

## **POLICY STATEMENT**

**Section 26.1, 26.23**

### **Objectives/Policy Statement**

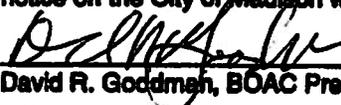
The Madison Board of Aviation Commissioners (BOAC) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Madison BOAC has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Madison BOAC has signed an assurance that it will comply with 49 CFR Part 26.

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

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

Brent Spry has been delegated as the DBE Liaison Officer. In that capacity, Brent Spry 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 Madison BOAC in its financial assistance agreements with the Department of Transportation.

The DBE Liaison Officer has disseminated this policy statement to the Madison BOAC and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. This was accomplished by posting a notice on the City of Madison web site: [www.madison-in.us](http://www.madison-in.us)

  
\_\_\_\_\_  
David R. Goodman, BOAC President

8/10/14  
\_\_\_\_\_  
Date

## SUBPART A – GENERAL REQUIREMENTS

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

The Madison BOAC is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The Madison BOAC will use terms in this program that have the meaning defined in Section 26.5.

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

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

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

#### Reporting to DOT: 26.11

(b) You must continue to provide data about your DBE Program to the Department as directed by DOT operating administrations.

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in Appendix B to this part. We will also report the DBE Contractor firms contact information either on the FAA DBE Contractor's Form or other similar format.

#### Bidders List: 26.11(c)

The Madison BOAC 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 our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address and DBE and non-DBE status and be collected from bid proposals we receive during the bid process of our projects and through recipient-directed surveys.

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

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

Assurance: 26.13(a) - Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The Madison BOAC shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Madison BOAC shall take all necessary and

reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Madison BOAC's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Madison BOAC of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.* ).

Contract Assurance: 26.13b

The Madison BOAC will ensure that the following clause is included in each contract we sign 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 Madison BOAC deems appropriate.

**SUBPART B - ADMINISTRATIVE REQUIREMENTS**

**Section 26.21 DBE Program Updates**

The Madison BOAC will receive grant(s) for airport planning or development totaling \$250,000 in a Federal fiscal year. We will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program for approval.

The Madison BOAC is not eligible to receive DOT financial assistance unless DOT has approved our DBE Program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended.

**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:

Brent Spry  
Airport Manager  
3919 W IMS Lane  
Madison, IN 47250  
812-273-1914  
spryguy862008@hotmail.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Madison BOAC complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the BOAC President concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of 2 to assist in the administration of the program. The duties and responsibilities of the DBELO include the following:

1. Analyzes Madison BOAC's progress toward attainment and identifies ways to improve progress.
2. Participates in pre-bid meetings.
3. Advises the CEO\governing body on DBE matters and achievement.
4. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
5. Plans and participates in DBE training seminars.
6. Acts as liaison to the Uniform Certification Process in the State of Indiana.
7. Provides outreach to DBEs and community organizations to advise them of opportunities.

The duties and responsibilities of others 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 Madison BOAC's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

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

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

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

The Madison BOAC has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

We will 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 one of the following methods to comply with this requirement:

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 your payment to the prime contractor.

Madison BOAC will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Madison BOAC. When Madison BOAC 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.

Madison BOAC will provide appropriate means to enforce the requirements of this section. These means include:

The Madison BOAC will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Madison BOAC. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Madison BOAC. This clause applies to both DBE and non-DBE subcontractors.

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

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

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

### **Section 26.31 Directory**

The Madison BOAC uses the State of Indiana DBE directory, maintained by the State. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The State of Indiana revises the Directory periodically. The Directory may be found at: [https://fs85.gmis.in.gov/psc/guest/EMPLOYEE/ERP/c/SOI\\_APPS/MWBE.SOI\\_DBE\\_CERT.GBL](https://fs85.gmis.in.gov/psc/guest/EMPLOYEE/ERP/c/SOI_APPS/MWBE.SOI_DBE_CERT.GBL)

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

Madison BOAC has not identified that over-concentration exists in the types of work that DBEs perform.

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

Madison BOAC has not established a business development program.

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

The Madison BOAC will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the

Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our DBE Program.
3. We will implement a monitoring and enforcement mechanism 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.
4. We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished through the use of daily observation reports completed during construction.
5. We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

**Section 26.39 Fostering small business participation.**

The Madison BOAC 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 Madison BOAC's small business program element is incorporated as Attachment 10 to this DBE Program. We will actively implement the program elements to foster small business participation, doing so is a requirement of good faith implementation of our DBE program.

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

**Section 26.43 Set-asides or Quotas**

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

**Section 26.45 Overall Goals**

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

<b>Airport Type</b>	<b>Region</b>	<b>Date Due (Goal Period)</b>	<b>Next Goal Due (Goal Period)</b>
<b>Large &amp; Medium Hub Primary</b>	<b>All Regions</b>	<b>August 1, 2010 (2011/2012/2013)</b>	<b>August 1, 2013 (2014/2015/2016)</b>
<b>Small Hub Primary</b>	<b>All Regions</b>	<b>August 1 2011 (2012/2013/2014)</b>	<b>August 1, 2014 (2015/2016/2017)</b>
<b>Non-Hub Primary</b>	<b>All Regions</b>	<b>August 1 2012 (2013/2014/2015)</b>	<b>August 1, 2015 (2016/2017/2018)</b>

<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>Alaskan, Eastern, &amp; Great Lakes</b>	<b>August 1 2010 (2011/2012/2013)</b>	<b>August 1, 2013 (2014/2015/2016)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>New England, Northwest Mountain, &amp; Southern</b>	<b>August 1 2011 (2012/2013/2014)</b>	<b>August 1, 2014 (2015/2016/2017)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>Central, Southwest, and Western- Pacific</b>	<b>August 1 2012 (2013/2014/2015)</b>	<b>August 1, 2015 (2016/2017/2018)</b>

DBE goals will be established for those fiscal years we anticipate awarding DOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Madison BOAC does not anticipate awarding more than \$250,000 in DOT-assisted prime contracts during any of the years within the three-year reporting period, we will not develop an overall goal; however this DBE Program will remain in effect and the Madison BOAC will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, "base figure". The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

In establishing the overall goal, Madison BOAC will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations, if available, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Madison BOAC's efforts to establish a level playing field for the participation of DBEs.

We will then publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at 3919 W IMS Lane, Madison, IN 47250 for 30 days following the date of the notice, and informing the public that the Madison BOAC and DOT/FAA will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority-focus media and trade publications, websites. Normally, we will issue this notice by June 1 of the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

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

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

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

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

The Madison BOAC 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 Madison BOAC 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 your DBE Program in good faith:

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

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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program.

