

## POLICY STATEMENT

### **Section 26.1, 26.23 Objectives/Policy Statement**

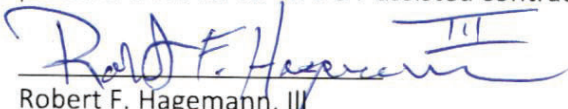
Jefferson County has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Jefferson County has received Federal financial assistance from the Department of Transportation, and as a condition of receiving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

It is the policy of Jefferson County 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 promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program.
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Robert F. Hagemann, III, Jefferson County Administrator, has been delegated as the DBE Liaison Officer. In that capacity, the DBELO 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 Jefferson County in its financial assistance agreements with the Department of Transportation.

Jefferson County has circulated this policy statement to the Board of Legislators and County staff. We have distributed this statement to the DBE and non-DBE business communities that perform work for us on DOT-assisted contracts through contract documents.

  
Robert F. Hagemann, III  
Jefferson County Administrator

## **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**

Jefferson County is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, et seq.

### **Section 26.5 Definitions**

Jefferson County will use terms in this program that have the meaning defined in Section 26.5.

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

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

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

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

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

We will report DBE participation to the DOT by transmitting the Uniform Report of DBE Awards or Commitments and Payments by December 1<sup>st</sup> of each fiscal year.

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

Jefferson County 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, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information through contract documents. Sample forms are found in Attachment 3 to this program.

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

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

Assurance: 26.13(a) - Each financial assistance agreement Jefferson County signs with a DOT operating administration (or a primary recipient) will include the following assurance:

Jefferson County shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. Jefferson County'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 Jefferson County 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: 26.13(b)

Jefferson County 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 recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

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

Jefferson County is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are 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. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

### **Section 26.23 Policy Statement**

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

### **Section 26.25 DBE Liaison Officer {DBELO}**

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

Robert F. Hagemann, III  
Jefferson County Administrator  
County Government Building  
195 Arsenal Street, 2<sup>nd</sup> Floor  
Watertown, NY 13601  
Telephone No: (315)785-3075  
Email: [roberth@co.jefferson.ny.us](mailto:roberth@co.jefferson.ny.us)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Jefferson County complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Board of Legislators 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 adequate staff to assist in the administration of the program. The duties and responsibilities may 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 goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the 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.

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

It is the policy of Jefferson County to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime

contractors on DOT-assisted contracts to make use of these institutions. To identify such institutions, we consult with the State of New York Unified Certification Program Business Directory. This will be accomplished tri-annually.

## **Section 26.29 Prompt Payment Mechanisms**

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

Jefferson County has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 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 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.

Jefferson County will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by Jefferson County. When the County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

This prompt payment clause will apply to all DBE and non-DBE subcontractors on DOT-assisted contracts, and will be enforced by the Resident Project Representative (RPR). The County may be required to resolve disputes over the holding of certain funds, etc. and assures that payments will be made in a timely fashion. Prime Contractors will be required to provide the RPR with documentation showing that payments to subcontractors have been made within the time limit stated within their contract, which is 30 days. Failure to comply will result in the holding of additional monies, until the RPR are assured the payments to subcontractors have been made. Any delay or postponement of payment among parties may take place only for a good cause, with prior written approval from the RPR. It will also be noted in the contract between the County and the Prime Contractor that the Prime Contractor will not be reimbursed for work performed by subcontractors unless and until the Prime Contractor assures the County that the subcontractor has been promptly paid for the work they have performed.

As required by the FAA, to implement this measure regarding retainage, Jefferson County includes one of the following clauses from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract:

Option 1: The County may decline to hold retainage from Prime Contractors and prohibit Prime Contractors from holding retainage from subcontractors.

- a. Retainage will not be withheld on this project. No retainage will be withheld by the County from progress payments due the Prime Contractor. Retainage by the prime or subcontractors is prohibited, and no retainage will be held by the prime from progress due subcontractors.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the County. When the County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c. When at least 95% of the project work has been completed to the satisfaction of the RPR, the RPR shall, at the County's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.

Option 2: The County may decline to hold retainage from Prime Contractors and require a contract clause obligating Prime Contractors to make prompt and full payment of any retainage kept by Prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

- a. No retainage will be held by the County from progress payments due the prime.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the County evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the County. When the County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c. When at least 95% of the project work has been completed to the satisfaction of the RPR, the RPR shall, at the County's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.

