENT PROGRAM (AIP)
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PLAN
IN ACCORDANCE WITH 49 CFR PART 26**

For

**MANCHESTER-BOSTON REGIONAL AIRPORT
MANCHESTER, NEW HAMPSHIRE**

**NOVEMBER 2011 (*Original*)
SEPTEMBER 2014 (*Revision #1*)
JULY 2017 (*Revision #2*)
NOVEMBER 2020 (*Revision #3*)**

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Section 26.1, 26.23 Objectives/Policy Statement

The City of Manchester, Department of Aviation (the Airport) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Airport has received Federal financial assistance from the Department of Transportation for airport projects through the Federal Aviation Administration's (FAA) Airport Improvement Program (AIP), and as a condition of receiving this assistance, the Airport has signed an assurance that it will comply with 49 CFR Part 26.

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

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

The Internal Auditor at the Airport has been delegated as the DBE Liaison Officer. In that capacity, the DBE Liaison Officer is responsible for implementing all aspects of the DBE program. The DBE Liaison Officer is:

Mr. Wayne Robinson
Internal Auditor
Manchester-Boston Regional Airport
1 Airport Road Suite 300
Manchester, NH 03103
603.624.6539
Email: wrobinson@flymanchester.com

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Manchester-Boston Regional Airport in its financial assistance agreements with the Department of Transportation.

The Airport has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts through a legal notice announcement and by publishing notice of DBE participation in all legal notices for letting of contracts for federally funded projects.

Theodore S. Kitchens A.A.E.
Airport Director
Manchester-Boston Regional Airport

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The Airport is the recipient of Federal airport funds authorized by 49 U.S.C. 47101.

Section 26.5 Definitions

The Airport will use terms in this program that have the meaning defined in 49 CFR Part 26.5.

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(a)

The Airport will submit annually the Uniform Report of DBE Awards or Commitments and Payment Form (DOT Form 4630), as modified for use by FAA recipients.

Bidders List: 26.11(c)

The Airport will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on Manchester DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts. Annual gross receipts data will be collected by asking the firm to indicate into what gross receipts bracket they fit (e.g., less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) rather than requesting an exact figure from the firm.

The Airport will collect amount committed to DBE firms along with DBE name, address and status from all bidders with their bid proposal. For the successful bidder, the Airport will collect the name, address, DBE status, age of firm, and the annual gross receipts of all DBE and non-DBE subcontractors.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

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

This language appears in the Airport Sponsors (grant) Assurances.

Contract Assurance: 26.13b

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

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, 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.

End of SUBPART A

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the Airport has received a grant of \$250,000 or more for airport planning and development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. The Airport will provide to the DOT updates representing significant changes in the program. In addition, the Airport will submit an updated goal every three years prior to August 1 if the Airport plans to award contracts exceeding \$250,000 in FAA funds in the next 3-year period.

Section 26.23 Policy Statement

The Policy Statement is provided in Section 26.1 of this plan.

Section 26.25 DBE Liaison Officer (DBELO)

The Airport has designated the individual designated in the Section 26.1, 26.23 - Objectives/Policy Statement of this plan as our DBELO.

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials and representatives of the City. Duties and responsibilities of the DBELO include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner through the open public bid process.
3. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
4. Analyzes the Airport's progress toward goal attainment and identifies ways to improve progress.
5. Participates in pre-bid meetings.
6. Advises the Airport Director and Airport staff on DBE matters and achievement.
7. Determines contractor's compliance with good faith efforts.
8. Participates in DBE training seminars.
9. Acts as liaison to the Uniform Certification Program (UCP) managed by NHDOT.

Section 26.27 DBE Financial Institutions

The Airport will thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the City of Manchester and will make reasonable efforts to use the institutions. The Airport will encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Section 26.29 Prompt Payment Mechanisms

The Airport has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance on their contracts no later than 30 days from receipt of each payment made to the prime contractor.

The Airport will ensure prompt and full payment or retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. The Airport will 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.

