



## **DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

### **Monterey Peninsula Airport District Monterey, CA**

Monterey Regional Airport  
200 Fred Kane Dr. Ste. 200  
Monterey, CA 93940

Prepared By:

Planning and Development Department

August 2021

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**Table of Contents**

Section	Page No.
POLICY STATEMENT .....	1
Objectives/Policy Statement (Section 26.1, 26.23).....	1
SUBPART A – GENERAL REQUIREMENTS .....	2
Section 26.1    Objectives.....	2
Section 26.3    Applicability.....	2
Section 26.5    Definitions.....	2
Section 26.7    Non-discrimination Requirements .....	2
Section 26.11   Record Keeping Requirements .....	2
Section 26.13   Federal Financial Assistance Agreement.....	2
SUBPART B - ADMINISTRATIVE REQUIREMENTS.....	3
Section 26.21   DBE Program Updates.....	3
Section 26.23   Policy Statement .....	3
Section 26.25   DBE Liaison Officer (DBELO) .....	3
Section 26.27   DBE Financial Institutions.....	4
Section 26.29   Prompt Payment Mechanisms.....	4
Section 26.31   Directory .....	4
Section 26.33   Overconcentration.....	5
Section 26.35   Business Development Programs.....	5
Section 26.37   Monitoring and Enforcement Mechanisms.....	5
Section 26.39   Fostering Small Business Participation.....	6
SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING .....	6
Section 26.43   Set-asides or Quotas.....	6
Section 26.45   Overall Goals .....	6
Participation .....	8
Section 26.51(d-g)  Contract Goals.....	8
Section 26.53   Good Faith Efforts Procedures (Applicable only to those projects with a Race-Conscious Goal) 8	8
Section 26.55   Counting DBE Participation .....	10
SUBPART D – CERTIFICATION STANDARDS.....	10
Section 26.61 – 26.73  Certification Process .....	10
SUBPART E – CERTIFICATION PROCEDURES .....	10
Section 26.81   Unified Certification Programs.....	10
SUBPART F – COMPLIANCE AND ENFORCEMENT .....	10
Section 26.109  Information, Confidentiality, Cooperation.....	10

**ATTACHMENTS**

- Attachment 1 Regulations: 49 CFR Part 26 or webpage link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory or webpage link
- Attachment 5 Overall DBE Three-Year Goal Methodology
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Efforts – Form 1 and 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Form or webpage link and Affidavit Template
- Attachment 9 CUCP Agreement/Declaration of Status Letter
- Attachment 10 Small Business Element

## POLICY STATEMENT

### Objectives/Policy Statement (Section 26.1, 26.23)

The Monterey Peninsula Airport District, (herein after identified as MPAD or the District), has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, "Participation by Disadvantaged Business Enterprise in DOT Programs" (hereinafter referred to as Part 26). The District has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the District has signed an assurance that it will comply with 49 CFR Part 26.


All reference sections indicated within the body of this document directly correlated to the subsections found in Part 26.

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

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.

Ms. Chris Morello, Deputy Director of Strategy and Development, has been delegated as the DBE Liaison Officer. In that capacity, Ms. Morello 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 District in its financial assistance agreements with the Department of Transportation.

The District will disseminate this policy statement to the Airport Board of Directors and all organization departments. The District will distribute this statement to DBE and non-DBE business communities and organizations of disadvantaged, minority, and women businesses known to the District that perform work on DOT-assisted contracts. The policy statement shall be made available to the DBEs listed in the District's DBE directory online.

  
\_\_\_\_\_  
Michael La Pier, A.A.E.  
Executive Director

08/06/2021  
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 District is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The District will adopt the definitions contained in Section 26.5 of 49 CFR Part 26 for this program.

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

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

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

#### **Reporting to DOT: 26.11(b)**

The District will report DBE participation to DOT as follows:

The District will submit annually the “Uniform Report of DBE Awards or Commitments and Payments”, as modified for use by Federal Aviation Administration (FAA) recipients.

#### **Bidders List: 26.11(c)**

The District will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible on all 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 list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms. We will collect this information using the Bidder’s List Collection Form (see **Attachment 3**).

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

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

#### **Assurance: 26.13(a)**

The District 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 District 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 District’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 District of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

Contract Assurance: 26.13(b)

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

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

1. Withholding progress payments
2. Liquidated damages; and or
3. Disqualifying the contractor from future bidding as non-responsible

**SUBPART B - ADMINISTRATIVE REQUIREMENTS**

**Section 26.21 DBE Program Updates**

Since the District has received a grant of \$250,000 or more for airport planning or development, the District will continue to carry out this program until all associated funds from DOT financial assistance have been expended. The District will submit an updated goal every three-years on August 1st if the District plans to award contracts exceeding \$250,000 in FAA funds within the three year plan.

**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 District has designated the following individual as their DBE Liaison Officer:

Ms. Chris Morello, Deputy Director of Strategy and Development  
200 Fred Kane Dr. Ste. 200  
Monterey, CA 93940  
(831) 648-7000 Ext. 208  
[cmorello@montereyairport.com](mailto:cmorello@montereyairport.com)

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

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

1. Gathers, compiles and reports statistical data and other information as required by DOT, FAA, or the State of California.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall tri-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 attainment and identifies ways to improve progress.
6. Analyzes the District's progress toward goal attainment and, if necessary, identifies ways to improve progress.
7. Ensures participation of appropriate district personnel in pre-bid-meetings.
8. Advises the Executive Director and Board of Directors on DBE matters and achievement.