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

The Madison BOAC 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..

If our approved projection under paragraph (c) of this section estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order meet our overall goal.

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

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

**Section 26.53 Good Faith Efforts Procedures**

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

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

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

Madison BOAC treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Responsiveness - Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

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

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by Madison BOAC that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Dick Goodman, 3919 W IMS Lane, Madison, IN 47250, dick.goodman@madchem.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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

Madison BOAC will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

We will provide such written consent only if we agree, for reasons stated in our 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) We have determined that the listed DBE subcontractor is not a responsible contractor;

- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that we have 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 us its 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 us, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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

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

**Sample Bid Specification:**

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Madison BOAC to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of \_\_\_ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

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

**Section 26.55 Counting DBE Participation**

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

**SUBPART D – CERTIFICATION STANDARDS**

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

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

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

Indiana Department of Transportation  
Economic Opportunity Division, DBE Certification  
100 N. Senate Ave., IGCN 750  
Indianapolis, IN 46204  
317-233-0891 (fax)

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

## **SUBPART E – CERTIFICATION PROCEDURES**

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

Madison BOAC is the member of a Unified Certification Program (UCP) administered by the State of Indiana. The UCP will meet all of the requirements of this section.

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

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

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

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

#### **Monitoring Payments to DBEs**

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

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

## **ATTACHMENTS**

- Attachment 1 Regulations: 49 CFR Part 26 or website link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory or link to
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Form 1 & 2 for
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Application Form
- Attachment 9 State's UCP Agreement
- Attachment 10 Small Business Element Program

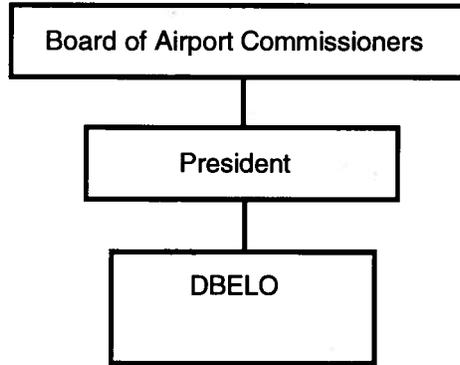
## **ATTACHMENT 1**

**Regulations: 49 CFR Part 26**

The electronic Code of Federal Regulations (eCFR), Title 49 (Transportation) Part 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs) can be found at [ecfr.gov/cgi-bin/text-idx?c=/ecfrbrowse/Title 49/49cfr26\\_main\\_02.tpl](http://ecfr.gov/cgi-bin/text-idx?c=/ecfrbrowse/Title%2049/49cfr26_main_02.tpl)

**ATTACHMENT 2**

**Organizational Chart**



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

BIDDER'S LIST

NAME	ADDRESS	DBE	NON-DBE	TYPE OF WORK
Earth Images	PO Box 267	X		Landscape/Erosion Control & Clearing & Grubbing
WBE Trucking	2372 Winthrop Ave.	X		Hauler
Erosion Resources	900 N. Baker Rd.	X		Supply & Errigation & PVC Pipe
Starnes Trucking	1539 S 100 W	X		Hauler
Nash & Sons Trucking	1308 E. 6th St.	X		Hauler
C-Tech	5300 W 100 N		X	Other
E&B Paving	10900 Telephone Rd.		X	Site/Civil
Hummel Electric	2505 MJM Industrial Dr.		X	Electrical
Kramer's Land Clearing	1500 W. Ellis Rd.		X	Site/Civil
MAS Markers	1625 S 400 E	X		Other
Roadsafe Traffic Systems	3519 Harding St.		X	General Trades
Specialities Company	9350 E. 30th St.	X		Other
Blankenberger Brothers	11700 Water Tank Rd.	X		Site/Civil
Deig Bros. Lumber & Construction	2804 A Street	X		General Trades
Gohmann Asphalt & Construction	P O Box 2428	X		Site/Civil
Hazex Construction	1890 Madison St.	X		Site/Civil
JH Rudolph	1251 N. Stockwell Rd.	X		Site/Civil
Kieffer Bros. Construction	118 N. Davision St.	X		General Trades
Koberstain Contracting	3301 W. Broadway	X		Site/Civil
Lutgring Bros.	5980 Shiloh Rd.	X		Site/Civil
Phillips Construction	3649 Hgwy. 41A	X		Site/Civil
Ragle Inc./River Town Constr.	5266 Vann Rd.	X		Site/Civil
Rogers Group	P O Box 1045	X		Site/Civil
Summit Civil Services	2125 Glenview Dr.	X		Site/Civil
The Hoosier Company	5421 W. 86th St.	X		General Trades
WB Koester Construction	14601 Hgwy. 41N, Ste. 200	X		Site/Civil
Alt & Witzig	4105 W. 99th St.	X		Other
American Contracting Services	6200 E. Hgwy 62, Ste. 200	X		Structural
JBI Construction	10335 Hedden Rd.	X		Site/Civil
Klenck Company	PO Box 364	X		Site/Civil
Hall Contracting of Kentucky	3800 Crittenden Dr.	X		Site/Civil
Three I Design	2425 W. Indiana St.		X	Site/Civil
Commercial Landscape Service	12100 N. St. Joseph Ave.			Other
Daylight Land Management	4505 E. Boonville New Harmc			Other
Mounts Electric	515 NW Second St.		X	Electrical
Harmon Steel	1002 W. Troy Ave.		X	Other
Liggon Trucking	2626 Kottter Ave.		X	Trucking
Electrical Maintenance & Const	2101 W. Delaware St.		X	Electrical
CA Fulkerson	P O Box 336		X	Other
Dave O'Mara Contractor	1100 East O&M Ave.		X	Site/Civil
Indiana Sign & Barricade	5240 E. 25th St.		X	Other

## **ATTACHMENT 4**

### **Indiana DBE Directory**

The DBE directory is maintained by the Indiana Department of Transportation. This Directory is periodically updated and can be found on their website at the following address:  
[https://fs85.gmis.in.gov/psc/guest/EMPLOYEE/ERP/c/SOI\\_APPS/MWBE.SOI\\_DBE\\_CERT.GBL](https://fs85.gmis.in.gov/psc/guest/EMPLOYEE/ERP/c/SOI_APPS/MWBE.SOI_DBE_CERT.GBL)

**ATTACHMENT 5**

Section 26.45: Overall DBE Three-Year Goal Methodology

**Name of Recipient:** Madison Board of Aviation Commissioners

**Goal Period:** October 1, 2014 through September 30, 2016

<b>DOT-assisted contract amount:</b>	FY-2014 \$500,000
	FY-2015 \$400,000
	FY-2016 \$700,000
<b>Total</b>	<b>\$1,600,000</b>

