



**Des Moines Airport Authority  
Des Moines International Airport**

**Disadvantaged Business Enterprise (DBE) Program  
49 CFR Part 26**

**Created: August 7, 2013**

**Last Updated: August 2023**

## POLICY STATEMENT

### Section 26.1, 26.23

### Objectives/Policy Statement


The Des Moines Airport Authority (Airport Authority) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Airport Authority has received Federal financial assistance from the Federal Aviation Administration (FAA), and as a condition of receiving this assistance, the Airport Authority has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

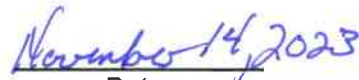
It is the policy of the Des Moines Airport Authority to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in FAA-assisted contracts. It is also our policy to engage in the following actions on a continuing basis:

1. To ensure nondiscrimination in the award and administration of FAA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FAA-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 FAA-assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

*Ms. Amy Fredricks, Contracts and Reporting Administrator*, has been delegated as the DBE Liaison Officer. In that capacity, Ms. Fredricks 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 Airport Authority in its financial assistance agreements with the Department of Transportation.

The Des Moines Airport Authority has disseminated this policy statement to the Airport Authority Board, Airport Management Team and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on Des Moines Airport Authority FAA assisted contracts. The distribution was accomplished by publishing this statement on the Des Moines Airport website.

  
\_\_\_\_\_  
Kevin Foley, Executive Director

  
\_\_\_\_\_  
Date

## GENERAL REQUIREMENTS

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

The Des Moines Airport Authority is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The Des Moines Airport Authority will use terms in this program that have the meaning defined in § 26.5.

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

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

In administering its DBE program, the Airport Authority 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

The Des Moines Airport Authority will provide data about its DBE Program to the Department as directed by DOT operating administrations.

DBE participation will be reported to FAA as follows:

We will transmit to FAA annually, by or before December 1, the information required for the "Uniform Report of DBE Awards or Commitments and Payments", as described in Appendix B to Part 26. We will similarly report the required information about participating DBE firms. All reporting will be done through the FAA official reporting system, or another format acceptable to FAA as instructed thereby.

#### Bidders List

The Des Moines Airport Authority will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on Airport Authority FAA-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, work type, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

The Airport Authority will collect this information by use of an attachment to the bid proposal. This bid form is included as Attachment 2 to this DBE program.

Records retention and reporting:

The Airport Authority will maintain records documenting a firm's compliance with the requirements of this part.

**Section 26.13 Federal Financial Assistance Agreement**

The Des Moines Airport Authority has signed the following assurances, applicable to all FAA-assisted contracts and their administration:

Assurance: - Each financial assistance agreement the Airport Authority signs with a FAA operating administration (or a primary recipient) will include the following assurance:

The Des Moines Airport Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The Des Moines Airport Authority shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of FAA-assisted contracts. The Des Moines Airport Authority DBE program, as required by 49 CFR part 26 and as approved by FAA, 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 Des Moines Airport Authority of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Contract Assurance: The Des Moines Airport Authority will ensure that the following clause is included in each FAA-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

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

## ADMINISTRATIVE REQUIREMENTS

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

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

### **Section 26.23          Policy Statement**

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

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

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

Amy Fredricks  
Contracts Manager  
Des Moines International Airport  
5800 Fleur Drive, Suite 207  
515-256-5006  
asedgington@dsmairport.com

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has resources available comprised of the airport legal counsel, airport director of finance, and engineering consultants to assist in the administration of the program. The duties and responsibilities 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 the Airport Authorities progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Airport Director on DBE matters and achievement.

9. Determine contractor compliance with good faith efforts.
10. Participates in DBE training seminars

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

It is the policy of the Des Moines Airport Authority 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 FAA assisted contracts to make use of these institutions.

To date, the Des Moines Airport Authorities investigation has not identified any institutions; however, an Iowa DOT review team independently researched the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals in Iowa via the FDIC website (<https://www.fdic.gov/regulations/resources/minority/MDI.html>) and identified Pinnacle Bank in Marshalltown, IA as a "Minority Depository Institution."

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

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

In accordance with 49 CFR §26.29, the Airport Authority 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 Airport Authority.

We ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. We will use the following method to comply with this requirement:

The Airport Authority will hold retainage from prime Contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime Contractors based on these acceptances, and require a contract clause obligating the prime Contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the Owner's payment to the prime Contractor.

To implement this measure, the Airport Authority will include the following clause from FAA Advisory Circular 150/5370-10 in each FAA-assisted prime contract:

*From the total of the amount determined to be payable on a partial payment, five percent (5%) of such total amount will be deducted and retained by the Airport Authority for protection of the Airport Authority's interests. Unless otherwise instructed by the Airport Authority, the amount retained by the Airport Authority will be in effect until the final payment is made except as follows:*

- (1) *Contractor may request release of retainage on work that has been partially accepted by the Airport Authority in accordance with FAA Advisory Circular 150/5370-10, Section 50-14. Contractor must provide a certified invoice to the Engineer that supports the value of retainage held by the Owner for partially accepted work.*

*(2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account in accordance with FAA Advisory Circular 150/5370-10, Section 90-08.*

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

*When at least 95% of the work has been completed to the satisfaction of the Engineer, the Engineer shall, at the Airport Authority's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.*

**Section 26.31          Directory**

The Des Moines Airport Authority non-certifying member of the IA Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31.

**Section 26.33          Over-concentration**

The Des Moines Airport Authority is not aware that an over-concentration exists in the types of work that DBEs perform.

**Section 26.35          Business Development Programs**

The Des Moines Airport Authority has not established a business development program. The Iowa DOT has developed programs to facilitate the development of DBE firms, refer to the Iowa DOT DBE program for applicable information.

**Section 26.37          Monitoring Responsibilities**

The Des Moines Airport Authority implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in the Airport Authority's DBE program.

The Airport Authority actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

### Monitoring Payments to DBEs and Non-DBEs

The Airport Authority undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished by posting prime contractor payments to a website, database, or other place accessible to subcontractors to alert them to the start of the 30-day clock for payment.

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

- The Airport Authority proactively reviews contract payments to subcontractors including DBEs on a quarterly basis. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Authority by the prime contractor.

### Prompt Payment Dispute Resolution

The Airport Authority will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29. The Airport Authority will hold a meeting with the prime, subcontractor and project engineer. For dispute resolutions, the party's representative must be an individual that has the authorization to bind that party. This includes an Authority's representative with the authority to take enforcement action.

The Airport Authority has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage. A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

*Prime contractors found to be in noncompliance with the prompt payment clause will be subject to sanctions enforced by the Airport Authority. The sanctions include issuing two-party checks for the payment of the Prime Contractor's Application for Payment. The two-party check will be made payable to the prime contractor and its subcontractor. The Airport Authority may notify and request corrective action from the prime contractor's surety company, issuer of the prime contractor's payment bond. Also, the Airport Authority may withhold funds due the contractor pursuant to provisions of Chapter 573, Code of Iowa.*

### Prompt Payment Complaints

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

- (1) The subcontractor should first seek resolution of any payment discrepancies from the prime contractor using the terms of the contract agreement between the parties. If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor



should contact the Airport Authority DBELO to initiate complaint. The DBELO will consult with the Project Engineer to verify the completion of work if applicable.

- (2) If the subcontractor is unsuccessful, then they should see resolution from the Airport Director. The subcontractor should be prepared to cite the term of the contractual agreement that they believe has not been met.
- (3) If the subcontractor is unsuccessful in gaining timely and meaningful action or resolution from the Airport Authority within 90 days, the subcontractor may contact the appropriate Federal Aviation Administration Airport District Office (ADO).

#### Enforcement Actions for Noncompliance of Participants

The Des Moines Airport Authority will provide appropriate means to enforce the requirements of §26.29. These means include one or more of the following:

- (1) In accordance with the contract, assess liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor
- (2) Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- (3) Pay subcontractors directly and deduct this amount from the retainage owed to the prime
- (4) Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays

The Airport Authority will actively implement the enforcement actions detailed above.

#### Monitoring Contracts and Work Sites

The Airport authority reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (*i.e.*, as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by the DBELO or Consultant. Contracting records are reviewed by DBELO or Consultant. The Airport Authority will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

#### **Section 26.39 Fostering small business participation.**

The Des Moines Airport Authority 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 Airport Authorities small business element is incorporated as Attachment 8 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.

## GOALS, GOOD FAITH EFFORTS, AND COUNTING

### **Section 26.43          Set-asides or Quotas**

The Des Moines Airport Authority does not use quotas in any way in the administration of this DBE program.

### **Section 26.45          Overall Goals**

A description of the methodology to calculate the overall goal and the goal calculations located in Attachment 4 to this program. This section of the program will be reviewed annually and updated every three years.

The Des Moines Airport Authority will establish an overall DBE goal covering a three-year federal fiscal year period. Three-year overall goals will be established if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with § 26.45(f) the Airport Authority will submit its Overall Three-year DBE Goal to FAA by August 1<sup>st</sup> of the year in which the goal is due, as required by the schedule established by and posted to the website of the FAA.

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR part 26.45. If the Des Moines Airport Authority does not anticipate awarding DOT/FAA funded prime contracts the cumulative total of which exceeds \$250,000 during any of the years within the three-year reporting period, an overall goal will not be developed. However this DBE Program will remain in effect and the Des Moines Airport Authority will seek to fulfill the objectives outlined in 49 CFR part 26.1.

