

St. Mary's County

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

for



ST. MARY'S COUNTY REGIONAL AIRPORT

California, Maryland

November 2020

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**UNITED STATES DEPARTMENT OF TRANSPORTATION
DBE PROGRAM – 49 CFR PART 26**

St. Mary's County for the St. Mary's County Regional Airport, California, Maryland

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The St. Mary's County (hereafter 'the County) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26. The County has received federal financial assistance from USDOT, and as a condition of receiving this assistance, the County has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the County to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
2. To create a level playing field on which DBEs can compete fairly for USDOT-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 USDOT-assisted contracts.
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE program.
8. To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

Gary Whipple, P.E., Deputy Director/Facility Capital Projects Manager has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Deputy Director/Facility Capital Projects Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the County in its financial assistance agreements with the US Department of Transportation.

The County has disseminated this policy statement to its board members, and will distribute this statement to DBE and non-DBE business communities that perform work for the Airport on USDOT-assisted contracts in the following manner:

1. This policy statement will be prepared as a handout, and made available at pre-bid conferences, and/or outreach meetings conducted by the County.
2. The policy statement will be posted to the County's website for the airport.

Deputy Director/Facility Capital Projects Manager

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

St. Mary's County is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

The County 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 County 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 Recordkeeping Requirements

Reporting to USDOT: 26.11(b)

The County will report DBE participation to USDOT as follows:

The County will submit annually the Uniform Reports of DBE Awards or Commitments and Payments, as modified for use by FAA recipients, via FAA dbE-Connect (<https://faa.civilrightsconnect.com/>).

The County will report DBE participation to the FAA annually, no later than December 1 after the end of the federal fiscal year. The County will also report the DBE contractor firms' contact information either on the FAA DBE Contractor's Form or other similar format.

Bidders List: 26.11(c)

The County will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

The County will collect this information in the following ways:

- a. Include a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.
- b. Include a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report the approved information directly to the County's DBELO for inclusion in the bidder's list.
- c. Request the above information from all potential bidders who contact the Airport seeking bid information, and/or who attend pre-bid meetings, conferences, etc., at the Airport.
- d. The County may also consider the use of the Bidders List Data Collection form, as shown in Attachment 10.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

St. Mary's County shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract; or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The County shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The County's DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the County of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

Contract Assurance: 26.13b

The County will ensure that the following clause is placed in every USDOT-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 USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) *Withholding monthly progress payments*

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The County is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. The County is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the County is in compliance with it and Part 26. The County will continue to carry out this program until all funds from DOT financial assistance have been expended. The County does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

Section 26.23 Policy Statement

The policy statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

The County has designated the following individual as its DBE Liaison Officer:

Gary Whipple, P.E., Deputy Director/Facility Capital Projects Manager
St. Mary's County Department of Public Works and Transportation
44825 St. Andrews Church Road
California, MD 20619
(301) 475-4200 x 73565 (w)
Gary.Whipple@stmarysmd.com

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO will administer the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by USDOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.

5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract-specific goals).
6. Analyzes the County's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the County on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Determines compliance of bidders/offerors with good faith efforts in bid submittals.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the County 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 USDOT-assisted contracts to make use of these institutions.

In developing this DBE program, the County's efforts did not identify any such institutions within its service area. The County will evaluate on a yearly basis, and if any such institutions are established in the Airport's service area, the County will consider the services offered by these institutions and refer them as noted above.

Section 26.29 Prompt Payment Mechanisms

The County requires that all subcontractors performing work on USDOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

The County has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 10 days from receipt of each payment made to the prime contractor.

The County will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. The County will hold retainage from prime contractors; 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 10 days after payment to the prime contractor.

The County 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 County. When the County 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.

To implement this measure the County will include the following clause from the FAA Advisory Circular 150-5370-10H in each DOT-assisted prime contract.

- a. *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 County for protection of the County's interests. Unless otherwise instructed by the County, the amount retained by the County will be in effect until the final payment is made except as follows:*
 - (1) *Contractor may request release of retainage on work that has been partially accepted by the County in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the County for partially accepted work.*
 - (2) *In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.*
- b. *The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the Contractor has received a partial payment. Contractor must provide the County evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 10 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 County. When the County 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.*
- c. *When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the County'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 County 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.*

The County will share information regarding required documentation for payment with subcontractors. The County will take steps to promote the timely submission by contractors of invoices for payment, and will also maintain adequate internal controls to facilitate timely payment to contractors.

Dispute Resolution: 26.29(e) (1-3)

The County requires that prime contractors insert a contract provision in their subcontractor agreements that allows for a dispute resolution process. Pursuant to 49 CFR Part 26.29(e) (1-3), the following contract provisions will be reviewed and approved by the County:

1. A contract clause that requires prime contractors to include in their subcontractors' agreements language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes; and

disputes between the prime contractor and DBE subcontractor may also be subject to Maryland's Alternative Dispute Resolution process¹.

2. A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

Section 26.31 Directory

The primary Disadvantaged Business Enterprise Directory for the County comes from the Maryland Department of Transportation (MDOT) and contains listings of certified minority- and women-owned construction firms and material suppliers from throughout the State of Maryland.

MDOT maintains active lists of certified disadvantaged businesses located throughout the state. Therefore, all of the firms listed in the directory have been certified by the state and in accordance with USDOT criteria. It should be noted also that these listings and certifications are periodically updated with some firms being added, while others are removed if they have been decertified or choose not to remain in the directory.

These directories should enable prime contractors for projects at the Airport to proceed more easily in their attempts to comply with overall goals regarding Disadvantaged Business Enterprises.

The County will refer potential bidders to the MDOT directory that is available online. The link for the directory can be found in Attachment 2 to this program.

¹ <https://www.courts.state.md.us/district/adr/home>

Section 26.33 Overconcentration

The County has not identified that overconcentration exists in the types of work that DBEs perform. However, the DBELO will continue to monitor the various categories every three years to ensure that non-DBE firms are not unduly burdened.

Section 26.35 Business Development Programs

The County has not established a business development program. The DBELO will re-evaluate the need for such a program every three years.

Section 26.37 Monitoring and Enforcement Mechanisms

Monitoring Payments to DBEs and Non-DBEs

The County will provide ongoing monitoring of prime contractor payments to subcontractors over the course of any covered contract. The County will require prime contractors to report documentation of payments to subcontractors monthly. The DBELO will review and verify that payments have been made and retainage has been returned to subcontractors in accordance to section 26.29.

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

The County uses several DBE forms, which can be found in [Attachment 3](#), to collect DBE information for initial project setup and for ongoing monitoring of DBE participation:

- DBE Project Compliance Review Checklist
- Listing of DBE Subcontractors
- DBE Monthly Report
- DBE Commercially Useful Function Report

The DBELO or the County's representative will conduct onsite compliance reviews of FAA-funded projects. The DBELO will review all DBE subcontracts and payments; and will evaluate any DBE firms working on the project during the date of the visit. The DBELO will conduct a commercially useful function (CUF) review at least once during the project for all DBEs. The DBELO will also review monthly progress reports submitted by prime contractors to determine if they are on track to meet the DBE goal. Written certification will be documented by the DBELO on the DBE Project Compliance Review Checklist form.