9. Participates with appropriate management (i.e. legal counsel, project manager, etc.) to determine contractor compliance.
10. Ensure DBEs are provided with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Verifies DBE firm certifications and acts as liaison to the Uniform Certification Process in California.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Tracks the district's directory on certified DBEs and ensures it is maintained

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

It is the policy of the District to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. We have made the following efforts to identify and use such institutions: The State of California DBE database was searched for financial institutions in and around the County of Monterey, and surrounding counties including County of Santa Cruz and San Benito. The results of the database search returned no DBE financial institutions in the area.

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

The District requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state and local law. Per Section 26.29, the District established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the District. The District will hold retainage from prime contractors and provide for prompt and monthly incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after payment to the prime contractor.

#### Prompt Payment Dispute Resolution

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

1. The District will host a meeting between prime and affected sub-contractor(s) with the resident project engineer, District Official, and the contracted labor compliance officer to discuss the dispute.
2. The District official will verify with the project engineer that the completed work was satisfactory and acceptable per the contract.
3. The District official will verify with the labor compliance officer that payroll reports were submitted and verified for completeness and accuracy.
4. Upon determination of the satisfactorily completed work and the verified payroll reports, the District will initiate payment to the affected contractor(s) within 30 days.

#### Enforcement Actions for Noncompliance of Participants

The District will provide appropriate means to enforce the requirements of §26.29. These means include, but are not limited to:

1. Issue a stop-work order until payments are released to subcontractors
2. Hold retainage until all contractors have been compensated accordingly

3. If a breach of good faith efforts is determined, terminate the contract

#### Monitoring Contracts and Work Sites

The District reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by a combination of District staff, resident engineer and contracted labor consultant for the project. Contracting documents are reviewed by the District DBELO and compliance team including project engineer and labor consultant. The District will maintain written certification that contracting records have reviewed and work sites have been monitored for this purpose.

#### **Section 26.31 Directory**

The State of California Department of Transportation (Caltrans) maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, telephone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory is made available and can be accessed on the State of California's web site at [www.dot.ca.gov/hg/bep/dbe\\_query.htm](http://www.dot.ca.gov/hg/bep/dbe_query.htm). The California State Directory is updated on a daily basis.

#### **Section 26.33 Overconcentration**

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

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

The District has not established a Business Development Program to assist new firms in gaining the ability to compete in the marketplace outside the DBE Program. The District works with the Regional Monterey Bay Procurement Technical Assistance Center. The mission of the PTAC is to generate employment and improve the general economic condition of the Monterey Bay region by assisting small businesses in obtaining and performing under Federal, State, and Local government contracts. They provide procurement technical assistance to help companies in the selling of their products or services to the appropriate Government agency and the core of the procurement assistance program is counseling and education.

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

In the event of a dispute between the prime and subcontractor, the impacted subcontractor should initially make contact with the District's DBELO listed in Section 26.25. Upon being informed of the dispute, the District will apply the following monitoring and enforcement mechanisms and, as necessary, contract with a California labor agency to ensure compliance with 49 CFR Part 26:

1. The District requires prime contractors to maintain record 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 District's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the District or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.
2. The District proactively reviews contract payments to subcontractors including DBE's quarterly to ensure compliance. Payment review evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the District by the prime contractor.
3. Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that the 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;
4. Consider similar action under the District's own legal authorities, including responsibility determinations in future contracts. **Attachment 7** lists the regulation, provisions, and contract remedies



available to the District in the events of non-compliance with the DBE regulation by a participant in our procurement activities;

5. Implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. The mechanism will provide for a running tally of actual DBE attainments (e.g. payment actually made to DBE firms for work committed to them at the time of contract award);
6. Provide DBE participation reports to DOT that show both commitments and attainments, as required by the DOT reporting form;
7. Perform desk audits to review all material and information concerning the contractor's compliance; and
8. Call for any additional investigation due to a lack of proper record keeping, failure of the prime contractor to cooperate, failure of DBEs to cooperate, visible evidence of unsatisfactory performance, and other evidence as may warrant further investigation.

#### Prompt Payment Complaints

In the event there is a prompt payment complaint, the District has implemented the following procedure for the affected subcontractor:

1. If the individual subcontractor is uncomfortable contracting prime directly regarding payment or unable to resolve payment discrepancies, the affected subcontractor shall contact the District DBELO listed in section 26.25.
2. When a prompt payment complaint is not acted upon in a timely and meaningful way by the District to resolve a payment dispute, the impacted subcontractor can contact the DOT inspector general directly for assistance in obtaining a resolution to the dispute.
3. 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.

#### **Section 26.39 Fostering Small Business Participation**

The District 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 District's small business element is incorporated in **Attachment 10** and will be actively implemented 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 District does not use quotas in any way in the administration of this DBE program.

##### **Section 26.45 Overall Goals**

The District will establish an overall goal covering a three-year Federal Fiscal year period if the District anticipates awarding prime contracts exceeding \$250,000 in FAA funds during any one or more of the reporting fiscal years in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the District does not anticipate awarding more than \$250,000 in FAA funds in prime contracts during the three-year reporting period, the District will not develop an overall goal. However, the existing DBE program will remain in effect and the District will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The District will establish overall goals every three years in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step is to determine the relative availability of DBEs in the market area, “base figure”. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the District would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

In accordance with Section 26.45(f) the District will submit its overall goal to DOT on or about August 1 prior to the end of the three year program expiration date. Before establishing the overall goal each year, the District will consider State of California, Department of Transportation, Unified Certification Program, and available minority and contractor groups to obtain information regarding the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the District’s efforts to establish a level playing field for the participation of DBEs. The District will take into consideration minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of DBEs and non-DBEs.