The Airport will consider 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 Airport. When the Airport 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.

The Airport is responsible for tracking and reporting the number of complaints, if any, received annually from subcontractors regarding alleged non-compliance with prompt payment requirements, including the timely return of retainage by prime contractors. Best efforts will be made to enforce prompt payment requirements.

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the Airport. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Airport. This clause applies to both DBE and non-DBE subcontractors.

Section 26.31 Directory

The Airport is required to maintain a directory that identifies firms eligible to participate as DBEs. The Airport utilizes the New Hampshire Department of Transportation (NHDOT) DBE Directory. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory is revised annually. The Directory is available online at <https://www.nh.gov/dot/org/administration/ofc/documents/dbe-directory.pdf>

Section 26.33 Over-concentration

The Airport has not identified an over-concentration of DBEs pursuant to 49 CFR Section 26.33 in any type of work that would unduly burden the opportunity of non-DBE firms to participate in that type of work.

Section 26.35 Business Development Programs

The Airport has not established a business development or mentor-protégé program.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. The Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.107.
2. The Airport has available several remedies to enforce the DBE requirements contained in its contracts, including but not limited to, the following:
 - a. Breach of contract action, pursuant to the terms of the contract;
 - b. Breach of contract action, pursuant to Section 26.109;
 - c. Penalties and Sanctions, pursuant to the City of Manchester Code, Article II, §33-15 Ethics in Contracting.
 - d. The State of New Hampshire's Constitution, Article 2, of the New Hampshire State Constitution prohibits discrimination against anyone because of race, color, creed, or religion by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision thereof.

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

- a. Suspension or debarment proceedings pursuant to 49 CFR Part 26.
 - b. Enforcement action pursuant to 49 CFR Part 31.
 - c. Prosecution pursuant to 18 US 1001.
3. The Airport will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments.
4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT reporting form.

Section 26.39 Fostering Small Business Participation

The Airport has created a practice to foster small business participation. This practice consists of the follow strategies:

1. Track contract awards to determine baseline conditions. That is, the Airport will determine the number of small business typically participating. This will be completed by having Prime Contractor(s) for Construction Work Items and for Professional Services Work Items complete the form entitled, Fostering Small Business Participation, located in Attachment 6.

2. Structure contracts 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). The Table of Small Business Size Standards matched to North American Industry Classification Codes as compiled by the U. S. Small Business Administration (found at www.sba.gov) will be used to implement strategy 1.

End of SUBPART B

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Airport is not permitted use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

The Airport will establish the overall goal every three years. The overall goal is established in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The Airport will begin using our overall goal on October 1 of the 3-year goal period, unless we have received other instructions from the DOT. A description of the methodology, the goal calculations and break out of race-neutral and race-conscious participation can be found in Attachments 3 and 4, respectively.

Process

The Airport submits its overall goal to DOT on or about August 1 prior to the 3-year goal period (i.e. Aug 1, 2014 for FY 2015 – 2017, Aug 1, 2017 for FY 2018-2020, and so on.)

Before establishing the overall goal each year, the Airport will consult with the New Hampshire DOT's Civil Rights Office, minority, woman'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 Airport's efforts to establish a level playing field for the participation of DBEs. The following groups and organizations will be notified in writing of the annual goal determination process:

Associated General Contractors of New Hampshire
48 Grandview Road #1
Bow, NH 03304
Tel. 603-225-2701

National Association for the Advancement of Colored People
P.O. BOX 473
Manchester, NH 03105

New Hampshire Employment Security
45 South Fruit Street
Concord, NH 03301
Tel: 603-228-4100

New Hampshire Women's Foundation
18 Low Avenue, Suite 205
Concord, NH 03301
Tel. 603-226-3355

Following this consultation, the Airport will publish a legal notice of the proposed overall goal in *The Manchester Union Leader*, informing the public that the proposed plan, which includes the proposed goal and its rationale, are available for inspection during normal business hours at the Airport Administration Offices located in the Airline Terminal Building and on the airport's website for 30 days following the date of the notice, and informing the public that the Airport and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, the Airport will issue this notice on or about June 1 of each year. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed. A sample notice is included in Attachment 3.

The overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

The Airport will begin using the overall goal on October 1 of each year, unless we have received other instructions from DOT or, if the goal is established on a project basis, by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.47 Failure to meet overall goals

The Airport 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 Airport fails to administer its DBE program in good faith.

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

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

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

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The nature of the projects does not lend themselves toward a DBE winning as a prime contractor. The most effective means to attain DBE participation is to include DBE goals in the solicitations for the prime contractors to hire DBE subcontractors and suppliers.

Section 26.53 Good Faith Efforts 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 49 CFR Part 26.

The DBE Liaison Officer, or his representative, should be responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

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

Information to be submitted (26.53(b))

The Airport treats bidder/offerors' compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit prior to contract award the following:

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 participation
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.
7. The firms to be used are registered as DBE firms with NHDOT.

Administrative reconsideration (26.53(d))

Within 10 days of being informed by the Airport that it is not a responsible bidder/offeror because it has not documented sufficient good faith efforts, a bidder/offeror is entitled to administrative reconsideration rights. Bidder/offerors should make this request in writing to the following reconsideration official:

City Solicitor
One City Hall Plaza
Manchester, NH 03101
Phone: 603-624-6523

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

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

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

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

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. Administrative remedies for noncompliance executed in accordance with 49 CFR Part 26.53: If the contractor fails or refuses to comply in the time specified, the Airport 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 Airport may terminate the contract.

Section 26.55 Counting DBE Participation

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

End of SUBPART C

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Airport utilizes the NHDOT Disadvantaged Business Enterprise (DBE) Program as a basis to determine certification of a DBE firm. Firms not certified by the NHDOT may be considered by the Airport if they meet the eligibility standards of Subpart D of Part 26 or another state DOT UCP.

The firm seeking certification has the burden of demonstrating eligibility, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

For information about the certification process or to apply for certification, firms should call, write, or browse to the following:

New Hampshire Department of Transportation
Office of Civil Rights and Labor Compliance
PO Box 483
7 Hazen Drive
Concord, NH 03302-0483
Tel. 603-271-3734
<http://www.nh.gov/dot/index.htm>

End of SUBPART D

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Airport is a certifying partner of the New Hampshire Department of Transportation (NHDOT) Unified Certification Program (UCP). Refer to Attachment 5 for the agreement between the Airport and the NHDOT.

Section 26.83 Procedures for Certification Decisions

The Airport will consult with the State UCP on the review of the certification decisions in accordance with the requirements of 49 CFR Part 26, Subpart 26.83.

Section 26.86 Denials of Initial Requests for Certification

If the UCP denies a firm's application or decertifies the DBE, the firm may not reapply until 12 months have passed from the UCP's action.

Section 26.87 Removal of a DBE's Eligibility

In the event the Airport proposes to remove a DBE's certification, the Airport will follow procedures consistent with 49 CFR Part 26 Section 26.87 and consult with the state UCP. To ensure separation of functions in a decertification, we have determined that the City Solicitor will serve as the decision-maker in decertification proceedings. The Airport has established an administrative "firewall" to ensure that the City Solicitor will not have participated in any way in the decertification proceeding against the firm (including in the decision to initiate such a proceeding).

Section 26.89 Certification Appeals

Any firm or complainant may appeal the Airport's decision in a certification matter to the US DOT. Such appeals may be sent to:

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

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

End of SUBPART E

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SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

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

End of SUBPART F

End of Plan after Attachments

Attachment 1

Regulations: 49 CFR Part 26

Available by internet connection at the following:

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

Attachment 2
Organizational Chart



Attachment 3

Section 26.45: Overall Goal Calculation

Name of Recipient: Manchester-Boston Regional Airport

Goal Period: Federal Fiscal Years 2021, 2022, 2023 (FFY 21-23)

| <u>FAA-Assisted Contract Amount:</u> | <u>AIP Entitlement</u> | <u>AIP Discretionary</u> |
|---|-------------------------------|---------------------------------|
| FY 2021 | \$ 5,900,000 | \$ 1,390,000 |
| FY 2022 | \$ 4,300,000 | \$10,550,000 |
| FY 2023 | <u>\$ 4,300,000</u> | <u>\$10,100,000</u> |
| SUBTOTAL: | \$14,500,000 | \$22,040,000 |

TOTAL FAA AWARDS: \$ 36,540,000

The above ‘Total FAA Awards’ includes a SRE purchase in 2023 in the amount of \$1,620,000. The SRE is not included in the DBE calculation based on available DBEs within the SRE industry. The total DBE awards is adjusted to remove the SRE equipment to a revised Total FAA Award of \$34,920,000.

Overall Three-Year Goal: 5.3% to be accomplished through 5.3% RN and 0.0% RC

Amount of Goal:

1. The Airport’s overall goal for Federal Fiscal Year (FFY) 2021-2023 is the following: 5.3% of the Federal Financial assistance expended in FAA-assisted contracts.
2. The dollar amount of FAA-assisted contracts that the Airport expects to award during FFY 2021-2023 is approximately \$34,920,000. The awards are anticipated to be in airport related engineering services, building, civil construction, surveying and material testing. This means that the Airport has set a goal of expending approximately \$1,850,760 ($\$34,920,000 \times 5.3\%$) with DBE firms during this 3-year period.

Methodology used to Calculate Overall DBE Goal

The Airport has established the overall DBE goal in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step determined the relative availability of DBEs in the market area, the “base figure”. The second step considered an adjustment to the “base figure” percentage from Step 1 so that it reflects, as accurately as possible, the DBE participation expected in the absence of discrimination based on past participation and local data.

Step 1: 26.45(c) DBE Base Figure Calculation

Based on a review of the 2021-2023 projects, it is anticipated that the program will attract firms that perform work under the North American Industry Classification System (NAICS) codes as indicated in the following table.

Table 1 – Capital Improvement Plan (CIP) Projects with Industry Code Descriptions

| Year | CIP Project¹ | Industry Code Descriptions - NAICS Codes² |
|-------------|---|---|
| 2021 | RIMS1 – Taxiway H: ALT 2 (Construction Phase) Rehabilitate Runway 17/35 – Phase I & Runway 35 Service Road (Design) Taxiway A MSE Wall – Drainage Improvements (Design) | Highway, street, and bridge construction (237310) Electrical Construction (238210) Engineering services (541330) Surveying and mapping (except geophysical) services (541370) Testing laboratories (541380) |
| 2022 | Rehabilitate Runway 17/35 – Phase I & Runway 35 Service Road (Construction) Taxiway A MSE Wall – Drainage Improvements (Construction) | Highway, street, and bridge construction (237310) Electrical Construction (238210) Engineering services (541330) Surveying and mapping (except geophysical) services (541370) Testing laboratories (541380) |
| 2023 | Rolling Stock Equipment Replacement (Not included in DBE calculation) AMPU Drainage Analysis Green Drive Development | Architectural Services (541310) Engineering services (541330) Surveying and mapping (except geophysical) services (541370) Testing laboratories (541380) Building Construction (236220) Electrical Construction (238210) |

Source:

¹ Airport Capital Improvement Plan (NOV2020)

² County Business Patterns (NAICS) U.S. Census Bureau.
<https://census.gov/programs-surveys/cbp.html>;

Market Area

The market area is considered the State of New Hampshire. Based on past contracts, the substantial majority of contractors and subcontractors have been located in New Hampshire.

Weighted Goal Calculations

Step 1A – Group NAICS Codes

In this step, similar NAICS codes from Table 1 are grouped so that only one NAICS code is represented in Table 2 (below). The NAICS codes are presented in column 1 of Table 2.