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The Airport Authority will use another DOT recipient goal, if available. If not, then the Airport Authority will use bidders lists and census bureau data as a method to determine the base figure. The Airport Authority understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The Airport Authority will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the Des Moines Airport Authority's market.

In establishing the overall goal, Des Moines Airport Authority will provide for consultation and publication. This includes consultation with the Iowa Department of Transportation and interested DBE groups to obtain information concerning the availability of disadvantaged and

non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Airport Authority's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before the Authority is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the Authority engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the Airport Authority will publish a notice announcing the proposed overall goal before submission to the FAA. The notice will be posted on the Airport Authority's official internet web site and may be posted in other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the FAA, the revised goal will be posted on the official internet web site.

The Overall Three-Year DBE Goal submission to the FAA will include a summary of information and comments received, if any, during this public participation process and the Airport Authority's responses.

The Des Moines Airport Authority will begin using the overall goal on October 1 of the relevant period, unless other instructions from the FAA Civil Rights Office have been received.

### Project Goals

If permitted or required by the FAA Administrator, an overall goal may be expressed as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

### Prior Operating Administration Concurrence

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

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

#### **Section 26.47 Failure to meet overall goals.**

The Des Moines Airport Authority will maintain an approved DBE Program and overall DBE goal, if applicable, as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the Des Moines Airport Authority awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we 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 the awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
- (3) The Airport Authority will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to the FAA Civil Rights Office upon request.

#### **Section 26.51 Means Recipients Use to Meet Overall Goals**

##### **Breakout of Estimated Race-Neutral & Race-Conscious Participation**

The Airport Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;

- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (6) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (7) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (8) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program.

The Airport Authority will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

#### Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

#### **Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals**

##### Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract

goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

DBELO, with assistance from the engineering consultant is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsive.

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

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:

Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

#### Administrative reconsideration

Within 3 business days of being informed by the Airport Authority that it is not responsive because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Kevin Foley  
Executive Director  
Des Moines International Airport  
5800 Fleur Drive  
515-256-5100  
[kifoley@dsmairport.com](mailto:kifoley@dsmairport.com)

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 the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do so. The bidder/offeror will be sent 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 procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the Airport Authority. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if the Airport Authority agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) The Airport Authority has determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides the Airport Authority with written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that [Recipient] has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to the Airport Authority a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Airport Authority, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the Airport Authority and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the prime contractor's action should not be approved. If required in a particular case as a matter of public necessity (e.g., safety), a response period shorter than five days may be provided.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements. Each prime contract will include a provision stating:

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

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



If the contractor fails or refuses to comply in the time specified, the contracting office/representative of the Airport Authority may 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.

Note: The provisions of the foregoing section apply only when a contract goal is established.

### **Section 26.55 Counting DBE Participation**

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

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

## **CERTIFICATION STANDARDS**

### **Section 26.61 – 26.73 Certification Process**

The Des Moines Airport Authority is a non-certifying member of the Iowa Unified Certification Program (UCP). The Iowa UCP 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. Certifying Iowa UCP members make all certification decisions based on the facts as a whole.

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

Civil Rights Administrator  
Iowa DOT  
Civil Rights / Employee Services  
800 Lincoln Way  
Ames, Iowa 50010  
Phone number: (515) 239-1304  
[nikita.rainey@iowadot.us](mailto:nikita.rainey@iowadot.us)

## **CERTIFICATION PROCEDURES**

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

The Des Moines Airport Authority is the member of a Unified Certification Program (UCP) administered by the Iowa Department of Transportation. The UCP will meet all of the requirements of this section. Refer to Attachment 7 for copy of the current UCP with the Iowa DOT.

## **COMPLIANCE AND ENFORCEMENT**

### **Section 26.101 Compliance Procedures Applicable to the Des Moines Airport Authority**

The Airport authority understands that if it fails to comply with any requirement of this part, the Airport Authority may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

### **Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation**

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

#### **Iowa Open Records Law**

[Iowa Code §22.1 et seq.](#)

The **Iowa Open Records Law** is a series of laws designed to guarantee that the public has access to public records of government bodies at all levels. The law includes all records of government agencies except where the documents have been deemed confidential. There are several exemptions.

Anyone can request public records and the law does not require a statement of purpose for records requests. There are no restrictions for use of the records in the law and you must allow 10-20 days for a record request response to be completed.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to DOT in any certification appeal proceeding under §26.89 or to any other state to which the individual's firm has applied for certification under §26.85.

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

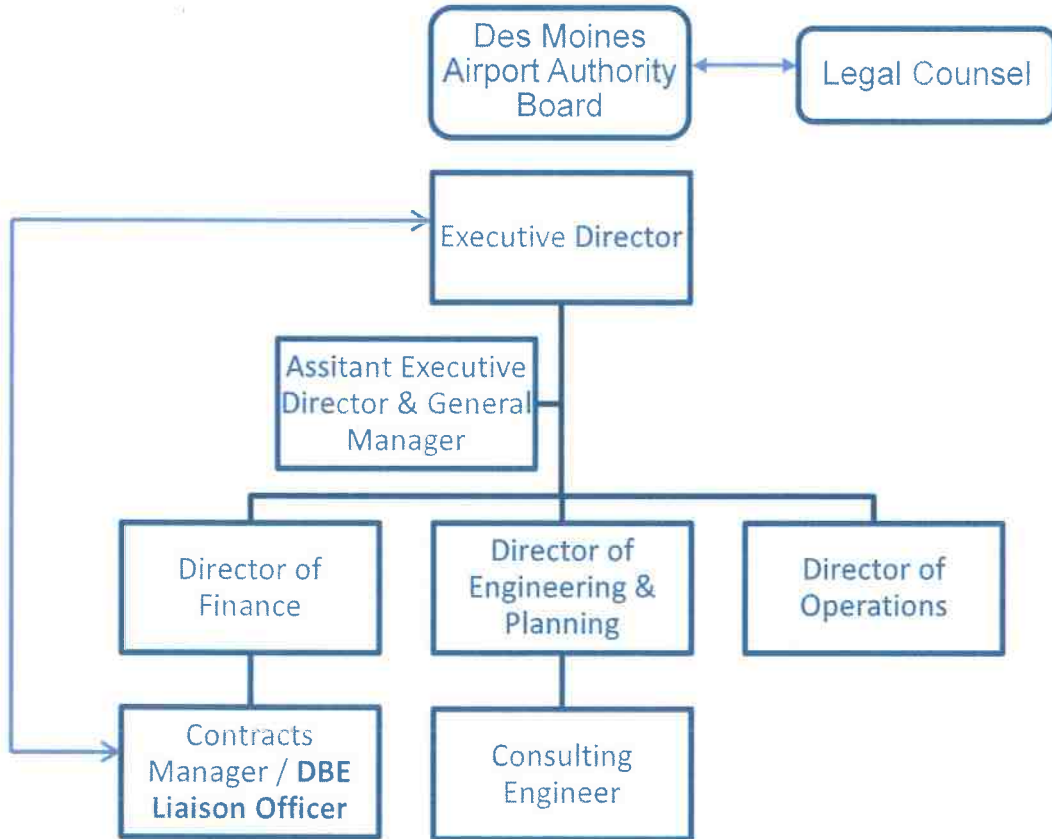
The Airport Authority, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The Airport Authority understands that it is in noncompliance with Part 26 if it violates this prohibition.

## **DBE PROGRAM ATTACHMENTS**

- Attachment 1 Organizational Chart
- Attachment 2 Bidder's List Collection Form
- Attachment 3 Link to DBE Directory
- Attachment 4 Overall Goal Calculations
- Attachment 5 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Form 1 & 2
- Attachment 6 DBE Monitoring and Enforcement Mechanism
- Attachment 7 State's UCP Agreement
- Attachment 8 Small Business Element Program
- Attachment 9 Link to Regulations: 49 CFR Part 26

**ATTACHMENT 1**

**Organizational Chart**





**ATTACHMENT 3**

**Link to DBE Directory**

<HTTPS://SECURE.IOWADOT.GOV/DBE/HOME/INDEX/>





## ATTACHMENT 4

### OVERALL GOAL CALCULATIONS

#### Section 26.45: Overall DBE Three-Year Goal Methodology

**Name of Recipient:** Des Moines Airport Authority.

**Goal Period:** Federal Fiscal Year 2024 (FY-2024) – Federal Fiscal Year 2026 (FY-2026)

**Total estimated contract amount:** \$361,374,846

**DOT Eligible:** \$252,785,837 (70.0% - Overall AIP eligibility of terminal)

**DOT-assisted contract amount:** \$150,392,180 (41.6% - maximum available Federal Funds)

**Project Goal:** 1.27%, to be accomplished through 1.27% RC and 0% RN

**Note:** The project goal has been calculated by normalizing the DOT-assisted contract amount to the total estimated contract amount.

**Total dollar amount to be expended on DBE's:** \$4,589,461

**Describe the Number and Type of Contracts that the airport anticipates awarding:**

Projects FY-2024

1. \*Terminal Phase 1A (3 Year Project): \$253,619,838
2. Deicing Apron Bid Package 2: \$17,002,663

Projects FY-2025

1. \*Terminal Phase 1A (3 Year Project): \$253,619,838
2. Terminal Phase 1A Apron, Bid Package 1: \$18,697,045

Project FY-2026

1. \*Terminal Phase 1A (3 Year Project): \$253,619,838
2. \*Terminal Phase 1B: \$63,891,885
3. Terminal Phase 1A Apron, Bid Package 2: \$8,163,415

\*The projects identified with an asterisk are being conducted as a Construction Manager at Risk (CMAR) in accordance with Iowa Senate File 183 that went into effect July 1, 2022. The two projects are comprised of multiple, separate bid packages as shown in the Step 1 calculation. The remaining three projects are being conducted as design-bid-build projects. A hybrid method was used calculate the DBE program goal because of the different bidding approaches.

