

Capital Region Airport Commission

Richmond International Airport

Disadvantaged Business Enterprise Program

for

Federally-Assisted Contracts

October 31, 2014
(Updated September 25, 2018)

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POLICY STATEMENT

The Capital Region Airport Commission (the Commission) has established a Disadvantaged Business Enterprise (DBE) Program to meet the U.S. Department of Transportation (DOT) DBE Program regulatory requirements and to increase the opportunities for businesses contracting with Richmond International Airport. The Commission has received Federal financial assistance from DOT and as a condition of receiving this assistance has signed an assurance that it will comply with Title 49, Code of Federal Regulations, Part 26 (49 CFR Part 26).

It is the policy of the Commission to ensure that DBEs, as defined in 49 CFR Part 26, and other small businesses have an equal opportunity to compete for and participate in DOT-assisted contracts. It is also the Commission's policy:

1. to ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. to create a level playing field on which DBEs and other small businesses can compete fairly for DOT-assisted contracts;
3. to ensure that its 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 and other small businesses in DOT-assisted contracts; and
6. to assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

The Commission's policies prohibit discrimination against any person or company because of race, color, sex, or national origin, in the award or performance of any contract subject to the requirements of 49 CFR Part 26.

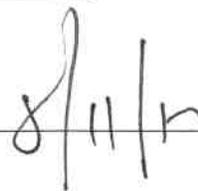
Russ L. Peaden has been designated as the Commission's Disadvantaged Business Enterprise Liaison Officer (DBELO) with day-to-day responsibility and direct independent access to the President and Chief Executive Officer to implement the DBE Program. The Commission will also require that its employees, agents and contractors adhere to the Part 26 requirements. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the Commission in its financial assistance agreements with the DOT.

Copies of this statement shall be disseminated to the Airport Commission and all departments of the Commission, to the minority-owned, women-owned and disadvantaged business community, to the non-DBE business community, to community organizations, and as requested, to bidders on the Commission's DOT-assisted contracts via the Commission's website: www.flyrichmond.com.



Jon E. Mathiasen
President & CEO
Capital Region Airport Commission

Date



8/11/17

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

Section 26.5 Definitions

The Commission will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The Commission will never exclude any person from participation in, deny any person the benefit 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 Commission 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) and 26.11 (b)

We will submit annually to the DOT the Uniform Report of DBE Awards or Commitments and Payments Form, found in Appendix B to Part 26, for Richmond International Airport (RIC). We will also continue to provide data about RIC's DBE program to the DOT as directed by DOT.

Bidders List: 26.11(c)

The Commission will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts, in order to allow use of the bidder's list approach to calculating overall goals. These lists may also be utilized to identify and encourage small businesses that may be eligible for DBE certification to seek certification. This information will be collected from bidders/offerors on the Offeror List Form (Attachment 5 – Form 1), Contract Participation Form (Attachment 5 – Form 2) and Letter of Intent (Attachment 5 – Form 3). These forms are part of the Commission's solicitation documents, and they are required to be completed and submitted with proposals for DOT-assisted contracts at RIC.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance 26.13(a)

The Commission 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 recipient'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 Commission of its failure to carry out its approved program, the Department may impose sanction 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

We will ensure that the following clause is placed in every DOT-assisted contract that the Commission signs with a contractor, and in each subcontract that the prime contractor signs with a subcontractor:

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

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the Commission has received a grant of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

Jon E. Mathiasen, President & Chief Executive Officer of the Commission, has ultimate responsibility for executing the DBE Program. The President & Chief Executive Officer has designated Russell L. Peaden, the Commission's Director Real Estate and Facilities, as the DBE Liaison Officer (DBELO) to administer day-to-day DBE Program responsibilities. The DBELO has direct, independent access to the President and Chief Executive Officer concerning DBE program matters. Contact information for the DBELO is Capital Region Airport Commission, 1 Richard E. Byrd Terminal Drive, Richmond International Airport, VA 23250-2400. Phone (804) 226-8520 email: rpeaden@flyrichmond.com. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO's duties and responsibilities are:

- a. developing, managing, and implementing the DBE program on a day-to-day basis;
- b. carrying out technical assistance activities for DBEs;
- c. disseminating information on available business opportunities so that DBEs and other small businesses are provided an equitable opportunity to compete for FAA-assisted contracts awarded by the Commission;
- d. explaining DBE and small business participation requirements internally and externally at pre-bid conferences;
- e. ensuring that solicitations contain the clauses and goals required by this program;
- f. determining bidders' compliance with good faith efforts requirements;
- g. performing and documenting on-site monitoring of contracts;
- h. gathering and reporting statistical data and other information as required by DOT; and
- i. advising the CEO on DBE matters and achievement.

Other personnel assigned DBE Program responsibilities include:

- a. Commission's Legal Counsel, who shall be called upon to:
 1. review contract documents for legal sufficiency; and
 2. advise the Commission on matters impacting on DBE programs.
- b. Designated Commission staff, together with the Commission's Program Managers, who will:
 1. review design and construction contract proposals, advising the Commission regarding DBE participation levels offered;
 2. provide recommendations on award of construction contracts;
 3. review and report on DBE and other small business participation during the progress of design and construction contracts; and
 4. seek to include DBE and other small business participation in those airfield construction/airfield maintenance projects managed by the Facilities Department in which the Program Managers are not participants.
- c. The Director for Airport Operations and Director of Airport Public Safety, together with the Director of Facility Maintenance will seek to include DBE participation in those building construction and maintenance projects managed by the Airport Operations and Airport Public Safety Divisions.
- d. The Chief Financial Officer is responsible for:
 1. providing information to the President and Chief Executive Officer and DBELO on contracting and leasing opportunities, together with a breakdown of subcontracting possibilities; and
 2. consulting with the President and Chief Executive Officer and DBELO on financial requirements, including bonding, licenses, insurance, financial information and other requirements.
- e. The Procurement Specialist is responsible for:
 1. providing advice, guidance, and information to the DBELO regarding the Commission's procurement policies and procedures and requirements, and for reviewing recommendations by the DBELO regarding incorporating DBE participation language in Commission request for proposal and contract documents;
 2. ensuring that DBE goals and procedures adopted by the Commission are properly contained in Commission project advertisements; and

3. advising the DBELO of the results of procurement advertisement for recommendation to the Commission regarding contract awards.

Section 26.27 DBE Financial Institutions

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

The Commission will provide the following notification to each prime contractor who will perform on FAA- assisted projects:

“The Capital Region Airport Commission encourages you to make the greatest feasible use of the services offered by financial institutions owned and controlled by DBEs.”

Currently, there are not financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. When information on such institutions becomes available, it may be obtained from the Chief Financial Officer.

Section 26.29 Prompt Payment Mechanisms

The Commission has established, as part of its DBE Program, the following contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Commission makes to the prime contractor:

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. The Owner must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

From the total of the amount determined to be payable on a partial payment, 10 percent of such total amount will be deducted and retained by the Owner until the final payment is made, except as may be provided (at the Contractor’s option) in the subsection titled PAYMENT OF WITHHELD FUNDS of this section. The balance of the amount payable, less all previous payments, shall be certified for payment. Should the Contractor exercise his/her option, as provided in the subsection titled PAYMENT OF WITHHELD FUNDS of this section, no such percent retainage shall be deducted.