Step 1B – Calculate the % of Work for each NAICS code

In this step, the dollar value of each NAICS code is estimated over the 3-year goal calculation period. This value is then converted into a “% of Work” based on the total 3-year funding. This is calculated as follows: the dollar value of the individual NAICS code is divided by the total estimated cost of all the projects in the 3-year goal calculation period. For example, Engineering services (541330) costs are estimated at \$4,912,650 and the total of all the projects in the 3-year goal calculation period are estimated value as \$34,920,000. Thus, the “% of Work” value for Engineering Services $\$4,912,650/\$34,920,000 \times 100\% = 14.1\%$. The values are provided in column 2 of Table 2.

Step 1C – Determine the number of NH DBE firms

In this step, the number of DBE firms from New Hampshire with services that relate to the projects listed are identified in the NHDOT Disadvantaged Business Enterprise Directory.

<https://www.nh.gov/dot/org/administration/ofc/documents/dbe-directory.pdf>

The number of identified DBE firms is summed by NAICS code. The values are provided in column 3 of Table 2.

Step 1D – Determine the number of NH Businesses

In this step, the numbers of related NH businesses (DBE and non-DBE) are determined from the latest NAICS database provided by the U.S. Census Bureau. <https://census.gov/programs-surveys/cbp.html>

The values are provided in column 4 of the Table 2.

Step 1E – Calculate the % Contribution of each NAICS code

In this step, the % contribution for each NAICS code is calculated. The calculation is weighted based on the “% of Work”, the number of NH DBE firms by NAICS code and the number of NH Businesses by NAICS code. An example of the weighting calculation is as follows:

$$\begin{aligned}\text{Ex.: \% contribution of each NAICS code} &= \% \text{ of Work} \times (\text{NH DBE Firms} / \text{NH Businesses}) \times 100\% \\ &= \text{Column (2)} \times (\text{Column 3} / \text{Column 4}) \times 100\% \\ &= 76\% \times (5/74) \times 100\% = 5.14\%\end{aligned}$$

Each NAICS code contribution is calculated and summed to determine the overall goal. The values are provided in column 5 of the Table 2.

Table 2 – Weighted Average Goal Calculation

| (1) | (2) | (3) | (4) | (5) |
|---|-----------|---------------------------|----------------------------|----------------|
| NAICS Code | % of Work | NH DBE Firms ² | NH Businesses ¹ | % Contribution |
| Highway, street, and bridge construction (237310) | 76.0% | 5 | 74 | 5.14% |
| Electrical contractors and other wiring installation contractors (238210) | 6.3% | 13 | 555 | 0.15% |
| Architectural services (541310) | 0.3% | 3 | 73 | 0.01% |
| Engineering services (541330) | 14.1% | 27 | 342 | 1.11% |
| Surveying and mapping (except geophysical) services (541370) | 2% | 3 | 63 | 0.10% |
| Testing laboratories (541380) | 1.3% | 3 | 41 | 0.09% |
| Base figure (rounded) = | | | | 6.60% |

Source:

¹ 2018 County Business Patterns (NAICS) U.S. Census Bureau
<https://census.gov/programs-surveys/cbp.html>;

² NHDOT Disadvantaged Business Enterprise Directory – 10/13/2020
<https://www.nh.gov/dot/org/administration/ofc/documents/dbe-directory.pdf>

Step 2: 26.45(d) Base Figure Adjustment

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

The first evidence for basis of adjustment considers the current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years (ref. 26.45(d)(1)(i)). DBE firms have had equal opportunity to perform work on airport projects in recent years through normal contracting procedures. However, the volume of work performed in recent years has been lower in comparison to both the overall goal and previous years’ participation in work conducted. Based on this evidence, an adjustment to the “base figure” has been made.

The second evidence for basis of adjustment considers any existing disparity studies within the airport’s jurisdiction (ref. 26.45(d)(1)(ii)). By comparing historic years with the most recent three years, a disparity in DBE participation is evident while the work remains relatively the same. Based on this evidence, an adjustment to the “base figure” has been made.