Option 3: The County may hold retainage (0 to 10%, but in no case may it exceed 10%) from Prime Contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to Prime Contractors based on these acceptances, and require a contract clause obligating the Prime Contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the County's payment to the Prime Contractor.

- a. From the total of the amount determined to be payable on a partial payment, [ insert amount of retainage, not to exceed 10% ] percent of such total amount will be deducted and retained by the County for protection of the County's interests. Unless otherwise instructed by the County, the amount retained by the County will be in effect until the final payment is made except as follows:
  - (1) Contractor may request release of retainage on work that has been partially accepted by the County in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the County for partially accepted work.
  - (2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the County evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the County. When the County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c. When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the County's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The County may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

### **Monitoring Payments to DBEs and Non-DBEs**

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

The County shall keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

We will perform interim audits quarterly 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.

### Prompt Payment Dispute Resolution

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

All Contractors are required to submit Form MJ-216 with each payment application. This form shows the status of payments made to all Subcontractors and Suppliers, whether they performed work during the reporting period. If it is determined, after review of the submissions, that the Contractor is in violation of prompt payment requirements, Jefferson County may withhold the amount due to any Subcontractor or Supplier from the Contractor until satisfactory proof of payment is received. If the Contractor is in violation four or more times, Jefferson County may terminate the Contract for cause and/or may require the Contractor to pay some or all of their Subcontractors or Suppliers and provide proof of payment before the Subcontractor's or Supplier's work can be included on a future pay application. Jefferson County will work with the RPR and the contractors to discuss any disputes, using records provided for payment confirmation, etc. A meeting will be held with all parties involved and if no resolution is obtained, mediation will be held with a neutral third party to evaluate the dispute.

### Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements or any issues thereon will be discussed with Jefferson County/DBELO. If the affected subcontractor is not comfortable discussing with prime contractor directly and discussions with Jefferson County are unable to resolve payment issues, then the subcontractor should contact the FAA operating administrator.

Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

### Enforcement Actions for Noncompliance of Participants

Jefferson County will make prompt determinations regarding contractors' compliance with this Program. Documentation of noncompliance will include the specific areas in which the contractor failed to comply. In these instances, appropriate actions consistent with the DBE Program and other contract provisions will be taken, and may include withholding future payments, suspension of the contract, notification to stop contract work until the contractor comes into compliance, refusal to award the contract or cancellation of the contract and declaration of forfeiture of the performance bond.

A decision by Jefferson County to invoke the above sanctions shall be issued in writing by registered mail. The contractor shall have ten days from receipt of the decision to appeal the decision.

### Monitoring Contracts and Work Sites

Jefferson County, with assistance from the RPR, will implement a monitoring and enforcement



mechanism that will include written certification that we have reviewed contracting records and monitored work sites. This will be accomplished during by regular job meetings, whereas inspections will be made to ascertain personnel, payments, etc., of which will be noted in the job meeting minutes.

### **Section 26.31 Directory**

Jefferson County is a non-certifying member of the New York State Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31.

Jefferson County maintains a directory identifying all firms eligible to participate as DBEs. This is in addition to the State's UCP directory, which is located at <https://nysucp.newnycontracts.com/Default.asp?TN=nysucp&XID=365>.

The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. We revise the Directory as needed. The Directory may be found at in Attachment 4.

### **Section 26.33 Overconcentration**

Jefferson County has not identified that overconcentration exists in the types of work that DBEs perform.

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

Jefferson County has not established a business development program.

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

Jefferson County 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. 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 during by regular job meetings, whereas inspections will be made to ascertain personnel, payments, etc., of which will be noted in the job meeting minutes.

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.

Jefferson County will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g. payment actually made to DBE firms), including a means of comparing these attainments to commitments. The County, with the assistance of their Engineer, will review contracting records and monitor work sites during the term of the contract to ensure that work committed to DBE's at contract award or during the project, is actually performed by the DBE's to which the work was committed. The County will maintain these records with the closeout documents for the project.

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

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

County's small business element can be found in Attachment 10 to this 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**

Jefferson County does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

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

DBE and ACDBE Program Reporting Requirements for Recipients | Federal Aviation Administration ([faa.gov](http://faa.gov))

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the County does not anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 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 County 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". We will use *DBE Directories and Census Bureau Data* as a method to determine our 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 County of Broome 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 Contracts.