The District will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at 200 Fred Kane Dr. Ste. 200 Monterey, CA 93940 for 30 days following the date of the notice, and informing the public that the District and DOT/FAA will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority-focus media and trade publications, and websites. Normally, we will issue this notice by June 1 of the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our Overall Three-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instruments from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment 5** to this program.

#### **Section 26.47 Failure to Meet Overall Goals**

The District will maintain an approved DBE Program and overall DBE goal as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the District’s awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the District will do the following in order to be regarded by the Department as implementing our DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in a fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully our goal for the new fiscal year;
- (3) The District will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c) (1) and (2) of this section to the FAA for approval.

**Section 26.51(a-c) Breakout of Estimated Race-Neutral and Race-Conscious Goals**

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 annually when the goal calculation is updated.

Participation

The District will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The District uses 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 DBEs, and other small business participation and ensuring distribution of the District's DBE directory to the widest feasible universe of potential prime contractors.

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

The District will use race conscious contract goals to meet any portion of the overall goal the District does not anticipate being able to meet using race-neutral means. Race-conscious goals are established so that, over the period to which the overall goal applies, the combination of race neutral and race conscious goals will cumulatively result in meeting our overall goal.

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

The District will express their contract goals as a percentage of the Federal share of a DOT-assisted contract.

**Section 26.53 Good Faith Efforts Procedures (Applicable only to those projects with a Race-Conscious Goal)**

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

Bidders are obligated to make good faith efforts when identified and required by the District. 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, and an example of a report is found in **Attachment 6**.

The following person 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: Chris Morello, DBELO, 200 Fred Kane Drive, Suite 200 Monterey, CA 93940, (831) 648-7000.

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

Information to be Submitted (26.53(b))

The District treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness – bidders' ability to submit DBE information at the time of bid. Each solicitation for which a contract goal has been established will require the bidders/offers 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 will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration (26.53(d))

Within (7) days of being informed by the District that it is not responsive because it has not documented sufficient good faith efforts, (if required), a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Michael LaPier, 200 Fred Kane Drive Ste. 200 Monterey, CA 93940, (831) 648-7000. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

Where necessary or required the District 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. Also, the District will require the prime contractor to notify the DBELO immediately of the DBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, the District will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, our 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 the District 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/offerors, including those who qualify as a DBE. A DBE contract goal of 2.53 percent has been established for this contract. The bidder/offerors 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 participation; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

**Section 26.55 Counting DBE Participation**

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

**SUBPART D – CERTIFICATION STANDARDS**

**Section 26.61 – 26.73 Certification Process**

The District will rely upon the California Unified Certification Program (CUCP), their certifying agencies, certification procedures (Part 26, Section 26.83), and decisions. The District will require documentation from DBE's supporting their approval and certification status. The District will utilize the DBE firms listed in the California Unified Certification Program (CUCP) statewide DBE Directory hosted by the California Department of Transportation (Caltrans) and will not certify DBE firms directly.

Certification application form is available to view and download within the link provided in **Attachment 8** to this program.

For information about the certification process, firms should contact:

Ms. Chris Morello  
200 Fred Kane Dr. Ste. 200  
Monterey, CA 93940  
(831) 648-7000 Ext. 208  
[cmorello@montereyairport.com](mailto:cmorello@montereyairport.com)

**SUBPART E – CERTIFICATION PROCEDURES**

**Section 26.81 Unified Certification Programs**

The District will rely upon California Unified Certification Program, their certifying agencies, certification procedures (Part 26, Section 26.83), and decisions. The District will require documentation from DBE's supporting their approval and certification status.

**SUBPART F – COMPLIANCE AND ENFORCEMENT**

**Section 26.109 Information, Confidentiality, Cooperation**

The District will, consistent with and to the extent allowed by applicable law, safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information. The District is subject to the California Public Records Act (California Government Code section 6250 et seq.) which provides that records relating to the conduct of the public's business used or retained by a governmental agency are open to inspection by members of the public unless exempt from disclosure pursuant to provision

set forth in the act. Title 49 of the Code of Federal Regulations, section 26.67 (a)(2)(ii) provides that notwithstanding any provision of state law the District must not release an individuals' personal net worth statement nor any documentation supporting it to any third party without the written consent of the submitter (provided that the information must be transmitted to the United States Department of Transportation in any certification appeal proceeding in which the disadvantaged status of the individual is in question).

