



**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PLAN**  
**for**  
**FEDERAL AVIATION ADMINISTRATION (FAA)**  
**AIRPORT IMPROVEMENT PROGRAM (AIP)**  
**PROJECTS**  
**at**  
**HANCOCK COUNTY BAR HARBOR AIRPORT**  
**TRENTON, MAINE**

*Updated August 2017*

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

It is the policy of the **Hancock County Commission / Hancock County Bar Harbor Airport** to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is our policy to:

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

The **Airport Manager, Brad Madeira**, has been designated as the DBE Liaison Officer. In that capacity, **Mr. Madeira** 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 **Hancock County Commission / Hancock County Bar Harbor Airport** in its financial assistance agreements with the Department of Transportation.

The **Hancock County Commission / Hancock County Bar Harbor Airport** has disseminated this policy statement to the **Board of County Commissioners, County of Hancock, Maine** and all the components of its organization. We have distributed this statement to DBE and non-DBE business communities that perform work for them on DOT-assisted contracts **as part of bid packages and contract documents.**

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*Brad Madeira, Airport Manager*

05/21/2018  

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*Date*

## SUBPART A – GENERAL REQUIREMENTS

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

The **Hancock County Commission / Hancock County Bar Harbor Airport** is the recipient of Federal airport funds authorized by 49 U.S.C. 47101.

### **Section 26.5 Definitions**

The **Hancock County Commission / Hancock County Bar Harbor Airport** will use terms in this program that have the meaning defined in 49 CFR Part 26.5.

### **Section 26.7 Non-discrimination Requirements**

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

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

### **Section 26.11 Record Keeping Requirements**

Reporting to DOT: 26.11(b)

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

Bidders List: 26.11(c)

The **Hancock County Commission / Hancock County Bar Harbor Airport** will create and maintain bidders list for each project. The purpose of the lists will be to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders lists will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts.

We will collect this information through a contract clause requiring this information.

### **Section 26.13 Federal Financial Assistance Agreement**

The **Hancock County Commission / Hancock County Bar Harbor Airport** has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

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

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

Contract Assurance: 26.13b

The **Hancock County Commission / Hancock County Bar Harbor Airport** will ensure that the following clause is placed in every DOT-assisted contracts and subcontracts:

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

## SUBPART B - ADMINISTRATIVE REQUIREMENTS

### **Section 26.21 DBE Program Updates**

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

### **Section 26.23 Policy Statement**

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

### **Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

Name: Brad Madeira [bmadeira@bhairport.com](mailto:bmadeira@bhairport.com)  
Title: Airport Manager  
Address: Hancock County Bar Harbor Airport  
115 Caruso Drive  
Trenton, ME 04605

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

The responsibility for overseeing the DBE Plan is fulfilled by the DBELO on a part-time basis. To assist in monitoring the Plan, the DBELO has a part time general staff assistant.

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

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the **Hancock County Commission** on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Acts as liaison to the Uniform Certification Program (UCP) in the State of Maine.

### **Section 26.27 DBE Financial Institutions**

It is the policy of the **Hancock County Commission / Hancock County Bar Harbor Airport** 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 the institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

### **Section 26.29 Prompt Payment Mechanisms**

The **Hancock County Commission / Hancock County Bar Harbor Airport** will include the following clause in each DOT-assisted prime contract:

*The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the Hancock County Commission / Hancock County Bar Harbor Airport. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Hancock County Commission /*

*Hancock County Bar Harbor Airport. This clause applies to both DBE and non-DBE subcontractors.*

The **Hancock County Commission / Hancock County Bar Harbor Airport** shall monitor and enforce compliance with the prompt payment requirements by requiring an affidavit of payment from the prime contractor with all payment requests that states that all subcontractors and suppliers have been paid from previous payments. The prime contractor shall submit a release and waiver liens with their final payment request. At final payment, the subcontractors and/or suppliers shall certify that they have received payment in-full from the prime contractor by submittal of a release and waiver of liens to the **Hancock County Commission / Hancock County Bar Harbor Airport**.