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

Following this consultation, we will publish notices of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the County Government Building, 195 Arsenal Street, 2nd Floor, Watertown, NY 13601, for 30 days following the date of the notice, and informing the public that Jefferson County and DOT will accept comments on the goal for 30 days from the date of the notice. The notices will be issued in general circulation media and available minority-focused media and trade association publications. The notices will include addresses to which comments may be sent.

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.

#### **Section 26.45 (e) - Project Goals**

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

If 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.

#### **Section 26.45(f) - Prior Operating Administration Concurrent**

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

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 Goal**

The County 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 Jefferson County's awards and commitments are less than the goal for that fiscal year, we will:

1. Analyze the reasons for the difference
2. Establish specific steps and milestones to correct the problems we have identified to enable us to meet fully the goal for the new fiscal year
3. Retain analysis and corrective actions in records for three years and make it available to FAA on request.

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

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

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

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media

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

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

Jefferson County 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 estimates that we can meet our entire overall goal for a given fiscal year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order to 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 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 responsible.

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))

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

1. Award of the contract will be conditioned on meeting the requirements of this section;

2. All bidders or offerors will be required to submit the following information to the recipient, at the time provided in Item 3 below:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
3. We will require that the bidder/offeror present the information no later than 5 days after bid opening as a matter of responsibility.

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

#### Administrative Reconsideration (26.53(d))

Within 7 business days of being informed by Jefferson County that it is not responsible 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: Grant W. Sussey, Airport Manager, 22525 Airport Drive, Dexter, NY 13634. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. 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(0))

We will include in each prime contract a provision stating:

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

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

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

Jefferson County will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, 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 (5) 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.

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

If the contractor fails or refuses to comply in the time specified, 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 Jefferson County to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/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, 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.

If the firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, we will not count the firm's participation toward any DBE goals.

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

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, DBE firms certified with NAICS code that exceed the business size standard in § 26.65(b) will remain eligible for DBE credit for work in that category as long as they do not exceed the small business size standard for that category, as adjusted by the United States Small Business Administration.

### **SUBPART D - CERTIFICATION STANDARDS**

#### **Section 26.61 -26.73 Certification Process**

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

NY State Department of Transportation  
Office of Civil Rights  
50 Wolf Road, 6<sup>th</sup> Floor  
Albany, NY 12232  
Tel. (518) 457-1129

A website address for the Certification application forms and documentation requirements can be found in Attachment 8 to this program.

### **SUBPART E - CERTIFICATION PROCEDURES**

#### **Section 26.81 Unified Certification Program**

Jefferson County is a non-certifying member of the New York State Unified Certification Program (NYSUCP). The NYSUCP meets all of the requirements of this section.

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

### **Section 26.101 Compliance Procedures Applicable**

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

### **Section 26.109 Information, Confidentiality, Cooperation and Intimidation or Retaliation**

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.

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

## **ATTACHMENTS**

- Attachment 1 Regulations: 49 CFR Part 26
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
- 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 11 DBE Services Certification Form

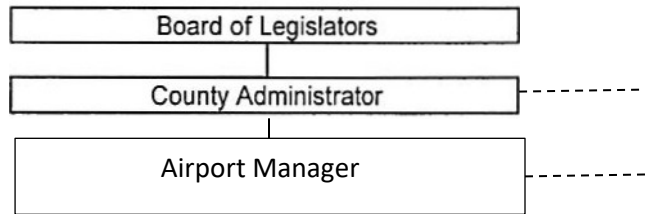
## **ATTACHMENT 1**

Regulations 49 CFR Part 26 can be found at:

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

## ATTACHMENT 2

### ORGANIZATIONAL CHART



### ATTACHMENT 3

#### Bidder's List Collection Form

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

## **DBE DIRECTORY**

<b>NAME OF FIRM</b>	<b>ADDRESS</b>	<b>PHONE NUMBER</b>	<b>TYPE OF WORK</b>
All State Professional Cad Services	17 South Hills Drive, New Hartford, NY 13413	(315) 794-3267	Drafting
Alliance Paving Materials, Inc.	846 Lawrence Street, Rome, NY 13440	(315) 337-0795	Sitework
Alpine Seeding LLC	2030 Old Market Road, Winthrop, NY 13697	(315) 268-1056	Landscaping
Atlantic Testing Laboratories, Ltd.	6431 US Highway 11, Canton, NY 13617-3797	(315) 386-4578	Testing
Aubertine and Currier Arch,Eng&LS	522 Bradley Street, Watertown, NY 13601	(315) 782-2005	Arch/Eng/Surveying
Becker Trucking Co.	2676 County Route 12, Central Square, NY 13036	(315) 668-9649	Trucking
Black Horse Group, LLC	800 Starbuck Avenue, Suite C101, Watertown, NY 13601	(315) 755-1213	General Contractor
Courtney Reich, PE, PLLC	59 Matthew Drive, Fairport, NY 14450	585-414-3063	Engineering
C-R Little Builders Inc.	698 Miner Street, Canton, NY 13617	(315) 386-4304	General Contractor
Dakota Environmental Services, LLC	11419 State Route 12, Boonville, NY 13309	(315) 942-5550	Sitework
Die Hard Excavation and Technologies	7654 Smith Road, Rome, NY 13440	(315) 337-2454	Sitework
Eastcom Utility Contractors, Inc.	1092 County Route 37, Central Square, NY 13036	(315) 668-7707	Electrical
Green Machine Hydroseeding	150 Irish Settlement Road, Waddington, NY 13694	(315) 388-4968	Landscaping
Hellen Chappell	8 Knobb Hill Drive, Pittsford, NY 14534	585-381-8611	Paving
Interstate Reinforcing Inc.	127 Blind Road, Mexico, NY 13114	(315) 963-4762	Concrete
JL Excavation LLC	13489 Case Road, Chaumont, NY 13622	(315) 649-2005	Excavation
Jade Stone Engineering PLLC	444 Vanduzee Street, Watertown, NY 13601	(315) 836-4062	Engineering
MS Unlimited, Inc.	5858 E. Molloy Road, Syracuse, NY 13211	(315) 437-1291	Supplier
Marzano Paving Inc.	148 Boon Street, Watertown, NY 13601	(315) 782-0811	Paving
Mohawk Valley Materials, Inc.	9788 River Road, Marcy, NY 13403	(315) 507-2538	Sitework
North-Forty Acres of Marcy	9573 Hayes Road, Marcy, NY 13403	(315) 507-7539	Landscaping
Ocuto Blacktop Paving Co., Inc.	846 Lawrence Street, Rome, NY 13440	(315) 337-7070	Paving
Paige Marketing Communications Group	258 Genesee Street, Suite 204, Utica, NY 13502	(315) 733-2313	Public Outreach
Paverite, Inc.	10423 Stoddard Road, Copenhagen, NY 13626	(315) 688-2699	Paving
Pavilion Drainage Supply Company	6630 Ellicott Street, Pavilion, NY 14525	(585) 584-3261	Supplier
Pinnacle Group Contracting, LLC	2 Noreen Drive, Norwood, NY 13668	(315) 353-2964	Excavation
Rommel Fence, LLC	17 Railroad Street, Poland, NY 13431	(315) 826-3758	Fencing
S C Spencer Electric, Inc.	5940 Spencer Road, Constableville, NY 13325	(315) 942-3137	Electrical
Susan M. Anacker Professional Land Surveyor	11082 Davis Road East, Deerfield, NY 13502	(315) 724-6800	Land Surveying
T.J. Clement Construction Co., Inc.	24495 Bush Road, Calcium, NY 13616	(315) 788-8811	Sitework
Zehr Flowers & Landscaping LLC	8484 Van Amber Road, Castorland, NY 13620	(315) 376-3086	Landscaping

## ATTACHMENT 5

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

**Name of Recipient:** Jefferson County, Watertown International Airport

**Goal Period:** FY-2022-2023-2024 – October 1, 2021 through September 30, 2024

<b>DOT-assisted contract amount:</b>	FY-2022 - \$ 7,004,700
	FY-2023 - \$ 5,107,500
	FY-2024 - <u>\$ 5,458,500</u>
	Total \$17,570,700

**Overall Three-Year Goal:** 2.38%, *to be accomplished through 2.38% RC and 0% RN*

**Total dollar amount to be expended on DBE's:** \$418,183

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

The projects are listed in the following tables.

#### **Market Area**

The market area includes Jefferson, Lewis, Oneida, Oswego, and St. Lawrence counties. These counties surround the airport and include a substantial majority of contractors and subcontractors that wish to do business with the airport.