**Overall Three-Year Goal:** 3.6%, to be accomplished through 3.6% RC.

**Total dollar amount to be expended on DBE's:** \$57,600

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

Projects Fiscal Year 2014

1. Install Parallel Taxiway Lighting System

Projects Fiscal Year 2015

1. Install Wildlife Fencing

Projects Fiscal Year 2016

1. Replace Runway Lighting System
2. Repair Runway Pavement Including Grooving

**Market Area:** The market area was determined to be the counties of Switzerland, Jefferson, Scott, Clark, Floyd, Harrison, Washington, Jackson, Jennings, Ripley, Dearborn, Franklin, Owen, Sullivan, Greene, Decatur, Bartholomew, Shelby, Rush, Fayette, Union, Wayne, Henry, Hancock, Marion, Johnson, Hendricks, Putnam, Parke, Vigo, Clay, Davies, Knox, Gibson, Dubois, Spencer, Warrick, Posey, and Vanderburg.

**Step 1. Analysis:** Actual relative availability of DBE's

Method: Use DBE Directories <http://osdbu.dot.gov/DBEProgram/StateDOTDBESites.cfm>

and Census Bureau Data <http://www.census.gov/econ/cbp/index.html>

FY 2014 - Install Parallel Taxiway Lighting System

NAICS	Type of Work	Total DBE's	Total All Firms
238210	Electrical	4	616
541330	Engineering	2	586
<b>Total</b>		<b>6</b>	<b>1,202</b>

FY 2015 - Install Wildlife Fencing

NAICS	Type of Work	Total DBE's	Total All Firms
238990	Other Specialty	1	272
541370	Survey	2	80
541330	Engineering	2	586
<b>Total</b>		<b>5</b>	<b>938</b>

FY 2016

MADISON MUNICIPAL AIRPORT, INDIANA

COUNTY	237310 CONSTRUCTION 84%	541380 TESTING 6%	541330 ENGINEERING 10%
<b>CBFs Firms</b>			
Union	0	0	0
Fayette	1	0	1
Rush	0	0	0
Decatur	0	0	1
Greene	0	0	2
Marion	23	33	236
Morgan	1	0	12
Johnson	3	2	18
Shelby	3	2	4
Hancock	1	1	2
Sullivan	0	1	1
Hamilton	6	5	75
Owen	0	0	0
Hendricks	2	1	28
Franklin	1	0	1
Dearborn	2	0	6
Ripley	0	0	1
Jennings	1	0	3
Jackson	0	0	2
Vigo	2	1	13
Washington	1	0	1
Harrison	2	0	3
Floyd	4	2	18
Bartholomew	5	3	19
Clark	9	3	19
Mourne	4	3	18
Scott	0	0	7
Jefferson	0	1	0
Wayne	2	0	3
Henry	2	1	0
Putnam	0	0	2
Parke	0	0	0
Clay	0	0	0
Davies	0	0	3
Knox	1	0	0
Gibson	0	0	5
Dubois	4	0	7
Spencer	1	1	1
Warrick	4	1	14
Posey	0	1	11
Vanderburg	9	6	49
Switzerland	1	0	0
<b>Total</b>	<b>95</b>	<b>68</b>	<b>585</b>
<b>DBE Total Firms</b>	<b>7</b>	<b>4</b>	<b>2</b>
<b>Percentages</b>	<b>.07*.84=.0588</b>	<b>.05*.06=.003</b>	<b>.003*.10=.0003</b>
<b>DBE Total Goal Percentage</b>	<b>6.21%</b>		

May 5, 2014

FY 2015

MADISON MUNICIPAL AIRPORT, INDIANA

COUNTY	238990 OTHER SPECIALTY 87%	541370 SURVEY 6%	541330 ENGINEERING 7%
<b>CBP Firms</b>			
Union	0	0	0
Fayette	0	0	1
Rush	2	0	0
Decatur	2	1	1
Greene	0	2	2
Marion	60	11	236
Morgan	6	4	12
Johnson	11	6	18
Shelby	6	0	4
Hancock	8	1	2
Sullivan	1	0	1
Hamilton	37	5	75
Owen	1	0	0
Hendricks	13	3	28
Franklin	2	1	1
Dearborn	5	3	6
Ripley	4	3	1
Jennings	0	0	3
Jackson	6	4	2
Vigo	7	0	13
Washington	2	0	1
Harrison	1	1	3
Floyd	11	1	18
Bartholomew	2	3	19
Clark	12	2	19
Monroe	14	4	18
Scott	1	1	7
Jefferson	2	2	0
Wayne	6	1	3
Henry	2	1	0
Putnam	2	2	2
Parke	1	0	0
Clay	2	0	0
Davies	8	4	3
Knox	1	3	0
Gibson	2	4	5
Dubois	6	3	7
Spencer	1	1	1
Warrick	10	0	14
Posey	1	1	11
Vanderburg	14	2	49
Switzerland	0	0	0
<b>Total</b>	<b>272</b>	<b>80</b>	<b>366</b>
<b>DBE Total Firms</b>	<b>1</b>	<b>2</b>	<b>2</b>
<b>Percentages</b>	<b>.003*.87=.0263</b>	<b>.025*.06=.0015</b>	<b>.003*.07=.0002</b>
<b>DBE Total Goal Percentage</b>	<b>2.80%</b>		

May 5, 2014

FY 2014

**MADISON MUNICIPAL AIRPORT, INDIANA**

<b>COUNTY</b>	<b>238210 ELECTRICAL 93%</b>	<b>541330 ENGINEERING 7%</b>
<b>CBPs Firms</b>		
Union	1	0
Fayette	1	1
Rush	5	0
Decatur	3	1
Greene	3	2
Marion	161	236
Morgan	19	12
Johnson	29	18
Shelby	10	4
Hancock	24	2
Sullivan	1	1
Hamilton	52	75
Owen	4	0
Hendricks	38	28
Franklin	7	1
Dearborn	11	6
Ripley	10	1
Jennings	10	3
Jackson	12	2
Vigo	19	13
Washington	3	1
Harrison	9	3
Floyd	15	18
Bartholomew	6	19
Clark	22	19
Monroe	4	18
Scott	5	7
Jefferson	2	0
Wayne	13	3
Henry	10	0
Putnam	6	2
Parke	1	0
Clay	0	0
Davies	10	3
Knox	5	0
Gibson	3	5
Dubois	15	7
Spencer	1	1
Warrick	11	14
Posey	6	11
Vanderburg	48	49
Switzerland	1	0
<b>Total</b>	<b>616</b>	<b>596</b>
<b>DBE Total Firms</b>	<b>4</b>	<b>2</b>
<b>Percentages</b>	<b>0.006</b>	<b>0.0002</b>
<b>DBE Total Goal Percentage</b>	<b>0.60%</b>	

May 5, 2014

FY 2016 – Replace Runway Lighting System & Repair Runway Pavement Including Grooving

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Construction	7	95
541380	Testing	4	68
541330	Engineering	2	586
Total		13	749

Divide the total number of DBE's by the total number of All Firms = base figure for each project.  
To determine the overall base figure for more than one project, add all the project percentages together.