### **Section 26.31 Directory**

The **Hancock County Commission / Hancock County Bar Harbor Airport** uses the State of Maine DBE Directory, maintained by the state. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory is revised every Friday at 4 pm. The Directory shall be available from the MEDOT at the following address:

Maine Department of Transportation  
Civil Rights Office  
#16 State House Station  
Augusta, ME 04333-0016  
Tel. 207-624-3042 (Director) or at the following web site:  
<http://www.maine.gov/mdot/civilrights/dbe.htm>  
<http://www.maine.gov/mdot/civilrights/docs/dbe/WeeklyDBEVendorList.pdf>

### **Section 26.33 Over-concentration**

The **Hancock County Commission / Hancock County Bar Harbor Airport** has not identified over-concentration of DBEs pursuant to 49CFR Section 26.33 in any type of work that would unduly burden the opportunity of non-DBE firms to participate in that type of work.

### **Section 26.35 Business Development Programs**

The **Hancock County Commission / Hancock County Bar Harbor Airport** has not established a business development or mentor-protégé program.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

The **Hancock County Commission / Hancock County Bar Harbor Airport** will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. **Hancock County Commission / Hancock County Bar Harbor Airport** will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.107.
2. The **Hancock County Commission / Hancock County Bar Harbor Airport** has available several remedies to enforce the DBE requirements contained in its contracts, including but not limited to, the following:

- a. Breach of contract action, pursuant to the terms of the contract;
- b. Breach of contract action, pursuant to Section 26.109;
- c. The State of Maine’s Constitution, Article 1, Section 6A, of the Maine State Constitution prohibits discrimination against anyone because of race, color, creed, or religion by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision thereof.

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

- a. Suspension or debarment proceedings pursuant to 49 CFR Part 26.
- b. Enforcement action pursuant to 49 CFR Part 31.
- c. Prosecution pursuant to 18 US 1001.

3. The **Hancock County Commission / Hancock County Bar Harbor Airport** will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments.

4. The **Hancock County Commission / Hancock County Bar Harbor Airport** will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments.

**Section 26.39 Fostering Small Business Participation**

The **Hancock County Commission / Hancock County Bar Harbor Airport** has created a Small Business 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 **Hancock County Commission / Hancock County Bar Harbor Airport’s** small business program element is incorporated as Attachment 10 to this DBE Program. We will actively implement the program elements to foster small business participation, doing so is a requirement of good faith implementation of our DBE program.

**SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

**Section 26.43 Set-asides or Quotas**

The **Hancock County Commission / Hancock County Bar Harbor Airport** does not use quotas in any way in the administration of this DBE program.

**Section 26.45 Overall Goals**

The **Hancock County Commission / Hancock County Bar Harbor Airport** will establish the overall goal every three years. The overall goal is established in accordance with the 2-Step process as specified in 49 CFR Part 26.45. We will begin using our overall goal on October 1 of the 3-year goal period, unless we have received other instructions from the DOT. A description of the methodology, the goal calculations and break out of race-neutral and race-conscious participation can be found in Attachment 4 and 5, respectively.



## Process

The **Hancock County Commission / Hancock County Bar Harbor Airport** submits its overall goal to DOT on or about August 1 prior to the 3-year goal period (i.e. Aug 1, 2017 for FY 2018 – 2020, Aug 1, 2020 for FY 2021-2023, and so on.)

Before establishing the overall goal each year, the AIRPORT will consult with the Maine DOT's Civil Rights Office, minority, woman's and general contractor groups, community organizations and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the AIRPORT's efforts to establish a level playing field for the participation of DBEs. The following groups and organizations will be notified in writing of the goal determination process:

Maine Department of Transportation  
Civil Rights Office  
Attn: Theresa Savoy  
#16 State House Station  
Augusta, ME 04333-0016  
Tel. 207-624-3402

Associated General Contractors of Maine Inc.  
Attn: Sandra Metrano  
188 Whitten Rd.  
Augusta, ME 04330  
Tel. 207-622-4741  
<http://www.agcmaine.org>

National Association of Women in Construction (NAWIC) – Chapter 329  
c/o Cianbro Corporation  
Attn: Billie Clark  
P.O. Box 1000  
Pittsfield, ME 04967  
Tel: 207-679-2185

National Association of Women in Construction (NAWIC) – Chapter 276  
Attn: Bethany Martin  
60 Western Avenue, Suite 3, Box 354  
Augusta, ME 04330  
Tel: 866-496-3998