To comply with 49 CFR section 26.45, the Des Moines Airport Authority ("Authority") will establish a project specific DBE goal based on evidence of availability of ready, willing, and able DBE's relative to all business' ready, willing, and able to participate in the Authority's FAA-assisted contracts. The first step in the goal-setting process is to determine a base figure for the relative availability of DBE's. The second step is to examine the evidence available locally to determine what adjustment, if any, to the base figure is necessary.

**Market Area**

A hybrid approach was used to develop a more accurate triennial DBE program goal. The IADOT program goal, state-wide census and directory, and specific geographic area census and directory were used based on the bidding approach and project type. For the two CMAR projects the state of Iowa census data and directory were used to determine the triennial goal. The market area for the Terminal Phase 1A (FY-2024 through 2026) and Terminal Phase 1B (FY-2026) projects was developed for the FY-2023 project specific goal (ATTACHMENT 4 ADDENDUM created April 7,2023). The IADOT program goal was used for several bid packages as the work is like DOT-type work. IADOT has an established DBE goal of 6.03%.

A hybrid approach was also used to establish the goal for the three other design-bid-build projects. The Authority used the IADOT goal in their Step 1 calculations for similar work. The IADOT goal is designated in the tables where it was deemed appropriate. Since the IADOT uses internal engineers to design and administer their projects, the Authority did not use the IADOT program goal for this portion of the calculations.

Instead, like the previous triennial goal, a geographic area that includes the surrounding counties was used. The market area for the Des Moines Airport includes, but is not limited to the counties of Allamakee, Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Dallas, Delaware, Dubuque, Fayette, Floyd, Franklin, Grundy, Hardin, Howard, Iowa, Jackson, Jasper, Johnson, Jones, Linn, Madison, Marshall, Mitchell, Polk, Poweshiek, Scott, Story, Tama, Warren, Winneshiek, and Worth.

**Step 1. 26.45(c) Actual relative availability of DBE's**

Hybrid Method:

1. IADOT Triennial Program Goal – 6.03%
2. State-wide Census Data and Directory
3. Geographic Specific Region Census Data and Directory

Use DBE Directories [HTTPS://SECURE.IOWADOT.GOV/DBE/DIRECTORY/INDEX/](https://secure.iowadot.gov/dbe/directory/index/) and Census Bureau data from [County Business Patterns: 2020 \(census.gov\)](https://www.census.gov/popest/data/totals/counties/totals.html).

**FISCAL Year #1**

For FY-2024, award of the following is anticipated:

**TERMINAL PHASE 1A (Hybrid Method 1 & 2)**

Bid Package	Trade Description	NAICS Description	NAICS Code	Trade \$	Census	Directory	DBE %	DBE (\$)
BP 002A	Demolition (Building)	Site Preparation Contractors	238910	4,437,093	665	27	4.06	180,153
BP 022B	Demolition (Building)	Site Preparation Contractors	238910	1,824,147	665	27	4.06	74,063
BP 022Z	Asbestos Abatement	Remediation Services	562910	1,755,000	19	1	5.26	92,368
BP 004A	Masonry	Masonry Contractors	238140	2,765,225	127	0	0.00	0
BP 006A1	Rough Carpentry (Interior Wood Blocking, Guardrails, Temp	Framing Contractors	238130	1,068,539	169	2	1.18	12,645

Bid Package	Trade Description	NAICS Description	NAICS Code	Trade \$	Census	Directory	DBE %	DBE (\$)
	Access, Temp End Supp)							
BP 006A2	Millwork, Countertops (Furnish/Install Millwork, Ctops, Assc Caulking)	Finish Carpentry Contractors	238350	357,554	302	1	0.33	1,184
BP 006A6	Finish Carpentry	Finish Carpentry Contractors	238350	2,713,761	302	1	0.33	8,986
BP 007A	Weather Barriers, Sealants, Sub-slab Waterproofing	Other Building Finishing Contractors	238390	99,450	48	6	12.5	12,431
BP 007B	Roofing (Includes Wood Boeking/Sheathing, Coping Cap, Access Hatches)	Roofing Contractors	238160	4,300,116	209	1	0.48	20,575
BP 007C	Roof Tie-off System	Industrial Machinery and Equipment Merchant Wholesalers	423830	270,270	222	1	0.45	1,217
BP 007D	Metal Panels	Other Foundation, Structure, and Building Exterior Contractors	238190	9,329,803	209	1	0.48	44,640
BP 008A	Doors, Frames, Hardware (Grout Frames, Install Frames in Precast)	Other Building Equipment Contractors	238290	1,341,844	78	3	3.85	51,609
BP 008B1	Exterior Glazing Systems, Storefront, Aluminum Entrances, Int/Ext Vestibules)	Glass and Glazing Contractors	238150	7,482,443	22	1	4.55	340,111
BP 008B2	Interior Glazing, Column Covers (Includes Glass Rails)	Glass and Glazing Contractors	238150	1,341,709	22	1	4.55	60,987
BP 008C1	Overhead Doors (Exterior Only, Includes Temp Solutions)	Other Building Equipment Contractors	238290	213,525	78	3	3.85	8,213
BP 008C2	Overhead Doors (Interior Only, Sliding Doors, Overhead Grilles, Security Shutter)	Other Building Equipment Contractors	238290	177,671	78	3	3.85	6,833
BP 009A1	Stud Framing, Gyp Assemblies, Exterior (Includes Exterior Wall Blocking, Sheathing)	Framing Contractors	238130	1,864,176	169	2	1.18	22,061
BP 009A2	Stud Framing, Gyp Assemblies Ceilings, Plaster, Plan Ceilings, Wood Reveal) - Framing	Framing Contractors	238130	10,455,103	169	2	1.18	123,729
BP 009B	Painting (Interior, Exterior - Walls, Ceilings)	Painting and Wall Covering Contractors	238320	269,654	242	6	2.48	6,686
BP 009C	Tiling Walls, Flooring	Tile and Terrazzo Contractors	238340	1,087,505	44	1	2.27	24,716
BP 009D	Carpet, VCT, Resilient, Impact Flooring Includes Base)	Flooring Contractors	238330	862,804	102	0	0.00	0

Bid Package	Trade Description	NAICS Description	NAICS Code	Trade \$	Census	Directory	DBE %	DBE (\$)
BP 009E	Terrazzo Flooring (Includes Stair Risers, Base)	Tile and Terrazzo Contractors	238340	3,826,105	44	1	2.27	86,957
BP 009F	Fluid Applied Floorings, Concrete Sealants	Other Building Finishing Contractors	238390	1,052,351	48	6	12.5	131,544
BP 009G	Access Flooring	Flooring Contractors	238330	122,604	102	0	0.00	0
BP 010 A	Specialties (Furnish/Install, Toilet Partitions, Grab Bars, Wall Protection)	Other Building Finishing Contractors	238390	1,247,861	48	6	12.5	155,983
BP 010 B	Wire Mesh Partitions	Other Building Finishing Contractors	238390	42,822	48	6	12.5	5,353
BP 010C1	Signage (Building/Interior - Egress, Wayfinding)	Sign Manufacturing	339950	804,223	26	1	3.85	30,932
BP 010C2	Signage (Exterior-Roadway)	Sign Manufacturing	339950	175,500	IADOT		6.03	10,583
BP 010C3	Signage (Interior-Electronic, Wayfinding Signage)	Sign Manufacturing	339950	1,310,985	26	1	3.85	50,423
BP 011A	Dock Levelers	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing	333924	48,817	9	0	0.00	0
BP 011M	Automatic Exit Lanes	Other Building Equipment Contractors	238290	2,115,000	78	3	3.85	81,346
BP 012A	Window Treatments	Home Furnishing Merchant Wholesalers	423220	582,419	20	0	0.00	0
BP 012B	Furnishing - Moveable, Fixed	Furniture Merchant Wholesalers	423210	4,556,089	16	0	0.00	0
BP 012C	Airport Custom Casework and Counters (Furnish/Install)	Finish Carpentry Contractors	238350	2,196,092	302	1	0.33	7,272
BP 013A	Fixed Link Bridges	Commercial and Institutional Building Construction	236220	3,066,750	455	16	3.52	107,842
BP 014A	Elevators	Other Building Equipment Contractors	238290	1,216,126	78	3	3.85	46,774
BP 014B	Escalators	Other Building Equipment Contractors	238290	1,339,501	78	3	3.85	51,519
BP 014C	Baggage Handling Equipment	Other Building Equipment Contractors	238290	23,799,097	78	3	3.85	915,350
BP 014AZ	Passenger Boarding Bridges	Commercial and Institutional Building Construction	236220	2,878,750	455	16	3.52	101,231
BP 021A	Fire Suppression, Sprinklers, Standpipes, Specialties	Plumbing, Heating, and Air-	238220	4,130,683	1046	2	0.19	7,898