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

#### Monitoring Payments to DBEs

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

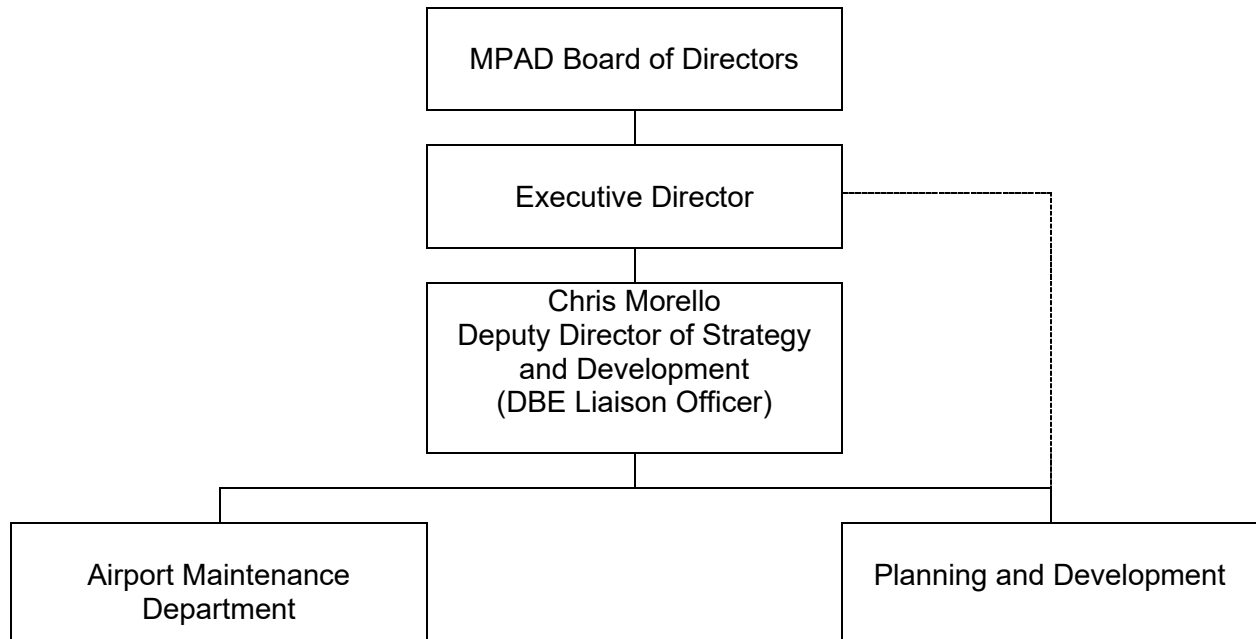
The District will keep a running tally of actual payments to DBE firms for work committed to them at the time. When necessary the District will oversee and contract with a California labor agency to perform audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

**ATTACHMENT 1**  
FAA Regulations: 49 CFR Part 26

The FAA regulations: 49 CFR Part 26 is available to view electronically online at:

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-regulations>

**ATTACHMENT 2**  
Organizational Chart



**The DBELO has direct access to  
the Monterey Peninsula Airport District Executive Director**



**ATTACHMENT 3**  
Bidder's List Collection Form

Firm Name	Firm Address/Phone #	DBE or Non-DBE (verify through CUCP)	Firm Age	Annual Gross Receipts
				<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
				<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
				<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
				<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

**ATTACHMENT 4**  
DBE Directory

The DBE Directory is available to view electronically online at:  
[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)



**Step 1. Analysis:** Actual relative availability of DBE's  
 Method: Use DBE Directory and the Census Bureau

DBE directory [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm) and  
 Census Bureau Data <http://www.census.gov/econ/cbp/index.html>

NAICS Code 2019 Census	Description	Monterey		Santa Cruz		San Benito		Total	
		DBE	Total	DBE	Total	DBE	Total	DBE	Total
236210	Building Construction	0	0	0	3	0	0	0	3
237110	Water and Sewer Line and related structures construction	0	9	0	8	0	0	0	17
237310	Highway, Street, And Bridge Construction	1	9	0	9	1	0	2	18
238110	Poured Concrete Foundation and Structure Contractors	0	24	0	19	0	7	0	50
238210	Electrical Contractors	0	119	0	91	1	27	1	237
238910	Site Preparation Contractors	2	21	0	35	1	12	3	68
238990	Specially Trade Contractors	1	15	0	25	1	8	2	48
484110	General Freight Trucking, Local	2	66	0	6	0	15	2	87
541110	Office of Lawyers	1	151	0	117	0	11	1	279
541310	Architectural Services	1	30	1	32	0	0	2	62
541320	Landscape Architectural Services	0	8	2	8	0	0	2	16
541330	Engineering Services	1	71	1	66	0	5	2	142
541370	Surveying and Mapping	1	6	0	10	0	0	1	16
541380	Testing laboratories	1	8	0	4	0	0	1	12
541620	Environmental Consultation	0	12	0	27	0	0	0	39
561730	Landscaping Services	1	158	0	125	0	23	1	306
<b>PROJECT TOTAL</b>		<b>12</b>	<b>707</b>	<b>4</b>	<b>585</b>	<b>4</b>	<b>108</b>	<b>20</b>	<b>1,400</b>

Base figure =  $20/1,400 = .0143$  or approx. 1%

**Step 2. Analysis:** Adjustments to Step 1 base figure.

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.

Monterey Peninsula Airport District

Below is an examination of the anticipated projects for each fiscal year (including the anticipated trade participation and trade estimates), the availability of the DBE firms by trade classification and the volume of work performed by DBE firms over previous years.