When at least 95 percent of the work has been completed, the Engineer shall, at the Owner’s Discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.

The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the Engineer to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

The Commission has also established, as part of our DBE program, the following mechanisms to ensure prompt payment:

1. The Commission will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award on its Monthly Report of Subcontractor Participation form.
2. The Commission 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.
3. The Commission also conducts post-award compliance reviews, and requires prime contractors to submit, with their invoices, information concerning payments to DBEs and other small businesses on the Commission's Monthly Report of Subcontractor Participation form (Attachment 2).

Section 26.31 Directory

The Commission utilizes the Virginia Unified Certification Program (VUCP) directory of firms eligible to participate as DBE businesses that is maintained by the Virginia Department of Small Business and Supplier Diversity (DSBSD) and the Metropolitan Washington Airports Authority. The directory is available at <https://www.sbsd.virginia.gov/directory> and shall be provided to all bidders and proposers upon request. The directory specifies which

firms are DBEs, their addresses, phone numbers, and the types of work by specific NAICS code for which they are certified.

Section 26.33 Overconcentration

The Commission has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Commission has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

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

The Commission 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 steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts. These matters will be brought to the attention of the Commission's legal counsel for investigation and any required legal action. Attachment 3 lists the regulations, provisions and contract remedies available to us in the event of non-compliance with the DBE regulations by a participant in our procurement activities.

The Commission's DBE program includes a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism includes the DBELO performing on-site monitoring of the contract and a written certification that RIC has reviewed contracting records and monitored work, which may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract). The Commission also keeps a running tally of actual DBE attainments and compares these attainments to commitments. This information is collected monthly from contractors on RIC's Monthly Report of Subcontractor Participation form (Attachment 2).

Section 26.39 Fostering Small Business Participation

Assurances

The Commission's DBE program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference). Every effort will be made to avoid creating

barriers to the use of new, emerging, or untried businesses.

The Commission is committed to taking all reasonable steps to eliminate obstacles to the participation of DBEs and other small businesses as prime contractors or subcontractors in Commission procurements.

Definitions

Businesses eligible to participate in RIC's DBE program are defined as follows:

Small Business (SB): A for-profit small 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 an independently owned and operated business which, together with affiliates, has 250 or fewer employees, and meets definitions of Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

Disadvantaged Business Enterprise (DBE): A for-profit small business that is 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. A DBE must be certified as such by the VUCP in accordance with the certification standards of 49 CFR Part 26.

Certification and Verification Procedures

The Commission will rely upon the certification/verification procedures utilized by the VUCP agencies to confirm eligibility of DBEs. The Commission will also rely upon the certification/verification procedures utilized by the DSBSD to confirm eligibility of SBs, which includes small businesses that are not women-owned or minority-owned. DSBSD's certification procedures include verification of for-profit status, ownership and control, and business size. Certified small businesses are listed in the DSBSD's directory at <https://www.sbsd.virginia.gov/directory>. Firms are not permitted to self-certify or self-verify as small businesses.

Contracting Requirements

The Commission's DBE program also provides for contracting requirements that are structured to facilitate competition by small business concerns, and small business participation in procurements as prime contractors or subcontractors. The reasonable steps the Commission takes to eliminate obstacles to small business participation includes:

1. In multi-year design-build contracts or other large contracts (e.g., for megaprojects") bidders on the prime contract will be asked to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
2. On a case-by case basis, the Commission will make reasonable efforts to divide contracts into smaller- sized packages, based on the type, size and dollar value of a contract, the

availability of small businesses, and the financial resources and capacity of small business concerns. Solicitation documents will clearly identify these contract opportunities.

3. On contracts not having DBE goals, the prime contractor will be asked to identify business opportunities for small business participation in the contract of a size that small businesses, including DBEs, can reasonably perform or provide, rather than self-performing all the work involved or supplying all the goods and services in support of the contract.
4. The Commission will ensure that solicitation language is stated so that consortia or joint ventures consisting of small businesses, including DBEs, are encouraged to compete for and perform prime contracts. This will also be accomplished by providing information at pre-proposal meetings, and through advertisements of opportunities, direct contact with small businesses, and other outreach activities.
5. To meet the portion of our overall goal projected to be met through race-neutral measures, the Commission will ensure that the components of work of a contract that small businesses, including DBEs, can reasonably perform are stated in solicitation documents, including the NAICS code(s). This will also be accomplished through advertisements of opportunities, and at pre-proposal meetings and other outreach activities.
6. In the solicitation process, bidders/offerors will be asked to identify voluntary actions they will take to assist small businesses with issues such as obtaining performance guarantees, lines of credit, and insurance. Proposers will be asked to approach this with the goal of lowering or eliminating barriers to small business participation in the contract.
7. In the solicitation documents, advertisements of contract opportunities, and in outreach efforts, bidders/offerors will be advised of the Commission's strong desire to have all types of small businesses participate in its federally funded contracts. Prime contractors will also be asked to make voluntary efforts to include these businesses in their proposals for contracts that do not have DBE goals. All proposers should approach this with the goal of maximizing active participation from small businesses.
8. Proposers will be strongly encouraged to identify any business participation requirements that may limit or exclude participation of a small business in the contract and to inform the Commission of any such limitations or exclusions. Proposers will be asked to approach this through their own outreach efforts and with the goal of minimizing barriers to participation while maintaining the operation standards of the contract.
9. In meeting its good faith efforts requirements, the Commission will also take reasonable steps to encourage minority and woman-owned firms that are eligible for DBE certification to become certified. This will be accomplished through outreach efforts and informational programs, direct contact and in solicitation documents.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 3 to this program. This section of the program will be updated every three years.

Before establishing the overall three-year goal, the Commission will consult with DOT and local organizations to obtain information concerning the availability of disadvantaged, small and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and other small businesses, and the Commission's efforts to establish a level playing field for the participation of DBEs and other small businesses. Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Commission's principal office for 30 days following the date of the notice, and informing the public that the Commission and DOT will accept comments on the goals for 45 days from the date of the notice.

The Commission's overall goal submission to DOT will include a summary of information and comments received and the Commission's responses.

The Commission will begin using its overall goals on October 1 of each year, unless it has received other instructions from DOT.

Section 26.47 Failure to Meet Overall Goals

If the awards and commitments shown on our 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 Commission will (1) analyze in detail the reasons for the difference between the overall goal and its awards and commitments in that fiscal year; and (2) establish specific steps and milestones to correct the problems identified in our analysis and to enable the Commission to fully meet its goal for the new fiscal year. The Commission will retain analysis and corrective actions in its records for three years and make that information available to FAA on request for review.

Section 26.51(a-c) Breakouts 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 program. This section of the program will be updated every three years when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The Commission will use contract goals to meet any portion of the overall goal that it 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.