Bid Package	Trade Description	NAICS Description	NAICS Code	Trade \$	Census	Directory	DBE %	DBE (\$)
		Conditioning Contractors						
BP 022A	Plumbing, Rainwater Discharge, Distribution, Fixtures, Fuel Handling Systems	Plumbing, Heating, and Air-Conditioning Contractors	238220	6,014,467	1046	2	0.19	11,500
BP 023A	Mechanical Unit Procurement	Plumbing, Heating, and Air-Conditioning Contractors	238220	1,813,371	1046	2	0.19	3,467
BP 023B	Mechanical, Controls, Distribution, TAB, Heating, Cooling, Terminal Units	Plumbing, Heating, and Air-Conditioning Contractors	238220	30,676,510	1046	2	0.19	58,655
BP 026A	Site Electrical Equipment Procurement	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	423610	4,630,058	107	10	9.35	432,716
BP 026B	Electrical Equipment Procurement	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	423610	8,330,519	107	10	9.35	778,553
BP 026C	Electrical, Comm, Low Voltage, FA, Lighting, Site Lighting, Lanes, Common	Electrical Contractors and Other Wiring Installation Contractors	238210	31,605,942	807	7	0.87	274,153
BP 028A	Security System, Access Control, Video Surveillance	Security Systems Services (except Locksmiths)	561621	3,956,017	18	1	5.56	219,779
BP 031A4	Earthwork, Site Prep 2027	Site Preparation Contractors	238910	1,762,500	IADOT		6.03	106,279
BP 031B3	Utilities 2026	Water and Sewer Line and Related Structures Construction	237110	5,313,820	IADOT		6.03	320,423
BP 032I	Landscaping, Seeding, Sodding	Landscaping Services	561730	1,073,363	IADOT		6.03	64,724
BP 032J	Site Amenities (Furniture, Bus Shelters)	Highway, Street, and Bridge Construction	237310	1,507,819	IADOT		6.03	90,921
BP 032L	Site Pavement - Non-Airside (Loading Dock)	Highway, Street, and Bridge Construction	237310	415,010	IADOT		6.03	25,025

Bid Package	Trade Description	NAICS Description	NAICS Code	Trade \$	Census	Directory	DBE %	DBE (\$)
BP 032M	Site Pavement- Non-Airside (Terminal Drop Off Road, Plaza)	Highway, Street, and Bridge Construction	237310	2,599,555	IADOT		6.03	156,753
BP 032N	Site Pavement - Non-Airside (Service Road Replacement)	Highway, Street, and Bridge Construction	237310	823,969	IADOT		6.03	49,685
BP 032P	Airside Pavement - (2025 Apron) - Ineligible for federal funding	Highway, Street, and Bridge Construction	237310	235,000	IADOT		6.03	14,171
BP 032Q	Airside Pavement - (2026 Apron) - Ineligible for federal funding	Highway, Street, and Bridge Construction	237310	587,500	IADOT		6.03	35,426
BP 032R	Airside Pavement - (2027 Apron) - ineligible for federal funding	Highway, Street, and Bridge Construction	237310	611,940	IADOT		6.03	36,900
(Unassigned)	Includes airport and restaurant construction (See also 423440)	Commercial and Institutional Building Construction	236220	5,090,335	455	16	3.52	179,001
	General Conditions & General Requirements	Commercial and Institutional Building Construction	236220	38,042,976	455	16	3.52	337,775
<b>Project Total</b>				<b>253,619,838</b>			<b>2.79</b>	<b>7,080,119</b>
<b>*FAA DOT Assisted Adjusted Total</b>							<b>0.87</b>	<b>2,216,981</b>

#### DEICING APRON BID PACKAGE 2 (Hybrid Method 1 &3)

Trade Description	NAICS Description	NAISC	Trade (\$)	Census	Directory	DBE (%)	Adjusted DBE (\$)	
IADOT 3-YR DBE GOAL			15,400,647			6.03	928,659	
Design Engineering	Engineering Services	541330	702,016	279	6	2.15	15,097	
Construction Administration	Engineering Services	541330	900,000	279	6	2.15	15,097	
<b>Total Project</b>			<b>\$17,002,663</b>	<b>Project Total</b>		<b>5.66</b>	<b>963,111</b>	
<b>*FAA DOT Assisted Adjusted Total</b>							<b>5.10</b>	<b>866,800</b>

#### FISCAL Year #2

For FY-2025, award of the following is anticipated:

#### TERMINAL APRON BID PACKAGE 1 (Hybrid Method 1 &3)

Trade Description	NAICS Description	NAISC	Trade (\$)	Census	Directory	DBE (%)	Adjusted DBE (\$)	
IADOT 3-YR DBE GOAL			16,674,015			6.03	1,005,443	
Design Engineering	Engineering Services	541330	1,023,030	279	6	2.15	22,001	
Construction Administration	Engineering Services	541330	1,000,000	279	6	2.15	21,505	
<b>Total Project</b>			<b>\$18,697,045</b>	<b>Project Total</b>		<b>5.61</b>	<b>1,048,949</b>	
<b>*FAA DOT Assisted Adjusted Total</b>							<b>5.05</b>	<b>944,054</b>



**FISCAL Year #3**

For FY-2026, award of the following is anticipated:

**TERMINAL APRON BID PACKAGE 2 (Hybrid Method 1 & 3)**

Trade Description	NAICS Description	NAISC	Trade (\$)	Census	Directory	DBE (%)	Adjusted DBE (\$)
IADOT 3-YR DBE GOAL			6,963,415			6.03	419,894
Design Engineering	Engineering Services	541330	550,000	279	6	2.15	11,828
Construction Administration	Engineering Services	541330	650,000	279	6	2.15	13,978
<b>Total Project</b>			<b>\$8,163,415</b>			<b>Project Total 5.46</b>	<b>445,700</b>
<b>*FAA DOT Assisted Adjusted Total</b>						<b>4.91</b>	<b>401,130</b>

**TERMINAL PHASE 1B (Hybrid Method 1 & 2)**

Bid Package	Trade Description	NAICS Description	NAISC	Trade (\$)	Census	Directory	DBE (%)	DBE (\$)
A10X0 & B1010	Std & Special Foundations, Slab on Grade & Floor Construction	Poured Concrete Foundation and Structure Contractors	238110	3,178,129	510	9	1.76	73,732
B1020 & B3010	Roof Construction & Coverings	Roofing Contractors	238160	2,560,662	209	1	0.48	12,252
B2010	Exterior Walls	Other Foundation, Structure, and Building Exterior Contractors	238190	2,940,356	17	4	23.53	691,849
B2030 & C1020	Exterior & Interior Doors	Other Building Equipment Contractors	238290	503,527	78	3	3.85	19,366
B2020	Exterior Windows	Glass and Glazing Contractors	238150	1,634,783	22	1	4.55	74,308
C1010	Partitions	Framing Contractors	238130	1,225,340	169	2	1.18	14,501
C2010	Stair Construction	Other Foundation, Structure, and Building Exterior Contractors	238190	297,180	17	4	23.53	69,925
C3010 & C3030	Wall & Ceiling Finishes	Drywall and Insulation Contractors	238310	7,185,741	197	1	0.51	36,476
C3020	Floor Finishes	Flooring Contractors	238330	907,498	102	0	0.00	0
C3020	Floor Finishes	Tile and Terrazzo Contractors	238340	907,498	44	1	2.27	20,625
C1030	Fittings	Other Building Finishing Contractors	238390	822,780	48	6	12.50	102,848
E20X0	Furnishing - Moveable, Fixed	Furniture Merchant Wholesalers	423210	2,707,236	16	0	0.00	0
D1010	Elevator & Lifts	Other Building Equipment Contractors	238290	199,750	78	3	3.85	7,683
D1090, E1090 & F1010	Conveying Systems, Special Structures & Other Equipment	Commercial and Institutional Building Construction	236220	6,233,375	455	16	3.52	219,196
D4010	Sprinklers	Plumbing, Heating, and Air-Conditioning Contractors	238220	828,963	1046	2	0.19	1,585

Bid Package	Trade Description	NAICS Description	NAICS	Trade (\$)	Census	Directory	DBE (%)	DBE (\$)
D20X0	Plumbing Fixtures, Water Distribution, Sanitary Waste & Rain Water Drainage	Plumbing, Heating, and Air-Conditioning Contractors	238220	1,033,671	1046	2	0.19	1,976
D30X0	Distribution, Heat Generating Systems & Temperature Controls	Plumbing, Heating, and Air-Conditioning Contractors	238220	5,182,479	1046	2	0.19	9,909
D5010/20/90 & G4010/20	Electrical Service & Distribution, Lighting & Branch Wiring, Other Electrical Systems, Site Lighting	Electrical Contractors and Other Wiring Installation Contractors	238210	8,730,003	807	7	0.87	75,725
D5030	Communications & Security	Security Systems Services (except Locksmiths)	561621	4,924,472	18	1	5.56	273,582
G1030	Site Earthwork	Site Preparation Contractors	238910	172,725	IADOT		6.03	10,415
G30X0 & G3090	Water Supply, Sanitary Sewer, Storm Sewer & Other Site Mechanical Utilities	Water and Sewer Line and Related Structures Construction	237110	358,375	IADOT		6.03	21,610
G2050	Landscaping	Landscaping Services	561730	70,911	IADOT		6.03	4,276
G2010/30/40	Roadways, Pedestrian Paving, Site Development	Highway, Street, and Bridge Construction	237310	702,650	IADOT		6.03	42,370
	General Conditions & General Requirements	Commercial and Institutional Building Construction	236220	<b>9,583,783</b>	455	16	3.52	<b>337,012</b>
<b>Total Project</b>				<b>63,891,885</b>			<b>3.32</b>	<b>2,121,220</b>
<b>*FAA DOT Assisted Adjusted Total</b>							<b>1.64</b>	<b>1,045,805</b>