**Fiscal Year #1**

**For FY-2022, we anticipate the award of the following:**

<b>Project ARFF Airfield Service Road</b>							
<b>Trade Description</b>	<b>NAICS Description</b>	<b>NAICS</b>	<b>Trade (\$)</b>	<b>Census</b>	<b>CT DBE Tool</b>	<b>DBE %</b>	<b>DBE (\$)</b>
Construction Management	Construction management, highway, road, street, and bridge	237310	\$55,000	18	2	0.111	\$6,111
Asphalt Paving	Asphalt paving (i.e., highway, road, street, public sidewalk)	237310	\$185,000	18	2	0.111	\$20,535
Electrical	Electrical contractors	238210	\$20,000	237	1	0.004	\$84
Grading	Grading, highway, road, street, and airport runway	237310	\$225,000	18	2	0.111	\$24,975
Site Preparation	Site Preparation Contractors (Building demolition, backfilling, grading, trenching)	238910	\$110,000	68	3	0.044	\$4,852
Legal	Office of Lawyers	541110	\$5,000	279	1	0.004	\$18
Engineering Design and Contract Management	Engineer Services	541330	\$75,000	142	2	0.014	\$1,056
Survey and Mapping	Surveying and Mapping (except Geophysical) Services	541370	\$5,000	16	1	0.063	\$313
Geotechnical	Geophysical Surveying and Mapping Services	541380	\$15,000	12	1	0.083	\$1,245
Planning Environmental Services	Environmental Consultation Services	541620	\$5,000	39	0	0.000	\$0.00
<b>Total Project Cost</b>			<b>\$700,000</b>			<b>0.545</b>	<b>\$59,189</b>

<b>Project ARFF Construction</b>							
<b>Trade Description</b>	<b>NAICS Description</b>	<b>NAICS</b>	<b>Trade (\$)</b>	<b>Census</b>	<b>CT DBE Tool</b>	<b>DBE %</b>	<b>DBE (\$)</b>
Legal	Office of Lawyers	541110	\$5,000	279	1	0.004	\$18

Monterey Peninsula Airport District

Project		ARFF Construction					
Engineering Design and Contract Management	Engineer Services	541330	\$150000	134	2	0.015	\$3,051
Survey and Mapping	Surveying and Mapping (except Geophysical) Services	541370	\$5,000	16	1	0.063	\$313
Geotechnical	Geophysical Surveying and Mapping Services	541380	\$100,000	12	1	0.083	\$8,300
Planning Environmental Services	Environmental Consultation Services	541620	\$5,000	39	0	0.000	\$0.00
Architectural Design	Architectural Services	541310	\$500,000	62	2	0.032	\$16,000
<b>Building Construction</b>	Industrial Building Construction including Construction Management	236210	\$4,335,000	3	0	0.000	\$0.00
<b>Total Project Cost</b>			<b>\$5,100,000</b>			<b>0.197</b>	<b>\$27,369</b>

Project		Demo ARFF Southside					
Trade Description	NAICS Description	NAICS	Trade (\$)	Census	CT DBE Tool	DBE %	DBE (\$)
Construction Management	Highway, Street, and Bridge Construction	237310	\$50,000	18	2	0.111	\$5,556
Building Demolition	Site Preparation Contractors (Building demolition, backfilling, grading, trenching)	238910	\$560,000	68	3	0.044	\$24,706
Electrical	Electrical Contractors	238210	\$50,000	237	1	0.004	\$211
Legal	Office of Lawyers	541110	\$5,000	279	1	0.004	\$18
Engineering Design and Contract Management	Engineer Services	541330	\$50,000	142	2	0.014	\$704
Survey and Mapping	Surveying and Mapping (except Geophysical) Services	541370	\$5,000	16	1	0.063	\$313

Monterey Peninsula Airport District

Geotechnical	Geophysical Surveying and Mapping Services	541380	\$25,000	12	1	.083	\$2075
Planning Environmental Services	Environmental Consultation Services	541620	\$5,000	39	0	0.00	\$0.00
<b>Total Project Cost</b>			<b>\$800,000</b>			<b>0.323</b>	<b>\$33,583</b>

**Fiscal Year #2**

**For FY-2023, we anticipate the award of the following:**

<b>Project Commercial Apron Construction Phase 1</b>							
<b>Trade Description</b>	<b>NAICS Description</b>	<b>NAICS</b>	<b>Trade (\$)</b>	<b>Census</b>	<b>CT DBE Tool</b>	<b>DBE %</b>	<b>DBE (\$)</b>
Construction Management	Highway, Street, and Bridge Construction	237310	\$1,500,000	18	2	0.111	\$166,500
Paving	Concrete paving (i.e., highway, road, street, public sidewalk)	237310	\$12,500,000	18	2	0.111	\$1,387,500
Site Preparation	Site Preparation Contractors (Building demolition, backfilling, grading, trenching)	238910	\$3,000,000	68	3	0.044	\$132,000
Retaining Wall	Poured Concrete Foundation and Structure Contractors	238110	\$850,000	50	0	0.000	\$0.00
Electrical	Electrical Contractors	238210	\$1,500,000	237	1	0.004	\$6,000
Water and Sewer	Water and Sewer Line and Related Structures Construction	237110	\$850,000	17	0	0.000	\$0.00
Legal	Office of Lawyers	541110	\$5,000	279	1	0.004	\$18
Engineering Design Contract management	Engineer Services	541330	\$1,500,000	142	2	0.014	\$21,000
Survey and Mapping	Surveying and Mapping (except Geophysical) Services	541370	\$50,000	16	1	0.063	\$3,150



<b>Project Commercial Apron Construction Phase 1</b>							
Geotechnical	Geophysical Surveying and Mapping Services	541380	\$125,000	12	1	0.083	\$10,375
Planning Environmental Services	Environmental Consultation Services	541620	\$20,000	39	0	0.000	\$0.00
<b>Total Project Cost</b>			<b>\$21,900,000</b>			<b>0.434</b>	<b>\$1,726,543</b>

