

Pinellas County  
St. Pete-Clearwater International Airport

# Disadvantaged Business Enterprise Program

UPDATED September 17, 2024



**UNITED STATES DEPARTMENT OF TRANSPORTATION**  
**DBE PROGRAM – 49 CFR PART 26**  
Pinellas County  
for the **St. Pete-Clearwater International Airport (PIE)**  
Clearwater, FL

**POLICY STATEMENT**

**Section 26.1, 26.23**

**Objectives/Policy Statement**

St. Pete-Clearwater International Airport (hereafter 'the Airport' or 'Airport') has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26. The Airport has received Federal financial assistance from USDOT, and as a condition of receiving this assistance, the Airport has signed an assurance that it will comply with 49 CFR Part 26.

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

1. Ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in USDOT assisted contracts;
6. Promote the use of DBEs in all types of federal-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the marketplace outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

**Yvette Aehle, Deputy Director for Finance & Administration, St. Pete-Clearwater International Airport, 14700 Terminal Blvd., Clearwater, FL 33762, 727-453-7804** has been designated as the DBE Liaison Officer (DBELO). 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 the Airport in its financial assistance agreements with the US Department of Transportation.

The Airport has disseminated this policy statement to its board members and all of the components of the organization. The Airport will distribute this statement to DBE and non-DBE business communities that perform work for the Airport on USDOT-assisted contracts in the following manner:

1. *This Policy statement will be prepared as a handout, and made available at pre-bid conferences, and/or outreach meetings conducted by the Airport.*
2. *Copies of the Policy statement will be made available via email or mail to all of the agencies/organizations consulted during the development of the DBE goal methodology. This will make the Airport's policy for the St. Pete-Clearwater International Airport available to additional small, minority, and women business development agencies.*

  
Thomas R. Jewsbury, Airport Executive Director – PIE

  
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 Airport is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The Airport will adopt the definitions contained in Section 26.5 for this program.

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

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

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

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

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

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

The Airport will report DBE participation to USDOT as follows:

The Airport will submit by or before December 1<sup>st</sup>, the *Uniform Reports of DBE Awards or Commitments and Payments*, as modified for use by FAA recipients, via FAA DBE-Connect System online (<https://faa.civilrightsconnect.com/>) or any other designated reporting system.

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

The Airport will collect bidders list information as described in §26.11(c)(2) and enter it into the system designated by DOT. The purpose of the bidders list is to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to



work on our federally assisted contracts for use in providing the Department with data for evaluating the extent to which the objectives of §26.1 are being achieved.

The bidder list will include the firm's name; address including zip code; firm's DBE or non-DBE status; age of the firm; race and gender information for the firm's majority owner; NAICS code applicable to each scope of work the firm sought to perform in its bid; and annual gross receipts of the firm. The gross receipts can be obtained by asking each firm to indicate into what gross receipts bracket they fit (e.g. less than \$1 million; \$3-6 million; \$6-10 million, etc.) rather than requesting an exact figure from the firm.

The Airport will collect this information in the following ways:

- a. Include a contract clause requiring prime bidders to report the names/addresses, and other information in the previous paragraph, of all firms who quote to them on subcontracts, whether the subcontractor is chosen or not.*
- b. Include a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report the approved information directly into the prime's bid which will be provided to the DBELO for inclusion in the bidder's list.*
- c. Request the above information from all potential bidders who contact the Airport seeking bid information, and/or who attend pre-bid meetings, conferences, etc., at the Airport.*
- d. The Airport currently uses a web-based self-maintained vendor registration system to collect bidders list data.*

The Airport will enter this data in the Department's designated system no later than December 1<sup>st</sup> following the fiscal year in which the relevant contract was awarded.

In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined pursuant to §26.53(e), the Airport will enter the data no later than December 1<sup>st</sup> following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

Airport will maintain records documenting a firm's compliance with the requirements of this part. Certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by application record retention requirements for the financial assistance agreement, whichever is longer.

### **Section 26.13 Assurances The Airport and Contractors Must Make**

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

Assurance: 26.13(a)

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

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

Contract Assurance: 26.13b

The Airport will ensure that the following clause is placed in every USDOT-assisted contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

*The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT 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**

The Airport is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year.

The Airport is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the Airport is in compliance with it and Part 26. The Airport will continue to carry out this program until all funds from DOT financial assistance have been expended. The Airport does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted to the relevant operating administration for approval.

### **Section 26.23 Policy Statement**

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

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

The Airport has designated the following individual as its DBE Liaison Officer:

**Yvette Aehle, Deputy Director for Finance & Administration, St. Pete-Clearwater International Airport, 14700 Terminal Blvd., Clearwater, FL 33762, 727-453-7804. Telephone: (727) 453-7804. Email: yaehle@fly2pie.com**

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

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

1. *Gathers and reports statistical data and other information as required by USDOT.*
2. *Reviews third party contracts and purchase requisitions for compliance with this program.*
3. *Works with all departments to set overall annual/triennial goals.*
4. *Ensures that bid notices and requests for proposals are available to DBEs in a timely manner during the bid process.*
5. *Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) attainment and monitors results.*
6. *Analyzes the Airport's progress toward attainment and identifies ways to improve progress.*
7. *Participates in pre-bid meetings.*
8. *Advises the Airport Director or other County Departments on DBE matters and achievement.*
9. *Chairs the DBE Advisory Committee (if formed).*
10. *Determines contractor compliance with good faith efforts while evaluating the bids.*
11. *Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.*
12. *Plans and participates in DBE training seminars.*

*13. Provides outreach to DBEs and community organizations to advise them of opportunities.*

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

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

Specifically, **Central Bank, 20701 Bruce B Downs Boulevard, Tampa, FL 33647** has been identified as a minority-owned banking institution. The Airport will consider the services offered by the bank and refer the institution noted above to DBEs and shall annually investigate for new financial institutions that are owned and controlled by socially and economically disadvantaged individuals, or new financial services that are offered at the current facility(ies).

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

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

In accordance with 49 CFR §26.29, the Airport 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 thirty (30) days from receipt of each payment made to the prime contractor by the Airport.

The Airport ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the Airport has selected the following method to comply with this requirement:

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

To implement this measure the Airport will include the following clause from the FAA Advisory Circular 150-5370-10H in each DOT-assisted prime contract.

a. From the total of the amount determined to be payable on a partial payment, 5% percent of such total amount will be deducted and retained by the Airport for protection of the Airport's

interests. Unless otherwise instructed by the Airport, the amount retained by the Airport will be in effect until the final payment is made except as follows:

(1) Contractor may request release of retainage on work that has been partially accepted by the Airport in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Airport 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 Airport evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Airport. When the Airport 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 Airport'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 Airport 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.