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

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures When There Are Contract Goals

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

The obligation of each bidder/offeror is to make good faith efforts. Each 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 Commission will evaluate the good faith efforts of a bidder/offeror to determine whether the efforts to obtain DBE participation were those that a firm aggressively seeking subcontractors or partners would take in the normal course of doing business; whether the steps taken had a reasonable probability of success; and whether based upon the size, scope and complexity of the subcontract, there were DBE firms ready, willing and able to accept the contract at a competitive price.

The Commission's DBELO is responsible for determining whether bidders/offerors who have not met the contract goal have documented sufficient good faith efforts to be regarded as responsive. If the contract goal is not met, bidders/offerors must provide evidence of good faith efforts, documented on the Commission's DBE Goal Waiver Request Form (Attachment 5 – Form 4).

We will ensure that all information is complete and accurate and adequately documents the bidder/offer'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 Commission treats bidders'/offerors' compliance with good faith efforts requirements as a matter of "responsiveness." Responsiveness means that the required information must be provided at the time bids are due.

Each solicitation for which a contract goal has been established will require bidders/offerors to submit the following information on the Commission's Contract Participation Form:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of and related NAICS code for 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 contractors commitment; and
 6. If the contract goal is not met, evidence of good faith efforts documented on the Commission's DBE Goal Waiver Request Form.

Administrative reconsideration (26.53(d))

Within ten days of being informed by the Commission 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 Jon E. Mathiasen, President & CEO, Capital Region Airport Commission, 1 Richard E. Byrd Terminal Drive, Richmond International Airport, VA 23250-2400. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

The Commission will require a contractor to make good faith efforts to replace a DBE that is terminated for good cause or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal.

“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, nondiscriminatory 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 2 CFR Parts 180, 215 and

1,200 or applicable state law;

6. The Commission 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 the Commission 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 Commission determines compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

The Commission will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and to provide a written request to terminate and/or substitute a DBE subcontractor. Before transmitting such a request, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Commission, of its 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 Commission and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Commission should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Commission may provide a response period shorter than five days.

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

When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Commission will require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal established for the procurement.

In this situation, the Commission will require the prime contractor to obtain the Commission's prior approval of the substitute DBE and to provide copies of new or amended subcontracts. The substitute DBE must be certified in accordance with Part 26. When a substitute DBE cannot be identified, a contractor must provide documentation of the good faith efforts made to locate another DBE to perform the work.

If the contractor fails or refuses to comply in the time specified, the Commission's Program Manager 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 Program Manager may issue a termination for default proceeding.

Section 26.55 Counting DBE Participation

The Commission will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61- 26.73 Certification Process

The Commission will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification firms should contact: Russell L. Peaden, Capital Region Airport Commission, 1 Richard E. Byrd Terminal Drive, Richmond International Airport, VA 23250-2400; (804) 226-8520 or e-mail: rpeaden@flyrichmond.com.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Commission does not certify firms, but accepts the VUCP's certification of a firm.

DBEs participating in a DOT-assisted contract must be certified by the VUCP, which includes two certifying agencies: the Virginia Department of Small Business and Supplier Diversity (<https://www.sbsd.virginia.gov>) and the Metropolitan Washington Airports Authority (www.mwaa.com). Federal DBE certification by either agency is fully accepted throughout Virginia.

Section 26.83 Procedures for Certification Decisions

Certification 26.83(a) & (c)

All firms certified by the VUCP on behalf of the Commission and included in the DSBSD DBE directory have been determined to be eligible for DBE certification in the Commonwealth of Virginia based on the submittal of the information required for certification, in accordance with Subparts D and E of Part 26.

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

All DBEs will be required to inform the VUCP, in a written affidavit, of any change in their circumstances affecting their ability to meet size, disadvantaged status, ownership or control requirements of 49 CFR Part 26 or of any material change in the information provided with the application for certification. Supporting documentation describing in detail the nature of such changes must also be submitted with the affidavit.

Section 26.85 Interstate Certification

Any firm that is currently certified in its home state (“State A”) may apply to another State (“State B”) for DBE certification. State B may, at its discretion, accept State A's certification and certify the firm, without further procedures. The VUCP will follow the interstate certification procedures defined in Section 26.85.

Section 26.87 Removal of a DBE’s Eligibility

In the event the VUCP proposes to remove a DBE’s certification, the VUCP will follow procedures consistent with Section 26.87.

Section 26.89 Certification Appeals

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

U.S. Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

The Commission will promptly implement any DOT certification appeal decision affecting the eligibility of DBEs for our DOT-assisted contracting.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.105 Compliance Requirements

Compliance with all requirements of Part 26 by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

In accordance with the provisions of Section 26.103(b), the FAA may review the Commission’s compliance with Part 26 at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the FAA to initiate a compliance review based on complaints received.

Any person who knows of a violation of Part 26 by the Commission may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

Section 26.107 Enforcement Actions

(a) If you are a firm that does not meet the eligibility criteria of subpart D of Part 26 and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of Part 26, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

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

The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

Section 26.109 Information, Confidentiality, Cooperation

The Commission will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal law and the Virginia Freedom of Information Act. The Virginia Freedom of Information Act., VA. Code § 2.1-340, et seq. provides for disclosure of public documents when a proper request is made unless they fall within specified expectations. There are numerous exceptions which may or may not apply depending on the type of documents. The Virginia Public Procurement Act, VA. Code § 2.2-4342 provides a further exception to disclosure for trade secrets or proprietary information submitted in connection with a procurement transaction if the protection of the act is invoked at time of submission.

Notwithstanding any contrary provisions of state or local law, we 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.

Attachments:

- Attachment 1.....Organization Chart
- Attachment 2..... Monthly Report of Subcontractor Participation Form & Instructions
- Attachment 3.....Monitoring & Enforcement Mechanisms
- Attachment 4.....Overall Goal Calculation and Breakout of Estimated
Race-Neutral & Race- Conscious Participation
- Attachment 5 – Form 1....Offeror List
- Attachment 5 – Form 2....Contract Participation Form
- Attachment 5 – Form 3....Letter of Intent Form
- Attachment 5 – Form 4....DBE Goal Waiver Request Form
- Attachment 6.....Website links to Part 26; Virginia DBE Directory; and DBE
Certification Information

Organizational Chart



**CAPITAL REGION AIRPORT COMMISSION
MONTHLY REPORT OF SUBCONTRACTOR PARTICIPATION**

Name Of Prime Contractor _____
 Contract Name & Number _____
 Original Contract Amount \$ _____ Payments Received \$ _____
 Current Contract Amount \$ _____ Retainage Withheld \$ _____
 Invoice Period From _____ Through _____ Date Submitted _____
 Actual DBE Participation To Date \$ _____
 Current Scheduled DBE Participation \$ _____
 Total Original Contracted DBE Participation \$ _____ Percent Original Contracted DBE Participation _____%

#	SUBCONTRACTOR NAME & BUSINESS ADDRESS	DESCRIPTION OF WORK AND NAICS CODE	* DBE	MBE	SBE	WBE	OTHER	MONTHLY CONTRACT INFORMATION					% COMPLETE	% DBE
								ORIGINAL SUBCONTRACT AMOUNT	CURRENT SUBCONTRACT AMOUNT	TOTAL PAYMENTS TO DATE	AMOUNT THIS INVOICE	TOTAL INVOICED TO DATE		
1														
2														
3														
4														
5														
6														
7														
8														
9														
10														
11														
12														
13														
14														
15														
16														
SUBCONTRACTOR TOTALS														

* PUT AN "X" IN THIS COLUMN ONLY IF SUBCONTRACTOR IS A VDSBSD OR MWAA CERTIFIED DBE UNDER FEDERAL REGULATIONS, 49 CFR PART 26.