Prompt Payment Dispute Resolution

The County will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

A meeting will be scheduled with the prime contractor, subcontractor, DBELO and other appropriate County representative(s). Any meeting for the purpose of dispute resolution will include County representative(s) authorized to bind each interested party, including County representative(s) with County to take enforcement action.

The County has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

If the prime contractor has not paid subcontractors in accordance with 26.29, the County will not reimburse the prime contractor for work performed by subcontractors until the prime contractor is in compliance with 26.29.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

1. The affected subcontractor shall file a complaint with the prime contractor directly regarding payment.
2. If filing a complaint with the prime contractor does not result in timely and meaningful action by the prime contractor to resolve the prompt payment dispute, the affected subcontractor may contact the County's DBELO.
3. If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the County to resolve prompt payment disputes, the affected subcontractor may contact the FAA Office of Civil Rights.
4. Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

The County will provide appropriate means to enforce the requirements of §26.29. These means may include:

- Assessing liquidated damages, in accordance with the contract, against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor
- Advising subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract

- Paying subcontractors directly and deducting this amount from the retainage owed to the prime contractor
- Issuing a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays, for the purposes of calculating liquidated damages, if milestones are not met.

The County will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The County will review contracting records and will engage in active monitoring of work sites 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. Work site monitoring will be performed by the DBELO with assistance from the resident project representative. Contracting records will be reviewed by the DBELO. The County will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering Small Business Participation

The County has created an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The program element is included as Attachment 4. The County will actively implement the program elements to foster small business participation. Doing so is a requirement of good faith implementation of the DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The County does not use quotas in any way in the administration of this DBE program. However, the use of race neutral set-asides for small businesses is permissible as a strategy under 26.39 (b) (1).

Section 26.45 Overall Goals

The County will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding FAA funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f), the County will submit its overall three-year DBE Goal to FAA by August 1 as required by the established schedule below:

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Primary (GAs, Relievers and State DOTs)	Alaskan, Eastern, & Great Lakes	August 1, 2019 (2020/2021/2022)	August 1, 2022 (2023/2024/2025)

The overall DBE goal will be established in accordance with the two-step process as specified in 49 CFR Part 26.45. If the County does not anticipate awarding more than \$250,000 in USDOT-assisted prime contracts during any of the years within the three-year reporting period, the County will not develop an overall goal; however, this DBE program will remain in effect and the County will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

A description of the methodology to calculate the overall goal and the goal calculation(s) can be found in Attachment 5 to this program. This section of the program will be updated on at least a triennial basis.

In establishing the overall goal, the County will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the County's goal setting process, and it will occur before submitting the goal methodology to the FAA for review pursuant to paragraph (f) of this section. The County will document in the goal submission the consultation process that was utilized. Notwithstanding paragraph (f)(4) of this section, the County will not implement the proposed goal until this requirement is fulfilled.

In addition, the County will post a notice announcing the proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on the County's official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be posted on the official internet web site. The County will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at the DBELO's office, and that the County will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

The County's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and responses, if any comments are received.

The County will begin using the overall goal on October 1 of the reporting period, unless it has received other instructions from USDOT. If the County establishes a goal on a project basis, it will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

Section 26.45 (e) - Project Goals

If permitted or required by the FAA Administrator, the County will express its overall goals as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed

circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and it must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated. If the County establishes a goal on a project basis, the County will begin using its goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.45(f) - Prior Operating Administration Concurrent

The County understands that it is not required to obtain prior operating administration concurrence with the overall goal. However, if the operating administration's review suggests that the overall goal has not been correctly calculated or that the method for calculating goals is inadequate, the operating administration may, after consulting with the County, adjust the overall goal or require that the County do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

Section 26.47 Goal Setting and Accountability

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

The County understands that, to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The County understands that if the awards and commitments shown on the County's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, the Airport will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The County will retain a copy of the analysis and corrective actions in its records for a minimum of three years. The County will make the analysis report available to the FAA upon request.

Section 26.49 Transit Vehicle Manufacturers Goals

N/A

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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 6 to this program. This section of the program will be updated when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The County will use contract goals to meet any portion of the overall goal 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 overall goal that is not projected to be met through the use of race-neutral means.

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

The County will express its contract goals as a percentage of the total share of a USDOT-assisted contract.

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 Part 26.

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

The County 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))

In its solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, the County will require the following:

- (1) Award of the contract will be conditioned on meeting the requirements of this section.
- (2) All bidders or offerors will be required to submit the following information to the County, at the time provided in paragraph (b)(3) of this section:

- (i) The names and addresses of DBE firms that will participate in the contract.
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract.
 - (iii) The dollar amount of the participation of each DBE firm participating.
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of 49 CFR Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
- (3) The County will require that the bidder/offeror present the information required by paragraph (b)(2) of this section under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

This information will be collected using the forms found in Attachment 7.

Administrative reconsideration (26.53(d))

Within seven (7) days of being informed by the County that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following administrative reconsideration official (ARO):

David A. Weiskopf
St. Mary's County Attorney
41770 Baldrige Street
Leonardtwn, Maryland 20650
ctyatt@stmarysmd.com

The ARO will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

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

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

The County will include in each prime contract a provision stating:

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

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

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

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

The County requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the County's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

In those instances where "good cause" exists to terminate a DBE's contract, the County will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The County 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, the County will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The Airport will provide such written consent only if the Airport agrees, for reasons stated in a concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract.
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.

- (6) The County has determined that the listed DBE subcontractor is not a responsible contractor.
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal.
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required.
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
- (10) Other documented good cause that the County has determined 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.

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

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

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of St. Mary's County as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

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

The County will include in each prime contract the contract clause required by § 26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section that the County deems appropriate if the prime contractor fails to comply with the requirements of this section.

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

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of St. Mary's County to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offers, including those who qualify as a DBE. A DBE contract goal of ___ percent has been established for this contract. The bidder/offers shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

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

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

Section 26.55 Counting DBE Participation

The County will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. The participation of a DBE subcontractor will not be counted 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.

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, DBE firms certified with NAICS code 237310 that exceed the business size standard in § 26.65(b) will remain eligible for DBE credit for work

in that category as long as they do not exceed the small business size standard for that category, as adjusted by the United States Small Business Administration.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The County will refer all matters pertaining to certification to the Maryland Department of Transportation (MDOT) in accordance with the State’s UCP program. MDOT will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. MDOT will make all certification decisions based on the facts as a whole.