#### Prompt Payment Monitoring for DBEs and Non-DBEs

The Airport clearly understands and acknowledges that reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism. Therefore, the Airport undertakes proactive monitoring and oversight of prime contractors' compliance with subcontractor prompt payment and return of retainage requirements of 49 CFR Part 26. Such monitoring activities will be accomplished through the following method(s):

1. *Requiring prime contractors to notify the Airport via email, to the DBELO, the name of the subcontractor, the amount paid, the date paid, and the check number. This must be done after each pay application has been paid by the Airport.*
2. *Use of an automated system (B2G Now) that requires real time entry of payments to, and receipts by, prime contractors and subcontractors and regularly monitors that system.*

The Airport proactively reviews contract payments to subcontractors including DBEs at least once a month, utilizing the #1 method above. Payment reviews will evaluate whether the



actual amount paid to DBE subcontractors is equivalent to the amounts reported to the Airport by the prime contractor.

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

#### Prompt Payment Dispute Resolution

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

A meeting will be scheduled with the prime, sub, DBELO and other appropriate Airport representative(s) such as the Airport Engineer. Any meeting for the purpose of dispute resolution will include Airport representative(s) authorized to bind each interested party, including Airport representative(s) with authority to take enforcement action.

The Airport has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

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

*If the Prime contractor has not paid subcontractors in accordance with §26.29 the Airport will not reimburse the prime contractor for work performed by subcontractors until the prime is in compliance with §26.29.*

#### Prompt Payment Complaints

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

- If affected subcontractor is not comfortable contacting the prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact the Airport's DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the Airport to resolve prompt payment disputes, affected subcontractor may contact the FAA Office of Civil Rights.

- 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

The Airport will provide appropriate means to enforce the requirements of §26.29. These means may include:

- *In accordance with the contract, assessing liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor.*
- *Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract.*
- *Pay subcontractors directly and deduct this amount from the retainage owed to the prime.*
- *Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met.*

The Airport will actively implement the enforcement actions detailed above.

#### Monitoring Contracts and Work Sites

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

#### **Section 26.31 Directory**

The Airport uses the Florida Unified Certification Program (FL UCP) DBE Directory, maintained by the Florida Department of Transportation (FDOT). The Directory lists the following items for all firms eligible to participate as DBEs and/or ACDBEs, and it contains all the elements required by §26.31:

- Business address
- Business phone number
- Firm website(s)
- The types of work the firm has been certified to perform as a DBE and/or ACDBE.

- The type of work a DBE and/or ACDBE is eligible to perform is listed by using the most specific NAICS code available to describe each type of work the firm performs. Pursuant to § 26.81(n)(1) and (3), the UCP directory allows for NAICS codes to be supplemented with specific descriptions of the type(s) of work the firm performs.
- The UCP directory may include additional data fields of other items readily verifiable in State or locally maintained databases, such as State licenses held, Pre-qualifications, and Bonding capacity.
- The UCP directory is an online system that permits the public to search and/or filter for DBEs by:
  - Physical location;
  - NAICS code(s);
  - Work descriptions; and
  - All additional data fields of readily verifiable optional information described above.

The directory includes a prominently displayed disclaimer that states the information within the director is not a guarantee of the DBE's capacity and ability to perform work.

The Florida Department of Transportation updates the Directory in real time. The Directory is available for review by contacting: **Yvette Aehle, Deputy Director for Finance & Administration, St. Pete-Clearwater International Airport, 14700 Terminal Blvd., Clearwater, FL 33762, 727-453-7804** . The Directory may be found at [DBE Directory \(state.fl.us\)](http://DBEDirectory.state.fl.us).

### **Section 26.33 Overconcentration**

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

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

The Airport has not established a business development program or a mentor-protégé program as described by 49 CFR Part 26.

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

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

The Airport 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.

The program element is included as Attachment 6.

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

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

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

<b>Airport Type</b>	<b>Region</b>	<b>Next Goal Due (Goal Period)</b>
Small Hub Primary	All Regions	August 1, 2023 (2024/2025/2026) - SUBMITTED

The DBE goal will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Airport 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, the Airport will not develop an overall goal; however, this DBE Program will remain in effect and the Airport will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

A description of the methodology to calculate the overall goal and the goal calculations can be found in [Attachment 3](#) to this program. This section of the program will be updated triennially.

In establishing the overall goal, the Airport will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that 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 Airport's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the Airport's goal setting process, and it will occur before submitting the goal methodology to the FAA for review pursuant to paragraph (f) of this section. The Airport will document in the goal submission the consultation process that was utilized. Notwithstanding paragraph (f)(4) of this section, the Airport will not implement the proposed goal until this requirement is fulfilled.



In addition, the Airport will post a notice announcing the proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on the Airport's official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be posted on the official internet web site. The Airport will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at the DBELO's office, and that the Airport will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1<sup>st</sup> deadline.

The Airport's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and responses, if any comments are received.

The Airport will begin using the overall goal on October 1 of each year unless it has received other instructions from USDOT. If the Airport establishes a goal on a project basis, it will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

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

The Airport understands that it is not required to obtain prior operating administration concurrence with the overall goal. However, if the operating administration's review suggests that the overall goal has not been correctly calculated or that the method for calculating goals is inadequate, the operating administration may, after consulting with the Airport, adjust the overall goal or require that the Airport 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 §26.9.

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

If the awards and commitments shown on the Airport's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, the Airport will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;

3. The Airport will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three years and will make it available to FAA upon request.

#### **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 3 to this program.

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

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

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



The Airport 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.

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

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

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

The Airport will express their contract goals as a percentage of the federal share of a USDOT-assisted contract.

#### **Section 26.53 Good Faith Efforts Procedures**

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

The obligation of the bidder is to make good faith efforts to meet the DBE goal. The bidder can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

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

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

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

The Airport treats bidders' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders to submit the following information:

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

This information will be collected using the forms found in Attachment 4.