I certify that the Information furnished above is correct to the best of my knowledge and represents the current status of the firm's (Prime Contractor) subcontract(s) with the listed firms (Subcontractors) for the designated period covered by this report.

Signed: _____ Title _____ Date _____

This form must be attached to all invoices submitted by the Prime Contractor. If an invoice is not being submitted for a particular month, this form must still be submitted.

**CAPITAL REGION AIRPORT COMMISSION
INSTRUCTIONS AND FORM FOR COMPLETING THE
MONTHLY REPORT OF SUBCONTRACTOR PARTICIPATION**

I. USE AUTHORIZED FORMS

Effective March 1, 2018, these instructions and the Commission approved form, "Monthly Report of Subcontractor Participation", replace the Commission's "Instructions for Completing the Invoice Attachment Form" and the "Invoice Attachment Form". Use only Commission- approved forms to file monthly reports of subcontractor participation. Do not change or amend the instructions or form in any manner. These documents are available in hard copy or electronically from the Commission's DBELO, Russ Peaden.

II. LEDGER PORTION

Report all subcontractors every month and complete all required information. Please note that some entries apply only to the sum of DBE contracts. To facilitate accuracy in reporting, it is recommended that DBE subcontractors be listed first and a subtotal appear in each of the five sub-columns that comprise the "Monthly Contract Information" section of the report. If there is no invoice activity for a DBE in any given month, enter "0" in the column, "Amount This Invoice". All other information must be entered, and must be current and correct.

Subcontractor Name and Address. For all subcontractors, enter the subcontractor's name and business address (street address, city, state and zip code). For DBEs, these entries must be the same as comparable information appearing on the original Letter of Intent and the Contract Participation Form submitted with the prime contractor's proposal.

Description of Work and NAICS Code. Enter a brief description (e.g., painting, electrical, survey, etc.) of the work each subcontractor is performing and the associated NAICS Code for that work. For DBEs, these entries must be the same as comparable information appearing on the Letter of Intent and the Contract Participation Form submitted with the prime contractor's proposal.

Classification of Subcontractor(s). Assign classifications as follows:

DBE-Place an "X" in this column only if the subcontractor has been DBE certified by the Virginia Department of Small Business and Supplier Diversity (VDSBSD) or the Metropolitan Washington Airports Authority (MWAA). Only those subcontractors who have meet the DBE eligibility requirements of 49 CFR Part 26 may be classified as DBEs.

MBE-Place an "X" in this column if the subcontractor is also a VDSBSD certified minority-owned company. This classification should also be used for subcontractors who have submitted a DBE certification application but have not yet been certified as a DBE. Once DBE certification has been achieved, such firms should be classified as both MBE and DBE.

SBE-Place an "X" in this column if the subcontractor is a VDSBSD certified small business that has 250 or fewer employees and meets the definition of the Small Business Administration regulations (13 CFR Part 121). This classification should also be used for subcontractors who have submitted a SBE certification application but have not yet been SBE certified. Once certification has been achieved, such firms should be classified only as SBE.

WBE-Place an "X" in this column if the subcontractor is a VDSBSD certified woman-owned company. This classification should also be used for subcontractors who have submitted a DBE certification application but have not yet been certified as a DBE. Once DBE certification has been achieved, such firms should be classified as both WBE and DBE.

OTHER-Place an "X" in this column for all subcontractors who cannot be classified as either DBE, MBE, WBE or SBE.

Original Subcontract Amount. Enter the original subcontract amount for each subcontractor. For DBEs, this must be the **amount listed on the Original Letter of Intent** submitted for DBEs with the prime contractor's proposal and approved by the Commission.

Current Subcontract Amount. Enter the current subcontract amount. If this amount is the same as the entry in "Original Subcontract Amount", enter it. For DBEs, **if this amount is different** than the amount entered in "Original Subcontract Amount", a **Revised Letter of Intent must be on file with and approved by the Commission**. It is recommended that Revised Letters of Intent be submitted with the Monthly Report of Subcontractor Participation that initially reports the new contract amount.

Total Payments to Date. Enter the sum of payments that have been made to each subcontractor as of the date of the report. This column should not contain diminishing amounts, i.e., a succeeding month's entry lower than the preceding month's entry. If this occurs, the Commission may request an examination of additional records to verify the correct amount.

Amount of This Invoice. Enter the amount of the subcontractor's invoice being submitted with this report.

Total Invoiced to Date. Enter the total amount invoiced as of the date of the report. This column should not contain diminishing amounts, i.e., a succeeding month's entry lower than the preceding month's entry. If this occurs, the Commission may request an examination of additional records to verify the correct amount.

Percentage Complete. Enter the percentage that equals the progress of that subcontractor's work.

Percent DBE. This entry depends upon the type of contract and terms stated in the solicitation. The **percentage for non-DBEs is always "0"**. Thus, if the subcontractor does not meet the requirements stated above to be classified as a DBE, the percentage entered in this column **must be "0"**.

Subcontractor Totals. Enter the sum for all subcontractor data reported.

III. TOP PORTION OF FORM

Original Contract Amount. Enter the original amount of the Prime's Contract.

Current Contract Amount. Enter the current amount of the Prime's Contract. If this amount is the same as the entry in "Original Contract Amount", enter it. If this amount is different than the amount entered in "Original Contract Amount", enter the new contract amount.

Invoice Period. Enter the monthly period being reported (e.g., January 1, 2018 to January 31, 2018). Each report must cover a full month.

Actual DBE Participation to Date. Enter the sum of "Total Payments to Date" made to DBEs as of the date of the report.

Current Scheduled DBE Participation. Enter the sum of "Current Subcontract Amounts" reported for **DBEs only**, i.e, do NOT include current subcontract amounts for non-DBEs even though they appear in the ledger portion of the report.

Total Original Contracted DBE Participation. Enter the original dollar amount of DBE participation. This must be the same dollar amount submitted on the Original Letter of Intent and approved by the Commission, and that is reported in the ledger portion of the report under "Original Subcontract Amount".

Payments Received. Enter the sum of total of payments received as of the date of the report.

Retainage Withheld. Enter the amount of retainage withheld as of the date of the report. If none, enter 0.

Date Submitted. Enter the date the report is submitted to the Commission.

Percentage Original Contracted Participation. Enter the original percentage of DBE participation for this contract. This must be the same percentage committed to in the Prime Contractor's proposal and approved by the Commission.

IMPORTANT NOTE: The Monthly Report of Subcontractor Participation must be attached to each invoice submitted by the Prime Contractor. If an invoice is not being submitted in a particular month, the Monthly Report of Subcontractor Participation must still be submitted each month.