**Fiscal Year #3**

**For FY-2024, we anticipate the award of the following:**

<b>Project Commercial Apron Construction Phase 2</b>							
<b>Trade Description</b>	<b>NAICS Description</b>	<b>NAICS</b>	<b>Trade (\$)</b>	<b>Census</b>	<b>CT DBE Tool</b>	<b>DBE %</b>	<b>DBE (\$)</b>
Construction Management	Highway, Street, and Bridge Construction	237310	\$1,500,000	18	2	0.111	\$166,500
Paving	Concrete paving (i.e., highway, road, street, public sidewalk)	237310	\$12,500,000	18	2	0.111	\$1,387,500
Site Preparation	Site Preparation Contractors (Building demolition, backfilling, grading, trenching)	238910	\$3,000,000	68	3	0.044	\$132,000
Retaining Wall	Poured Concrete Foundation and Structure Contractors	238110	\$850,000	50	0	0.000	\$0.00
Electrical	Electrical Contractors	238210	\$1,500,000	237	1	0.004	\$6,000
Water and Sewer	Water and Sewer Line and Related Structures Construction	237110	\$850,000	17	0	0.000	\$0.00
Legal	Office of Lawyers	541110	\$5,000	279	1	0.004	\$18
Engineering Design Contract management	Engineer Services	541330	\$1,500,000	142	2	0.014	\$21,000

Project Commercial Apron Construction Phase 2							
Survey and Mapping	Surveying and Mapping (except Geophysical) Services	541370	\$50,000	16	1	0.063	\$3,150
Geotechnical	Geophysical Surveying and Mapping Services	541380	\$125,000	12	1	0.083	\$10,375
Planning Environmental Services	Environmental Consultation Services	541620	\$20,000	39	0	0.000	\$0.00
<b>Total Project Cost</b>			<b>\$21,900,000</b>			<b>0.434</b>	<b>\$1,726,543</b>

Fiscal Year	Estimated Cost	DBE Project Average	Estimated DBE
<b>Total FY-2022</b>	\$6,600,000.00	1.82%	\$120,141
<b>Total FY-2023</b>	\$21,900,000.00	7.88%	\$1,726,543
<b>Total FY-2024</b>	\$21,900,000.00	7.88%	\$1,726,543

**Past History Participation**

Other data used to determine the adjustment to the base figure was the median of historical DBE accomplishments as follows:

FY	DBE Goals			Accomplishments		
	Race-Conscious	Race-Neutral	Total	Race-Conscious	Race-Neutral	Total
FY 16	0%	1.63%	1.63%	0%	2.25%	2.25%
FY 17	0%	1.63%	1.63%	0%	3.20%	3.20%
FY 18	0%	1.63%	1.63%	0%	3.21%	3.21%
FY 19	0%	2.53%	2.53%	0%	0.83%	0.83%
FY 20	0%	2.53%	2.53%	0%	3.40%	3.40%

Arranged in lowest to highest, .83, 2.25, 3.20, 3.21, 3.40 for a median value of 3.20%

The proposed overall DBE Goals are as follows:

- Fiscal Year #1 (2022):  $(.0355 + .0320)/2 = 3.38\%$
- Fiscal Year #2 (2023):  $(.0434 + .0320)/2 = 3.77\%$
- Fiscal Year #3 (2024):  $(.0434 + .0320)/2 = 3.77\%$

Our proposed overall three-year goal will be reflected as an average of these three-years which is 3.64%.

To arrive at an overall goal, we added our Step 1 base figure (1.43%) with our Step 2 adjustment figure (3.64%) and then averaged the total arriving at an overall goal of **2.53%**.

This adjusted goal figure accurately reflects DBE participation that can be achieved for the type of project work being awarded during this three-year period.

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

The District will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation.

The following are a list of examples of facilitating Race/Gender Neutral DBE, as well as Small Business, participation:

1. Fulfill requests and offer instructions or clarifications on bid specifications, the District’s procurement policy and procedures, and general bidding requirements.
2. Maintain a file of successful bid documents from past procurements and permit DBE firms and other small businesses to review and evaluate these documents.
3. Use a lead time of at least 20 days, if allowable, for advertisement of all invitations for bid so that all DBEs and small businesses have ample time to develop a complete bid package or proposal and secure necessary assistance.
4. Hold pre-bid conferences to provide DBEs or small businesses with an opportunity to inquire about DBE requirements.
5. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation.
6. Include the following statement in the bid solicitation:  
“There is no DBE project goal established for this project. At this time the Airport will meet the DBE goal on federally assisted projects through race neutral measures. The Airport supports the use of race neutral measures to facilitate participation by DBEs and other small businesses and encourages prime contractors to subcontract portions of their work that they might otherwise perform with their own forces.”

**The District estimates that in meeting its overall goal of 2.53%, it will obtain 100% from RN participation and 0% through RC measures.**

In the past five years, the District has been exceeding its DBE goals through RN means. Therefore, 100% of the overall goal will be obtained through RN means until an approved Disparity Study determines that the breakout of estimated RN/RC participations for the overall goal needs to be revised.

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

**Public Participation**

Consultation: Section 26.45(g)(1).