For each DBE listed as a regular dealer or distributor the Airport will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The preliminary determination will be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor, the Airport will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

In a design-build contracting situation, in which the Airport solicits proposals to design and build a project with minimal project details at time of letting, the Airport may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance Plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information required in paragraph (b) of §26.53(b). To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amounts) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, [Recipient] will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. [Recipient] and the design-builder may agree to make written revisions of the OEPP throughout the life of the project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

The Airport will apply the requirements of this section to DBE bidders/offers for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, the Airport will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

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

Within ten (10) days of being informed by the Airport that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following reconsideration official: **Tom Jewsbury, Airport Executive Director, St. Pete-Clearwater International Airport, 14700 Terminal Blvd., Clearwater, FL 33762, 727-453-7800**. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder 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 will have the opportunity to meet in person with the Airport's administrative reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Airport will send the bidder 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 US Department of Transportation.

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

The Airport requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the Airport's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to the Airport its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the Airport prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise the Airport of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, the Airport will require the prime 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. The Airport 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. Good cause does not exist if the prime contractor seeks to

terminate a DBE or any portion of its work that is relied upon to obtain the contract so that the prime contractor to 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.

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

If the contractor fails or refuses to comply in the time specified, the Airport's 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.

For purposes of §26.53(f)(3), 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, nondiscriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit worthiness.
- (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 1200 or applicable state law.
- (6) The Airport has determined that the listed DBE subcontractor is not a responsible contractor.
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to the Airport 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 the Airport determines compels the termination of the DBE subcontractor.

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 St. Pete-Clearwater International Airport, 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, including those who qualify as a DBE. A DBE contract goal of \_\_\_\_ percent has been established for this contract. The bidder 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 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'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**

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

For FAA-funded projects, firms that exceed the business size standard in §26.65(b) will remain eligible for DBE certification and may be counted for DBE credit toward overall and contract goals on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the U.S. Small Business Administration (SBA), for the NAICS code(s) in which they are certified.

## **SUBPART D – CERTIFICATION STANDARDS**

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

The Airport will refer all matters pertaining to certification to the Florida UCP's certifying members in accordance with the State's UCP program. The Florida UCP's certifying agencies will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The Florida UCP will make all certification decisions based on the facts as a whole.

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

**FDOT Equal Opportunity Office  
605 Suwannee Street,  
MS-65**

Tallahassee, FL 32399

(803) 737-1372

(<https://www.fdot.gov/equalopportunity/default.shtml> ).

The link to the certification application forms and documentation requirements are found at:

<https://www.fdot.gov/equalopportunity/dbecertification.shtml>

## **SUBPART E – CERTIFICATION PROCEDURES**

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

St. Pete-Clearwater International Airport is a member of the Unified Certification Program (UCP) administered by the Florida Department of Transportation (FDOT). The UCP will meet all of the requirements of this section. Florida's UCP program uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT/FAA-assisted contracts. Under the FL UCP Program, there are nine certifying members. To be certified as a DBE, a firm must meet all certification eligibility standards. The Airport will refer certifications to the appropriate certifying member of the Florida UCP.

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

### **Section 26.101 Compliance Procedures Applicable to St. Pete-Clearwater Int'l Airport**

The Airport understands that if it fails to comply with any requirement of this part, the Airport 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 FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122.

The Airport understands that, as provided in the statute, it will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because it has been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

### **Section 26.103 Enforcement Actions Applicable to FAA Programs; Compliance Reviews**

The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.



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

In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information (FOIA) and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

The Airport will safeguard from disclosure to third parties' information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, the Airport will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter. However, this information will be transmitted to DOT in any certification appeal proceeding under §26.89 or to any other state to which the individual's firm has applied for certification under §26.85.

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

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

## **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Overall Goal Calculation; Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 4	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 5	Certification Application Forms
Attachment 6	Fostering Small Business Participation
Attachment 7	UCP Agreement
Attachment 8	Bidder's List Collection Form

Attachment 1

# Organizational Chart

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## Attachment 2

# DBE Directory

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory>

Attachment 3

Overall Goal Calculation

FY2024-FY2026 Approved  
DBE Goal Methodology

(next page)



**FY 2024 - 2026 Disadvantaged Business Enterprise  
Goal Methodology**



**St. Pete-Clearwater International Airport**

**CLEARWATER, FLORIDA**

**JUNE 2023**

**ST. PETE-CLEARWATER INTERNATIONAL AIRPORT  
THREE-YEAR OVERALL DISADVANTAGED BUSINESS ENTERPRISE GOAL  
Federal Fiscal Years 2024, 2025 and 2026**

In fulfillment of the requirements of 49 CFR Part 26, St. Pete-Clearwater ("Airport") has developed a proposed Overall Goal for FY 2024 – FY 2026 FAA-AIP projects. The methodology used in establishing this goal is described herein.

Airport Sponsor: **Pinellas County**

Airport: **St. Pete-Clearwater International Airport**

DBELO: **Yvette Aehle**

Deputy Director, Airport Finance & Administration  
St. Pete-Clearwater International Airport  
14700 Terminal Blvd. | Suite 221  
Clearwater, FL 33762  
Office: 727.453.7804  
[yahle@fly2pie.com](mailto:yahle@fly2pie.com)

**I. Detailed Methodology: Specific Steps**

**A. Amount of Goal**

The Airport's FY 2024-2026 overall goal for the Federal financial assistance it will expend in USDOT-assisted contracts is the following:

	<b><u>Overall</u></b>	<b><u>Race Neutral</u></b>	<b><u>Race Conscious</u></b>
<b>Total Goal</b>	<b>6.80%</b>	<b>0.67%</b>	<b>6.13%</b>
<b>Year 1 Goal</b>	7.58%	0.67%	6.91%
<b>Year 2 Goal</b>	5.72%	0.67%	5.05%
<b>Year 3 Goal</b>	6.81%	0.67%	6.14%

Given the amount of USDOT-assisted contracts that the Airport expects to let from FY 2024-2026, which is approximately **\$34,260,000**, the Airport has set a goal of expending approximately **\$2,329,697** with DBEs during this period.

**B. Determination of the Market Area of the Study**

The Airport's Market Area was determined to be **Hillsborough, Manatee, Orange, Pasco, Pinellas and Sarasota counties**. Bidders on projects from the last five-years were reviewed to determine the market area. Specifically, the market area is based on where the substantial majority of bidders, both successful and unsuccessful, are located and where the substantial majority of funding was spent, as illustrated in **Table 1** below.