MONITORING AND ENFORCEMENT MECHANISMS

In the event of non-compliance with the DBE regulation by a participant in the Commission's procurement activities, the Commission has at least the following remedies depending on the circumstances:

1. Action for breach of contract;

Under Virginia's common law, the Commission has a right to enforce the terms of its contracts or obtain damages for their breach. In the event a contractor fails to abide by the DBE provisions of its contract as described in this Plan, then the Commission may seek enforcement in either state or federal court.

2. Refer for criminal prosecution under Virginia Governmental Frauds Act, Va. Code § 18.2-498, 1 et seq.;

This Act prohibits any person having a commercial dealing with a local government such as the-Commission from knowingly falsifying, concealing, misleading or covering up a material fact or making up false, fictitious or fraudulent statements or representations or using any false writing. Violation of the Act Is a Class 6 felony.

3. Refer for criminal under the Ethics in Public Contracting Act, VA Code §11-72, et seq.;

This Act prohibits offers by bidders, contractors or subcontractors or acceptance by public employees having procurement or contracting responsibilities of any payments, loans services or anything more than nominal value. No contractor may offer any kickbacks. Violations of the Act constitute a Class 1 misdemeanor.

4. Disqualification of proposers on bidders under Virginia Public Procurement Act, VA. Code § 11-35, et seq.;

This Act provides for disqualification of non-responsive or non- responsible bidders or proposers. Failure to provide the requisite DBE information on a bid or proposal as described above can lead to the determination of non-responsiveness. Proposers and bidders have certain, protest rights if such a determination is made. In the event of an award and a subsequent protest which is determined to be valid, a contract may be cancelled.

Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: Capital Region Airport Commission – Richmond International Airport (RIC)

Goal Period: FFYs 2018, 2019, and 2020 (October 1, 2017 through September 30, 2020)

DOT/FAA-assisted contract amount: FY-2018: \$ 7,290,000

FY-2019: \$11,615,000

FY-2020: \$ 2,520,000

Total: **\$21,425,000**

Overall Three-Year Goal: 15.86%, to be accomplished 100% through race-neutral means.

Total dollar amount to be expended with DBEs: \$3,398,005.

Based on the RIC’s Capital Improvement Project summary, the Commission intends to request funding from FAA for seven projects that are anticipated during FFYs 2018-2020 at RIC, as shown in Table 1:

Table 1 – Anticipated FAA-funded Projects

Fiscal Year	Project Name	Anticipated AIP/FED Grant
2018	Runway 7-25 Conversion to Taxiway (Design)	\$ 450,000
2018	Runway 7-25 Conversion to Taxiway (Construction)	\$ 6,840,000
2019	Concourse B Apron Expansion (Design)	\$ 765,000
2019	Concourse B Apron Expansion (Construction)	\$ 9,500,000
2019	Master Plan Update	\$ 1,350,000
2020	Taxiways “Kilo” and “Tango” (South End) (Design)	\$ 270,000
2020	Taxiways “Kilo” and “Tango” (South End) (Construction)	\$ 2,250,000
Three-year total:		\$21,425,000

Market Area. The relevant geographic market for contractors is the Richmond, Virginia Metropolitan Statistical Area, comprised of the City of Richmond and 13 counties.¹ This is the area in which the Commission awarded most of its contract dollars at RIC (over 75%) and where the majority of businesses seeking RIC contract opportunities are located.

Step 1 base figure - 49 CFR Section 26.45(c) . RIC staff identified the specific contract elements by NAICS code² and the percentages of the work in each of these codes that make up the components of each project anticipated during the FFY 2018-2020 goal period. As part of the availability analysis,

¹ Amelia; Caroline; Charles City; Chesterfield; Dinwiddie; Goochland; Hanover; Henrico; King William; New Kent; Powhatan; Prince George; Sussex

² “NAICS code” means the North American Industry Classification System code

Exstare Federal Services Group, LLC (“Exstare”), DBE consultant to the Commission, prepared dollar-weighted availability estimates to help set the overall DBE goal for RIC. Dollar-weighted availability estimates represent the percentage of FAA-funded contracting dollars that DBEs would be expected to receive based on their availability for the specific types and sizes of RIC’s FAA-funded prime contracts and subcontracts. According to USDOT’s “Tips for Goal-Setting”³, weighting is not required by the Federal Regulations but it will make the goal calculation more accurate.

For each FAA-funded prime contract examined as part of the availability analysis and then, for the purposes of helping to establish a base figure, Exstare took the following steps to calculate the availability of potential DBEs for each FAA-funded contract element:

1. Businesses that are DBE certified in the specific type of work (based on 6-digit NAICS code) were identified in the Virginia Unified Certification Program (VUCP) directory of certified DBE Firms that is maintained by the Virginia Department of Small Business and Supplier Diversity.
2. The number of all business establishments in the Market Area listed in each NAICS code was identified in the U.S. Census Bureau 2015 County Business Patterns (CBP) data (denominator).
3. The number of DBEs (numerator) was then divided by all businesses (denominator).
4. The numeric availability of potential DBEs certified in each NAICS code was translated into percentage availability.

Those steps were repeated for each FAA-funded contract element examined, by multiplying the percentage availability for each contract element by the dollars associated with the contract element, adding results across all contract elements, and dividing by the total dollars for all contract elements. The result was a dollar-weighted estimate of the overall availability of certified DBEs in the Market Area, as shown in Table 2.

Table 2 – Dollar-weighted Availability of Certified DBEs in the Market Area

NAICS Codes	All DBE Firms	All Firms	DBE Availability	Ratio of Federal Dollar Amount Per NAICS Code	Federal Dollar Amount per NAICS Code	Weighted DBE Availability
237110	11	48	22.92%	0.77%	\$ 166,250	0.18%
237130	2	43	4.65%	2.44%	\$ 522,500	0.11%
237310	25	53	47.17%	52.37%	\$11,219,650	24.70%
237990	5	13	38.46%	3.17%	\$ 679,300	1.22%
238210	11	319	3.45%	2.12%	\$ 454,500	0.07%
238910	21	132	15.91%	7.09%	\$ 1,518,800	1.13%
238990	15	208	7.21%	2.67%	\$ 573,050	0.19%
484220	22	108	20.37%	6.37%	\$ 1,365,600	1.30%
541330	13	257	5.06%	17.65%	\$ 3,782,100	0.89%
541370	2	36	5.55%	1.86%	\$ 398,300	0.10%
541380	4	39	10.26%	2.85%	\$ 611,200	0.29%
561730	10	449	2.22%	0.62%	\$ 133,750	0.01%
	141	1,705	8.27%	100%	\$21,425,000	13.31%

Sources: RIC; VUCP DBE directory; U.S. Census Bureau 2015 County Business Patterns
 Note: Numbers are rounded to the nearest tenth.

³ Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program:
https://www.transportation.gov/sites/dot.gov/files/docs/Tips_for_Goal-Setting_in_DBE_Program_20141106.pdf

As presented in Table 2, the Step 1 availability analysis shows that DBEs in the Market Area could be considered available for 13.31% percent of RIC’s FAA-funded prime contracts and subcontracts. Thus, RIC considers 13.31% percent as its base figure.