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

For the FY 2014 project, the 238310 NAICS is expected to comprise approximately 93% of the total work and 541330 is approximately 7% of the total. These percentages were applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$(4/616) \times .93 + (2/586) \times .07 = .006+.00002 \times 100 = .6\% \text{ weighted base figure}$$

For the FY 2015 project, the 238990 NAICS is expected to comprise approximately 87% of the total work, 541370 is approximately 6% and 541330 is approximately 7% of the total. These percentages were applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$(1/272) \times .87 + (2/80) \times .06 + (2/586) \times .07 = .0263+.0015+.0002 \times 100 = 2.8\% \text{ weighted base figure}$$

For the FY 2016 projects, the 237310 NAICS is expected to comprise approximately 84% of the total work, 541380 is approximately 6% and 541330 is approximately 10% of the total. These percentages were applied to the numerator and denominator to appropriately weigh the DBE goal calculation according to the following formula:

$$(7/95) \times .84 + (4/68) \times .06 + (2/586) \times .10 = .0588+.003+.0003 \times 100 = 6.21\% \text{ weighted base figure}$$

For FY-2014, we anticipate the award of the following:

A	B	C	D	E	F	G	H	I	
Project Name	Trade Description	NAICS Description	NAICS	Trade (\$)	Census	Directory	DBE (%) (= G/F)	DBE (\$) (= E x H)	
Install Parallel Taxiway Lighting System	Electrical	Electrical	238210		616	4	.6%		
	Engineering	Engineering	541330		586	2	.3%		
<b>Total Project</b>									
Total Per Fiscal Year					0	1,202	6	.6%	3,000

For FY-2015, we anticipate the award of the following:

A	B	C	D	E	F	G	H	I
Project Name	Trade Description	NAICS Description	NAICS	Trade (\$)	Census	Director y	DBE (%) (= G/F)	DBE (\$) (= E x H)
Install Perimeter Fencing	Other Specialty	Other Specialty	238990		272	1	2.6%	
	Survey	Survey	541370		80	2	.15%	

	Engineering	Engineering	541330		586	2	.02%		
<b>Total Project</b>									
<b>Total Per Fiscal Year</b>					0	938	4	2.80%	57,600

For FY-2016, we anticipate the award of the following:

A	B	C	D	E	F	G	H	I	
Project Name	Trade Description	NAICS Description	NAICS	Trade (\$)	Census	Directory	DBE (%) (= G/F)	DBE (\$) (= E x H)	
Replace Runway Lighting & Repair	Asphalt, Concrete, Dust Control, Painting	Highway & Street Construction	237310		95	7	5.8%		
Runway Pavement including Grooving	Testing	Testing	541380		68	4	.3%		
	Engineering	Engineering	541330		586	2	.03%		
<b>Total Project</b>									
<b>Total Per Fiscal Year</b>					0	749	13	6.21%	43,400

Past History Participation The Madison Airport has not had a substantial or similar construction project to obtain accurate historical data from to make any adjustments.

No disparity studies for the local market area have been completed; however, a disparity study was completed in December 2010 for the State of Indiana. Following is a statement from the Executive Summary: 'MBE/WBE utilization far exceeded availability for state subcontracts (disparity index of 180). Those results may indicate the success of the MBE/WBE contract goals that the state applied to many of its contracts during the study period. It appears that the State of Indian MBE/WBE Program and the Federal DBE Program is effective in expanding contracting opportunities for minority and women-owned firms through work as subcontractors.' And in Chapter 8 of the Disparity Study is the following statement: 'The lack of disparities for African American, Subcontinent Asian American, Hispanic American and Native American owned firms may indicate the success of the Federal DBE Program in encouraging utilization of those groups.'

**Breakout of Estimated "Race and Gender Neutral" (RN) and "Race and Gender Conscious" (RC) Participation.**

26.51(b) (1-9)

The BOAC will meet the maximum feasible portion of its overall goal by using RC means of facilitating DBE participation. The BOAC does not have a history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, we are applying the entire goal of 3.6% to race-conscious participation. The BOAC will use the following to increase DBE participation through RN means:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;

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

## PUBLIC PARTICIPATION

**Consultation:** Section 26.45(g)(1).

The BOAC will post the Policy Statement and program on the City of Madison's website at [www.madison-in.gov](http://www.madison-in.gov) informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport terminal building for 30 days following the date of the notice, and informing the public that the BOAC and DOT will accept comments on the goals for 45 days from the date of the notice.

The goal will also be announced at the pre-bid meeting for each of the projects.

A consultation meeting was held on July 18, 2014 at the City of Madison Clerk's office, 101 W. Main Street. Those in attendance were Karla Price, CHA, Jan Melton and Andrew Forrester with the City of Madison. Invitations were extended via phone to Trevor Crafton with the Chamber of Commerce, Nathan Hadley with Economic Development and representatives from Dave O'Mara Contractor, Inc and Quad J Inc. but they were not able to attend.

## PUBLIC NOTICE

The Madison BOAC hereby announces its fiscal years 2014, 2015 and 2016 goal of 3.6% for Disadvantaged Business Enterprise (DBE) airport construction projects. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at the Madison Airport terminal building, 3919 W IMS Lane Madison, IN 47250 for 30 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:

Brent Spry  
Madison Municipal Airport  
3919 W IMS Lane  
Madison, IN 47250

or

Federal Aviation Administration  
Office of Civil Rights Staff  
2300 E. Devon Ave., Ste. 440  
Des Plaines, IL 60018

## **Contract Goals**

The Madison BOAC will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Contract goals are established so that, over the period

to which the overall goal applies, they will cumulatively result in meeting any portion of the recipient's overall goal that is not projected to be met through the use of RN means.

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

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

**ATTACHMENT 6**

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

*[Forms 1 and 2 should be provided as part of the solicitation documents.]*

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

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

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

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

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

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

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

**FORM 2: LETTER OF INTENT**

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

.....  
.....  
.....  
.....