#### **Step 1 - Establish Base Figure**

The total number of DBE firms and total number of firms were determined for nine separate trades within the market area. The NAICS codes and respective firm totals for each trade. The total available number of DBE firms was determined using the New York State Unified Certification Program (NYSUCP) Disadvantaged Business Enterprise (DBE) Directory. The NAICS codes, trade breakdown, and total number of firms were established from available U.S. Census Bureau Data (2015).



**Fiscal Year #1 - FY-2022, we anticipate the award of the following:**

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Security Enhancements (Police Vehicle)	Equipment			\$67,500	0	0	0	0
Total Contract #1				\$67,500				\$0
<i>(Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Install Runway Vertical/Visual Guidance System (MALSR) (Construct)	Engineering	Engineering	541330	403,200	64	3	4.69	18,900
	Paving	Paving	238990	81,000	54	2	3.70	3,000
	Electrical	Electrical	238210	3,141,000	107	2	1.87	58,710
	Site Preparation	Site Preparation	238910	27,000	96	7	7.29	1,969
	Fencing	Fencing	238990	45,000	54	2	3.70	1,667
	Landscaping	Landscaping	561730	45,000	173	4	2.31	1,040
Total Contract #2				\$3,742,200				\$85,286
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Rehabilitate Runway 10-28 (Design)	Engineering	Engineering	541330	252,000	64	3	4.69	11,813
	Geotech Testing	Testing	541380	11,700	7	1	14.29	1,671
	Surveying	Surveying	541370	34,200	20	2	10.00	3,420
Total Contract #3				\$297,900				\$16,904
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Acquire SRE (Loader/Plow)	Engineering	Engineering	541330	13,500	64	3	4.69	633
	Equipment Only			495,000	0	0	0	0
Total Contract #4				\$508,500				\$633
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Wildlife Hazard Assessment/Management Plan	Engineering	Engineering	541330	174,600	64	3	4.69	8,184
Total Contract #5				\$174,600				\$8,184
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Reconstruct Access Road (Construction)	Geotechnical	Testing	541380	9,000	7	1	14.29	1,286
	Engineering	Engineering	541330	265,500	64	3	4.69	12,445
	Site Preparation	Site Preparation	238910	382,500	76	7	9.21	35,230
	Electrical	Electrical	238210	679,500	107	2	1.87	12,701
	Landscaping	Landscaping	561730	135,000	173	4	2.31	3,121
	Paving	Paving	238990	507,500	54	2	3.70	18,796
	Pavement Marking	Pavement Marking	237310	100,000	15	3	20.00	20,000
	Drainage	Drainage	237990	135,000	7	0	0	0
Total Contract #6				\$2,214,000				\$103,579
Total FY-2022				\$7,004,700			3.1	\$214,586

**Fiscal Year #2 - FY-2023, we anticipate the award of the following:**

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Obstruction Removal – On and Off Airport (Runway 7, 25&28) Design	Engineering	Engineering	541330	121,500	64	3	4.69	5,695
	Surveying	Surveying	541370	13,500	20	2	10.00	1,350
<i>Total Contract #1</i>				<i>\$135,000</i>				<i>\$7,045</i>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Acquire Land for Approaches (Runway 7 & 25 RPZ, Runway 10 and 28 Approach/Departure Surface Avigation Easements)	Engineering	Engineering	541330	127,800	64	3	4.69	5,991
	Appraisals	Appraisals	531320	283,500	9	0	0	0
	Surveying	Surveying	541370	58,500	20	2	10.00	5,850
	Land Acquisition	Land Acquisition		1,330,200	0	0	0	0
<i>Total Contract #2</i>				<i>\$1,800,000</i>				<i>\$11,841</i>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Improve Terminal Baggage Claim	Engineering	Engineering	541330	180,000	64	3	4.69	8,438
	Electrical	Electrical	238210	450,000	107	2	1.87	8,411
<i>Total Contract #3</i>				<i>\$630,000</i>				<i>\$16,849</i>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Install (Replace) Runway Vertical/Visual Guidance System (PAPI - RW 7, 10, 25, 28) (Construction)	Engineering	Engineering	541330	72,000	64	3	4.69	3,375
	Electrical	Electrical	238210	324,000	107	2	1.87	6,065
	Site Preparation	Site Preparation	238910	45,000	96	7	7.29	3,281
	Surveying	Surveying	541370	9,000	20	2	10.00	900
<i>Total Contract #4</i>				<i>\$450,000</i>				<i>\$13,621</i>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Construct New Electrical Vault Generator & Beacon (Design/Construct)	Engineering	Engineering	541330	315,000	64	3	4.69	14,766
	Surveying	Surveying	541370	22,500	20	2	10.00	2,250
	Geotech Testing	Testing	541380	22,500	7	1	14.29	3,214
	Earthwork	Site Preparation	238910	27,000	96	7	7.29	1,969
	Electrical	Electrical	238210	1,386,000	107	2	1.87	25,907
	Drainage	Drainage	237990	27,000	7	0	0	0
	Paving	Paving	238990	90,000	54	2	3.70	3,333
<i>Total Contract #5</i>				<i>\$1,890,000</i>				<i>\$51,439</i>