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

DRAFT

Maryland Department of Transportation
Office of Minority Business Enterprise
7201 Corporate Center Drive
P.O. Box 548
Hanover, Maryland 21076
Toll Free 1-888-713-1414

<http://www.mdot.maryland.gov/newMDOT/MBE/Index.html>

A link to certification application forms and documentation requirements are found in Attachment 8 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The County is a member of the Unified Certification Program (UCP) administered by the Maryland Department of Transportation (MDOT). The UCP will meet all of the requirements of this section. The MDOT UCP program uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT/FAA-assisted contracts. Under the MDOT UCP Program, only MDOT will conduct all DBE certifications. To be certified as a DBE, a firm must meet all certification eligibility standards. The County will refer all certifications to MDOT.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The County will safeguard, from disclosure to third-parties, information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, the County will not release any information that may reasonably be construed as confidential business information to any third-party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, the County will transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

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

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

Monitoring Payments to DBEs

The County will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the County or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

The County 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 states in the schedule of DBE participation.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Fostering Small Business Participation
Attachment 5	Overall Goal Calculation
Attachment 6	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 7	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 8	Certification Application Forms
Attachment 9	Regulations: 49 CFR Part 26
Attachment 10	Bidders List Data Form



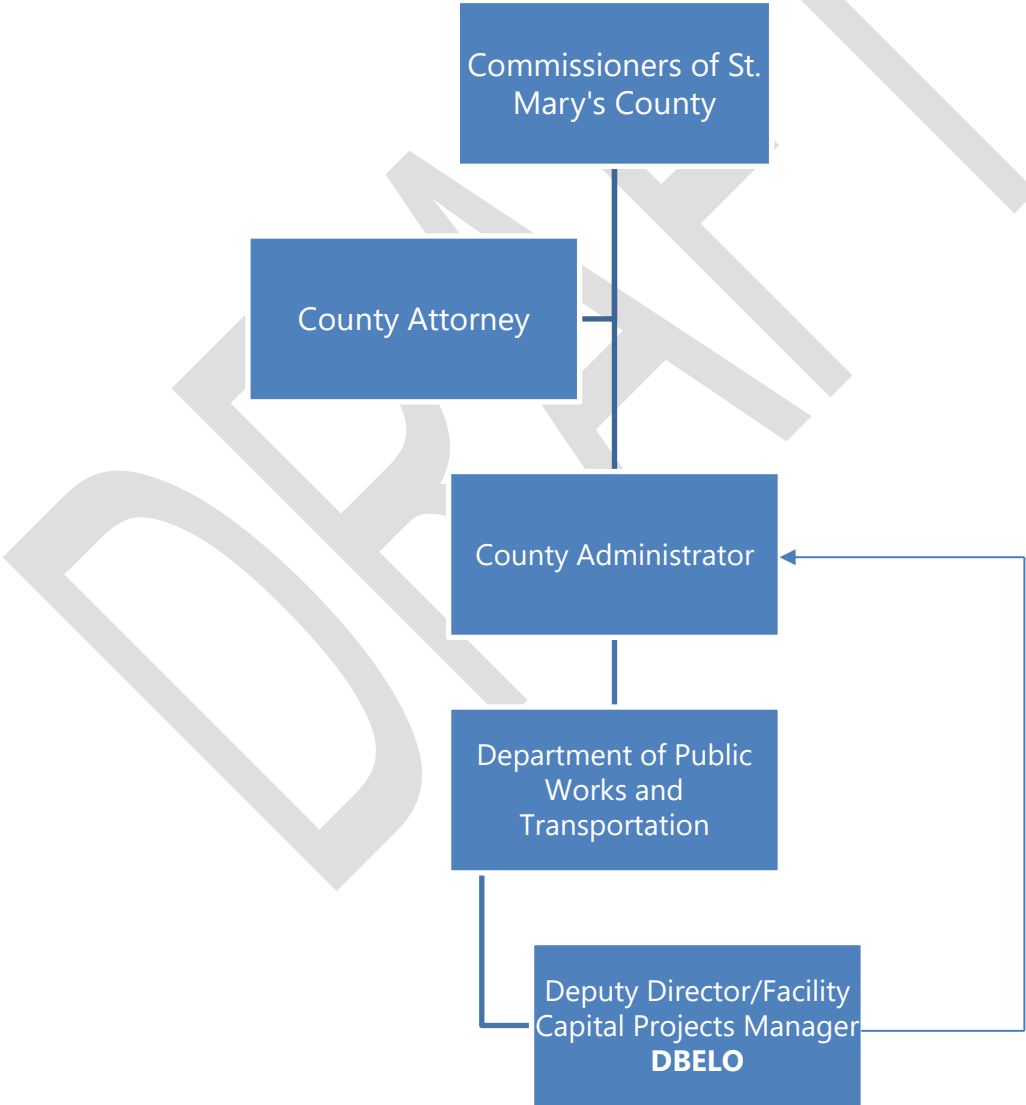
Attachment 1

Organizational Chart

St. Mary's County

St. Mary's County Regional Airport California, Maryland

Organizational Chart



Attachment 2

DBE Directory

The UCP DBE directory for the State of Maryland may be found at <https://mbe.mdot.maryland.gov/directory/>.

Attachment 3

Monitoring and Enforcement Mechanisms

St. Mary's County – St. Mary's County Regional Airport

1. All participants are hereby notified that pursuant to Title 49 Code of Federal Regulations, United States Department of Transportation, Part 26 and the Disadvantaged Business Enterprise Participation Program for the St. Mary's County, they must affirmatively ensure that, in any contract entered into with the County, DBEs will be afforded *equal* opportunity to participate in subcontracting activities. It is the policy of the County to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is further the policy of the County to ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
2. All contracts between the County, and a Contractor shall contain an appropriate provision to the effect that failure by the Contractor to comply with the County's DBE Program shall constitute a breach of contract, exposing the Contractor to a potential termination of the contract or other appropriate remedy, including withholding of funds, until such time as the contractor complies with all the DBE requirements of this program. Under authority granted by Maryland law, the County may impose liquidated damages, contract suspension, or even contract termination.
3. All documentation submitted at time of bid, as well as additional data provided by the successful bidder, is considered part of the contract documents. Any alterations, substitutions, deletions, etc., to data provided at time of submission of bid must have prior approval of the County's DBE Liaison Officer.
4. Should a DBE firm not certified by the Maryland Department of Transportation be proposed by a potential contractor as a part of his/her DBE plan efforts, the inclusion of said firm will not be considered a demonstration of making good faith efforts towards meeting the DBE goal.
5. In contracts with DBE contract goals, bids submitted which do not meet the DBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered non responsive bids, and bidders will be notified of the deficiency and given opportunity to appeal to the Administrative Reconsideration Official (49 CFR 26.53). The bidder will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Official will make the determination on the sufficiency of the good faith efforts.
6. The County reserves the right to reject any or all bids, or to re-advertise for bids. Award, if made, will be to the lowest responsive and qualified bidder. A bid will not be considered responsive unless the bidder complies with Title 49 Code of the Federal Regulations, Part 26, and the Disadvantaged Business Enterprise Program of the County.
7. The County shall require contractors to make good faith efforts to replace a DBE subcontractor that is terminated, or fails to complete its work on the contract for any reason, with another DBE subcontractor. If a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Contractor must notify the Airport immediately. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established contract goal. The County shall approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible DBEs.