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

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and that the firm is DBE certified to perform the specific trades.

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

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

\_\_\_\_\_  
(Title)

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

## **ATTACHMENT 7**

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

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

1. Breach of contract action, pursuant to the terms of the contract;

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

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

**ATTACHMENT 8**  
DBE Certification Application Form

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
49 C.F.R. PART 26**

***UNIFORM CERTIFICATION APPLICATION***

**ROADMAP FOR APPLICANTS**

**N** **Should I apply?**

- Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
- Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
- Is your firm a small business that meets the Small Business Administration's (SBA's) size standard and does not exceed \$20.41 million in gross annual receipts?
- Is your firm organized as a for-profit business?

⇒ If you answered "Yes" to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.

**J** **Is there an easier way to apply?**

If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form. **NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review.**

**R** **Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.**

**P** **Where can I find more information?**

- U.S. DOT – <http://osdbuweb.dot.gov/business/dbe/index.html> (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
- SBA – <http://www.ntis.gov/naics> (provides a listing of NAICS codes) and <http://www.sba.gov/size/indehtableofsize.html> (provides a listing of SIC codes)
- 49 CFR Part 26 (the rules and regulations governing the DBE program)

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

## Section 1: CERTIFICATION INFORMATION

### A. Prior/Other Certifications

Is your firm currently certified for any of the following programs? <i>(If Yes, check appropriate box(es))</i>	<input type="checkbox"/> DBE	Name of certifying agency:
		Has your firm's state UCP conducted an on-site visit?
		<input type="checkbox"/> Yes, on ___ / ___ / ___ State: <input type="checkbox"/> No
	<input type="checkbox"/> 8(a) <input type="checkbox"/> SDB	Ⓢ <b>STOP!</b> If you checked either the 8(a) or SDB box, you <u>may not</u> have to complete this application. Ask your state UCP about the streamlined application process under the SBA-DOT MOU.

### B. Prior/Other Applications and Privileges

Has your firm (under any name) or any of its owners, Board of Directors, officers or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? <input type="checkbox"/> Yes, on ___ / ___ / ___ <input type="checkbox"/> No If Yes, identify State and name of state, local, or Federal agency and explain the nature of the action:
---

## Section 2: GENERAL INFORMATION

### A. Contact Information

(1) Contact person and Title:		(2) Legal name of firm:		
(3) Phone #:	(4) Other Phone #:	(5) Fax #:		
(6) E-mail:		(7) Website <i>(if have one)</i> :		
(8) Street address of firm <i>(No P.O. Box)</i> :		City:	County/Parish:	State: Zip:
(9) Mailing address of firm <i>(if different)</i> :		City:	County/Parish:	State: Zip:

### B. Business Profile

(1) Describe the primary activities of your firm:	(2) Federal Tax ID (if any):
(3) This firm was established on ___ / ___ / ___	(4) I/We have owned this firm since: ___ / ___ / ___
(5) Method of acquisition <i>(check all that apply)</i> : <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other <i>(explain)</i>	
(6) Is your firm "for profit"? <input type="checkbox"/> Yes <input type="checkbox"/> No	Ⓢ <b>STOP!</b> If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.

(7) Type of firm (check all that apply):

Sole Proprietorship  
 Partnership  
 Corporation  
 Limited Liability Partnership  
 Limited Liability Corporation  
 Joint Venture  
 Other, Describe: \_\_\_\_\_

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?  
 Yes  No  
 If Yes, explain: \_\_\_\_\_

(9) Number of employees: Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Total \_\_\_\_\_

(10) Specify the gross receipts of the firm for the last 3 years: Year \_\_\_\_\_ Total receipts \$ \_\_\_\_\_  
 Year \_\_\_\_\_ Total receipts \$ \_\_\_\_\_  
 Year \_\_\_\_\_ Total receipts \$ \_\_\_\_\_

**C. Relationships with Other Businesses**

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?  
 Yes  No

If Yes, identify: Other Firm's name: \_\_\_\_\_  
 Explain nature of shared facilities: \_\_\_\_\_

(2) At present, or at any time in the past, has your firm:	(a) been a subsidiary of any other firm?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(b) consisted of a partnership in which one or more of the partners are other firms?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(c) owned any percentage of any other firm?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(d) had any subsidiaries?	<input type="checkbox"/> Yes <input type="checkbox"/> No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past?  Yes  No

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or (3), identify the following for each (attach extra sheets, if needed):

	<u>Name</u>	<u>Address</u>	<u>Type of Business</u>
1.			
2.			
3.			

**D. Immediate Family Member Businesses**

Do any of your immediate family members own or manage another company?  Yes  No

If Yes, then list (attach extra sheets, if needed):

	<u>Name</u>	<u>Relationship</u>	<u>Company</u>	<u>Type of Business</u>	<u>Own or Manage?</u>
1.					
2.					

### Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (If more than one owner, attach separate sheets for each additional owner):

#### A. Background Information

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address (street and number):		City: State: Zip:
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(6) Ethnic group membership (Check all that apply):	
(7) U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Black	<input type="checkbox"/> Hispanic <input type="checkbox"/> Native American
(8) Lawfully Admitted Permanent Resident: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Asian Pacific	<input type="checkbox"/> Subcontinent Asian
	<input type="checkbox"/> Other (specify) _____	

#### B. Ownership Interest

(1) Number of years as owner:	(2) Initial investment to	<u>Type</u>	<u>Dollar Value</u>
(3) Percentage owned: 0%	acquire ownership interest in firm:	Cash	\$
(4) Familial relationship to other owners:		Real Estate	\$
		Equipment	\$
		Other	\$
(5) Shares of Stock: <u>Number</u> <u>Percentage</u> <u>Class</u> <u>Date acquired</u> <u>Method Acquired</u>			
(6) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____			
(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____ Nature of Business Relationship: _____			

#### C. Disadvantaged Status – NOTE: Complete this section only for each owner applying for DBE qualification (i.e. for each owner claiming to be socially and economically disadvantaged)

(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? (Use and attach the Personal Financial Statement form at the end of this application; attach additional sheets if more than one owner is applying)
(2) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain (attach additional sheets if needed):

### Section 4: CONTROL

**A. Identify your firm's Officers & Board of Directors (If additional space is required, attach a separate sheet):**

	Name	Title	Date Appointed	Ethnicity	Gender
<b>(1) Officers of the Company</b>	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
<b>(2) Board of Directors</b>	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

**(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business?**  Yes  No

If Yes, identify for each: Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

**(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?**  Yes  No

If Yes, identify for each: Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
 Nature of Business Relationship: \_\_\_\_\_

**B. Identify your firm's management personnel who control your firm in the following areas (If more than two persons, attach a separate sheet):**

	Name	Title	Ethnicity	Gender
<b>(1) Financial Decisions</b> <i>(responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)</i>	a.			
	b.			
<b>(2) Estimating and bidding</b>	a.			
	b.			
<b>(3) Negotiating and Contract Execution</b>	a.			
	b.			
<b>(4) Hiring/firing of management personnel</b>	a.			
	b.			
<b>(5) Field/Production Operations Supervisor</b>	a.			
	b.			
<b>(6) Office management</b>	a.			
	b.			
<b>(7) Marketing/Sales</b>	a.			
	b.			
<b>(8) Purchasing of major equipment</b>	a.			
	b.			
<b>(9) Authorized to Sign Company Checks (for any purpose)</b>	a.			
	b.			
<b>(10) Authorized to make Financial Transactions</b>	a.			
	b.			