### Three-Year Summary

Fiscal Year	Project	Project Cost	Anticipated AIP Grant Value	Raw DBE %	Prorated DBE% (contract goal)	DBE Goal (\$)
24-25-26	Terminal Phase 1A	\$253,619,838	\$79,415,370	2.79%	0.87%	\$2,216,981
26	Terminal Phase 1B	\$63,891,885	\$31,500,000	3.32%	1.64%	\$1,045,805
24	Deicing Apron Bid Package 2	\$17,002,663	\$15,302,396	5.66%	5.10%	\$866,800
25	Terminal Phase 1A Apron, Bid Package 1	\$18,697,045	\$16,827,341	5.61%	5.05%	\$944,054
26	Terminal Phase 1A, Bid Package 2	\$8,163,415	\$7,347,074	5.46%	4.91%	\$401,130
	<b>*FAA DOT Assisted Adjusted Totals</b>	<b>\$361,374,846</b>	<b>\$150,392,180</b>	<b>3.64%</b>	<b>1.51%</b>	<b>\$5,474,770</b>

#### Notes:

\*The "FAA DOT-Assisted Adjusted Total" calculations reconcile the DBE goal to the federally available funding of the total estimated project cost.



**Step 2. 26.45(d):** Adjustments to Step 1 base figure.

A Step 2 adjustment is not warranted based upon an analysis of the potential factors listed below.

**2-1 FY 2024-2026 DOT-assisted contract amounts in relation to the current capacity of DBE firms**

The Authority does not have any data to support this analysis.

**2-2: Past participation**

**FY-2021 Through FY-2023**

FY	AIP #	Description	Grant Value	Project Cost	DBE Participation	DBE % Grant	DBE % Project	Notes
2021	80	Runway 23 Reconstruct Construction	22,221,105	22,659,803	1,575,640	7.1	7.0	Grant and Project costs from grant application, DBE based on actual completed.
2021	81	Runway Intersection Design	398,750	398,750		0.0	0.0	project complete
2021	82	CRRSA						funds went to operations \$5,033,919
2021	83	CRRSA Concession						funds went to operations \$305,634
2021	84	ARPA						funds went to operations \$11,824,431
2022	85	Concessions						funds went to operations \$1,222,535
2022	86	Airfield Pavement Maintenance Plan Update	113,966	126,629		0.0	0.0	project complete
2022	87	Runway Intersection Construction	7,312,772	8,125,302	498,500	6.8	6.1	Grant, Project, and DBE values from bids/grant application, project not yet constructed
2022	88	Reimbursable Agreement Runway 23 Reconstruct	247,444	274,938		0.0	0.0	
2023	89	Passenger Terminal Site Preparation	5,000,000	7,138,823	264,507	5.3	3.7	FY22 BIL ATP funds
2023	90	Terminal Building Design, Activity Item E (Structural) and G (Low Voltage)	1,171,111	6,638,089		0.0	0.0	
2023	91	Construct Terminal Deicing Apron, Bid Package 1	11,264,299	12,515,888	343,815	3.	2.7	Not counting \$604,931 for Legacy Materials, not an Iowa DOT certified DBE
2023	92	North Deicing Tank Repair	3,267,000	363,000		0.0	0.0	Community Grant
2023	93	Reimbursable Agreement Runway 5 Temp Extension	121,500	135,000		0.0	0.0	

FY	AIP #	Description	Grant Value	Project Cost	DBE Participation	DBE % Grant	DBE % Project	Notes
2023	94	Terminal Building Design, Activity Items C (Landside Civil), D (Architectural), F (MEP), H (BHS), I (Code Analysis and Fire Protection), K (Signage and Wayfinding)	7,834,865	8,705,406	922,847	11.8	10.6	
2023	95	Construct Terminal Building, Phase 6 - Construction	10,800,000	17,156,742	54,054	0.5	0.32	FY23 BIL ATP funds - DBE values based on bids
2023	96	Construct Terminal Building, Phase 7 - Construction	10,980,132	17,156,742	23,302	0.2	0.14	FY 22/23 BIL AIG Funds - DBE values based on bids

CMAR projects comprise 87.9% of the triennial projects and would skew the Step 2 adjusted DBE goal if this fact was not taken into consideration in the calculation. Therefore, a weighted approach will be used in the Step 2 adjustment to the Step 1 goal.

Bid Type	Project Cost	Anticipated Grant Value	FAA DOT Adjusted Goal (%)	DBE Goal (\$)	% Total
CMAR Subtotal	317,511,724	110,915,370	1.03	3,262,785	87.9
Design-Bid-Build Subtotal	43,863,123	39,476,810	5.04	2,211,984	12.1
All Projects Total	361,374,846	150,392,180	1.51	5,474,770	100.0

AIP Numbers 95 and 96, CMAR projects, were recently bid and in both cases the anticipated DBE participation fell below the race conscious goals. Since there are only two data points (0.32% and 0.14%) the larger of the two will be used for the Step 2 adjustment for the CMAR vertical construction projects. The CMAR portion of the triennial goal is 1.03%.

$$\text{CMAR Adjustment} = (\text{Median} + \text{Step 1 CMAR Percentage})/2$$

$$\text{CMAR Adjustment} = (0.32 + 1.03)/2 = 0.68\%$$

The non-zero DBE participation percentages for the design-bid-build (D-B-B) horizontal construction projects are 2.7, 3.7, 6.1, 7.0, and 10.0. The median value is 6.1%. The Step 2 adjustment for the D-B-B projects is:

$$\text{D-B-B Adjustment} = (\text{Median} + \text{Step 1 D-B-B Percentage})/2$$

$$\text{D-B-B Adjustment} = (6.1 + 5.04)/2 = 5.57\%$$

The weighted Step 2 goal is:

$$\text{Step 2 Goal} = (\text{CMAR Step 2 Goal} \times \% \text{ CMAR Projects}) + (\text{D-B-B Step 2 Goal} \times \% \text{ D-B-B Projects})$$

$$\text{Step 2 Goal} = (0.68 \times 0.879) + (5.57 \times 0.121) = 1.27\%$$

**2-3: Evidence of disparity studies in market area:**

Neither the Iowa DOT nor the Authority has conducted any disparity studies. Both departments are unaware of any current disparity studies to determine the existence of discrimination and its effects in the state marketplace.

**2-4: Statistical disparities in ability of DBE to receive financing, bonding and insurance:**

Neither the Iowa DOT nor the Authority has been able to identify any such disparities.

**2-5: Data on employment, self-employment, education and training:**

Neither the Iowa DOT nor the Authority has been able to identify data on such opportunities.

**2-6: Continuing effects of past discrimination:**

Neither the Iowa DOT nor the Authority has evidence of past discrimination.

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

The recipient estimates that in meeting the project specific goal of **1.27%**, it will obtain **0%** from **RN** participation and **1.27%** through **RC** measures. The level of RN has been set at 0% since over 87% come from CMAR projects. DBE participation has been less than expected for these projects which were bid using RC measures. Therefore, RC measures are needed for sufficient DBE engagement and participation opportunities.

## PUBLIC PARTICIPATION

### Consultation

In establishing the overall goal, consultation and publication were provided. The consultation included scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process. It was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows.

The first consultation was phone calls to each DBE, listed in the Iowa Directory, with a NAICS code that corresponded to one of the listed bid packages. The project was explained to each DBE, they were asked if they were interested in bidding, and were invited to attend a virtual procurement webinar. The phone calls were made from January 31, 2023, to February 1, 2023.

The second consultation, virtual procurement webinar, was held on February 16, 2023. Notice of the procurement webinar was published through several different avenues.

- Notice distributed by the Greater Des Moines Partnership
- Notice provided to all Iowa Certified DBE companies via the DBE Support Services Program Manager/APEX Government Contracting Specialist, who also provided to the Evelyn Davis Center for Working Families
- Notice published on Weitz and Turner LinkedIn and Facebook pages.

The CMAR maintained a call log. There were no substantive comments with respect to DBE goal setting. There were several comments that the scope of work for the bid packages was

probably too large to act as a primary contractor, but they would be interested in work as a subcontractor.

### Public Notice

Following consultation and preparation of the program goal, a public notice was published in the Des Moines Register and on the Airport Authority website presenting the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport administration building for 30 days following the date of the notice, and informing the public that the Airport Authority and DOT will accept comments on the goals for 45 days from the date of the notice.

#### PUBLIC NOTICE

The Des Moines Airport Authority hereby announces its goal of 1.27% for Disadvantaged Business Enterprise (DBE) on 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 at the office of the Director at the Des Moines International Airport for thirty days from the date of this publication.

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

Amy Fredricks  
Contracts Manager  
Des Moines International Airport  
5800 Fleur Drive, Suite 207  
515-256-5006  
asedgington@dsmairport.com

or

Federal Aviation Administration  
Office of Civil Rights Staff  
Ofelia Medina  
AWP-9  
PO Box 92007  
Los Angeles, CA 90009  
Ofelia.Medina@FAA.gov

Notice was published on September 8, 2023, and no comments were received.