The District submits its overall DBE three-year goal to DOT as required by the set schedule. Before finalizing the overall goal, MPAD will request consultation with minority, women and/or general contractor groups, as well as community organizations. MPAD will not limit consultation to these persons or target groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination on opportunities for DBEs, but MPAD endeavors to establish a level playing field for the participation of DBEs.

Concurrently, the MPAD will make available the Draft DBE Program as well as the anticipated three-year goal targets through a publication notice on the MPAD website, informing the public that the proposed goal and its rationale are available for inspection both as a document download or at the Airport offices during normal business hours at the airport administration building for 30 days following the date of the notice, and informing the public that the District and DOT will accept comments on the goals for 45 days from the date of the notice. The District will also provide notice via email to organizations that provide assistance to minority and small businesses.

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

### **Public Notice**

The District hereby announces the annual **fiscal year 2022-2024 goal is set at 2.53%** for Disadvantaged Business Enterprise (DBE) Airport construction projects. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday for 30 days from the date of this publication. (August 6, 2021)

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

Ms. Chris Morello  
200 Fred Kane Dr. Ste. 200  
Monterey, CA 93940  
(831) 648-7000 Ext. 208  
[cmorello@montereyairport.com](mailto:cmorello@montereyairport.com)

Mr. Shaun Bouy  
777 S. Aviation Blvd Ste. 150  
El Segundo, CA 90245  
[shaun.a.bouy@faa.gov](mailto:shaun.a.bouy@faa.gov)

### **Contract Goals**

The District will use contract goals to meet any portion of the overall goal that the recipient does not anticipate being able to meet using RN 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 recipient's overall goal that is not projected to be met through the use of RN means.

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

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

ATTACHMENT 6

Demonstration of Good Faith Efforts  
Forms 1 and 2

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

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

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

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

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

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 and that the firm is DBE certified to perform the specific trades.

By \_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

\_\_\_\_\_  
(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.**

**ATTACHMENT 7**  
DBE Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to 49 CFR Part 26.
3. The District may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

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:

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

**ATTACHMENT 8**  
**DBE Certification Form**

DBE Certification Form is available to view electronically and download online at:  
<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-certification-information>



**AFFIDAVIT**

"The undersigned swears that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of \_\_\_\_\_ (name of firm) as well as the ownership thereof. Further, the undersigned agrees to provide through the prime contractor, (or if no prime contractor, directly to the grantee), current, complete and accurate information regarding actual work performed on the project, the payment therefore and proposed changes, if any, of the foregoing arrangements, and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

Note: If, after filing this INFORMATION form and before the work of this firm is completed on the contract covered by this regulation, there is any significant change in the information submitted, you must inform the grantee of the change through the prime contractor or, if no prime contractor, inform the grantee directly.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

(Corporate Seal) where appropriate.

Date \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_ day of, 20\_\_\_ before me appeared \_\_\_\_\_ to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by \_\_\_\_\_ (name of firm) to execute the affidavit, and did so as his or her free act and deed.

(SEAL)

Notary Public \_\_\_\_\_

Commission expires \_\_\_\_\_

**ATTACHMENT 9**  
CUCP Agreement/Declaration Status Letter

Please review the attached CUCP Agreement/Declaration Status Letter. The District is a Non-Certifying CUCP Member.

**Note:** All certifying agencies that do perform Disadvantaged Business Enterprise (DBE and/or ACDBE) certification on behalf of the State of California can be found electronically and downloaded online at: <http://californiaucp.org/>

**ATTACHMENT 10**  
Small Business Element

Please see the attached Small Business Element also known as the Small Business Participation Plan.

# **Monterey Peninsula Airport District**

## **SMALL BUSINESS PARTICIPATION PLAN**

Section 26.39 - Fostering Small Business Participation



Prepared by:  
Monterey Peninsula Airport District  
Planning and Development Department

August 2021

## Table of Contents

I.	Purpose and Objective of this Element.....	2
II.	Small Business Participation Plan - Strategy .....	3
a.	Establishment of Race-Neutral Subcontracting Goals .....	3
b.	Consideration of Unbundling of Large Contracts .....	3
III.	Definitions for the Small Business Element (SBPP) .....	3
a.	Small Business .....	3
b.	Disadvantaged Business Enterprise.....	4
IV.	Verification Standards and Procedures.....	4
V.	Supportive Services .....	5
VI.	Implementation Plan & Time-Table MPAD Small Business Participation Plan (SBPP).....	5
VII.	Principal Responsible Person .....	6

## **I. Purpose and Objective of this Element**

The following Small Business Element for the **Monterey Peninsula Airport District (“District”) DBE Program (Attachment 10)**, is herein referenced as the Small Business Participation Plan (SBPP). The SBPP is to: “*structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation...*” (49 CFR Part 26.39). The District hereby sets forth its plan to implement Title 49 Part 26 Subpart B §26.39 “Fostering Small Business Participation” requirements.

The District’s SBPP is also regarded as a substantial effort toward fulfilling the overall intent of Part 26.51 to meet the “*maximum feasible portion*” of its overall goal by using race-neutral means to obtain DBE participation. Therefore, implementation of the District’s SBPP will be based on the standard of *business size*, without regard to race or gender of the business owner.

This SBPP also addresses bundling of contract requirements which may preclude or inhibit small business participation in procurements, as either prime or subcontractors.

Further, the District perceives the objectives of this section to be consistent with its DBE Program Policy Statement, which states the District will:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- Help remove barriers to the participation of DBEs in DOT assisted contracts.
- Assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Policy Statement and this element (SBPP) are consistent with the District's objective and practice of creating and encouraging business opportunities at all levels.