Additional information on the County's Disadvantaged Business Enterprise Program can be obtained from the DBE Liaison Officer, **Gary Whipple, P.E., Deputy Director / Facility Capital Projects Manager, St. Mary's County Department of Public Works and Transportation, 44825 St. Andrews Church Road, California, MD 20619; Phone: (301) 475-4200 x 73565; Email: Gary.Whipple@stmarysmd.com.**

8. The County will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBE's. This mechanism will provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. These mechanisms will include, but not be limited to, the following:
 - a. Reviewing bid package documentation thoroughly, obtaining clarification, if necessary.
 - b. Reviewing monthly reports regarding employment as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.
 - c. Monitoring progress of payments to DBEs through monthly reports from prime contractors.
 - d. Monitoring progress of DBEs work through on-site visits and communication with DBEs. The County will implement a monitoring and enforcement mechanism that will include written certification that the County has reviewed contracting records and monitored work sites for this purpose. This monitoring will be conducted during routine project site visits on a monthly basis. The DBELO will sign off on the written certifications.
9. The County will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
10. The County also will consider similar action under its own legal authority, including responsibility determinations in future contracts. In addition, the County will apply legal and contract remedies under state and local law. This includes, for example, applying liquidated damages, withholding payments, etc.
11. In its reports of DBE participation to the USDOT, the County will show both commitments and attainments, as required by the USDOT reporting form.

Attachment 9 contains a copy of 49 CFR Part 26, which describes federal regulations, provisions, and contract remedies available to the County in the event of non-compliance by a participant.

DBE Commercially Useful Function Report

Project:	
AIP Number:	
Prime Contractor:	
DBE Firm:	
DBE Start/Complete	
CUF Review Date:	

GENERAL

	Yes	No	N/A
1. Does the DBE have its own employees on the job to perform the work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the DBE own the equipment being utilized to perform its work? If No, attach equipment list, ownership documents, and rental/lease agreements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the DBE self-performing the subcontract defined task for a specific item of work (distinct element) on the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

HAULING FIRMS

	Yes	No	N/A
1. Does the DBE hauling firm own and/or lease their trucks? (review ownership/vehicle registration and/or lease documents to verify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the DBE employ drivers for trucks owned by the company? (If leased trucks include operators, this should be indicated in the agreement/purchase order.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Do the haul tickets and/or bills of lading associated with the project confirm that hauling is being performed by the DBE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MATERIAL SUPPLIERS OR MANUFACTURERS/FABRICATORS

	Yes	No	N/A
1. Does the DBE's name appear on all applicable invoices, haul tickets, and/or bills of lading?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the DBE provide documentation showing that the funds used to pay a supplier in fact came from the DBE's own funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If the DBE had any materials drop shipped to the project site, was the invoice addressed to the DBE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Did the DBE deliver materials to the site with their own and/or leased trucks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SUPERVISION

	Yes	No	N/A
1. Is the DBE self-performing work without assistance from the prime or another subcontractor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the DBE providing supervision of its employees and their work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the supervisor a full-time employee of the DBE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Completed by:	
Date:	

**Listing of DBE Subcontractors
(to be submitted with bid)**

Project: _____

The Bidder hereby proposes the following DBE participation:

DBE Subcontractor/Supplier	Work to be performed	NAICS Code	Subcontract Amount	Amount Applicable to Goal (suppliers = * .60)
Total DBE Participation				
Base Bid Amount				
DBE Participation Proposed (%)				
DBE Participation Goal (%)				

Bidder (Firm Name)	Signature	Date
--------------------	-----------	------

DBE Monthly Report

Contractor:
Project:
AIP Number:
Date:

DBE Subcontractor/Supplier	Committed Award	Total Prior Payments	Current Payment	Total	Date Paid to Vendor / Sub this Invoice	Percent
Totals						

Contractor Name:	Signature:	Title:	Date:

DBE Project Compliance Review Checklist

Project:
AIP Number:
Prime Contractor:

Pre-Bid Checklist

- Review project to determine if a DBE contract goal is needed.
- Attend pre-bid meeting to inform bidders of DBE requirements.

Pre-Award Project Checklist

- Collect the Listing of DBE Subcontractors form.
- Collect letters of intent for all committed DBEs.
- If prime contractor is unable to meet the DBE goal, collect documentation of its good faith effort.

Post Award (Pre-Construction/Design) Project Checklist

- Collect fully executed (signed) subcontracts for all DBE firms.
- Review DBE subcontract(s) to ensure scope of work is consistent with what has been committed.
- Review contracts to verify that all required contract clauses are included.
- Ensure dollar value of DBE subcontract(s) is/are equal to or greater than the amount committed.

During Construction and/or Design Checklist

- Complete DBE Commercially Useful Function Report form, to verify that the DBEs are performing a commercially useful function.
- Verify that business names on equipment and vehicles are not covered with paint or magnetic signs (visual inspection of vehicles on site).
- Verify who employs the workers on site (visually inspect badges/IDs; establish reporting relationships of workers on site/review certified payrolls).
- Review supplier invoices and cancelled checks to verify what firm orders and pays for the necessary supplies being used by the DBE subcontractor.
- Ensure all DBE firms are paid promptly (within 10 days of payment to prime contractor per 49 CFR 26.29) by collecting and reviewing the DBE monthly report form.
- Document and file any correspondence related to terminations, substitutions, or deletions of DBE firms.
- If terminations, substitutions, or deletions were approved, collect documentation of prime contractor's good faith effort to find a replacement firm

Post Construction/Design Checklist

- Ensure DBE goal has been achieved by collecting and reviewing the final DBE report.
- If a shortfall exists, collect Good Faith Effort documentation from prime contractor explaining reasons shortfall took place.

Certification:

I, _____ hereby certify that the contracting records for the federally-funded project have been reviewed and the work site has been visited/monitored.

Signature: _____

Date: _____

Attachment 4

Small Business Participation Plan

Section 26.39 – Fostering Small Business Participation

A. Purpose and Objective of this Element

This element, 49 CFR Part 26.39, is included as an amendment to the airport's DBE program plan. This element is herein referenced as the Small Business Participation Plan (SBPP). This new part calls for the inclusion of an element to

"structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation."

St. Mary's County ("the County") hereby sets forth the St. Mary's County Regional Airport's ("the Airport") plan to implement these requirements. The Airport's SBPP is also regarded as a substantial effort toward fulfilling the overall intent of 49 CFR Part 26.51, which is to meet the maximum feasible portion of its overall goal by using race-neutral means to obtain DBE participation. Therefore, implementation of the Airport's SBPP will be based on the standard of business size, without regard to race or gender of the business owner.

This element also addresses the unnecessary and unjustified "bundling" of contract requirements which may preclude or inhibit small business participation in procurements, as either prime or subcontractors.

Further, the County perceives the objectives of this section to be consistent with its DBE program policy statement, which says in part:

*"- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts...
-To assist the development of firms that can compete successfully in the marketplace outside the DBE Program."*

The County's policy statement and this small business element (SBPP) are consistent with the airport's mission of creating and encouraging business opportunities at all levels.