**Table 1: Market Area for  
St. Pete-Clearwater International Airport**

<b>County</b>	<b>Bidders</b>	<b>Percent of bidders</b>	<b>Dollars</b>	<b>Percent of dollars</b>
Hillsborough	6	50.0%	\$5,538,991	14.3%
Manatee	0	0.0%	\$0	0.0%
Orange	2	16.7%	\$0	0.0%
Pasco	0	0.0%	\$0	0.0%
Pinellas	2	16.7%	\$0	0.0%
Sarasota	2	16.7%	\$33,212,383	85.7%
<b>Market Area</b>	<b>12</b>	<b>100.0%</b>	<b>\$38,751,374</b>	<b>100.0%</b>
Other	0	0.0%	\$0	0.0%
<b>Total</b>	<b>12</b>	<b>100.0%</b>	<b>\$38,751,374</b>	<b>100.0%</b>

Source: St. Pete-Clearwater International Airport

### **C. Determination of relevant NAICS codes**

Based on information provided by the Airport concerning the proposed projects for this fiscal year, a list of projects was developed and is shown below:



**Table 2: St. Pete-Clearwater International Airport  
FY 2024-FY 2026 Projects**

<b>FY</b>	<b>PROJECT</b>	<b>ACTIVITY</b>	<b>NAICS</b>	<b>Dollars</b>
<b>2024</b>	Passenger Terminal Improvements (Design)	Engineering	541330	\$3,440,500
<b>2025</b>	Replace Terminal Carpeting	Flooring Contractors	238330	\$675,000
		Engineering	541330	\$75,000
	Water Intrusion in Terminal	Finish Carpentry (Doors/Windows)	238350	\$925,000
		Roofing (Skylights)	238160	\$462,500
		Drywall and Insulation Contractors	238310	\$462,500
<b>2026</b>	Passenger Terminal Improvements	Building Construction	236220	\$12,235,799
		Land Subdivision	237210	\$2,645,578
		Concrete	238110	\$606,278
		Masonry Contractors	238140	\$854,301
		Other Foundation, Structure, and Building Exterior Contractors	238190	\$2,673,136
		Electrical Contractors	238210	\$2,507,788
		Plumbing, Heating, and Air-Conditioning Contractors	238220	\$3,885,693
		Drywall and Insulation Contractors	238310	\$1,763,719
		Flooring Contractors	238330	\$854,300
		Landscaping	561730	\$192,907

Source: St. Pete-Clearwater International Airport

**D. Determination of Relative Availability of DBEs in Market Area, Compared to all Firms**

**Table 3a: Firms in Market Area  
by Relevant NAICS Codes—FY 2024  
Passenger Terminal Improvements (Design) –  
St. Pete-Clearwater International Airport**

<b>Activity</b>	<b>NAICS CODES</b>	<b>DBE Firms</b>	<b>All Firms</b>	<b>% of DBE Firms Available</b>	<b>NAICS Dollars</b>	<b>DBE Dollars</b>
Engineering	541330	56	1,319	4.2%	\$3,440,500	\$146,071
<b>Total</b>					<b>\$3,440,500</b>	<b>\$146,071</b>
<b>Weighted Step 1 Goal =</b>						<b>4.25%</b>

**SOURCES:**

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, May 2023.

**Table 3b: Firms in Market Area  
by Relevant NAICS Codes—FY 2025  
Replace Terminal Carpeting – St. Pete-Clearwater International Airport**

<b>Activity</b>	<b>NAICS CODES</b>	<b>DBE Firms</b>	<b>All Firms</b>	<b>% of DBE Firms Available</b>	<b>NAICS Dollars</b>	<b>DBE Dollars</b>
Flooring Contractors	238330	3	481	0.6%	\$675,000	\$4,210
Engineering	541330	56	1,319	4.2%	\$75,000	\$3,184
<b>Total</b>					<b>\$750,000</b>	<b>\$7,394</b>
<b>Weighted Step 1 Goal =</b>						<b>0.99%</b>

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, May 2023.

**Table 3c: Firms in Market Area  
by Relevant NAICS Codes—FY 2025  
Water Intrusion in Terminal - St. Pete-Clearwater International Airport**

<b>Activity</b>	<b>NAICS CODES</b>	<b>DBE Firms</b>	<b>All Firms</b>	<b>% of DBE Firms Available</b>	<b>NAICS Dollars</b>	<b>DBE Dollars</b>
Roofing (Skylights)	238160	3	422	0.7%	\$462,500	\$3,288
Drywall and Insulation Contractors	238310	2	412	0.5%	\$462,500	\$2,245
Finish Carpentry (Doors/Windows)	238350	1	824	0.1%	\$925,000	\$1,123
<b>Total</b>					<b>\$1,850,000</b>	<b>\$6,656</b>
<b>Weighted Base Figure</b>						<b>0.36%</b>

SOURCES:

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, May 2023.



**Table 3d: Firms in Market Area  
by Relevant NAICS Codes—FY 2026  
Passenger Terminal Improvements - St. Pete-Clearwater International Airport**

<b>Activity</b>	<b>NAICS CODES</b>	<b>DBE Firms</b>	<b>All Firms</b>	<b>% of DBE Firms Available</b>	<b>NAICS Dollars</b>	<b>DBE Dollars</b>
Building Construction	236220	37	735	5.0%	\$12,235,799	\$615,952
Land Subdivision	237210	0	102	0.0%	\$2,645,578	\$0
Concrete	238110	7	375	1.9%	\$606,278	\$11,317
Masonry Contractors	238140	5	389	1.3%	\$854,301	\$10,981
Other Foundation, Structure, and Building Exterior Contractors	238190	3	115	2.6%	\$2,673,136	\$69,734
Electrical Contractors	238210	20	1,303	1.5%	\$2,507,788	\$38,493
Plumbing, Heating, and Air-Conditioning Contractors	238220	2	2,074	0.1%	\$3,885,693	\$3,747
Drywall and Insulation Contractors	238310	2	412	0.5%	\$1,763,719	\$8,562
Flooring Contractors	238330	3	481	0.6%	\$854,300	\$5,328
Landscaping	561730	13	2,385	0.5%	\$192,907	\$1,051
<b>Total</b>					<b>\$28,219,500</b>	<b>\$765,165</b>
<b>Weighted Base Figure</b>						<b>2.71%</b>

**SOURCES:**

1. 2021 County Business Patterns, U.S. Census Bureau.
2. Florida UCP DBE Directory, May 2023.

**E. Determination of the “Weighted” DBE Base Figure**

The Step 1 DBE Base Figure for each project was derived by multiplying the dollars for each trade by the percentage of relevant DBE firms to all relevant firms. The total DBE goal in dollars was divided by the total project costs to derive the step 1 goals.