The third evidence that must be evaluated is the evidence from related fields that affect the opportunities for DBEs to form, grow and compete (ref. 26.45(d)(2)). This evaluation is conducted in 2 parts.

1) This includes evaluating statistical disparity in the abilities of DBEs to get the financing, bonding and insurance required perform work (ref. 26.45(d)(2)(i)). As noted previously, studies of historical performance proves a declining ability for DBEs to participate and fulfill necessary contract work. Based on this evidence, an adjustment to the “base figure” has been made.

2) Additionally this includes evaluation of data on employment, self-employment, education, training and union apprenticeship programs as these relate to opportunities for DBEs to perform (ref. 26.45(d)(2)(ii)). Our effort to evaluate this information included contacting the NHDOT DBE coordinator in with regard to effects of financing, bonding, insurance, employment, education and/or training on women and minorities in NH. NHDOT had no evidence in the form of reports and studies to offer that studies these items. At the same time, we also called the local chapters of the NAACP and the National Association of Women in Construction (NAWIC). After initial contact, neither organization produced evidence of negative evidence relative to a DBE’s ability to conduct business in NH. We also consulted, in writing, with NH Department of Employment Security, the NH Commission on the Status of Women, the Southern NH Outreach for Black Unity, and the Associated General Contractors of NH seeking feedback on the goal methodology and the evidence of data related to opportunities for DBE’s to perform work in NH. The feedback, if any, is/will be noted in the Consultation section of this goal methodology. Based on this evidence, an adjustment to the “base figure” has been made.

Finally, we considered the historic DBE accomplishments at the airport as a basis for adjustment DBE participation for the past 5 years was as follows:

| Fiscal Year | Overall Goal | Actual DBE Participation |
|-------------|--------------|--------------------------|
| 2012 | 5.6% | 5.6% |
| 2013 | 5.6% | 6.9% |
| 2014 | 5.6% | 2.7% |
| 2015 | 5.3% | 2.8% |
| 2016 | 5.3% | 4.1% |
| 2017 | 5.3% | 4.7% |

| | | |
|--|------|--------------|
| 2018 | 5.0% | 4.3% |
| 2019 | 5.0% | 3.9% |
| 2020 | 5.0% | TBD |
| Average Participation for Previous 5 Years: | | 3.96% |

Given the information, the Airport shall adjust the goal to reflect the average between the base figure calculated above (6.60%) and average past 5-year DBE participation of (3.96%) to arrive at the adjusted overall goal for the fiscal years 2021-2023 of 5.3% $[(6.60\% + 3.96\%) \div 2 = 5.3\%]$.

If it is determined during the FY 21-23 period that an adjustment is necessary due to a significant rise in participation, an amendment to the DBE goal will be considered.

PUBLIC PARTICIPATION

The following notice will be posted on the Airport's website (<http://www.flymanchester.com/>) and in the local paper, The Union Leader.

PUBLIC NOTICE

The Manchester-Boston Regional Airport hereby announces its federal fiscal years 2021-2023 49 CFR Part 26 Disadvantaged Business Enterprise (DBE) plan related to FAA-assisted contracts for professional services and construction projects. The proposed plan, which includes the 3-year goal and rationale, is available on the Airport's website <http://www.flymanchester.com/> immediately following the date of this publication.

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

Mr. Wayne Robinson
Internal Auditor
Manchester-Boston Regional Airport
One Airport Road, Suite 300
Manchester, NH 03103
wrobinson@flymanchester.com

or

Mr. Thomas L. Knox, Jr.
DBE & ACDBE Compliance Specialist
New England (ANE) Region
FAA Office of Civil Rights DBE Program
P.O. Box 92007
Los Angeles, CA 90009-2007
thomas.knox@faa.gov

CONSULTATION

The Airport consulted in writing with the agencies listed in Section 26.45 of the plan.

COMMENTS FROM PUBLIC REVIEW AND CONSULTATION

Comments will be added at completion of consultation and review period.