B. SBPP Strategy

The County intends to carry out the objectives of this part by employing the following strategies and supporting activities:

1. Establishment of a Race-neutral "Subcontracting Goal"

The County proposes, where feasible, on certain prime contracts that do not have a DBE contract goal, that prime contractors will be required to provide subcontracting opportunities to qualified small business concerns (SBCs), as defined herein, without regards to race or gender of the business owner. Verified business size and subcontracting opportunities will be the basis of this subcontracting goal. The opportunities must be of a size that SBCs, including some which may also happen to be DBEs, can reasonably perform. The County, through its staff or its consultants, will assess the feasibility for race-neutral subcontracting goals on projects. The County staff or consultant(s) will assist the potential prime contractors by reviewing the project(s), in advance of the solicitation, and by

suggesting potential subcontracting opportunities in the solicitation documents. This will help to establish a reasonable race-neutral subcontracting goal.

2. Consideration of “Unbundling” of Large Contracts

The Airport, as a general aviation facility, has given consideration to “unbundling” as a small business strategy and believes that, at this time, such a strategy will not be suitable for the airport. Because of the limited number of contracts each year, the increased total number of bid solicitations with “unbundling” could significantly increase both administrative and project costs per bid. This will reduce the necessary “economy of scale” for general aviation airports.

C. Definitions for this Element

1. Small Business

For purposes of this program element, which is part of the airport’s approved DBE program, “small business” shall have the same definition as “small business concerns” contained in 49 CFR 26.5:

“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).”

For additional clarification, it is useful to include here some excerpts from the SBA regulations, 13 CFR, 121.105:

(a)(1) Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor....” and,

(b) A business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.

Small business concerns must meet the business size standards, as defined by the SBA. The business size standards are based upon the average annual revenues, and they vary according to the type of business. More information can be found at http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.

Further, it is acknowledged that the SBA rules make allowances for the dollar amounts to be adjusted from time to time.

2. Disadvantaged Business Enterprise

Disadvantaged Business Enterprise (DBE) means a for-profit small business concern (defined by SBA rules, above) that meets the standards of 49 CFR Part 26, i.e.

- At least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals.
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) does not exceed the described in 49 CFR Part 26. (The current PNW cap is \$1.32 million.)
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- Has been certified as a DBE by the Maryland Unified Certification Program in accordance with the full requirements of 49 CFR 26.

It is understood that in the implementation of this element, all of the “small business concerns” may not necessarily be DBE firms. However, small businesses that are also owned and controlled by individuals who meet the DBE standard will certainly be encouraged to seek DBE certification. Only DBE-certified firms who participate as small business concerns, pursuant to this element, will be counted towards DBE race-neutral participation on FAA-assisted contracts in this program.

D. Verification Standards and Procedures

For purposes of this small business element, the Airport will require the following verification and/or certification:

1. **Maryland Unified Certification Program DBE Certification** – DBE certification by the Maryland UCP that stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the Maryland UCP. It should be noted that the Airport is a non-certifying member of the Maryland UCP and relies on certification decisions of the Maryland Department of Transportation (MDOT). The MDOT certification staff applies the standards and procedures for DBE certification applicants contained in Subparts D and E of 49 CFR 26.61 – 26.91.
2. **Small business status** - A non-DBE certified potential small business concern may have to complete a simplified application and/or provide the following information at time of response to a solicitation or a bid submittal, as evidence of the small business status:
 - a. Evidence of SBA 8(a) or SBD Certification (as described in 13 CFR Parts 121 and 124).
 - b. A copy of the business tax returns for the most recent three-year period indicating the gross receipts.
 - c. A notarized statement from a Certified Public Accountant indicating the firm’s average gross receipts for the past three years.

3. **Use of Personal Net Worth:** The County, in addition to the standards for small business concerns described above, plans to utilize the current personal net worth standards of the DBE program (49 CFR Part 26.67), presently at \$1.32 million.

E. Supportive Services

The County is a non-certifying member of the Maryland UCP. The County does not conduct DBE certifications on behalf of the Airport, but relies on certifications of the UCP. While the County also does not provide direct supportive services or business development programs to DBEs or small businesses, the County is aware of several valuable resources in the surrounding area. The County will coordinate and make referrals to potential and qualifying small business concerns to these services. One resource is listed below:

Meridian Management Group, Inc.
826 E. Baltimore Street
Baltimore, Maryland 21202
Phone: (410) 333-2548
<https://mmgcapitalgroup.com/our-products/term-loan/>

The St. Mary's County Chamber of Commerce
22738 Maple Road
Lexington Park, MD 20653
Phone: (301) 737-3001
<https://smcchamber.com/>

St. Mary's County Department of Economic Development
Governmental Center Complex
Potomac Building, 23115 Leonard Hall Drive
Leonardtown, MD 20650
Phone: 301-475-4200
<http://marylandsbdc.org/>

F. Implementation Plan and Timetable

The County proposes to have its SBPP fully implemented within 120 days of the FAA final approval of the plan. The County will utilize the timeframe to properly set up the program in order to maximize the potential for ultimate success. These set-up activities will include:

1. Review, in coordination with the DBELO, all upcoming projects to determine which, if any, will be conducive for application of either of the two selected SBPP strategies described in Section B, above.
2. Review, in coordination with the County, its consultants, and with legal input, the necessary revisions and modifications to bid solicitation language, etc., prior to implementation of the plan.

3. Coordinate properly with the Maryland UCP to initiate discussions as to whether any changes/modifications are implicated in the UCP stakeholder agreement, due to verification of small business concerns.
4. Coordinate with other entities currently providing relevant supportive services and/or business development for referrals to their programs, as appropriate for the small business concerns that may contact the County to increase their competitive opportunities at the Airport.
5. The County, during the pre-implementation period, may also seek consultation with the representative small business community.

G. Assurances

To help ensure the successful implementation of the Small Business Participation Plan (SBPP), the County, by way of review, accepts the following assurances:

1. A detailed description of the small business program, its objectives, and how it is designed to operate.
 - a. The details of the proposed program are described in sections A through G, of this part.
2. Assurance that the program is authorized under state law.
 - a. The County's SBPP will adhere to all applicable local and state laws and regulations.
3. Assurance that certified DBEs that meet the size criteria established under the program are **presumptively** eligible to participate in the program;
 - a. As stated in D. 4, of this section, certified DBE firms that meet the size criteria established under the program are presumptively eligible to participate in the small business program.
4. Assurance that there **are no geographic preferences** or limitations imposed on any federally assisted procurement included in the program.
 - a. The County will assure that there will be no geographic preferences or limitations imposed on any federally assisted procurement included in the County's DBE program.
5. Assurance that there **are no limits** on the number of contracts awarded to firms participating in the program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses.
 - a. The County will assure that it will not limit the number of contracts awarded to firms that are participating in the small business program. The County further assures that

it will make a concerted effort to avoid creating barriers to the use of new, emerging, or untried businesses.