The Step 1 DBE Base Figures for the Airport are as follows:

<b>Fiscal Year</b>	<b>Project</b>	<b>Step 1</b>
2024	Passenger Terminal Improvements (Design)	4.25%
2025	Replace Terminal Carpeting	0.99%
2025	Water Intrusion in Terminal	0.36%
2026	Passenger Terminal Improvements	2.71%



## II. Adjustments to the DBE Base Figure

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

### A. Adjustment Factors to Consider

The regulations further state that there are several types of evidence that must be considered when adjusting the base figure, which includes:

*“(i) The current capacity of DBEs to perform work in your USDOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.*

The historical overall DBE goals accomplished at the Airport in recent years were examined relative to the above consideration. The Airport’s annual DBE percent accomplishment is indicated in Table 4 below:

**Table 4: St. Pete-Clearwater International Airport  
DBE Accomplishment**

<b>Report Period</b>	<b>DBE Goal</b>	<b>DBE Percentage Achieved</b>	<b>Achieved Over/Under</b>
<b>FY 2018</b>	9.81%	7.67%	-2.14%
<b>FY 2019</b>	9.80%	34.00%	24.20%
<b>FY 2021</b>	9.80%	10.90%	1.10%
<b>Median</b>	<b>9.80%</b>	<b>10.90%</b>	<b>1.10%</b>

Source: Uniform Report of DBE Commitments/Awards and Payments

The median DBE accomplishment for the periods as shown above for the Airport is 10.90%.

### B. Consultations

The Airport held a public meeting on June 23, 2023. The purpose of the meeting was to solicit information from interested stakeholders about the draft goal, as well as the availability of potential DBEs at the Airport, the effects of discrimination on opportunities for DBEs, and the Airport’s effort to increase DBE participation. Please see Appendix A for the attendee list and consultation comments.

The meeting invitation was sent to stakeholders including DBEs and various organizations. Organizations invited included:

- Resource Center for Women, 1301 Seminole Blvd., Suite 137, Plaza Center, Largo, FL 33770, phone 727-586-1110;
- Pinellas County Urban League, 333 31<sup>st</sup> N., St. Petersburg, FL 33713, phone 727-327-2081;
- Tampa Bay Builders Association, 2918 West Kennedy Boulevard, Tampa, FL 33609, phone 813-873-1000; and
- Pinellas County's Office of Small Business and Supplier Diversity, 13805 58<sup>th</sup> Street North, Suite 1-200, Clearwater, FL 33756, phone 727-464-7332.

**C. Adjustment to Step 1 DBE Base Figures: St. Pete-Clearwater International Airport, FY 2024-FY 2026**

With the adjustment factors considered to this point, the Airport will adjust the Step 1 base figures as calculated above by adding the annual accomplishment factor derived in Table 4 above (10.90%) to the base figures, and averaging the total, for an adjusted overall DBE goal.

**Table 5: St. Pete-Clearwater International Airport  
FY 2024 – FY 2026 Overall Goal**

<b>Fiscal Year</b>	<b>Project</b>	<b>Step 1</b>	<b>Step 2 adjustment</b>	<b>Overall Goal</b>	<b>AIP Dollars</b>	<b>DBE Goal (dollars)</b>
<b>FY 2024</b>	Passenger Terminal Improvements (Design)	4.25%	10.90%	7.58%	\$3,440,500	\$260,618
<b>FY 2024 Total</b>				<b>7.58%</b>	<b>\$3,440,500</b>	<b>\$260,618</b>
<b>FY 2025</b>	Replace Terminal Carpeting	0.99%	10.90%	5.95%	\$750,000	\$44,588
	Water Intrusion in Terminal	0.36%	10.90%	5.63%	\$1,850,000	\$104,155
<b>FY 2025 Total</b>				<b>5.72%</b>	<b>\$2,600,000</b>	<b>\$148,743</b>
<b>FY 2026</b>	Passenger Terminal Improvements	2.71%	10.90%	6.81%	\$28,219,500	\$1,920,337
<b>FY 2026 Total</b>				<b>6.81%</b>	<b>\$28,219,500</b>	<b>\$1,920,337</b>
<b>FY 2024 - FY 2026 Overall Goal</b>				<b>6.80%</b>	<b>\$34,260,000</b>	<b>\$2,329,697</b>

The total DBE goal in dollars was divided by the total federal portion of project costs to derive the overall DBE goal of 6.80% for FY 2024-FY 2026.

### **III. Process**

The Airport normally submits its overall goal to the FAA on or before August 1 of each goal period.

Before establishing the overall goal this year, the Airport consulted 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 the Airport's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the Airport published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for review and comment during normal business hours at the Airport's administrative office for 30 days following the date of the notice. The notice included addresses (including offices) to which comments could be sent and addresses where the proposal could be reviewed. This process was used to establish the goals for FY 2024 through FY 2026.

The Airport's overall goal submission to the FAA will include a summary of information and comments received during this public participation process and our responses.

The Airport will begin using the overall goal on October 1 of each year, unless the Airport has received other instructions from DOT/FAA (or, if the goal is established on a project basis) by the time of the first solicitation for a DOT/FAA-assisted contract for the projects.

### **IV. Breakout of Estimated Race-Conscious/Race-Neutral Participation**

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Airport will use a combination of the following race-neutral means to increase DBE participation:

1. *Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);*
2. *Disseminating information communications 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).*

The Airport proposes a race-conscious goal of **6.13%** and a race-neutral goal of **0.67%**, for a total of **6.80%**. The reason for this breakout is that the projects from

previous years show that the median amount by which the past DBE goals were over-achieved is **0.67%** (see **Table 4**).

The Airport will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (26.51(f)) and it will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains 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.

## **V. Contract Goals**

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

The Airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The Airport 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, etc.

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

**Resources: St. Pete-Clearwater International Airport FY 2024 – FY 2026  
Disadvantaged Business Enterprise Program Methodology**

**A. Resource Documents:**

1. 2021 County Business Patterns, U.S. Census Bureau
2. Florida Unified Certification Program, DBE Directory.
3. Uniform Report of DBE Commitments/Awards and Payments

## **Appendix B: St. Pete-Clearwater International Airport – Web Conference June 23, 2023**

**Summary of Meeting:** Wilfred Nixon, of Ken Weeden & Associates, gave a PowerPoint presentation that covered and explained the following:

- Background, purpose, and goal requirements of the FAA-DBE program.
- Overview of the DBE goal methodology and basic requirements, such as use of most refined data, identification of a normal market area, and employment of a two-step process in establishing the overall 3-year DBE goals.
- Calculation of the base-figure goal (step 1), and adjusted goal (step 2), through “weighting” and consideration of indicators of “capacity”.