(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?  Yes  No  
 If Yes, identify for each: Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?  
 Yes  No

If Yes, identify for each: Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
 Nature of Business Relationship: \_\_\_\_\_

**C. Indicate your firm's inventory in the following categories (attach additional sheets if needed):**

**(1) Equipment**

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

**(2) Vehicles**

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

**(3) Office Space**

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

**(4) Storage Space**

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

**D. Does your firm rely on any other firm for management functions or employee payroll?  Yes  No**

If Yes, explain:

**E. Financial Information**

**(1) Banking Information:**  
 (a) Name of bank: \_\_\_\_\_ (b) Phone No: ( ) \_\_\_\_\_

(c) Address of bank: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(2) Bonding Information: If you have bonding capacity, identify: (a) Binder No: \_\_\_\_\_  
 (b) Name of agent/broker \_\_\_\_\_ (c) Phone No: ( ) \_\_\_\_\_  
 (d) Address of agent/broker: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 (e) Bonding limit: Aggregate limit \$ \_\_\_\_\_ Project limit \$ \_\_\_\_\_

F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:

Name of Source	Address of Source	Name of Person Securing the Loan	Original Amount	Current Balance	Purpose of Loan
1.					
2.					
3.					

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years (attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1.					
2.					
3.					

H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.) (attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	License Number and State
1.			
2.			
3.			

I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1.			
2.			
3.			

**J. List the three largest active jobs on which your firm is currently working:**

<b>Name of Prime Contractor and Project Number</b>	<b>Location of Project</b>	<b>Type of Work</b>	<b>Project Start Date</b>	<b>Anticipated Completion Date</b>	<b>Dollar Value of Contract</b>
1.					
2.					
3.					

**AFFIDAVIT OF CERTIFICATION**

*This form must be signed and notarized for each owner upon which disadvantaged status is relied.*

**A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.**

I \_\_\_\_\_ (full name printed), swear or affirm under penalty of law that I am \_\_\_\_\_ (title) of applicant firm \_\_\_\_\_ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) ( Check all that apply):

- Female       African American       Hispanic American       Native American  
 Asian-Pacific American       Subcontinent Asian American       Other \_\_\_\_\_

**Certification Affidavit (Continued)**

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffer the effect of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$1,320,000 (one million three hundred twenty thousand dollars), and that I am economically disadvantaged because of my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty or perjury that the information provided in this application and supporting documents is true and correct.

Executed on \_\_\_\_\_ (Date)

Signature \_\_\_\_\_  
(DBE Applicant)

**Notary Certificate**

**State of:** \_\_\_\_\_

**County of:** \_\_\_\_\_

**Subscribed and sworn to before me this** \_\_\_\_\_ **day of** \_\_\_\_\_, 20\_\_\_\_

<b>Signature of Notary Public</b>	<b>Printed or Typed name of Notary</b>
<b>County of Residence</b>	<b>Date Commission Expires</b>

**DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST**

In order to complete your application for DBE certification, you must attach copies of all of the following documents as they apply to you and your firm.

**All Applicants**

- Work experience resumes (include places of ownership/employment with corresponding dates), for all owners and officers of your firm
- Personal Financial Statement (form available with this application)
- Personal tax returns for the past three years, if applicable, for each owner claiming disadvantaged status
- Your firm's tax returns (gross receipts) and all related schedules for the past three years
- Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- Your firm's signed loan agreements, security agreements, and bonding forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- List of equipment leased and signed lease agreements
- List of construction equipment and/or vehicles owned and titles/proof of ownership
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past two years
- Year-end balance sheets and income statements for the past three years (or life of firm, if less than three years); a new business must provide a current balance sheet
- All relevant licenses, license renewal forms, permits, and haul authority forms
- DBE and SBA 8(a) or SDB certifications, denials, and/or decertifications, if applicable
- Bank authorization and signatory cards
- Schedule of salaries (or other compensation or remuneration) paid to all officers, managers, owners, and/or directors of the firm
- Trust agreements held by any owner claiming disadvantaged status, if any

**Partnership or Joint Venture**

- Original and any amended Partnership or Joint Venture Agreements

**Corporation or LLC**

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement
- Minutes of all stockholders and board of directors meetings
- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

**Trucking Company**

- Documented proof of ownership of the company
- Insurance agreements for each truck owned or operated by your firm
- Title(s) and registration certificate(s) for each truck owned or operated by your firm
- List of U.S. DOT numbers for each truck owned or operated by your firm

**Regular Dealer**

- Proof of warehouse ownership or lease
- List of product lines carried
- List of distribution equipment owned and/or leased