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Acquire Glycol Recovery Truck	Engineering	Engineering	541330	13,500	64	3	4.69	633
	Equipment	Equipment		121,500				
Total Contract #6				\$135,000				\$633
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Improve Erosion Control (Blast Pads)	Engineering	Engineering	541330	54,000	64	3	4.69	2,531
	Geotechnical Testing	Testing	541380	9,000	7	1	14.29	1,286
	Surveying	Surveying	541370	4,500	20	2	10.00	450
Total Contract #7				\$67,500				4,267
<b>Total FY-2023</b>				<b>\$5,107,500</b>			<b>2.1</b>	<b>\$105,695</b>

**Fiscal Year #3 - FY-2024, we anticipate the award of the following:**

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Acquire Aircraft Rescue & Firefighting Equipment (Protective Clothing)	Engineering	Engineering	541330	13,500	64	3	4.69	633
	Equipment	Equipment		166,500				
Total Contract #1				\$180,000				\$633
<i>(Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Obstruction Removal - On and Off Airport (Runway 7-25 & 10/28) (Construction)	Engineering	Engineering	541330	90,000	64	3	4.69	4,219
	Surveying	Surveying	541370	9,000	20	2	10.00	900
	Tree Clearing	Landscaping	561730	508,500	173	4	2.31	11,757
	General Construction	General Construction	236220	270,000	66	0	0	0
Total Contract #2				\$877,500				\$16,876
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Install Runway Vertical/Visual Guidance System (ODALs - RW 10) (Design)	Engineering	Engineering	541330	103,500	64	3	4.69	4,852
	Surveying	Surveying	541370	4,500	20	2	10.00	450
	Geotech Testing	Testing	541380	4,500	7	1	14.29	643
Total Contract #3				\$112,500				\$5,945
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Rehabilitate Runway 10-28 and Guidance Signs (Construction)	Engineering	Engineering	541330	360,000	64	3	4.69	16,875
	Site Preparation	Sitework	238910	180,000	76	7	9.21	16,579
	Trucking	Trucking	484220	180,000	61	1	1.64	2,951
	Landscaping	Landscaping	561730	90,000	173	4	2.31	2,081
	Paving	Paving	238990	1,690,000	54	2	3.70	62,593
	Pavement Marking	Pavement Marking	237310	200,000	15	4	26.67	53,333
	Electrical	Electrical	238210	900,000	107	2	1.87	16,822
Total Contract #4				\$3,600,000				\$171,234

<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Rehabilitate General Aviation Apron (Design)	Engineering	Engineering	541330	81,000	64	3	4.69	3,797
	Surveying	Surveying	541370	18,000	20	2	10.00	1,800
	Geotech Testing	Testing	541380	9,000	7	1	14.29	1,286
<b>Total Contract #5</b>				<b>\$108,000</b>				<b>\$6,883</b>
<i>(Contract Name)</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Reconstruct Taxilanes (Design)	Engineering	Engineering	541330	63,000	64	3	4.69	2,953
	Surveying	Surveying	541370	9,000	20	2	10.00	900
	Geotech Testing	Testing	541380	9,000	7	1	14.29	1,286
<b>Total Contract #6</b>				<b>\$81,000</b>				<b>\$5,139</b>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Expand GA Apron (Design) - Phase 1	Engineering	Engineering	541330	198,000	64	3	4.69	9,281
	Geotech Testing	Testing	541380	9,000	7	1	14.29	1,286
	Surveying	Surveying	541370	18,000	20	2	10.00	1,800
<b>Total Contract #7</b>				<b>\$225,000</b>				<b>\$12,367</b>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Construct Snow Removal Equipment Building (Design)	Engineering	Engineering	541330	193,500	64	3	4.69	9,070
	Surveying	Surveying	541370	22,500	20	2	10.00	2,250
	Geotech Testing	Testing	541380	13,500	7	1	14.29	1,929
<b>Total Contract #8</b>				<b>\$229,500</b>				<b>\$13,249</b>
<i>Contract Name</i>	<i>Trade Description</i>	<i>NAICS Description</i>	<i>NAICS</i>	<i>Trade (\$)</i>	<i>Census</i>	<i>Directory</i>	<i>DBE (%) (= G/F)</i>	<i>DBE (\$) (= E x H)</i>
Install Perimeter Fencing (Wildlife)	Engineering	Engineering	541330	36,000	64	3	4.69	1,688
	Surveying	Surveying	541370	9,000	20	2	10.00	900
<b>Total Contract #9</b>				<b>\$45,000</b>				<b>\$2,588</b>
<b>Total FY-2024</b>				<b>\$5,458,500</b>			<b>4.3</b>	<b>\$234,914</b>