Maine Better Transportation Association  
Attn: Maria Fuentes – Executive Director  
146 State Street  
Augusta, ME 04330  
Tel: 207-622-0526

Following this consultation, the **Hancock County Commission / Hancock County Bar Harbor Airport** will publish a notice of the proposed overall goal on the Airport's web site informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the AIRPORT office for 30 days following the date of the notice, and informing the public that the AIRPORT or FAA will accept comments on the goals for 45 days from the date of the notice. During

the consultation period, the AIRPORT will conduct a public teleconference to review the DBE goal. Normally, the **Hancock County Commission / Hancock County Bar Harbor Airport** will issue this notice on or about June 1 of each year. The notice must include addresses to which comments may be sent and addresses where the proposal may be reviewed. A sample notice is included in Attachment 4.

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

### **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 5 to this program. This section of the program will be updated every three years when the goal calculation is updated.

### **Section 26.51(d-g) Contract Goals**

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

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

We will express our contract goals as a percentage of total amount of the DOT 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 49 CFR Part 26.

The **Hancock County Commission / Hancock County Bar Harbor Airport** 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 responsible.

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

#### Information to be submitted (26.53(b))

The **Hancock County Commission / Hancock County Bar Harbor Airport** treats bidder/offerors' compliance with good faith efforts requirements as a matter of **responsiveness**. – All bidders submit DBE information at the time of bid.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information within 7 calendar days of being notified that they are the successful bidders, but before the contract is executed:

1. The names and addresses of DBE firms that will participate in the contract
2. A description of the work that each DBE will perform
3. The dollar amount of the participation of each DBE firm participation
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

#### Administrative reconsideration (26.53(d))

Within **7 business days** of being informed by the **Hancock County Commission / Hancock County Bar Harbor Airport** that it is not a responsible bidder/offeror because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the **Hancock County Commission / Hancock County Bar Harbor Airport**, as designated on the "Invitation for Bids".

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

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

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

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

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. Administrative remedies for noncompliance executed in accordance with 49CFR Part 26.53.

If the contractor fails or refuses to comply in the time specified, the **Hancock County Commission / Hancock County Bar Harbor Airport** will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the **Hancock County Commission / Hancock County Bar Harbor Airport** may terminate the contract.

Sample Bid Specification:

*“The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the [Name of Recipient] 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 [as determined in the goal calculation attachment \_\_] percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.*

*The bidder/offeror 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/offeror’s commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.”*

**Section 26.55 Counting DBE Participation**

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

**SUBPART D – CERTIFICATION STANDARDS**

**Section 26.61 – 26.73 Certification Process**

The **Hancock County Commission / Hancock County Bar Harbor Airport** will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

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

Maine Department of Transportation  
Civil Rights Office  
#16 State House Station  
Augusta, ME 04333-0016  
Tel. 207-624-3042 (Director) or at the following web site:  
<http://www.maine.gov/mdot/civilrights/dbe>

## SUBPART E – CERTIFICATION PROCEDURES

### **Section 26.81 Unified Certification Programs**

The **Hancock County Commission / Hancock County Bar Harbor Airport** is a non-certifying partner of the Maine Department of Transportation (MaineDOT) Unified Certification Program (UCP).

### **Section 26.83 Procedures for Certification Decisions**

#### Re-certifications 26.83(a) & (c)

The **Hancock County Commission / Hancock County Bar Harbor Airport** will consult with the State UCP on the review of the eligibility of DBEs that were certified under Part 23 (Airport Concessions), to make sure that they meet the standards of Subpart E of Part 26 (Airport Improvements Program). The **Hancock County Commission / Hancock County Bar Harbor Airport** will complete this consultation no later than three (3) years from the most recent certification date of each firm.

For firms that have been certified or reviewed and found eligible under Part 26, shall be reviewed as to their status of eligibility every three (3) years.

#### “No Change” Affidavits and Notices of Change

The UCP administrator shall require all DBEs to inform the State UCP, in a written affidavit, any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the application for certification.

The UCP administrator also requires all owners of DBEs that have been certified to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of Section 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with [name of DBE]’s application for certification, except for any changes about which you have provided written notice to the State of Maine UCP under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm’s previous three fiscal years do not exceed \$16.6 million.