**ATTACHMENT 5**

**Demonstration of Good Faith Efforts - Forms 1 & 2**

**UTILIZATION STATEMENT  
Disadvantage Business Enterprise**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner. (Please mark the appropriate box)

- The bidder/offeror is committed to a minimum of ### DBE utilization on this contract.
- The bidder/offeror, while unable to meet the DBE goal of ###, hereby commits to a minimum of      % DBE utilization on this contract and also submits documentation, as an attachment demonstrating good faith efforts (GFE).

The undersigned hereby further assures that the information included herein is true and correct, and that the DBE firm(s) listed herein have agreed to perform a commercially useful function in the work items noted for each firm. The undersigned further understands that no changes to this statement may be made without prior approval from the Civil Right Staff of the Federal Aviation Administration.

\_\_\_\_\_  
Bidder's Offeror's Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DBE UTILIZATION SUMMARY**

	<u>Contract Amount</u>		<u>DBE Amount</u>	<u>Contract Percentage</u>
DBE Prime Contractor	\$ _____	x 1.00 =	\$ _____	_____ %
DBE Subcontractor	\$ _____	x 1.00 =	\$ _____	_____ %
DBE Supplier	\$ _____	x 0.60 =	\$ _____	_____ %
DBE Manufacturer	\$ _____	x 1.00 =	\$ _____	_____ %
Total Amount DBE			\$ _____	_____ %
DBE Goal			\$ _____	_____ %

Note: If the total proposed DBE participation is less than the established DBE goal, Bidder must provide written documentation of the good faith efforts as required by 49 CFR Part 26.



**ATTACHMENT 6**

**State's UCP Agreement**



# IOWA DEPARTMENT OF TRANSPORTATION (Iowa DOT) UNIFIED CERTIFICATION PROGRAM (UCP) AGREEMENT

## **Development & Proposal**

The new Disadvantaged Business Enterprise (DBE) requirements contained in 49 CFR Part 26 included a provision for a "one-stop" certification process. The process must be defined and submitted to the Secretary of Transportation for approval within 3 years of publication of the regulations, February 2002. (Attachment A) Failure to develop and execute a UCP agreement will result in a loss of USDOT funding.

## **Impact on Recipient Programs**

Federal regulations, 49 CFR Part 26, require all USDOT fund recipients implement a UCP within three years. The statewide UCP must establish a single uniform process or "one stop-shopping" for DBE applications, certifications, and development of a single point DBE Directory. All USDOT recipients will be required to ratify the UCP agreement and all DBE certifications by the Iowa DOT will be binding.

The UCP will not establish, recommend or alter any agencies' overall DBE Program, other than to supplement an approved program submittal, DBE goal, or goal methodology. DBE goal development, administration, monitoring, and reporting remains the sole responsibility of the agency with a USDOT approved DBE Program in accordance with 49 CFR Part 26, subject to any oversight requirements of the lead agency. Any agency that elects not to establish a DBE Program as set forth in 49 CFR Part 26 will be required to adopt and implement the lead agency's program. The lead agency in Iowa is the Iowa DOT for the majority of the recipient's USDOT federal funds.

## **Reciprocity**

The Iowa DOT may elect to enter into a written reciprocity agreement; with UCPs in other states or regions.

## **Process Review**

The Iowa DOT has developed an application letter, approval letter, and certificate of approval. (Attachments B, C, & D) The current DBE application will be used due to the impending application under development by the USDOT.

## **Ratification Process**

All recipients of federal funds administered by the USDOT, either directly or indirectly, must ratify and comply with the UCP agreement. Failure to ratify the agreement may result in the loss of federal funds from the Iowa DOT and/or the USDOT.

## Initial Consolidation

The Iowa DOT will review all firms that make a written request to determine eligibility under 49 CFR Part 26. The Iowa DOT will review any investigative information, the certification file, and any other documentation provided. The Iowa DOT will then make a **determination** as to whether or not the firm meets the eligibility requirements. The firm may appeal this decision to the Appeals Committee.

After the effective date of this Agreement, only firms certified based on guidelines prescribed in 49 CFR Part 26 and provisions of this agreement, shall be recognized as **certified** by the Iowa DOT.

## Appeals Process

The Appeals Committee will consist of 5 members. The Appeals Committee will give the firm the opportunity for administrative re-consideration of the eligibility determination. As required in the DBE regulations, a firm may appeal directly to the USDOT, however, if they choose to appeal to the Iowa DOT Appeals Committee, they do **not** forfeit the right to appeal to the USDOT, within the time frame provided in 49 CFR Part 26.

**Initial Certification Applicant Denials** - When a firm is denied certification, a certified letter is sent in which they are given the opportunity to appeal that decision, to an internal DBE Appeals Committee. To do this, they must request an appeal, in writing, within 15 days of their receipt of the letter. If an appeal is requested the firm is **contacted** within 3 days to **schedule** the appeal. If the denial is upheld by the Committee, the DBE firm has the right to appeal to the USDOT within 180 days of the notice.

**Denial of Re-Certification and De-Certifications** - When a certified firm is **decertified** or denied recertification, they are sent a certified letter in which they are given the opportunity to appeal that decision, to an internal DBE Appeals Committee. To do this, they must request an appeal, in writing, within 15 days of their receipt of the letter.

**Administrative Removal of Eligibility** - In circumstances **where a certified firm, or a new applicant firm, has failed to submit required documentation or exceeded Personal Net Worth thresholds**, there will be no administrative re-consideration. **Those circumstances include:**

- Any certified firm that does not submit the annual update required in 49 CFR Part 26 will have certification removed for failure to comply after 45 days from the **date** the update was due. The **update** is due March 1<sup>st</sup> of every year. Failure to submit the update is not **appealable**.
- Any firm previously certified and **denied** certification due to **exceeding** the Personal Net Worth cap by the disadvantaged **owner** is not appealable.
- If any certified firm's disadvantaged owner's Personal Net Worth **exceeds** the cap within the 3 year **period** of certification, the **eligibility** of the firm will be **removed**. Removal of certification for **exceeding Personal Net Worth** is not **appealable**.

## **SIC/NAIC Codes**

The Iowa DOT agrees to certify all firms in compliance with 49 CFR Part 26, including designating specific work types. The Iowa DOT agrees to use the SIC/NAIC codes for those designations.

Any firm may request modification and/or additions to their approved codes by making a written request to the Iowa DOT. The request must include the equipment and experience indicating the firm's ability to perform the particular work type. In addition, the firm must submit documentation of past contracts on which the firm has performed the specific type of work. A sample request application is set out in Attachment E.

## **3<sup>rd</sup> Party Challenges**

The Iowa DOT shall accept written complaints from any person alleging that a certified firm is ineligible. The complaint must state specific reasons for ineligibility and submit any documentation in support of the complaint. The firm being challenged will be notified by the Iowa DOT, in writing, of the challenge, the basic grounds, and relevant regulations. The Iowa DOT shall thoroughly investigate the complaint, within a reasonable time, not to exceed 60 days. The agency shall notify the DBE in writing, by certified mail, of the preliminary findings. If reasonable cause to remove certification eligibility is found, the Iowa DOT will notify the complainant of the specific grounds and inform the firm of the right to appeal the preliminary finding to the Iowa DOT.

The Appeals Committee will be the hearing board for all challenges to currently certified firms. This does not include denial of re-certifications or new certification requests.

The firm may request an appeal to the Iowa DOT, in writing, of the intent to remove certification within 15 days of the date of the notice.

The USDOT may notify the Iowa DOT of reasonable cause to find a certified DBE firm to be ineligible and the Iowa DOT shall immediately removed the certification eligibility of that firm.

## **Supportive Services**

Assistance is provided to all DBE certified firms in the following areas.

- preparation of the certification application
- information about how to obtain bidding documents and plans
- plan reading
- dealing with contractors
- information about dealing with the Iowa DOT
- assistance in developing loan packages and financial statements

## ATTACHMENTS

### Attachment A

49 CFR Part 26

§26.81 What are the requirements for Unified Certification Programs?

- (a) You and all other DOT recipients in your state must participate in a Unified Certification Program(UCP).
- (1) Within three years of [insert date 30 days after date of publication in Federal Register], you and the other recipients in your state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The Secretary may, on the basis of extenuating circumstances shown by the recipients in the state, extend this deadline for no more than one additional year.
  - (2) The agreement must provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters. The agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part. The agreement shall include an implementation schedule ensuring that the UCP is fully operational no later than 18 months following the approval of the agreement by the Secretary.
  - (3) Subject to approval by the Secretary, the UCP in each state may take any form acceptable to the recipients in that state.
  - (4) The Secretary shall review the UCP and approve it, disapprove it, or remand it to the recipients in the state for revisions. A complete agreement which is not disapproved or remanded within 180 days of its receipt is deemed to be accepted.
  - (5) If you and the other recipients in your state fail to meet the deadlines set forth in this paragraph (a), you shall have the opportunity to make an explanation to the Secretary why a deadline could not be met and why meeting the deadline was beyond your control. If you fail to make such an explanation, or the explanation does not justify the failure to meet the deadline, the Secretary shall direct you to complete the required action by a date certain. If you and the other recipients fail to carry out this direction in a timely manner, you are collectively in noncompliance with this part.
- (b) The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program.