Attachment 4

Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Airport uses the following race-neutral means to increase DBE participation:

1. Arranging solicitations, times for the presentation of bids, specifications, and delivery schedules in ways that facilitate DBE participation (e.g., encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors);
3. Ensuring distribution of the NHDOT DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
4. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.
5. Ensuring the DBE goals are published in all bid and contract documents.

In meeting the overall DBE goal of 5.3% the Airport estimates it will obtain 5.3% from race-neutral participation and 0% through race conscious measures.

Historically, DBE goals for airport projects in New Hampshire have only been met through implementing contract goals. In order to ensure that our DBE Program will be narrowly tailored to overcome the effects of discrimination, the Airport anticipates using contract goals. The Airport will monitor the DBE participation and adjust contract goals as required.

The Airport will also adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and the Airport will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract that a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.

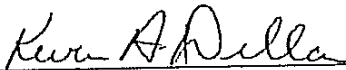
The Airport will maintain data separately on DBE achievements in those contracts with and without contract goals.

Attachment 5
UCP Agreement between City of Manchester
and the State of New Hampshire


MEMORANDUM OF UNDERSTANDING
Disadvantaged Business Enterprise Certification

The State of New Hampshire, Department of Transportation (NHDOT) has established and implemented procedures for certification of Disadvantaged Business Enterprises (DBE) to comply with the requirements 49 CFR Part 26. By this agreement the NHDOT retains the authority to establish certification procedures and shall allow the City of Manchester, Department of Aviation (the AIRPORT) to utilize those procedures pursuant to 49 CFR 26.61, 81 and 91. The signatories also agree to work toward developing standard certification procedures and to establish an information exchange mechanism which will enable signatories to transmit information to each other.

Accepted and Acknowledged by:


Kevin Dillon, Airport Director
City of Manchester
Department of Aviation

Nov 6, 2000
Date


Rachel Gagnon, DBE Coordinator
Labor Compliance Office
New Hampshire Department of Transportation

Nov. 14, 2000
Date

Attachment 6
Fostering Small Business Participation Form

| Fostering Small Business Participation | |
|---|--|
| Sponsor's Name: | |
| Airport Name: | |
| City, State: | |
| AIP Number: | |
| Federal Fiscal Year: | |

In accordance with Section 26.39 the following detailed list shall be completed by Prime Contractor(s) for Construction Work Items as well as by Prime Contractor(s) for Professional Services Work Items. Note: The firms listed below may or may not be certified DBEs.

| Small Business Firms to be Utilized (Name, Address, Phone) | | Work to be Performed | Total Estimated Cost of Work |
|--|--|-----------------------------|-------------------------------------|
| Name | | | |
| Address | | | |
| City, St, Zip | | | |
| Telephone | | | |
| Is the firm a Certified DBE? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

| | | | |
|-------------------------------------|--|--|--|
| Name | | | |
| Address | | | |
| City, St, Zip | | | |
| Telephone | | | |
| Is the firm a Certified DBE? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

| | | | |
|-------------|--|--|--|
| Name | | | |
|-------------|--|--|--|

| | | | |
|-------------------------------------|--|--|--|
| Address | | | |
| City, St, Zip | | | |
| Telephone | | | |
| Is the firm a Certified DBE? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

| | | | |
|-------------------------------------|--|--|--|
| Name | | | |
| Address | | | |
| City, St, Zip | | | |
| Telephone | | | |
| Is the firm a Certified DBE? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

| | | | |
|-------------------------------------|--|--|--|
| Name | | | |
| Address | | | |
| City, St, Zip | | | |
| Telephone | | | |
| Is the firm a Certified DBE? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

Accepted by: _____ Date: _____

Attachment 7
Revision Log

The following revisions were made in July 2017:

1. Airport Director re-signed because of changes noted below.
2. Updated Attachment 3 and 4 for FFY 2018-2020.
3. Revised section 26.11 (c)

The following revisions were made in November 2020:

1. Updates to both the Airport Director & DBELO
2. Updated Attachment 3 and 4 for FFY 2021-2023.

END OF DBE PLAN