The UCP administrator shall require DBEs to submit with this affidavit documentation of the firm’s size and gross receipts.

The UCP administrator will notify all DBE firms currently certified by the State UCP of these obligations by certified mail. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement, (e.g., personal net worth), the obligation to submit a notice of change applies.

## Personal Net Worth

The UCP administrator will require all disadvantaged owners of applicants and of DBEs currently certified by the UCP whose eligibility under Part 26 requires review, to submit a statement of personal net worth at the time of the review.

### **Section 26.85 Denials of Initial Requests for Certification**

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

### **Section 26.87 Removal of a DBE's Eligibility**

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

### **Section 26.89 Certification Appeals**

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

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

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

## SUBPART F – COMPLIANCE AND ENFORCEMENT

### **Section 26.109 Information, Confidentiality, Cooperation**

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

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

### Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of **Hancock County Commission / Hancock County Bar Harbor Airport** or U.S. DOT. This reporting requirement also extends to any certified DBE subcontractors.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

### **End of Plan after Attachments**

**Attachment 1**

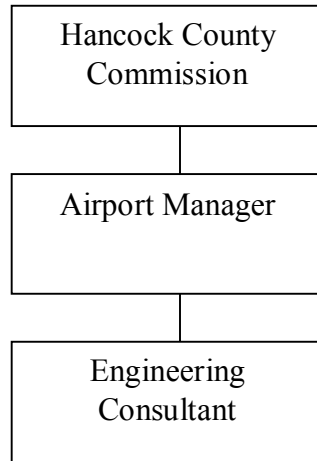
**Regulations: 49 CFR Part 26**

**Available by internet connection at the following:**

**[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)**



**Attachment 2**  
**Organizational Chart**



**Attachment 3**

**State of Maine DBE Directory**

<http://maine.gov/mdot/civilrights/dbe/>

## Attachment 4

### Section 26.45: Overall Goal Calculation

#### Amount of Goal

1. The **Hancock County Commission / Hancock County Bar Harbor Airport's** overall goal for Federal Fiscal Year (FFY) 2018-2020 is the following: 2.12% of the Federal Financial assistance expended in FAA-assisted contracts.

2. The federal dollar amount of FAA-assisted contracts that the Airport expects to award during FFY 2018-2020 is approximately \$2.6M. The awards are anticipated to be in airport related engineering services, real estate appraisers, heavy civil construction projects, airfield electrical, topographic surveying, and construction materials testing. This means that the Airport has set a goal of expending approximately \$55,120 ( $\$2.6M \times 2.12\%$ ) of federal dollars with DBE firms during this period.

#### Methodology used to Calculate Overall DBE Goal

The **Hancock County Commission / Hancock County Bar Harbor Airport** has established the overall DBE goal in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step determined the relative availability of DBEs in the market area, the "base figure". The second step adjusted the "base figure" percentage from Step 1 so that it reflects, as accurately as possible, the DBE participation expected in the absence of discrimination based on past participation and local data.

#### **Step 1: 26.45(c) DBE Base Figure Calculation**

Based on a review of the FFY 2018-2020 projects, it is anticipated that the program will attract firms that perform work under the North American Industry Classification System (NAICS) codes as indicated in the following table.

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

<b>Year</b>	<b>CIP Project<sup>1</sup></b>	<b>Industry Code Descriptions – NAICS Codes<sup>2</sup></b>
2018	Replace HIRLS & MITLS (includes conduit, light bases, and new cable/counterpoise)	Electrical Contractors and Other Wiring Installation Contractors (238210) Engineering Services (541330)
2018	Obstruction Analysis	Engineering Services (541330) Surveying and mapping (except geophysical) services (541370)
2019	Environmental Assessment for Obstruction Clearing	Engineering Services (541330) Surveying and mapping (except geophysical) services (541370)
2019	Pavement Remarketing Project	Highway, street, and bridge construction (237310)
2020	Purchase Easements on Runway 22 End	Office of Real Estate Appraisers (531320) Engineering Services (541330) Surveying and mapping (except geophysical) services (541370)
2020-2021	Tree Clearing on Runway 4 and Runway 22 End (to include shoreland zone stabilization)	Highway, street, and bridge construction (237310) Engineering Services (541330) Surveying and mapping (except geophysical) services (541370) Testing laboratories (541380)

Source: <sup>1</sup> Airport Capital Improvement Plan (10/2017); <sup>2</sup> North American Industry Classification System (NAICS), U.S. Census Bureau.