Aubri Shauger-Haley, of Pinellas County Economic Development, provided an overview of Pinellas County’s Small Business Enterprise (SBE) Program.

### **Stakeholder Meeting Q&A**

1. Will the airport hold networking events for DBEs to meet the prime contractors and consultants?

The airport does not have networking events scheduled at this time.

2. What is being done to simplify the DBE certification process?

If your firm is located outside of Florida, you are required to be certified in your home state first. The USDOT DBE program now has an interstate certification. This process allows for a simpler certification process.

3. How are DBEs notified of opportunities?

Opportunities are posted on OpenGov. DBEs should subscribe to OpenGov to receive notifications of upcoming opportunities.

<https://pinellas.gov/services/apply-as-a-pinellas-county-vendor/>

4. How can we find out who are the prime contractors?

The purchasing department has a list of prime contractors. This can be found on OpenGov. <https://pinellas.gov/services/apply-as-a-pinellas-county-vendor/>

5. For an MEP Engineering Design firm. Do firms get selected individually or are they selected as a team such as Architect, structural, civil etc.?

This can be done either way depending on how the Airport’s purchasing department/engineer packages the project.

6. Are all RFPs and RFQs provided at OpenGov?

Yes.

7. Does each project have an independent goal? Or will the goal set for the 3 years be for all projects?



The goal developed will be the overall goal for all projects during the 3-year period. The airport has individual goals for individual projects. Those goals can be higher or lower depending on the availability of firms.

8. Are primes reporting monthly payments to subs?  
Yes.
9. Does Pinellas County Airport receive any grant dollars for operations?  
No. We receive federal money for capital projects only.
10. Who from the Airport assist DBEs with enforcement after bid opening?  
The DBELO, Purchasing Department, and Airport Engineer look at the specifics to make sure a good faith effort was put forward.
11. As an ACDBE why do I not see goals for tenants of the airport in the methodology?  
This is the DBE goal methodology for construction related projects for FY2024-2026. The airport also has an ACDBE program with ACDBE goals. The next ACDBE goal methodology is due October 1, 2024.
12. Why is race-conscious not included, as there have been several area agencies reporting past discrimination via disparity studies?  
Race-conscious is included in the goal methodology. The overall goal is 6.80% and the Race-conscious/Race-Neutral splits are 6.13% and 0.67%.
13. If our company is certified by the state, does this translate to Pinellas County or should we seek direct certification from individual municipalities?  
Yes, you will have to seek certification from individual municipalities. If you are certified by the Florida UCP, you are certified throughout the state for the DBE program.

**Stakeholder Meeting  
Attendee List**

<b>First Name</b>	<b>Organization</b>
Yvette Aehle	St. Pete-Clearwater International Airport
Tony Best	Tensus Technology
Maureen Blackford	Birkitt Environmental Services
Julin Burdine	J Burd Studio
John Charlton	Matson-Charlton Surety Group
Richard Coates	Gulf Atlantic Engineers
Renee Culmer	American Infrastructure Development, Inc.
Wanda Gilbert	WANDA'S INC
Amy Guisinger	TSFGeo
Villard Houston Jr.	V. H. Jr. & Associates, Inc
Milton Jones	APEX Digital Imaging, Inc.
Moise LaPointe	Aptitude Associates
Marchelle Lamaster	Lite Wing
LaTonya Leonard	Bold Holdings, LLC
Corey McCaster	Pinellas County Economic Development
Chris McKinney	St. Pete-Clearwater International Airport (PIE)
Jessica McRory	AREHNA Engineering, Inc.
Jose Olvera	Vinco engineering LLC
Angela Provencio	Busto Plumbing Services, Inc.
Michael Reeves	Reevesbuilding,Plumbing and Roofing
Albert Rodriguez	Ambient Technologies, Inc.
Catalina Rousseau	Tensus Technology
Nina Sennott	Contract Furniture, Inc.
Gwen Sevaaetasi	Hillsborough County MBE/SBE Programs
Aubri Shauger-Haley	Pinellas County
Jenee Skipper	Pinellas County Economic Development
Tim Spearman	Florida State Minority Supplier Development Council
Grady Terrell	Terrell Industries
Raychele Walls	Maximizing Grace
Sarah Zarate Torrivilla	Casale Design Source
Wilfred Nixon	Ken Weeden & Associates, Inc.
Nikki Jefferies	Ken Weeden & Associates, Inc.

Attachment 4

Form 1 & 2 for Demonstration  
of Good Faith Efforts

(next page)

**St. Pete-Clearwater International Airport**

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

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

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

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

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

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

Bidder/Offeror Representative:

Name & Title: \_\_\_\_\_

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

## St. Pete-Clearwater International Airport

### FORM 2: LETTER OF INTENT

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

Name of bidder/offeree'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:

Description of Work	NAICS	Dollar Amount / %*	Dealer/Manufacturer/Distributor/Broker**

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

*\*\*For DBE material suppliers only, state how the DBE will perform. Indicate whether the DBE is a manufacturer, or a regular dealer as defined by §26.55. For dealer/distributor/broker, Form 3 must be included with the bid.*

The undersigned bidder/offeree 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/offeree 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/offeree 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.

\_\_\_\_\_  
Signature of Bidder/Offeree's Authorized Representative

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

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.

\_\_\_\_\_  
Signature of Bidder/Offeree's Authorized Representative

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

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

Submit this page for each DBE subcontractor.

## Attachment 5

# Certification Application Forms

<https://www.fdot.gov/equalopportunity/dbecertification.shtm>



Attachment 6

Fostering Small Business  
Participation (26.39)

(next page)

## **St. Pete-Clearwater International Airport:**

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

#### **Contents:**

- I. Purpose and Objective of this Element**
- II. Small Business Participation Plan- Strategy**
  - 1. Race-neutral Subcontracting Goal
  - 2. Consideration of Unbundling
- III. Definitions for this Element**
- IV. Verification Standards and Procedures**
- V. Supportive Services**
- VI. Principal Responsible Person-DBELO**

## Section 26.39- Fostering Small Business Participation

### A. Purpose and Objective of this Element

This element, §26.39, included as an amendment to our DBE Program Plan, is herein referenced as the Small Business Participation Plan (SBPP). This new part calls for the inclusion of an element to *“structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation.”* **St. Pete-Clearwater International Airport** hereby sets forth the plan to implement these requirements. The Airport’s SBPP is also regarded as a substantial effort toward fulfilling the overall intent of §26.51, i.e. to meet the *“maximum feasible portion”* of its overall goal by using race-neutral means to obtain DBE participation. Therefore, implementation of the Airport’s SBPP will be based on the standard of *business size*, without regard to race or gender of the business owner.