Divide the total number of DBE dollar's by the total contract amount per fiscal year = a weighted base figure

$$\text{FY22 (3.1) + FY23 (2.1) + FY 24 (4.3) / 3}$$

Base figure (weighted) = 3.17% of all firms ready, willing and able.

### **Past History Participation**

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

<i>FY</i>	<i>Total Grant \$ Amount</i>	<i>DBE Goals</i>			<i>Accomplishments</i>			<i>Type of work</i>
		<i>RC</i>	<i>RN</i>	<i>Total</i>	<i>RC</i>	<i>RN</i>	<i>Total</i>	
FY 17	\$2,017,863	2.30	0	2.30	0	0	0	Construction, Lighting
FY 18	\$2,060,000	3.50	0	3.50	1.59	0	1.59	Construction, Equipment
FY 19	\$5,485,324	3.50	0	3.50	0.44	0	0.44	Construction, Planning
FY 20	\$8,510,945	3.50	0	3.50	2.91	0	2.91	Construction, Planning, Equipment
FY 21	\$1,885,577	3.50	0	3.50	3.50	3.24	6.74	Construction, Land

The median DBE participation on recent FAA-funded projects is 1.59%.

### **Step 2 -Adjustments to Base Figure**

To arrive at an overall goal, we added our Step 1 base figure (3.17%) with our Step 2 adjustment figure (1.59%) and then averaged the total, arriving at a goal of 2.38%. We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of work being awarded during this three-year period.

Further, there are no applicable disparity studies for the local market area or recent legal case information available from the State of New York Department of Transportation office to show any evidence of barriers to entry or competitiveness of DBEs in the market area.

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

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

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. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
4. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
5. Assist DBE’s and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and

The County estimates that in meeting its overall goal 2.38%, it will obtain 0% from RN participation and 2.38% through RC measures.

The County 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 2.38% to race-conscious participation.

The County 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).

In establishing the proposed goal, consult with minority, women's and general contractor groups, community organizations who can share information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and the County's efforts to establish a level playing field for the participation of DBE's.

In establishing the overall goal, the County provided for consultation and publication. This included consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the County goal setting process, and it occurred before we were required to submit our goal methodology to the operating administration for review. We will not implement our proposed goal until we have complied with this requirement.

The County submits its overall DBE three-year goal to DOT on August 1 as required by the set schedule.

Before establishing the overall goal, the County consulted with groups and organizations, without limiting consultation to these persons or groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The following groups and organizations were notified of a scheduled teleconference which was held on September 15, 2022:

North Country Procurement Technical Assistance Center  
c/o Greater Watertown-North County Chamber of Commerce  
1241 Colleen Street  
Watertown, NY 13601  
(315) 788-4400

Jefferson County Economic Development Corporation  
800 Starbuck Avenue, Suite 800  
Watertown, Y 13601  
(315) 782-5865

Greater Oswego-Fulton Chamber of Commerce  
44 East Bridge Street  
Oswego, NY 13126  
(315) 343-7681

Development Authority of the North Country  
317 Washington Street  
Watertown, NY 13601  
(315) 661-3200

Northeastern Subcontractors Association, Inc.  
6 Airline Drive  
Albany, NY 12205  
(518) 869-9800

Women's Business Center of New York State  
200 Genesee Street  
Utica, NY 13502  
(877) 844-9848

NY State Department of Transportation  
Office of Civil Rights  
50 Wolf Road, 6<sup>th</sup> Floor  
Albany, NY 12232  
(518) 457-1129

Following the consultation, the County published a notice in the Watertown Daily Times and the Thousand Island Sun of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the County office for thirty (30) days following the date of the notice, and informing the public that the County and DOT will accept comments on the goals for thirty (30) days from the date of the notice. No comments have been received to date.