Market Area

The market area is considered the State of Maine. Based on past contracts, the substantial majority of contractors and subcontractors have been located in the above listed counties located in Maine.

Weighted Goal Calculations

Step 1A – Group NAICS Codes

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

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

In this step, the dollar value of each NAICS code is estimated over the 3-year goal calculation period. This value is then converted into a “% of Work” based on the total 3-year funding. This is calculated as follows: the dollar value of the individual NAICS code is divided by the total estimated cost of all the projects in the 3-year goal calculation period. For example, Engineering Services cost is estimated at \$600,000 and the total of all the projects in the 3-year goal calculation period are estimated value as \$2,600,00. Thus, the “% of Work” value for Engineering Services is  $\$600,000/\$2,600,000 \times 100\% = 23\%$ . The values are provided in column 2 of Table 2.

Step 1C – Determine the number of DBE firms

In this step, the number of DBE firms located in the market area with services that relate to the projects listed are identified in the MEDOT Disadvantaged Business Enterprise Directory.

<http://www.maine.gov/mdot/civilrights/dbe>

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

Step 1D – Determine the number of Businesses

In this step, the numbers of related businesses (DBE and non-DBE) located in the market area are determined from the latest NAICS database provided by the U.S. Census Bureau.

<https://www.census.gov/programs-surveys/cbp/data.html> The values are provided in column 4 of the Table 2.

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

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

$$\begin{aligned} \text{Ex.: \% contribution of each NAICS code} &= \% \text{ of Work} \times (\text{ME DBE Firms} / \text{ME Businesses}) \times 100\% \\ &= \text{Column (2)} \times (\text{Column 3} / \text{Column 4}) \times 100\% \\ &= 23.0\% \times (13/303) \times 100\% = 0.99\% \end{aligned}$$

Each NAICS code contribution is calculated and summed to determine the overall goal. The values are provided in column 5 of the Table 2. Therefore, the FFY 2018-2020 “base figure” goal is 1.75%.

**Table 2 – Weighted Average Goal Calculation**

(1)	(2)	(3)	(4)	(5)
NAICS Code <sup>1</sup>	% of Work	DBE Firms <sup>2</sup>	Businesses	% Contribution
Highway, street, and bridge construction (237310)	7.7	6	103	0.45%
Electrical contractors and other wiring installation contractors (238210)	59.2	2	523	0.23%
Office of Real Estate Appraisers (531320)	7.1	0	95	0.00%
Engineering services (541330)	23.0	13	303	0.99%
Surveying and mapping (except geophysical) services (541370)	2.4	2	110	0.04%
Testing laboratories (541380)	0.6	2	34	0.04%
			Base figure (rounded) =	1.75%

Source: <sup>1</sup> County Business Patterns (NAICS) U.S. Census Bureau; <sup>2</sup> MEDOT Disadvantaged Business Enterprise Directory

## Step 2: 26.45(d) Base Figure Adjustment

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

The first evidence for basis of adjustment considers the current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years (ref. 26.45(d)(1)(i)). DBE firms have had equal opportunity to perform work on airport projects in recent years through normal contracting procedures. The volume of work performed in recent years has been neither excessively high nor low in comparison to all the work conducted. Based on this evidence, no adjustment to the “base figure” has been made.

The second evidence for basis of adjustment considers any existing disparity studies within the airport’s jurisdiction (ref. 26.45(d)(1)(ii)). We contacted the MEDOT Director of Civil Rights Office regarding evidence of existing disparity studies. MEDOT indicated there are no relevant disparity studies in the State of Maine. Based on this evidence, no adjustment to the “base figure” has been made.

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

1) This includes evaluating statistical disparity in the abilities of DBEs to get the financing, bonding and insurance required perform work (ref. 26.45(d)(2)(i)). As noted previously, the MEDOT Director of Civil Rights Office was contacted and could provide no evidence of disparity studies. Based on this evidence, no adjustment to the “base figure” has been made.