Step 2. Determining if a Step 1 base figure adjustment is needed - 49 CFR Section 26.45(d). After establishing a base figure of the relative availability of DBEs, USDOT DBE Program regulations require an examination of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal.

The anticipated federally-funded projects at RIC for each fiscal year, the availability of DBE firms by trade classification, and the volume of work performed by DBE firms over previous years (i.e., past participation) were considered to help determine whether any adjustment was needed to the base figure to establish the overall DBE goal. Evidence from the most recent disparity study conducted in the Commonwealth of Virginia was also considered.

Anticipated Federally-funded projects.

The following tables present the Step 1 base figure analysis for each anticipated federally-funded project at RIC during FFYs 2018-2020. For each project, the tables include the dollar-weighted availability of DBE firms by trade classification, and the dollar amount and percentage of anticipated federal dollars and DBE dollars by trade classification.

In FFY 2018, the Commission anticipates the award of the two projects shown in Table 3:

Table 3 – FFY 2018 Projects

Project Name	NAICS Code	Work Category	All DBE Firms	All Firms	DBE %	Ratio of Federal Dollar Amount Per NAICS Code	Trade (\$)	Weighted DBE %	DBE (\$)
Runway 7-25 Conversion to Taxiway (Design)	541330	Engineering	13	257	5.06%	80%	\$360,000	4.05%	\$14,580
	541370	Surveying	2	36	5.55%	10%	\$ 45,000	0.55%	\$ 247
	541380	Testing	4	39	10.26%	10%	\$ 45,000	1.02%	\$ 459
	Total Project #1			19	332	5.72%	100%	\$450,000	3.40%
Runway 7-25 Conversion to Taxiway (Construction)	237310	Highway, Street & Bridge Construction	25	53	47.17%	62.33%	\$4,263,400	29.40%	\$1,253,440
	237990	Storm Sewer Installation	5	13	38.46%	2.00%	\$ 136,800	0.76%	\$ 1,040
	238210	Airport Runway Lighting	11	319	3.45%	5.00%	\$ 342,000	0.17%	\$ 581
	238910	Site Preparation	21	132	15.91%	7.00%	\$ 478,800	1.11%	\$ 5,315
	238990	Specialty Trades	15	208	7.21%	2.00%	\$ 136,800	0.14%	\$ 191
	484220	Trucking	22	108	20.37%	9.00%	\$ 615,600	1.83%	\$ 11,265
	541330	Engineering	13	257	5.06%	7.00%	\$ 478,800	0.35%	\$ 1,676
	541370	Surveying	2	36	5.55%	1.50%	\$ 102,600	0.08%	\$ 82
	541380	Testing	4	39	10.26%	3.00%	\$ 205,200	0.31%	\$ 636
561730	Hydroseeding Services	10	449	2.23%	1.17%	\$ 80,000	0.03%	\$ 24	
Total Project #2			128	1,614	7.93%	100%	\$6,840,000	18.63%	\$1,274,250
TOTAL FFY 2018							\$7,290,000	17.69%	\$1,289,536

Note: Numbers are rounded to the nearest tenth.

In FFY 2019, the Commission anticipates the award of the three projects shown in Table 4:

Table 4 – FFY 2019 Projects

Project Name	NAICS Code	Work Category	All DBE Firms	All Firms	DBE %	Ratio of Federal Dollar Amount Per NAICS Code	Trade (\$)	Weighted DBE %	DBE (\$)
Concourse B Apron Expansion (Design)	541330	Engineering	13	257	5.06%	82.00%	\$627,300	4.15%	\$26,033
	541370	Surveying	2	36	5.55%	8.00%	\$ 61,200	0.44%	\$ 269
	541380	Testing	4	39	10.26%	10.00%	\$ 76,500	1.02%	\$ 780
	Total Project #1			19	332	5.72%	100%	\$765,000	3.54%
Concourse B Apron Expansion (Construction)	237110	Sewer and Water Construction	11	48	22.92%	1.75%	\$ 166,250	0.40%	\$ 66,500
	237130	Electrical	2	43	4.65%	5.50%	\$ 522,500	0.25%	\$ 1,306
	237310	Highway, Street & Bridge Construction	25	53	47.17%	58.50%	\$5,557,500	27.59%	\$1,533,314
	237990	Storm Sewer Installation	5	13	38.46%	5.00%	\$ 475,000	1.92%	\$ 9,120
	238910	Site Preparation	21	132	15.91%	10.00%	\$ 950,000	1.59%	\$ 15,105
	238990	Specialty Trades	15	208	7.21%	4.00%	\$ 380,000	0.29%	\$ 1,102
	484220	Trucking	22	108	20.37%	6.00%	\$ 570,000	1.22%	\$ 6,954
	541330	Engineering	13	257	5.06%	6.00%	\$ 570,000	0.30%	\$ 1,710
	541370	Surveying	2	36	5.55%	1.00%	\$ 95,000	0.05%	\$ 47
	541380	Testing	4	39	10.26%	2.00%	\$ 190,000	0.20%	\$ 380
	561730	Hydroseeding Services	10	449	2.23%	0.25%	\$ 23,750	0.00%	\$ 0
Total Project #2			130	1,386	9.38%	100%	\$9,500,000		\$1,635,538
Master Plan Update	541330	Engineering	13	257	5.05	100%	\$1,350,000	5.05%	\$68,175
	Total Project #3			13	257	5.05	\$1,350,000	5.05%	\$68,175
TOTAL FFY 2019							\$11,615,000	14.90%	\$1,730,795

Note: Numbers are rounded to the nearest tenth.

In FFY 2020, the Commission anticipates the award of the two projects shown in Table 5:

Table 5 – FFY 2020 Projects

Project Name	NAICS Code	Work Category	All DBE Firms	All Firms	DBE %	Ratio of Federal Dollar Amount Per NAICS Code	Trade (\$)	Weighted DBE %	DBE (\$)
Taxiway K Rehabilitation (Design)	541330	Engineering	13	257	5.06%	80.00%	\$216,000	4.04%	\$ 8,726
	541370	Surveying	2	36	5.55%	10.00%	\$ 27,000	0.55%	\$ 148
	541380	Testing	4	39	10.26%	10.00%	\$ 27,000	1.02%	\$ 275
	Total Project #1			19	332	5.72%	100%	\$270,000	5.61%
Taxiway K Rehabilitation (Construction)	237310	Highway, Street & Bridge Construction	25	53	47.17%	62.17%	\$1,398,750	29.32%	\$409,974
	237990	Storm Sewer Installation	5	13	38.46%	3.00%	\$ 67,500	1.15%	\$ 776
	238210	Airport Runway Lighting	11	319	3.45%	5.00%	\$ 112,500	0.17%	\$ 191
	238910	Site Preparation	21	132	15.91%	4.00%	\$ 90,000	0.64%	\$ 576
	238990	Specialty Trades	15	208	7.21%	2.50%	\$ 56,250	0.18%	\$ 101
	484220	Trucking	22	108	20.37%	8.00%	\$ 180,000	1.63%	\$ 2,934
	541330	Engineering	13	257	5.06%	8.00%	\$ 180,000	0.40%	\$ 720
	541370	Surveying	2	36	5.55%	3.00%	\$ 67,500	0.17%	\$ 115
	541380	Testing	4	39	10.26%	3.00%	\$ 67,500	0.31%	\$ 209
	561730	Hydroseeding Services	10	449	2.23%	1.33%	\$ 30,000	0.03%	\$ 9
Total Project #2			128	1,614	7.93%	100%	\$2,250,000	18.47%	\$415,605
TOTAL FFY 2020							\$2,520,000	16.85%	\$424,754

Note: Numbers are rounded to the nearest tenth.