### **PUBLIC NOTICE**

The County of Jefferson hereby announces its fiscal years 2022 through 2024 goal of 2.38% for Disadvantaged Business Enterprise (DBE) airport 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 County Government Building, 195 Arsenal Street, 2nd Floor, Watertown, NY 13601, for 30 days from the date of this publication. Comments on the DBE goal will be accepted for 30 days from the date of this publication.

### **CONTRACT GOALS**

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

The County 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: \_\_\_\_\_

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name & title of DBE firm's AR: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Work to be performed by DBE firm:

<i>Description of Work</i>	<i>NAICS</i>	<i>Dollar Amount / %*</i>	<i>Dealer/Manufacturer**</i>

*\*Percentage is to be used only in negotiated procurements, including design-build contracts*

*\*\*For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is

\$ \_\_\_\_\_. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

\_\_\_\_\_  
Date: \_\_\_\_\_  
Signature of Bidder/Offeror's Authorized Representative

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

\_\_\_\_\_  
Date: \_\_\_\_\_  
Signature of DBE's Authorized Representative

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

Submit this page for each DBE subcontractor.

## **ATTACHMENT 7**

### **MONITORING AND ENFORCEMENT MECHANISMS**

Jefferson County has available several remedies to enforce the DBE requirements contained in its contracts. Jefferson County will exercise when appropriate its right to terminate agreements when contractors violate contractual provisions relating to insurance, statutory compliance and non-discrimination. Further, Jefferson County will employ its statutory remedies when appropriate to ensure DBE compliance including but not limited to the rights afforded under the:

1. NYS Constitution
2. NYS General Municipal Law
3. NYS Labor Law
4. NYS Finance Law
5. NYS Transportation Law
6. NYS Executive Law
7. NYS Civil Practice Law and Rules, including injunctions and restraining orders.

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

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

## **ATTACHMENT 8**

DBE Certification Application Form can be found at:

<https://nysucp.newnycontracts.com/>

## ATTACHMENT 9

### State's UCP Agreement

#### NYSUCP NON-CERTIFYING PARTNERS

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of the MOU dated June 24, 2004 and this "Addendum" to the MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

William W. Johnson  
For

9/6/2022  
Date

Jefferson County

Agency

## **ATTACHMENT 10**

### **FOSTERING SMALL BUSINESS PARTICIPATION**

#### **A. Objective**

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; Jefferson County seeks to implement a small business element into its current DBE policy in accordance with applicable law. Jefferson County is including this element to facilitate competition by and expand opportunities for small businesses. Jefferson County 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. Jefferson County will meet its objectives using a combination of the following methods and strategies:

1. Jefferson County, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. Jefferson County will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, Jefferson County will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses. Jefferson County will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. Jefferson County will document the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.
2. FAA recipients who reasonably anticipate awarding \$250,000 or less in FAA funds in prime contracts in a federal fiscal year are not required to develop an overall DBE goal for that fiscal year. Jefferson County, where feasible, on prime contracts not having a DBE contract goal, will request the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved. Jefferson County will conduct contract reviews on each FAA-assisted contract that does not have a DBE contract goal to determine whether portions of the project could be performed by small businesses, including DBEs. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with subcontracting. Jefferson County will assist prime contractors or prime consultants in identifying portions of work which may be performed by small businesses.
3. Jefferson County will advertise contracting opportunities to the small business community through various outlets, including local newspapers, chambers of commerce and county administration offices, where feasible.

As described above, Jefferson County will utilize a variety of methods to facilitate small business participation. In each FAA-assisted contract, the DBELO will document the method in which the small business element was implemented and the process by which those methods were considered.

## B. Definitions

### 1. Small Business:

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). 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.

### 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 average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$22.41 million.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- Has been certified as a DBE in accordance with 49 CFR 26.

For the purposes of the small business element of Jefferson County'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.

## C. Certification and Verification Procedures

The County will accept the following certifications for participation in the small business element of the County's DBE Program:

1. NYS DOT DBE Certification
2. NYS DOT Small Business Enterprise (SBE) Certification

3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124)

D. Assurances

Jefferson County 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.