- (1) Certification decisions by the UCP shall be binding on all DOT recipients within the state.
- (2) The UCP shall provide "one-stop shopping" to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.
- (3) All obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and recipients may use only UCPs that comply with the certification and nondiscrimination requirements of this part.
- (c) All certifications by UCPs shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.
- (d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The "home state" UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.
- (e) Subject to DOT approval as provided in this section, the recipients in two or more states may form a regional UCP. UCPs may also enter into written reciprocity agreements with other UCPs. Such an agreement shall outline the specific responsibilities of each participant. A UCP may accept the certification of any other UCP or DOT recipient.
- (f) Pending the establishment of UCPs meeting the requirements of this section, you may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. You may also grant reciprocity to other recipient's certification decisions.
- (g) Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this section), the information required by §26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.
- (h) Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to UCPs.

## Attachment B

Thank you for your interest in the Iowa Department of Transportation's Disadvantaged Business Enterprise Program.

The certification process is perhaps the most critical single element of DBE program administration, since it is to determine eligibility for participation in the program. As such, it is a state's first line of protection against program abuse.

In order to be certified, a firm must be:

- A small business as defined by Section 8(d) of the Small Business Act and as amended by TEA-21 of 1998. (*13 CFR, paragraph 121.3-8, lists definitions for small businesses by industry type.*) TEA-21 of 1998 restricts the size of small businesses to \$17.42 million three-year average gross income.
- Owned (*at least 51 percent*) by a socially and economically disadvantaged person or persons; and
- Controlled by a socially and economically disadvantaged person or persons.

To qualify as a Disadvantaged Business Enterprise (DBE) your firm must meet the eligibility standards established in Part 26, Title 49 of the Code of Federal Regulations, published February 2, 1999. Additional requirements were also passed in the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21). The Congress directed the U.S. Secretary of Transportation to establish minimum uniform criteria for state governments to use in certifying that a firm qualifies for participation in the DBE program. As a minimum, according to the Act, the criteria include on-site visits, field interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resumes of principal owners, financial capacity, type of work performed, and notarized statement of personal net worth and that each DBE owner is, in fact, socially and economically disadvantaged. A copy of the rules are available upon request from the Iowa Department of Transportation's Office of Contracts.

Upon receipt of the completed Certification Application, the Department will evaluate the information submitted to determine compliance with the above criteria. It is, therefore, imperative that your application and any attached documentation provide evidence of the ownership and control of your firm. You shall also show that your firm has the resources necessary to perform the work you indicated. Only those firms which have been certified under this process can be considered for participation in the Department's DBE Program.

To ensure a timely review of your application, you must answer all questions and submit all requested documentation. If yours is a recently established firm, and portions of the application do not seem applicable, please place (NA) on the questions that do not apply. Failure to complete portions of the application and to submit the requested documentation will delay the certification process.

Sincerely,

EEO Administrator

Certificate No.

# Disadvantage Business Enterprise Certification

This Certifies That

**Has met the requirements under the rules promulgated by the U.S. Department of Transportation pursuant to 49 Code of Federal Regulations, Part 26, and is eligible to participate as a Disadvantaged Business Enterprise in the Iowa Department of Transportation DBE Program**

Issue Date:

Expiration Date:

**Craig J. Russell, EEO Administrator**

**Roger E. Bierbaum, P.E., Contracts Engineer**

This certification may be revoked by the department upon finding of ineligibility and said company is subject to examination at any time and maybe required to supply additional information for review notwithstanding the issuance of this certificate.

## Attachment D

Date

Co. Name

Address

City, ST Zip

Dear :

The Iowa Department of Transportation (Iowa DOT) has approved the eligibility of **COMPANY NAME** for credit on Iowa DOT contracts performing a commercially useful function in the area(s) of: **WORK TYPES CERTIFIED FOR**. For record-keeping purposes Iowa DOT is counting **COMPANY NAME** as a Woman/Disadvantaged Business Enterprise (W/DBE). If the firm should develop the resources, including equipment and personnel, to become involved in other areas, you should notify our office before quoting contracts in those other areas.

The certification of eligibility is valid for three years from Month Day, 200? to March 1, 200?. Enclosed with this approval letter is your DBE Certification Certificate. Your firm's name will be retained on our list of certified DBE's.

This determination is based on information provided to the Iowa DOT on the Schedule A Form Application for Determining Disadvantaged Business Enterprise, and the Social and Economic Disadvantaged Forms. Should this information change, you must complete a new application within 10 days of the change. In addition, Iowa DOT reserves the right to rescind this certification, should the information upon which it is based is proven false, inaccurate, or misleading.

You will be required to submit a Recertification Form to renew certification every three years, with Personal Financial Statements each year. These forms will be supplied by the Office of Contracts, EEO Section.

Iowa DOT has the responsibility for providing technical assistance to DBE firms for our highway projects. These services are currently being provided by the Office of Contracts at 515-239-1422. Certified firms are encouraged to utilize this office for assistance.

If you have any questions, please feel free to contact this office.

Sincerely,

Compliance Officer



**Attachment E**

**DISADVANTAGED BUSINESS ENTERPRISE  
Request for Standard Industry Classification (SIC) Code Review**

Name of Firm:			
Street Address:			
City:		State:	Zip:
Description of SIC Code Addition Requested			

List and attach documentation of the 5 largest contracts or supply invoices completed for the SIC code requested.

Owner/Contractor	Phone	Contract Amount	Project Name/Location	Type of Work Performed

List all equipment you own or lease used to perform the work for the SIC code requested. Copies of current lease agreements or proof of payment must be attached.

Type of Equipment	Make	Model	Year	Date Acquired	Present Value

Please attach any other documentation or information relevant to the review of the SIC code your firm requested. This can include documentation of technical licenses, leases of property or facilities, training or expertise.

Signature	
Printed name	
Title	
Date	

**State of Iowa Recipients**

**CITIES**

Ackley  
Albia  
Algona  
Allison  
Altoona  
Ames  
Anamosa  
Ankeny  
Asbury  
Atlantic  
Bellevue  
Bettendorf  
Blakesburg  
Bloomfield  
Bonaparte  
Boone  
Burlington  
Carroll  
Casey  
Cedar Falls  
Cedar Rapids  
Centerville  
Charles City  
Cherokee  
Clear Lake

Clinton  
Clive  
Coin  
Conrad  
Coralville  
Council Bluffs  
Creston  
Davenport  
De Witt  
Decorah  
Delmar  
Denison  
Denver  
Des Moines  
Dubuque  
Dyersville  
Dysart  
Eagle Grove  
Eldon  
Eldridge  
Estherville  
Waterloo  
Fairfield  
Forest City  
Fort Dodge  
Fort Madison  
Fredericksburg

George  
Greenfield  
Grinnell  
Grundy Center  
Guthrie Center  
Harlan  
Hiawatha  
Hinton  
Hudson  
Hull  
Ida Grove  
Independence  
Indianola  
Iowa City  
Iowa Falls  
Johnston  
Keokuk  
Kiron  
Knoxville  
La Porte City  
Lansing  
LeMars  
Leon  
Madrid  
Manchester  
Manning  
Maquoketa

Marion  
Marshalltown  
Mason City  
Maxwell  
Milford  
Monona  
Mt. Pleasant  
Mount Vernon  
Muscatine  
Nevada  
New Hampton  
Newton  
North Liberty  
Oelwein  
Onawa  
Osage  
Oskaloosa  
Ottumwa  
Pella  
Peosta  
Perry  
Pleasant Hill  
Red Oak  
Redfield  
Bettendorf  
Rudd  
Sergeant Bluff

Shelby  
Sheldon  
Shell Rock  
Shenandoah  
Sioux Center  
Sioux City  
Spencer  
Storm Lake  
Story City  
Strawberry  
Point  
Tiffin  
Iowa City  
Urbandale  
Van Home  
Vinton  
Washington  
Waterloo  
Waverly  
Webster City  
West Liberty  
Wheatland  
Windsor Hgts

**AIRPORT**

Ames  
Ankeny  
Atlantic  
Audubon  
Belle Plaine  
Bloomfield  
Boone  
Burlington  
Carroll  
Cedar Rapids  
Centerville  
Chariton  
Charles City  
Cherokee  
Clarinda

Clarion  
Clinton  
Council Bluffs  
Creston  
Davenport  
Connell Flying  
Service  
Denison  
Des Moines  
Dubuque  
Emmetsburg  
Estherville  
Fairfield  
Forest City  
Fort Dodge  
Fort Madison

Greenfield  
Grinnell  
Guthrie County  
Hampton  
Harlan  
Humboldt  
Independence  
Knoxville  
Iowa City  
Iowa Falls  
Jefferson  
Keokuk  
Lamoni  
LeMars  
Mapleton  
Maquoketa

Marshalltown  
Mason City  
Monticello  
Mount Pleasant  
Muscatine  
Newton  
Oelwein  
Orange City  
Osceola  
Oskaloosa  
Ottumwa  
Pella  
Perry  
Pocahontas  
Red Oak  
Rockwell City

Sac City  
Sheldon  
Shenandoah  
Sioux City  
Spencer  
Spirit Lake  
Storm Lake  
Vinton  
Washington  
Waterloo  
Waverly  
Webster City  
West Union