2) We also consulted, in writing, with Maine Department of Transportation, the Associated Constructors of Maine Inc., the National Association of Women in Construction, and the Maine Better Transportation Association seeking feed back on the goal methodology and the evidence of data related to opportunities for DBE’s to perform work in ME. The Airport received no feedback from this written consultation as of {pending possible future reply} Based on this evidence, no adjustment to the “base figure” has been made.

Finally, we considered the historic DBE accomplishments at the airport as a basis for adjustment. The following table displays actual DBE participation for the last five years on record.

<b>Fiscal Year</b>	<b>Total Dollars</b>	<b>DBE Dollars</b>	<b>%</b>
2012	\$338,290	\$0	0.00%
2013	\$4,788,896	\$95,968	2.00% (Median)
2014	\$75,300	\$13,200	17.53%
2015	\$1,790,283	\$33,390	1.87%
2016	\$559,315	\$45,637	8.16%
Total DBE Participation	\$7,552,084	\$188,195	2.49%

The data above indicates that the Airport has an average DBE participation of 2.49% and a median of 2.00% on recent completed projects. To arrive at an overall goal, we added our Step 1 base figure (1.75%) with our Step 2 adjustment (average value = 2.49%) figure and then averaged the total arriving at an overall goal of 2.12%. We feel this adjusted goal figure will accurately reflect the highest DBE participation that can be achieved for the type of work being awarded during this three-year period.

**Public Participation:**

The following notice will be posted on the Hancock County Bar Harbor Airport website.

**PUBLIC NOTICE**

The Hancock County Commission / Hancock County Bar Harbor Airport hereby announces its federal fiscal years 2018-2020 goal of 2.12% for Disadvantaged Business Enterprise (DBE) related to FAA-assisted contracts for airport engineering, civil, and building construction. The proposed goal and rationale is available for inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at Hancock County Bar Harbor Airport, 115 Caruso Drive, Trenton, ME 04605 or on the Hancock County’s website <http://www.bhbairport.com/index.html> 30 days from the date of this publication.

The Hancock County Commission / Hancock County Bar Harbor Airport will hold a teleconference open to the public to discuss the methodology used to establish the goal. To obtain the call number and conference call code please contact Mr. Brad Madeira, Airport Manager, Hancock County Bar Harbor Airport. The time and date of the call will be set to accommodate interested parties but will be not more than 30 days from the publication of this notice.

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

Mr. Brad Madeira  
Airport Manager  
Hancock County Bar Harbor Airport    or  
115 Caruso Drive  
Trenton, ME 04605  
[bmadeira@bhbairport.com](mailto:bmadeira@bhbairport.com)

Mr. Thomas Knox  
DBE & ACDBE Compliance Specialist  
New England (ANE) Region  
FAA Western-Pacific Regional Office  
P.O. Box 92007, AWP-9  
Los Angeles, CA 90009-2007  
[thomas.knox@faa.gov](mailto:thomas.knox@faa.gov)

**Consultation**

The Airport consulted in writing with the agencies listed in Section 26.45 of the plan. The agencies provided no comments. {pending possible future reply}

The Airport made available a teleconference open to the public to discuss the methodology used to establish the goal and seek further input. Interested participants included: ***{PARTICIPANTS, IN ANY, WILL BE LISTED HERE PENDING POSSIBLE FUTURE REPLY}***

**Comments from the Public Participation and Consultation**

The public comment period ended 45 days after the public notice was issued. ***{COMMENTS, IF ANY, WILL BE LISTED HERE PENDING POSSIBLE FUTURE REPLY}***



## Attachment 5

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

The Hancock County Commission / Hancock County Bar Harbor Airport will attempt to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Airport uses the following race-neutral means to increase DBE participation:

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

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

In meeting the overall DBE goal of 2.12%, the Airport anticipates it will obtain 0% from race-neutral participation and 2.12% through race conscious measures.

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

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

**Attachment 6**  
**Fostering Small Business Participation Form**

Fostering Small Business Participation	
<b>Sponsor's Name:</b>	
<b>Airport Name:</b>	
<b>City, State:</b>	
<b>AIP Number:</b>	
<b>Federal Fiscal Year:</b>	

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

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

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

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

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

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_

**Attachment 7**  
**Revision Log**

**END OF DBE PLAN**