This element also addresses the unnecessary and unjustified “bundling” of contract requirements which may preclude or inhibit small business participation in procurements, as either prime or subcontractors.

Further, the Airport perceives the objectives of this section to be consistent with its DBE Program Policy Statement, which says in part:

*“- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.  
- To help remove barriers to the participation of DBEs in DOT assisted contracts...  
-To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.”*

The Airport’s Policy Statement and this small business element are consistent with the Airport’s desire to create and encourage business opportunities at all levels.

\*\*\*This program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference).\*\*\*

### B. SBPP Strategy

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

#### 1. Establishment of a Race-Neutral “Subcontracting Goal”

The Airport proposes that, *where feasible*, on certain prime contracts that do *not* have a DBE contract goal (race-conscious), that Prime Contractors will be required to provide subcontracting opportunities to qualified Small Business Concerns, (SBC’s) as defined herein, *without* regards to race or gender of the business owner. Again, verified

“business size” and subcontracting opportunities will be the basis of this Subcontracting Goal. The opportunities must be of a size that SBC’s, including some which may happen to also be DBE’s, can reasonably perform. The Airport will assess the feasibility for race-neutral subcontracting goals on projects. The Airport will assist the potential primes by reviewing the project (s), in advance of the solicitation, and by suggesting potential subcontracting opportunities in the solicitation documents. This will help to establish a reasonable race-neutral, Subcontracting Goal.

## **2. Consideration of “Unbundling” of Large Contracts**

The Airport, as owner of a Small Hub Airport has considered “unbundling” as a small business strategy and believe that at this time, such a strategy will not be suitable for the Airport. Because of the limited number of contracts each year, the increased total number of bid solicitations with “unbundling” could significantly increase both administrative and project costs per bid. This will reduce the necessary “economy of scale” for the Airport.

## **C. Definitions for this Element**

### **1. Small Business**

For purposes of this program element, which is part of our approved DBE program, “small business” shall have the *same* definition as “small business concerns” contained in 49 CFR, §26.5, which states:

*“Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts for the past three fiscal years of \$30.72 million specified in §26.65(b).”*

For additional clarification, it is useful to include here some excerpts from the SBA regulations, 13 CFR, §121.105:

*(a)(1) Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor....” and,*

*(b) A business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.*

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

## 2. Disadvantaged Business Enterprise

Disadvantaged Business Enterprise or **DBE** means a for-profit small business concern—(defined by SBA rules, above), and that meet the standards of 49 CFR, Part 26, i.e.

- *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) the described in 49 CFR Part 26. (The current PNW cap is \$2.047 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 by a certifying member of the Florida Unified Certification Program (FL UCP) in accordance with the full requirements of 49 CFR 26.*

It is understood that in the implementation of this element, all of the “Small Business Concerns” may not necessarily be DBE firms. However, small businesses which are also owned and controlled by individuals who *meet* the DBE standard will certainly be encouraged to seek DBE certification. Only DBE certified firms who participate as small business concerns pursuant to this element, will be counted towards DBE race-neutral participation on FAA-assisted contracts in this program.

### D. Verification Standards and Procedures

For purposes of this small business element, the Airport will accept the following verification and/or certification:

- a. **Florida Unified Certification Program (FL UCP) DBE Certification** – DBE Certification by a certifying member of the FL UCP 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 a certifying member of the FL UCP. It should be noted that the Airport is a non-certifying member of the FL UCP and relies on certification decisions of the FL UCP. The FL UCP certifying members apply the standards and procedures for DBE certification applicants contained in Subparts D, and E, of 49 CFR (§26.61 – §26.91). The Airport will also rely on the small business verifications of the FL UCP.
2. **Small Business Administration 8(a) Business Development Certification** (as described in 13 CFR Parts 121 and 124) – Authority may also require submittal of three years of business tax returns.

3. **A non-certified potential small business concern** must, as evidence of small business status, complete a simplified application and provide financial and other information as reasonably required by the Airport at time of response to a solicitation or a bid submittal.

**Note - Use of Personal Net Worth:** The Airport, in addition to the standards for small business concerns described above, plans to utilize the current Personal Net Worth standards of the DBE program (\$26.67), presently capped at \$2.047 million.

#### **E. Supportive Services**

The Airport is a non-certifying member of the Florida UCP, i.e. does not conduct DBE certifications, but relies on certifications of the Florida UCP. The Airport also does not provide direct supportive services and/or business development programs to DBEs or small businesses. However, the Airport will coordinate and make referrals to other providers of these and similar services, such as the FSBDC at Pinellas County Economic Development. These services, as relevant, will also be referred to verified small business concerns. The SBDC provides free, personalized, confidential one-on-one business counseling and strategy development services to help small & mid-size business:

- Access sources of capital and financing
- Evaluate and improve financial performance
- Obtain quality business and market information
- Improve leadership skills and employee performance
- Plan for a better future

#### **F. Principal Responsible Person**

The principal responsible person for overseeing and implementing the Airport's SBPP, will be the currently designated Disadvantaged Business Enterprise Liaison Officer.



# ATTACHMENT 7

UCP PROGRAM & LETTER

(NEXT PAGE)

# **FLORIDA UNIFIED CERTIFICATION PROGRAM AGREEMENT**

## **RECITALS**

WHEREAS, 49 CFR Part 26 Subpart E- Certification Procedures Section 26.81, requires that all United States Department of Transportation (USDOT) Recipients participate in a statewide Unified Certification Program (UCP); and

WHEREAS, this Agreement establishes the UCP for the State of Florida; and

WHEREAS, the UCP will comply with all certification procedures and standards set forth in Subparts D and E of 49 CFR Part 26 on the same basis as recipients; and

WHEREAS, the UCP will cooperate fully with oversight, review, and monitoring activities of USDOT and its operating administrations; and

WHEREAS, the UCP will implement USDOT directives and guidelines concerning certification matters; and

WHEREAS, all certification by the UCP shall be pre-certification, i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE; and

WHEREAS, the UCP will render uniform certification decisions on behalf of all USDOT financial assistance recipients in Florida with respect to participation in the USDOT Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, the UCP will provide "one-stop shopping" to applicants for DBE certification, such that an applicant need apply only once for a DBE certification that will be honored by all UCP Members in Florida; and

WHEREAS, the UCP shall develop and maintain an electronic DBE Directory of all firms certified in Florida that will be available to the public on the Internet and in print and continuously updated with additions, deletions, and other changes; and

WHEREAS, the UCP shall have sufficient resources and expertise to carry out the requirements of 49 CFR Part 26 Subpart E; and

WHEREAS, all obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and that recipients may use only UCPs that comply with the certification and nondiscrimination requirements of 49 CFR, Part 26.