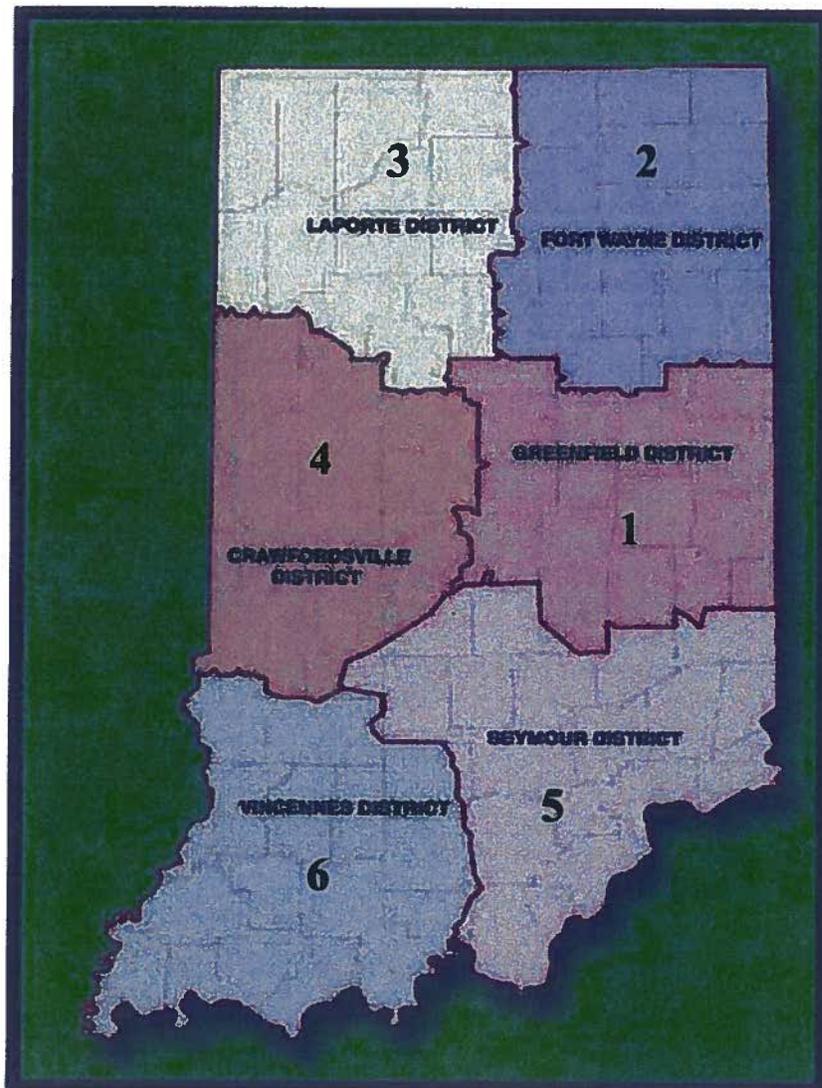
**NOTE:** The specific state UCP to which you are applying may have additional required documents that you must also supply with your application. Contact the appropriate certifying agency to which you are applying to find out if more is required.

## Checklist Addendum

In addition to the DBE Uniform Certification Application Supporting Documents Checklist, the Indiana Department of Transportation (INDOT) requires several additional items. Please also include:

1. Copy of Birth Certificate of owner(s).
2. Copy of Drivers License of owner(s).
3. If you are applying for ACDBE Certification, please make a notation in section 2.B.7 stating you would like ACDBE Certification.
4. After reviewing the map below, please mark the districts you are available to do work in.

1 District       2 District       3 District       4 District  
 5 District       6 District       7 Entire State



**ATTACHMENT 9**  
State's UCP Agreement

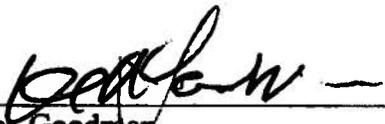
**J. Bryan Nicol  
Commissioner  
Indiana Department of Transportation  
Indiana Government Center North  
100 North Senate, Room N755  
Indianapolis, IN 46204**

**Re: Unified Certification Program**

**Dear Commissioner Nicol:**

**As the signatory for Madison Municipal Airport, I affirm by my signature below that the organization identified above has received a copy of the Unified Certification Program (UCP) Agreement and has reviewed the same. Further, my signature indicates my organization's intent to be a party to the UCP agreement and to abide by all the terms and conditions contained therein.**

**Sincerely,**

  
\_\_\_\_\_  
**Dick Goodman**



# STATE OF INDIANA

FRANK O'BANNON, Governor

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE COMMISSIONER

Indiana Government Center South  
402 West Washington Street, Room W479  
Indianapolis, Indiana 46204

February 28, 2002

Norman Y. Mineta, Secretary  
United States Department of Transportation  
c/o Office of General Counsel  
400 7<sup>th</sup> Street, SW, Room 10428  
Washington, D.C. 20590

RE: State of Indiana Unified Certification Agreement

Dear Secretary Mineta:

I am pleased to inform you that State of Indiana recipients of United States Department of Transportation (DOT) funds have adopted a Unified Certification Agreement pursuant to 49 CFR Subpart 26 Section 26.81. These recipients have designated the Indiana Department of Administration's Division of Minority and Women's Business Enterprises as the lead agency for the purpose of the Unified Certification Program (UCP). Under Indiana's UCP agreement, the Indiana Department of Administration (IDOA) will be the only agency in the State of Indiana performing DBE certifications and decertifications.

The Parties have further agreed that Indiana's UCP will be administered by Elena L. Looper, Deputy Commissioner, Office of Minority and Women's Business Enterprises, Indiana Department of Administration. Ms. Looper is a leading authority on certification issues in Indiana and has years of experience administering the State's MBE, WBE, and DBE programs. She may be contacted at the following address:

Indiana Department of Administration  
Division of Minority and Women's Business Enterprises  
402 West Washington Street, Room W474  
Indianapolis, Indiana 46204  
(317) 232-3061  
e-mail: [elooper@idoa.state.in.us](mailto:elooper@idoa.state.in.us)

Indiana officially began work on the UCP on April 16, 2001, when it held the first in a series of four task force meetings to develop the program. These meetings were attended by representatives of key stakeholders in Indiana's DBE programs. F. Gene Cinfel of the Federal Highway Administration's Regional Office was among the representatives. Mr. Cinfel was instrumental in bringing the group together and providing technical assistance and guidance.

**STATE OF INDIANA**  
**UNIFIED CERTIFICATION AGREEMENT**  
**FOR**  
**DISADVANTAGED BUSINESS ENTERPRISES**  
**PURSUANT TO 49 CFR SUBPART E, SECTION 26.81**

Comes now the Indiana Department of Transportation (INDOT) and the Indiana Department of Administration (IDOA), acting by and through its Division of Minority and Women Business Enterprises and Indiana Recipients of DOT funds (IRDOT) hereby agree to a unified certification process pursuant to administrative rules promulgated by the United States Department of Transportation (DOT) under the terms and conditions set forth herein:

WHEREAS,

The Indiana Department of Transportation and all other Indiana Recipients of DOT funds are required to participate in a Unified Certification Program pursuant to 49 CFR Subpart 26, Section 26.81.

WHEREAS,

The Indiana Department of Administration (IDOA), by and through its Division of Minority and Women's Business Enterprises, has administered certification process for the INDOT DBE Program, pursuant to a memorandum of understanding, since 1993. IDOA currently hosts a centralized certification program, which includes the certification of DBE firms that are recipients of Federal Highway Administration (FHWA) funds. Further, that IDOA has the requisite expertise to administer the certification process pursuant to the applicable Code of Federal Regulations.