**The SBPP is not designed or intended to replace or diminish the existing DBE Program or DBE Goals. Only DBEs certified by the California UCP will count toward current and future DBE Goals. The intent of the SBPP is to act as an *Element* to the District’s DBE Program by helping and encouraging participation by small businesses, including DBEs.**

## **II. Small Business Participation Plan - Strategy**

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

### a. Establishment of Race-Neutral Subcontracting Goals

The District proposes that, *where feasible* on certain prime contracts that do *not* have a DBE contract goal (race-conscious) that prime contractors will be required to provide subcontracting opportunities to qualified Small Business Concerns, (SBC's) as defined herein, *without* regards to race or gender of the business owner. Verified SBC status and subcontracting opportunities will be the basis of this subcontracting goal. The opportunities must be of a size that SBC's, including some which may happen to also be DBE's, can reasonably perform. The District will assess the feasibility for race-neutral subcontracting goals on projects. The District will assist the potential prime contractors by suggesting potential subcontracting opportunities in the solicitation documents. This will help to establish a reasonable race-neutral subcontracting goal.

### b. Consideration of Unbundling of Large Contracts

The District will also, *where feasible*, give consideration to unbundling of prime contracts as a small business participation strategy.

Note: For purpose of this section, the phrase "*where feasible*" means where the SBPP strategy can be implemented without significant adverse impact to the project cost or schedule.

## **III. Definitions for the Small Business Element (SBPP)**

### a. Small Business

For purposes of this program element as part of the District's DBE program, "small business" shall have the *same* definition as "small business concerns" contained in 49 CFR, Part 26 Subpart A § 26.5, which states:

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

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

b. Disadvantaged Business Enterprise

Disadvantaged Business Enterprise or DBE means a for-profit small business concern (defined by SBA rules, above), and that meet the standards of 49 CFR, Part 26. Therefore a DBE should include the following:

- 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;
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by a certifying member of the California Unified Certification Program (CUCP) in accordance with the full requirements of 49 CFR 26.

It is understood that in the implementation of this element, all Small Business Concerns may not necessarily be DBE firms. Small Business Concerns which are also owned and controlled by individuals who *meet* the DBE standard will 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.**

#### **IV. Verification Standards and Procedures**

For purposes of this SBPP, the District will accept the following for verification and/or certification:

California Unified Certification Program (CUCP) DBE Certification: DBE Certification by the CUCP which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. It should be noted that the District is a non-certifying member of the CUCP and relies on certification decisions of the California Department of Transportation (Caltrans). The CUCP certification staff applies the standards and procedures for DBE certification applicants contained in Subparts D, and E, of 49 CFR (26.61-26.91). The District will also rely on the small business verifications of the CUCP as may be provided for purpose of the SBPP.

Small Business Administration 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124): The District may also require submittal of three years of business tax returns.

Non-Certified Small Business Application: A non-certified potential small business concern must, as evidence of small business status, complete a simplified application provided by the District and provide financial and other information as reasonably required by the District at time of response to a solicitation or a bid submittal.

Note: The District, in addition to the standards for small business concerns described above, will utilize the current Personal Net Worth standards of the DBE program (§26.67).



## **V. Supportive Services**

As a partner of CUCP, the District does not conduct DBE certifications, but rather relies on certifications from CUCP certifying agencies. The District also does not provide direct supportive services and/or business development programs to DBEs or small businesses. However, there are several important resources for small businesses within the general market area. The District will make referrals to these resources as appropriate. Some of these resources are listed below:

The Regional Monterey Bay Procurement Technical Assistance Center (PTAC). Monterey Bay PTAC is a program made up of procurement professionals working to help local businesses compete successfully in the government marketplace.

Address:

Monterey Bay PTAC  
123 Capitol St. Suite B  
Salinas, CA 93901

Email: [ptac@mcbc.biz](mailto:ptac@mcbc.biz)

Phone: (831) 216-3000

Website: [www.montereybayptac.org](http://www.montereybayptac.org)

Small Business Development Center (SBDC). SBDC provides assistance to small businesses and aspiring entrepreneurs throughout the United States and its territories. SBDCs help entrepreneurs realize the dream of business ownership and help existing businesses remain competitive in a complex, ever-changing global marketplace.

Address:

CSU Monterey Bay SBDC  
106 Lincoln Avenue  
Salinas, CA 93901

Phone: 831-422-6232

Website: [www.sba.gov](http://www.sba.gov)

## **VI. Implementation Plan & Time-Table MPAD Small Business Participation Plan (SBPP)**

The District SBPP activities include:

Reviews all upcoming projects to try and pre-determine which, if any, will be conducive for application of the SBPP strategy described in Section B, above, i.e. the use of a race-neutral subcontracting goal.

Monterey Peninsula Airport District

Has developed a small business verification application.

Coordinates with the California UCP as to whether any changes/modifications are implicated in the CUCP stakeholder agreement, due to verification of small business concerns.

Coordinates with other entities currently providing relevant supportive services and/or business development for referrals to their programs, appropriate for the small business concerns which may contact the District to increase their competitive opportunities at the Airport.

## **VII. Principal Responsible Person**

The person principally responsible for overseeing and implementing the Districts SBPP, is the designated Disadvantaged Business Enterprise Liaison Officer (DBELO). The DBELO for the District is currently Chris Morello, Deputy Director of Strategy and Development.