## TRANSITS

Ames Transit Agency  
City of Bettendorf  
Burlington Urban Service  
Five Seasons Transportation  
(Cedar Rapids)  
Clinton Municipal Transit  
City of Council Bluffs  
Davenport CitiBus  
Des Moines METRO  
Keyline Transit  
Iowa City Transit  
U of I, Dept. of Parking &  
Transportation  
City of Mason City  
Muscatine City Transit  
Ottumwa Transit Authority

Northeast Iowa Community  
Action Corp. (Decorah)  
Spencer Regional Transit  
Siouxland Regional Transit  
(Sioux City)  
MIDAS (Fort Dodge)  
Region 6 Planning Comm.  
(Marshalltown)  
Iowa Northland Regional  
Transit (Waterloo)  
Dubuque Regional Transit  
Great River Bend Service  
(Davenport)  
East Central Iowa Council  
of Governments  
(Cedar Rapids)  
Region 12 Council of  
Governments (Carroll)  
SW Iowa Planning Council

(Atlantic)  
Area XIV Agency on Aging  
(Creston)  
SE Iowa Community  
Action Org. (Burlington)  
Sioux City Transit  
Heart of Iowa Regional  
Transit (Des Moines)  
Dart - City of Fort Dodge  
Coralville Transit System  
Marshalltown Municipal  
Transit  
Metropolitan Transit  
(Waterloo)  
U of I - Transit Manager  
City of Albia  
City of Algona

## COUNTIES

Adair	Clay	Hardin	Marion	Sioux
Adams	Clayton	Harrison	Marshall	Story
Allamakee	Clinton	Henry	Mills	Tama
Appanoose	Crawford	Howard	Mitchell	Taylor
Audubon	Dallas	Humboldt	Monona	Union
Benton	Davis	Ida	Monroe	Van Buren
Black Hawk	Decatur	Iowa	Montgomery	Wapello
Boone	Delaware	Jackson	Muscatine	Warren
Bremer	Des Moines	Jasper	O'Brien	Washington
Buchanan	Dickinson	Jefferson	Osceola	Wayne
Buena Vista	Dubuque	Johnson	Page	Webster
Butler	Emmet	Jones	Palo Alto	Winnebago
Calhoun	Fayette	Keokuk	Plymouth	Winneshiek
Carroll	Floyd	Kossuth	Pocahontas	Woodbury
Cass	Franklin	Lee	Polk	Worth
Cedar	Fremont	Linn	Pottawattamie	Wright
Cerro Gordo	Greene	Louisa	Poweshiek	
Cherokee	Grundy	Lucas	Ringgold	
Chickasaw	Guthrie	Lyon	Sac	
Clarke	Hamilton	Madison	Scott	
	Hancock	Mahaska	Shelby	

**Recipient Signature(s)**

Federal Regulations 49 CFR Part 26 requires all recipients in the state to sign this agreement establishing this document as the UCP for the State of Iowa.

By your signatures, you are completing that agreement. Please obtain all necessary signatures and **return this page only** to the Iowa Department of Transportation, Office of Contracts, 800 Lincoln Way, Ames, Iowa 50010.

ATTEST:

Des Moines International Airport  
(Name & Title) Recipient Name (i.e. City/County/Transit)

*Vicki R. Dickinson*  
(Name & Title) Airport Board Clerk

*John F. Gibbon*  
(Name & Title) Airport Board Chairperson

\_\_\_\_\_  
(Name & Title)

\_\_\_\_\_  
(Name & Title)

\_\_\_\_\_  
(Name & Title)

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(Name & Title)

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(Name & Title)

\_\_\_\_\_  
(Name & Title)

\_\_\_\_\_  
(Name & Title)



\* Resolution Number

A02-30

Agenda Item Number

9

Date February 5, 2002

APPROVING AND AUTHORIZING THE EXECUTION OF IOWA DEPARTMENT OF TRANSPORTATION AGREEMENT FOR UNIFIED CERTIFICATION PROGRAM FOR DISADVANTAGED BUSINESS ENTERPRISES

BE IT RESOLVED BY THE DES MOINES INTERNATIONAL AIRPORT BOARD FOR THE CITY OF DES MOINES, IOWA:

That the agreement between the City of Des Moines and the Iowa Department of Transportation for Unified Certification Program for Disadvantaged Business Enterprise, a copy of which is now on file in the office of the Board Clerk, is hereby approved, and the Chairperson and the Board Clerk are hereby authorized and directed to execute and attest, respectively, said Agreement for and on behalf of the City of Des Moines, Iowa.

(Board Communication No.02-22)

Moved by Hansell to adopt.

Approved as to form:

Kathleen Vanderpool  
Assistant City Attorney

Board Action	Yeas	Nays	Pass	Absent
Ashman	✓			
Erickson	✓			
Fitzgibbon	✓			
Hansell	✓			
Kalainov				✓
Ross	✓			
Weisshaar	✓			
TOTAL	6			1

Certificate

I, VICKI N. DICKINSON, Board Clerk of said Des Moines International Airport Board, hereby certify that at a meeting of the Board, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

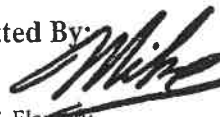
APPROVED

Chairperson

Board Clerk

**OFFICE OF THE AVIATION DIRECTOR**  
**Des Moines, Iowa**

**Airport Board Communication 02-22**  
**February 5, 2002**

<b>Subject:</b> Approval of Unified Certification Program (UCP) Agreement with the Iowa Department of Transportation (DOT)	<b>Action Required:</b> Receive/File Recommend Aprvl To Council * Approval	<b>Submitted By:</b> WFF  William F. Flannery Aviation Director
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**BACKGROUND:**

On February 2, 1999, the DOT published in the Federal Register revised final rules for participation by Disadvantaged Business Enterprise (DBE) in DOT programs being 49 CFR Parts 23 and 26 that became effective March 4, 1999. Said 49 CFR Part 26 requires recipients of federal financial assistance from the DOT to revise their DBE programs to comply with the new 49 CFR Part 26, and as a condition of receiving this assistance, the City must sign an assurance that it will comply with 49 CFR Part 26.

The City receives DOT financial assistance from the Federal Highway Administration (FHWA) and the FAA. IA DOT administers FHWA funds and requires the IA DOT DBE program in all FHWA-funded projects. The Engineering Department has been working with the FAA and IA DOT to establish a DBE program in accordance with said 49 CFR Part 26, which was approved by the FAA in January 2001.

On January 22, 2001, under Roll Call No. 01-280, the City Council approved the "Disadvantaged Business Enterprise Program Adopted Specifically For Projects Funded In Part By The U.S. Department Of Transportation, City of Des Moines, revised January 2001," which meets the standards of 49 CFR Part 26 and was approved on January 10, 2001 by the Regional FAA Administrator on behalf of the US DOT. On January 9, 2001, under Resolution No. A01-05, the Airport Board approved said DBE program. Said DBE program included the following statement regarding the UCP:

The City of Des Moines has contacted the IA DOT and expressed its willingness to participate in a Unified Certification Program (UCP), with the IA DOT. The IA DOT is assuming it will be the lead organization in the UCP because of funding and staffing. Until such time as the UCP agreement can be executed, the IA DOT has agreed to allow the City of Des Moines to utilize the IA DOT's DBE directory.

A statewide certification of DBE's before April 2002 is required by 49 CFR Part 26. The Iowa DOT has prepared the Iowa DOT Unified Certification Program (UCP) Agreement, which creates the statewide UCP establishing a single uniform process or "one-stop shopping" for DBE applications, certifications, and development of a single point DBE Directory. All USDOT recipients will be required to ratify the UCP agreement and all DBE certifications by the Iowa DOT will be binding. The Iowa DOT will staff and fund the Iowa UCP at no cost to members.

Staff recommends approval of the UCP Agreement with the Iowa DOT.

**FISCAL IMPACT:**

All cost associated with DBE certification under the UCP will be paid by the Iowa DOT.

**RECOMMENDATION:**

It is recommended that the Airport Board approve the UCP Agreement with the Iowa DOT and authorize the Board Chairperson to execute the agreement.

## ATTACHMENT 7

### **DBE Monitoring and Enforcement Mechanisms**

The Des Moines Airport Authority has available several remedies to enforce the DBE requirements contained in its contracts, including:

1. Responsibility determinations in future contracts
2. Breach of contract action, pursuant to the terms of the contract;
3. Action authorized under Chapter 73A, Code of Iowa; and
4. 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 provided in 26.107, as outlined below.

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

### Small Business Element Program

In accordance with 49 CFR Part 26.39, the Des Moines Airport Authority 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, such as unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

#### Small Business Definition

The United States Small Business Administration defines a small business concern as one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Based on current guidelines, small business completing heavy construction or commercial building projects are limited to \$33.5 million gross annual receipts. Specialty contractors are limited to \$14 million gross annual receipts.

The Des Moines Airport Authority has elected to use a small business definition that is consistent with 13 CFR Part 121.

#### Project Set Asides

Projects at the Des Moines Airport Authority are historically of the size and magnitude that accommodate small business participation, therefore the Airport will not use small business set asides to facilitate small business participation.

#### Regional Collaboration to Develop Small Businesses

The Des Moines Airport Authority participates in the Unified Certification Program administered by the Iowa DOT. The Iowa DOT utilizes two programs to develop and foster small business participation within the State of Iowa, including the Emerging Small Business (ESB) program and the Supportive Services program. The Des Moines Airport Authority supports the Iowa DOT in their efforts to develop and grow small businesses.

**ATTACHMENT 9**

**Link to Regulations: 49 CFR Part 26**

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1>