WHEREAS,

The Division of Equal Opportunity for the City of Indianapolis, the Northwestern Indiana Regional Planning Commission, and the Northern Indiana Commuter Transportation District currently provide DBE certification in the State of Indiana. That these organizations agree to relinquish responsibility for the certification process to IDOA effective upon the approval of this agreement by the Secretary, U.S. Department of Transportation (Secretary). Further, IRDOT and all others with certification authority agree to relinquish their authority to certify and decertify DBE firms.

WHEREAS,

INDOT and IDOA, in contemplation of the formation of this agreement, conducted a survey of all IRDOT. Further, that INDOT and IDOA hosted a meeting to discuss and review a draft of the UCP agreement on October 16, 2001, and no objections to the proposed plan were lodged by any recipient in attendance.

WHEREAS,

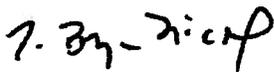
INDOT, IDOA and all IRDOT agree that a one-stop-shop certification process is best suited for the State of Indiana.

11. The UCP will 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), which will include the information required by 49 CFR Section 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. Further, that all IRDOT recipients agree to exclusively utilize this directory for the purposes of determining whether firms are DBE certified.
12. Except as otherwise specified, all provisions of 49 CFR 26, Subpart D and Subpart E pertaining to recipients also apply to the Indiana Department of Transportation's Unified Certification Program.
13. IDOA will review all files transferred from other certifying authorities. In the event, that a firm has received inconsistent decisions regarding certification from one or more certifying authorities, IDOA will submit the firm's files to USDOT to resolve the conflict. Further, USDOT's determination regarding these firms will be final.
14. Any certifying authority shall produce all of their files pertaining to DBE certification to IDOA within thirty days of the effective date of this agreement. Further, all certifying authorities shall submit copies of their current directories to IDOA.
15. That Exhibit A represents a listing of all Indiana Recipients of DOT funds who will be a part of this agreement.
16. Indiana Department of Administration, Division of Minority and Women's Business Enterprises, shall administer and coordinate the UCP in the State of Indiana.

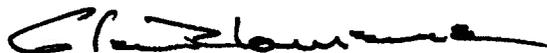
The official point of contact for the Indiana UCP is:  
 Indiana Department of Administration  
 Division of Minority and Women's Business Enterprises  
 402 W. Washington, W474  
 Indianapolis, IN 46204  
 (317) 232-3061

17. Any inconsistency or ambiguity in the agreement shall be resolved by giving precedence to the following in this order: 49 CFR parts 23 and 26, USDOT directives, INDOT DBE program, Indiana Code, and Indiana Administrative Code.

Signatures



J. Bryan Nicol  
 Commissioner  
 Indiana Department of Transportation



Glenn R. Lawrence  
 Commissioner  
 Indiana Department of Administration

Exhibit A

ACCESS Johnson County  
Anderson Municipal  
Arens Field  
Bedford Transit System  
Bloomington Public Trans. Corp  
Blue River Services  
Boonville  
Cass Area Transit  
City of Anderson  
City of Indianapolis  
City of Marion  
City of Richmond  
Clark County  
Columbus Municipal Airport  
Columbus Transit  
Converse  
Crawfordsville Municipal  
Daviness County  
DeKalb County  
Delaware County  
Delphi Municipal  
Eagle Creek  
Elkhart Municipal Airport  
Evansville Regional  
Evansville Urban Trans. Study  
Flora Municipal  
Fort Wayne International  
Four River Resource Service  
Frankfort Municipal  
Franklin Co. Public Transit  
Freeman Municipal  
French Lick Municipal Airport  
Ft. Wayne Public Trans. Corp.  
Fulton Co. Council on Aging  
Fulton County  
Galveston  
Gary Public Trans. Corp  
Gary/Chicago Airport  
Goshen Municipal  
Greater Lafayette Public Trans.  
Greensburg-Decatur County  
Greenwood Municipal Airport  
Griffith-Merrillville /  
Hendricks County New  
Huntingburg  
Huntingburg Transit System  
Huntington Co. Council/Aging

Smith Field  
South Bend Public Trans. Corp.  
South Bend Regional  
Starke County  
Sullivan County Airport  
Terre Haute International Airport  
Terre Haute Transit Utility  
TransPorte  
Tri-State Steuben County  
Union Co. Transit  
V I Grissom Municipal  
V. I. Grissom Municipal  
Vincennes YMCA  
Wabash Co. Council /Aging  
Wabash Municipal  
Warsaw Municipal  
Washington Transit System  
Waterloo Walker/Rowe  
Waveland Volunt. Transit Serv.  
White County Municipal Airport

**ATTACHMENT 10**  
Small Business Element Program

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

The Madison Board of Aviation Commissioners (BOAC) has created an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. For clarification purposes, 49 CFR Part 26.5 states, "*Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b)." 13 CFR 121.402 defines "What size standards are applicable to Federal Government Contracting programs?"

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the BOAC seeks to implement a small business element into its current DBE policy in accordance with applicable law. The BOAC is including this element to facilitate competition by and expand opportunities for small businesses. The BOAC is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The BOAC will meet its objectives using a combination of the following methods and strategies:

1. **Set asides:** Where feasible, the BOAC will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A "set-aside" is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the BOAC and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.
2. **Unbundling:** The BOAC, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The BOAC will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. Similarly, the BOAC will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

### Definitions

1. **Small Business:**

A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the

definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

**2. Disadvantaged Business Enterprise:**

A for-profit small business (as defined by the Small Business Administration) —

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

For the purposes of the small business element of the BOAC's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

**Certification and Verification Procedures**

The BOAC will accept the following certifications for participation in the small business element of the BOAC's DBE Program with applicable stipulations:

1. (State) DOT DBE Certification (through the Unified Certification Program) – DBE Certification by the (State) DOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the (State) DOT.
2. (State) DOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the (State) DOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

**Implementation Schedule**

The BOAC will implement this small business element within nine months of the FAA's approval of this document describing the element. In order to actively implement the BOAC's program elements to foster small business participation and to comply with the requirement of good faith implementation of our DBE program, the BOAC will require that the Prime Contractor(s) for Construction Work Items and for Professional Services Work Items complete the form entitled, *Fostering Small Business Participation* (sample attached). The Special Conditions of the Contract will indicate the amount of small business participation as determined by the BOAC.

## **Assurances**

**The BOAC makes the following assurances:**

- 1. The DBE Program, including its small business element is not prohibited by state law;**
- 2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;**
- 3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;**
- 4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;**
- 5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and**
- 6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.**

## Fostering Small Business Participation

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

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

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

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

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

Accepted by: *[Signature]* Date: 8/12/14