Past DBE participation on RIC’s federally-funded contracts. USDOT’s “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program”⁴ suggests that agencies should examine data on past DBE participation on their USDOT-funded contracts in recent years. Exstare examined race-conscious (RC) and race-neutral (RN) past participation achievements in similar projects in the past five years. As shown in Table 6, median past DBE participation achieved in those projects was 14.88%.

Table 6 - Past DBE Achievements

Federal Fiscal Year	DBE Goals			*Accomplishments			Over/Under Achievement
	RC	RN	Total	RC	RN	Total	
2012	0.00%	5.06%	5.06%	0.00%	5.43%	5.43%	+ 0.37%
2013	0.00%	5.06%	5.06%	0.00%	34.88%	34.88%	+ 29.42%
2014	0.00%	5.06%	5.06%	0.00%	15.49%	15.49%	+ 10.43%
2015**	0.00%	6.26%	6.26%	0.00%	0.00%	0.00%	-
2016	0.00%	6.26%	6.26%	0.00%	14.88%	14.88%	+ 8.62%

Source: RIC Uniform Report of DBE Commitments/Awards and Payments, FFYs 2012-2016

*Total contracts and subcontracts awarded or committed during the reporting period.

**There were not any contract awards in 2015.

Disparity Study. The most recent Disparity Study for the Commonwealth of Virginia (“Study”), dated July 13, 2011, covers the period of July 1, 2005 through June 30, 2009. Given the age of the data in the Study and because it is not comparable to RIC’s contract opportunities in FFYs 2018 – 2020, Exstare concluded that consideration of the Study data should be omitted from the Step 2 analysis.

Goal Adjustment. Based on review of the factors described above, a Step 2 adjustment was made to the Step 1 base figure. Our proposed overall three year goal is 15.86%, reflected as the median of the three years of participation. We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of project work being awarded during this three-year period.

- Fiscal Year 2018 – 16.28% (17.69% + 14.88%/2)
- Fiscal Year 2019 – 14.89% (14.90% + 14.88%/2)
- Fiscal Year 2020 – 15.86% (16.85% + 14.88%/2)

Contract Goals. The Commission will use contract goals to meet any portion of the overall goal that it 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 the Commission’s overall goal that is not projected to be met through the use of race-neutral means.

The Commission will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract. A contract goal may not need to be established on every such contract, and the size of the contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work and availability of DBE’s to perform the particular type of work).

Stakeholder Consultation. Before establishing the final overall goal and submitting it to the FAA, invitations were sent to over 2,000 individuals and to organizations to seek their participation in the Commission’s stakeholder consultation meeting on June 28, 2017, at Richmond International Airport. These individuals and organizations represent DBEs, minority-owned businesses, woman-owned businesses, general contractors, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-

⁴ Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program: <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>

disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Commission's efforts to establish a level playing field for the participation of DBEs in its contracting opportunities. Please see Attachment A for the meeting invitation and attendee list.

At the stakeholder meeting, the Commission's DBE consultant presented the purpose and requirements of the DBE program, the anticipated FAA-funded projects in FFYs 2018-2020, and the methodology utilized to develop the proposed 15.86% race-neutral goal for DBE participation in those projects. Stakeholders then asked general questions about the goal-setting methodology used to determine RIC's market area and availability of firms. The consultant explained USDOT regulatory requirements and guidance for determination of the market area and availability of firms; both resources had been used in preparing the Commission's DBE goal methodology. She explained that the market area is the area in which the Commission awarded most of its contract dollars at RIC and where the majority of businesses seeking RIC contract opportunities are located. She then explained the two-step goal setting process.

Another stakeholder asked how the goal methodology would be calculated when there is a DBE and a joint venture partnership, and whether the methodology included prime contractors and subcontractors for DBE participation. The consultant explained that the goal included individual companies, and was not based on a joint venture of firms. Both prime contractors and subcontractors are included in the goal methodology, and RIC's solicitation documents include language encouraging DBEs to bid as prime contractors and/or subcontractors.

Other stakeholders asked whether RIC is on target to achieve its 2017 DBE participation goal, and how DBE participation at RIC compared to other airports in the area that are similar in size. In response to those questions, the consultant said that the Commission is on track to achieve its 2017 goal, and that she believed that Richmond International Airport obtains higher DBE participation than other airports in the area that are of similar size. At any airport, however, participation depends on what types and numbers of projects are available, and the availability of firms to perform the projects.

In response to another stakeholder's question concerning whether the goal applied to the Airport's concessions, the consultant explained that the DBE goal applied only to federally-funded construction and professional services contracts.

The consultant encouraged all attendees to review the full goal methodology document posted on RIC's website at http://www.flyrichmond.com/files/Notice_of_Overall_Proposed_DBE_Goal.pdf and to provide any written comments on the goal to the Commission by July 23, 2017.

Following the stakeholder consultation, a Business Opportunity Forum was convened, where Commission staff shared additional information and responded to questions concerning the anticipated federally-funded contracts, contracting opportunities outside the federal DBE program, and the Commission's purchasing process.

Written Comments on the Proposed Goal. Prior to the stakeholder consultation, the Commission published a notice on its website informing the public that the proposed goal and its rationale were available for inspection during normal business hours, and that the Commission would accept comment on the proposed goal for 30 days following the date of the notice. Please see Attachment B for the notice of the proposed goal.

The Commission did not receive any written comments on the proposed goal.

Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender Conscious” (RC) Participation (26.51(b)(1-9))

The Commission will make every attempt to meet the maximum feasible portion of its overall goal by using some or all of the following race-neutral measures to increase DBE participation:

- a. Arranging solicitations or requests for proposals, time for presenting bids or proposals, quantities, specifications, and delivery schedules so as to facilitate DBE participation;
- b. Providing advice to DBEs and other small businesses in overcoming barriers in the procurement process such as the inability to obtain bonding, financing, or technical assistance;
- c. Providing information and communication programs on contracting procedures and specific contracting opportunities in a timely manner;
- d. Providing information to DBE and other firms about the Commission, its function and full range of contractual needs;
- e. Offering instructions and clarifications on bid specifications, the Commission’s procurement policy, procedures, and general bidding requirements;
- f. Maintaining a file for successful bid documents from past procurements and permit DBEs and other firms to review and evaluate these documents;
- g. Conducting debriefing sessions to explain why certain bids were unsuccessful;
- h. Providing information to DBE and other firms on future procurements, contracting schedules, subcontracting opportunities and bonding requirements;
- i. Placing bid notices in periodicals of interest to the disadvantaged business community;
- j. Developing mailing lists for newsletters that include DBEs and their associations;
- k. Sending bid notices to DBE trade associations, technical assistance agencies, DBE economic development groups, and to identified DBEs with capabilities relevant to the bid notices;
- l. Making bid specifications available to DBE contractor associations and technical assistance agencies;
- m. Upon request, providing DBEs and DBE organizations with lists of majority firms bidding as prime contractors; and
- n. Use a lead time of at least 30 days, unless special circumstances prevail and approved by the DBELO for advertisement of all Invitations to Bid (ITB) so that all firms have ample time to develop a complete bid package or proposal and secure necessary assistance.