6. Assurance that aggressive steps will be taken to encourage those minority- and women-owned firms that are eligible for DBE certification to become certified.
 - a. The County recognizes that, while some firms encountering the County's SBPP program may be small-business eligible, they may not be certified as DBE firms. If, in the verification process, such firms appear to be DBE-eligible as well, they will be referred to the state UCP and encouraged to become DBE-certified. The County will also make them aware of additional potential business opportunities if they become certified as DBEs.
7. Assurance that the program is open to small businesses regardless of their location (i.e., that there is no local or other geographic preference).
 - a. The assurance stated in item 4, above, is also applicable to specifically to the airport's SBPP program as well.

H. Principal Responsible Person

The principal responsible person for overseeing and implementing the County's SBPP will be the currently designated Disadvantaged Business Enterprise Liaison Officer (DBELO). The DBELO at the Airport is **Gary Whipple, Deputy Director/Facility Capital Projects Manager**.

Attachment 5

Overall Goal Calculation

Disadvantaged Business Enterprise (DBE) Goal Methodology – Federal Fiscal Years FFY 2020-2022

November 2020

Airport Sponsor: **St. Mary's County**

Airport: **St. Mary's County Regional Airport**

DBELO: Gary Whipple, P.E., Deputy Director / Facility Capital Projects Manager

St. Mary's County Department of Public Works and Transportation

44825 St. Andrews Church Road

California, MD 20619

(301) 475-4200 x 73565 (w)

Gary.Whipple@stmarysmd.com

I. Detailed Methodology: Specific Steps

A. Amount of Goal

St. Mary's County's ("the County") overall DBE goal for FFY 2020-2022 for the federal financial assistance it will expend in USDOT-assisted contracts is the following:

Overall Goal:	16.75%	FFY 2020 DBE Goal	16.90%
Race-Neutral:	0.00%	FFY 2021 DBE Goal	16.47%
Race-Conscious:	16.75%	FFY 2022 DBE Goal	N/A

Given the amount of USDOT-assisted contracts that the County expects to let during this fiscal three-year period, which is approximately **\$11,330,000**, this means that the County has set a goal of expending approximately **\$1,897,406** with DBE firms during FFY 2020-2022.

B. Determination of the Market Area of the study

The normal market area is derived by determining where the substantial majority of contracting dollars for AIP-funded projects were spent, and from where the majority of bidders over a given period of time have come. The market area is shown below in Table 1.

Table 1: Counties in the Local Market Area for St. Mary's County Regional Airport

County	Number of bidders	Percentage of bidders	Dollars Expended	Percentage of Dollars Expended
Calvert	4	23.5%	\$9,588,562	82.0%
Charles	2	11.8%	\$0	0.0%
Prince George's	4	23.5%	\$2,101,125	18.0%
St. Mary's	2	11.8%	\$0	0.0%
SUBTOTAL	12	70.6%	\$11,689,687	100.0%
Others	5	29.4%	\$0	0.0%
TOTAL	17	100.0%	11689687	100.0%

Source: Delta Airport Consultants

C. Determination of relevant NAICS codes

Based on information provided by the consulting engineer concerning the proposed projects for this three-year period, a list of NAICS codes corresponding to these projects was developed and is shown below:

Table 2: St. Mary’s County Regional Airport — FFY 2020-2022 Projects & Activities

FFY 2020 Projects		
PROJECT	ACTIVITY	NAICS CODE
Extend Runway 11-29 and Taxiway ‘A’ Phase 3 – Paving/Lighting (Construction)	Drainage	237110
	Heavy construction	237310
	Electrical; airfield lighting	238210
	Excavation; demolition	238910
	Erosion control; seeding & mulching	238220
Overlay Existing Runway	Heavy construction	237310
	Electrical; airfield lighting	238210
	Excavation; demolition	238910
	Erosion control; seeding & mulching	238220
FFY 2021 Projects		
PROJECT	ACTIVITY	NAICS CODE
Expand Aircraft Apron	Heavy construction	237310
	Electrical; airfield lighting	238210
	Excavation; demolition	238910
	Erosion control; seeding & mulching	238220
FFY 2022 Projects		
PROJECT	ACTIVITY	NAICS CODE
No proposed projects exceeding \$250,000 in AIP grant funds		

Source: Delta Airport Consultants

D. Determination of Relative Availability of DBEs in Market Area, Compared to all Firms

Table 3a: DBEs—St. Mary’s County Regional Airport, by Relevant NAICS Codes—FFY 2020

EXTEND RUNWAY 11-29 AND TAXIWAY ‘A’ PHASE 3 – PAVING/LIGHTING (CONSTRUCTION)						
Activity	NAICS CODES	DBE Firms	All Firms	Percentage of DBE Firms Available	Grant Amount	DBE Amount
Drainage	237110	17	35	18.06%	\$3,870,000	\$698,922
Heavy construction	237310	17	32			
Airfield lighting	238210	20	275			
Excavation; demolition	238910	54	87			
Erosion control	561730	17	263			
TOTAL =		125	692			
STEP 1 DBE BASE FIGURE =						18.06%

Table 3b: DBEs— St. Mary’s County Regional Airport, by Relevant NAICS Codes—FFY 2020

OVERLAY EXISTING RUNWAY

Activity	NAICS CODES	DBE Firms	All Firms	Percentage of DBE Firms Available	Grant Amount	DBE Amount
Heavy construction	237310	17	32	16.44%	\$3,500,000	\$575,400
Airfield lighting	238210	20	275			
Excavation; demolition	238910	54	87			
Erosion control	561730	17	263			
TOTAL =		108	657			
STEP 1 DBE BASE FIGURE =						16.44%

Table 3c: DBEs— St. Mary’s County Regional Airport, by Relevant NAICS Codes—FFY 2021

EXPAND AIRCRAFT APRON

Activity	NAICS CODES	DBE Firms	All Firms	Percentage of DBE Firms Available	Grant Amount	DBE Amount
Heavy construction	237310	17	32	16.44%	\$3,960,000	\$651,024
Airfield lighting	238210	20	275			
Excavation; demolition	238910	54	87			
Erosion control	561730	17	263			
TOTAL =		108	657			
STEP 1 DBE BASE FIGURE =						16.44%

SOURCES:

1. 2018 County Business Patterns, US Census Bureau, June 25, 2020.
2. Maryland Department of Transportation DBE Directory, September 2020.

NOTE: The County Business Patterns data were used as the source to determine the denominator, or the number of all firms in the market area. The DBE directories listed above were used to determine the numerator, or the number of DBE firms in the market area. No other MBE/WBE data were available in the market area for the airport.

E. Determination of the DBE Base Figure

The Step 1 DBE Base Figure for each project was derived by multiplying the dollars for each activity by the percentage of relevant DBE firms to all relevant firms. The total DBE goal in dollars was divided by the total grant amount to derive the step 1 goals.

FFY 2020

- Extend Runway 11-29 and Taxiway ‘A’ Phase 3 – Paving/Lighting (Construction) – **18.06%**
- Overlay Existing Runway – **16.44%**

FFY 2021

- Expand Aircraft Apron – **16.44%**

II. Adjustments to the DBE Base Figure

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

A. Adjustment Factors to Consider

The regulations further state that there are several types of evidence that must be considered when adjusting the base figure. These include:

“(i) The current capacity of DBEs to perform work in your USDOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.