The Commission estimates that in meeting its overall goal of 15.86%, it will obtain 100% from race-neutral participation and 0% through race- and gender- conscious measures based on the level of race-neutral DBE participation we have achieved in similar projects and that we anticipate achieving during this three-year goal period.

The Commission will adjust the estimated breakout of race-neutral and race-conscious DBE participation as needed to reflect actual DBE participation (see 49 CFR Section 26.51(f)) and 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 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.

EXHIBIT ____
CAPITAL REGION AIRPORT COMMISSION
CONTRACT PARTICIPATION FORM

ORIGINAL REVISED DATE _____

Solicitation No: _____

Name of Bidder/Offeror: _____

Project Name: _____

Contract No: _____

The Bidder/Offeror shall submit the Contract Participation Form and return with its solicitation response. Please attach additional sheets if needed.

NAME <u>ALL</u> FIRMS PARTICIPATING IN THE CONTRACT.	TYPE OF FIRM (see below)	FEDERAL TAX ID (also known as Employer Identification Number) nine digit number.	Enter "X" for all that apply					ADDRESS AND PHONE NUMBER (Number, Street, City, State, ZIP)	DESCRIPTION OF WORK AND NAICS CODE (Electrical, Paving, etc. with notation e.g. "Labor Only", "Material Only", "Complete") Provide Item Number if Applicable, Quantity, Unit Price	AGREED PRICE
			DBE	MBE	SBE	WBE	OTHER			
1										
2										
3										
4										
5										
6										
7										
8										
TOTAL AGREED PRICE MUST EQUAL TOTAL OFFERED PRICE:										

I, _____, a duly authorized representative of _____, certify that the above information is true and correct.
 (type or print name) (name of firm)

Signature: _____ Date: _____

TYPE OF FIRM

- P** = Prime Contractor
- S** = Subcontractor 1st tier
- SS** = Subcontractor 2nd tier
- JV** = Joint Venture
- G** = Goods supplier
- SP** = Stocking Supplier/Distributor
- B** = Broker, Agent, Packager
- H** = Hauler
- MR** = Manufacturer
- OS** = Other Services

- DBE:** A certified Disadvantaged Business Enterprise (Attach current certification documents)
- MBE:** A certified Minority Business Enterprise (Attach current certification documents)
- SBE:** A certified Small Business Enterprise (Attach current certification documents)
- WBE:** A certified Women Business Enterprise (Attach current certification documents)
- OTHER:** Business Enterprises that are not certified in any category listed.

CAPITAL REGION AIRPORT COMMISION
LETTER OF INTENT

ORIGINAL REVISED DATE _____

(Name of Prime Contractor) Solicitation Number _____
Project Name _____

The undersigned (Check one) DBE MBE SBE WBE OTHER

(Print or Type Certification Number)

intends to perform the work associated with this contract as (Check one):

Individual Partnership Corporation Joint Venture

will perform the work associated with this contract as a (Check all that apply):

Construction Contractor Stocking Supplier Manufacturer Stocking Distributor
 Broker, Agent, Packager Hauler Service Provider (for non-construction contracts)

will: Perform the following services Supply the following materials, equipment, supplies.
(Please attach additional sheets if needed):

<u>Item Number</u>	<u>General Description Of Activity</u>	<u>Scope of Services (Check One)</u>	<u>Quantity</u>	<u>Unit Price</u>
_____	_____	<input type="checkbox"/> Labor Only <input type="checkbox"/> Matl Only <input type="checkbox"/> Complete	_____	_____
_____	_____	<input type="checkbox"/> Labor Only <input type="checkbox"/> Matl Only <input type="checkbox"/> Complete	_____	_____
_____	_____	<input type="checkbox"/> Labor Only <input type="checkbox"/> Matl Only <input type="checkbox"/> Complete	_____	_____
_____	_____	<input type="checkbox"/> Labor Only <input type="checkbox"/> Matl Only <input type="checkbox"/> Complete	_____	_____
_____	_____	<input type="checkbox"/> Labor Only <input type="checkbox"/> Matl Only <input type="checkbox"/> Complete	_____	_____

at the following price: \$ _____.

A. Total Contract Amount \$ _____

B. Term of Contract: Commencement Date _____ Completion Date _____

C. _____% of the dollar value of the subcontract will be performed by (check if applicable):

Non-DBE contractors Non-DBE suppliers

The undersigned will enter into a subcontract consistent with the above upon execution of a contract between the Prime Contractor and the Commission (**NOTE: SIGNATURES MUST BE DATED**)

Agreed To _____
(Print or Type Name of D/M/S/WBE or OTHER Firm)

Agreed To _____
(Print or Type Name of Prime Contractor)

By _____
(Print or Type Name and Title)

(Print or Type Name and Title)

(Signature) (Date)

(Signature) (Date)

CRAC DBELO Approval \$ _____
(Enter Amount of Contract Approved for DBE/MBE/SBE/WBE Participation)

(Signature) (Date)

**CAPITAL REGION AIRPORT COMMISSION
DBE GOAL WAIVER REQUEST FORM**

Solicitation No. _____

Project Name _____

Name of Offeror _____

If an offeror cannot meet all or any part of the DBE participation goal stated herein, this form must be completed and submitted with the proposal, along with supporting documentation, to demonstrate the good faith efforts made to meet the DBE goal for this solicitation.

List publications in which offeror advertised this contract opportunity and DBE subcontracting opportunities. Attach copies of the actual advertisements as they appeared in these publications.

Describe the methods utilized to identify DBE firms and attach a copy of any written notice sent to solicit their interest, availability and capability to participate in this contract opportunity.

What portions of the work were selected to be performed by DBEs that would increase the likelihood of meeting the DBE requirement for this contract opportunity?

List the contact name, company name, address and telephone number of each DBE firm contacted, (attach additional sheets if needed).

	<u>Contact Name</u>	<u>Company Name/Address</u>	<u>Telephone Number</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

Describe the efforts made to negotiate in good faith with interested DBEs.

What assistance was offered to interested DBEs to help them obtain bonding, lines of credit, insurance or other types of assistance, if needed?

Additional information that you deem relevant to the good faith efforts made.

Website Link to 49 CFR Part 26:

<https://www.ecfr.gov/cgi-bin/text-idx?SID=7d57da4319c5a595f3174a4a0cf9944b&node=pt49.1.26&rqn=div5>

Website Link to Virginia DBE/ACDBE Directory:

<https://www.sbsd.virginia.gov/directory>

Website Link to DBE Certification Application and Information

<https://www.sbsd.virginia.gov/certification-division/dbe>