“(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...”

The overall DBE goal accomplishments at the Airport were examined relative to the above consideration. Notice the median DBE percent accomplishment as indicated below:

Table 4: DBE Accomplishment Data – St. Mary’s County Regional Airport

FEDERAL FISCAL YEAR	DBE GOAL	ACCOMPLISHMENT	OVER/UNDER
FFY 2015	17.40%	1.90%	-15.50%
FFY 2016	17.40%	16.50%	-0.90%
FFY 2017	31.20%	8.55%	-22.65%
FFY 2018	31.20%	33.71%	2.51%
FFY 2019	31.20%	53.27%	22.07%
	MEDIAN =	16.50%	-0.90%

49 CFR Part 26.45(d)(2) also states that the following must be considered for the purposes of considering an adjustment to the base figure:

“(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

“(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.”

The Maryland Department of Transportation conducted a disparity study for its Minority and Women Owned Business Enterprise (MWBE) program in 2016. The study determined that there is evidence of significant disparities between minority and female participation in business enterprise activity in the State of Maryland’s relevant market area and the actual current availability of those businesses. The study, however, provided no quantifiable data specific to the Airport to use to adjust the DBE base figure and therefore, is not listed in the analysis.

The [Maryland Small Business Development Financing Authority](#) (MSBDFa) exists to assist socially and/or economically disadvantaged businesses in Maryland with their growth and development. The MSBDFa has several programs available for DBEs, including a Contract Financing Program that assists businesses with direct loans or as a guarantor for loans from financial institutions. The MSBDFa also offers a Surety Bond Program for DBEs who need bonding assistance. The [Maryland Small Business Development Center – Southern Region](#) at the College of Southern Maryland serves three counties (Calvert, Charles, and St. Mary’s), and offers one-on-one business consulting, assistance in 8(a) certification and MBE certification in Maryland, as well as low or no-cost classes and workshops on a number of business-relevant topics.

B. Adjustment to Step 1 DBE Base Figure: St. Mary’s County Regional Airport, FFY 2020-2022

With the adjustment factors considered to this point, the County will make adjustments to the Step 1 base figures, per the data from Table 4, above. The calculation for the overall DBE goal is shown below.

Table 5: Overall DBE goal calculation – St. Mary’s County Regional Airport

Fiscal Year	Project	Step 1	Step 2 adjustment	Overall Goal	Federal portion project costs	DBE Goal (dollars)
FFY 2020	Extend Runway 11-29 & Relocate Taxiway "A" - Phase 3	18.06%	16.50%	17.28%	\$3,870,000	\$668,805
	Overlay Existing Runway	16.44%	16.50%	16.47%	\$3,500,000	\$576,421
	FFY 2020 Total			16.90%	\$7,370,000	\$1,245,227
FFY 2021	Expand Aircraft Apron	16.44%	16.50%	16.47%	\$3,960,000	\$652,179
	FFY 2021 Total			16.47%	\$3,960,000	\$652,179
FY 2022				N/A		
	FY 2022 Total					
FY 2020 - FY 2022 Overall DBE Goal			16.75%		\$11,330,000	\$1,897,406

Resources: St. Mary's County Regional Airport - Disadvantaged Business Enterprise Program Methodology (FFY 2020-2022)

A. Resource Documents:

1. 2018 County Business Patterns, US Census Bureau, June 25, 2020.
2. Maryland Department of Transportation DBE Directory, September 2020.

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APPENDIX A:

PUBLIC COMMENTS

There were no public comments received for the DBE program plan. The notice to the public was posted to <https://www.stmarysmd.com/dpw/airport-operations/>.

A public consultation meeting was held via a web conference on November 19, 2020 at 11:00 a.m. Invitations were sent to prime contractors, subcontractors, and DBE firms and minority/women-owned business firms. There were ___ invitations sent, and there were ___.

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APPENDIX B:

NOTICE TO THE PUBLIC

Attachment 6

Breakout of Race-Neutral and Race-Conscious Participation

I. Breakout of Estimated Race-Conscious/Race-Neutral Participation

St. Mary's County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The County will use a combination of the following race-neutral means to increase DBE participation:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- Disseminating information communications on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors).

The County estimates that, in meeting its goal of **16.75%** for FFY 2020-2022, that it will obtain its goal via race-conscious measures. The median amount by which the Airport exceeded its DBE goal is -0.90% (see [Attachment 5, Table 4](#)).

The County will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (26.51(f)) and it 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 a DBE obtains 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.

II. Process

The County will normally submit its overall goal to the FAA on August 1 of the required year of submission for non-hub primary airports.

In establishing the overall goal, the County provided for consultation and publication. The consultation included minority-, women's and general contractor groups, and small business organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange via a web conference with as many interested stakeholders as possible focused on obtaining information relevant to the County's goal setting process. The consultation web conference was held on November 19, 2020, prior to the submission of the DBE goal methodology to the FAA for review pursuant to paragraph (f) of this section. The County documented in the goal submission the consultation process that was utilized (see [Appendix A of Attachment 5](#)).

Following this consultation, the County published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for inspection during normal business

hours at the office of the Deputy Director/Facility Capital Projects Manager for 21 days from the date of the notice. The notice was posted on the airport's website (<https://www.stmarysmd.com/dpw/airport-operations/>).

The County will begin using the overall goal on October 1 of the required year of submission for general aviation airports in the FAA's Eastern Region, unless the County has received other instructions from USDOT/FAA (or, if the goal is established on a project basis) by the time of the first solicitation for a USDOT/FAA-assisted contract for the projects.

III. Contract Goals

The County will use contract goals to meet any portion of the overall goal that the County 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 its overall goal that is not projected to be met through the use of race-neutral means.

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

The County will express its contract goals on the total amount of a USDOT-assisted contract.

Attachment 7

Form 1 & 2 for Demonstration of Good
Faith Efforts

ST. MARY'S COUNTY

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

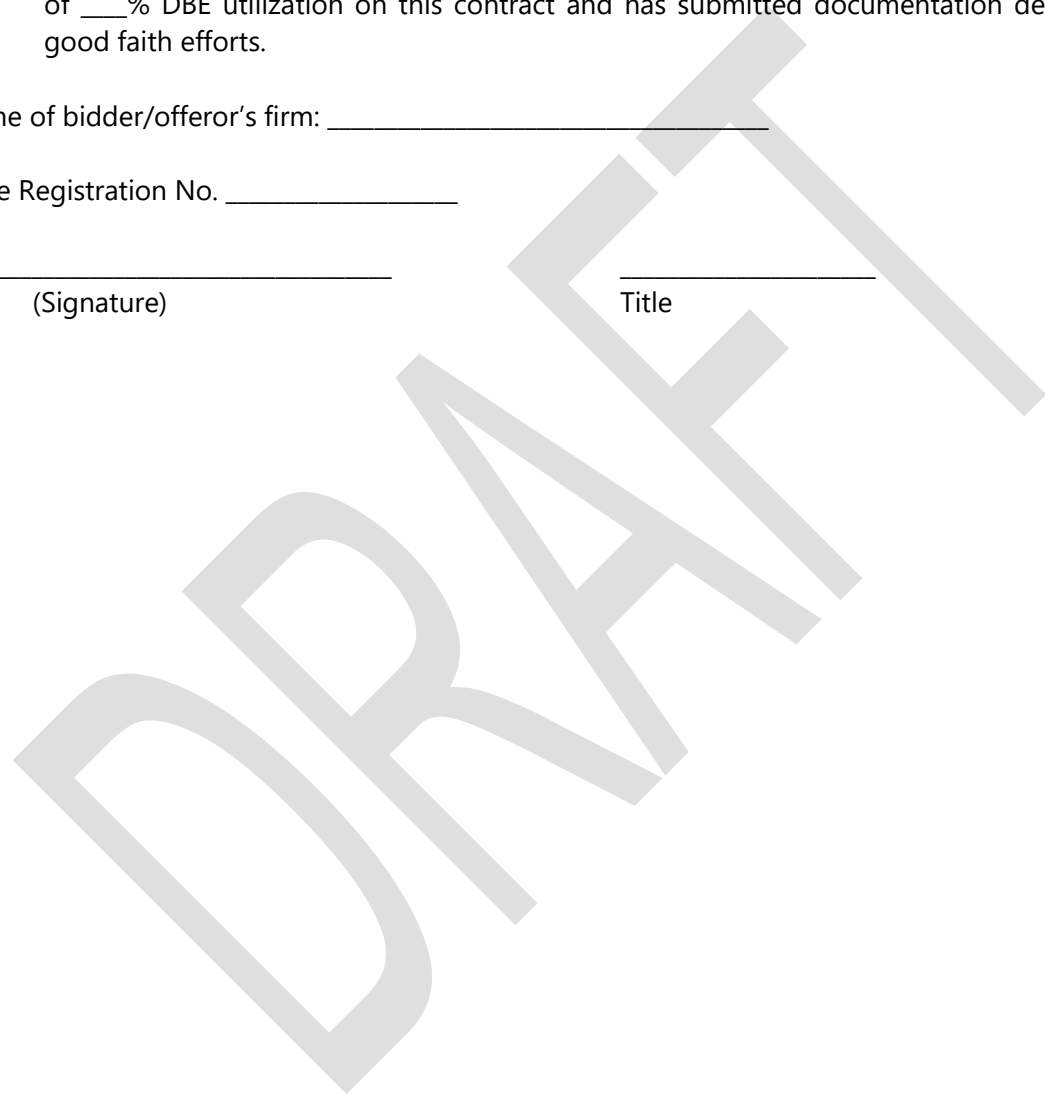
___ The bidder/offeror (if unable to meet the DBE goal of ___%) is committed to a minimum of ___% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature)

Title



ST. MARY'S COUNTY

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
Signature Title

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

(Submit this page for each DBE subcontractor.)

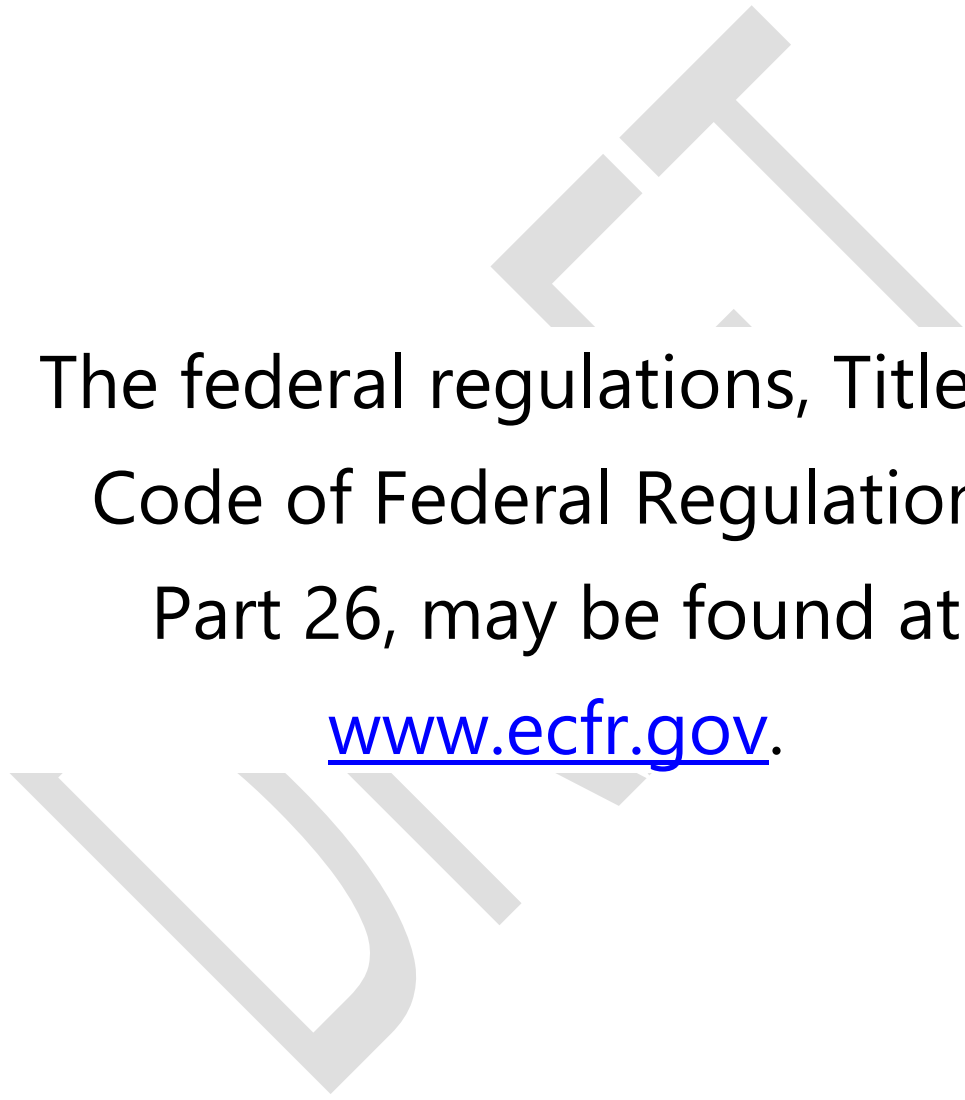
Attachment 8

Certification Application Form

The UCP certification application for the State of Maryland may be found at <http://www.mdot.maryland.gov/newMDOT/MBE/CertificationForms/CertificationsForms.html>.

Attachment 9

Regulations: 49 CFR Part 26



The federal regulations, Title 49
Code of Federal Regulations
Part 26, may be found at

www.ecfr.gov.



Attachment 10

Bidders List Data Form

BIDDERS LIST DATA FORM

Firm Name	Firm Address and Phone No.	DBE or Non-DBE Status <i>(verify via MDOT DBE Directory)</i>	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M