NOW, THEREFORE, in consideration of the promises and covenants herein contained Florida UCP Members, agree to the following:

#### **ARTICLE 1 – VISION**

Florida's USDOT Recipients share the common goal of creating a level playing field on which DBE firms can compete fairly for USDOT assisted contract awards, while enhancing the administration of the DBE Programs through the exchange of information and coordination of activities. In order to achieve the common goal, Recipients will establish the UCP for the State of Florida.

## **ARTICLE 2 – DEFINITIONS**

Terms and Definitions used by the UCP shall be those specifically defined in this Agreement, and in 49 CFR, Section 26.5, which is incorporated by reference herein:

### **2.01 Certifying Member**

A Florida Recipient as defined in 2.05, and UCP Member as defined in 2.10 and 3.01 who has a current DBE Program Plan approved by an appropriate USDOT Operating Administration that includes provisions for DBE certification and revocation processes.

### **2.02 Disadvantaged Business Enterprise (DBE)**

A for-profit small business concern, that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, in which at least 51% of the stock is owned by one or more such individuals; and whose management and daily business operations of the entity are controlled by one or more of the socially and economically disadvantaged individuals who own it.

### **2.03 Non-Certifying Member**

A Florida Recipient as defined in 2.05, or UCP Member as defined in 2.10 and 3.1 who has a current DBE Program Plan approved by an appropriate USDOT Operating Administration that does not include provisions for DBE certification and revocation processes.

### **2.04 Personal Net Worth**

The net value of the assets of an individual remaining after total liabilities are deducted. Pursuant to 49 CFR Section 26.67 and as used herein, the personal net worth of each disadvantaged owner of an applicant or a DBE firm, excluding the individual's ownership interest in the applicant or a DBE firm and the individual's equity in his or her primary place of residence, must not exceed \$750,000. As of the effective date of this Agreement, the personal net worth requirement is not applicable to airport concessions.

### **2.05 Recipient**

Any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the Federal Aviation

Authority (FAA), Federal Highway Administration (FHWA) or the Federal Transit Authority (FTA), or who has applied for such assistance.

**2.06 Small Business Concern**

A Small Business Concern is as defined in Small Business Administration regulation 13 CFR Part 121 and in 49 CFR, Part 26; Section 65.

**2.07 Socially and Economically Disadvantaged Individuals**

Any individual who is a citizen or lawfully admitted permanent resident of the United States and who is:

- (a) Any individual who a recipient finds to be socially and economically disadvantaged individual on a case-by-case basis.
- (b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - (i) “Black Americans” which includes persons having origins in any of the Black racial groups of Africa;
  - (ii) “Hispanic Americans” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - (iii) “Native Americans” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (iv) “Asian-Pacific Americans” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  - (v) “Subcontinent Asian Americans” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
  - (vi) Women;

- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA at such time as the SBA designation becomes effective.

**2.08 Executive Committee**

A single standing committee, comprised of the Manager of the Equal Opportunity Office in the Florida Department of Transportation (FDOT) or his/her designee, a Certifying Member selected annually by and among the FAA UCP Members, and a Certifying Member selected annually by and among the FTA UCP Members.

**2.09 Sub-Recipient**

Any entity, public or private, to which USDOT financial assistance is extended through another Recipient.

**2.10 UCP Members**

All Florida Recipients participating in this Agreement as described in 3.01 and 11.05, including both Certifying and Non-Certifying Members.



## **ARTICLE 3 – ORGANIZATION OF THE UCP**

### **3.01 Members of the UCP – Recipients**

Pursuant to Section 26.81(a), all USDOT recipients in this State shall participate in a UCP.

All recipients, including airports and transit properties, that receive funds directly from FHWA, FAA or FTA must agree in writing to participate as members in the UCP.

Signatures to the UCP agreement of all USDOT recipients in this State shall be maintained on file in the FDOT Equal Opportunity Office.

### **3.02 Responsible Certifying Member**

It is the intent of this Agreement that a Certifying Member will be responsible for certifying DBE's who perform work in their respective fields of expertise (highway and bridge, aviation, and transit). If a DBE firm performs work unique to aviation or transit, and there is no available FAA or FTA Certifying Member in the local area, the FAA or FTA Members will coordinate and agree on the designation of a Responsible Certifying Member. The FAA or FTA Member designated as the Responsible Certifying Member shall either be located in the vicinity of the applicant or DBE firm or have an on-going contract or business relationship with the firm. Non-certifying Members shall likewise consider the location of the applicant or DBE firm and any on-going contract or business relationships with the firm when forwarding an application or a DBE file to a Responsible Certifying Member. To this end Responsible Certifying Members shall be responsible for DBE certifications as follows:

- a) FDOT shall be the Responsible Certifying Member for those firms primarily engaged in the delivery of highway, road and bridge related goods and services. These goods and services may include, but are not limited to, heavy highway construction contractors, road and bridge contractors, specialty construction contractors, engineering consultants, specialty consultants, highway, road and bridge related material suppliers and fabricators and highway, road and bridge related maintenance services.

- b) An FAA UCP Member shall be the Responsible Certifying Member for those firms that are primarily engaged in the delivery of aviation related goods and services, including concessionaires. These goods and services may include, but are not limited to, food service and other aviation specialty firms.
- c) An FTA UCP Member shall be the Responsible Certifying Member for those firms that are primarily engaged in the delivery of transit related goods and services. These goods and services may include, but are not limited to, transit services generally, transit maintenance services and transit related materials and supplies.

**3.03 DBE Directory Management**

UCP Members hereby acknowledge that FDOT is the major recipient of FHWA funds in the State of Florida, has the largest DBE certification program in the State, and maintains a Directory of certified DBEs that is available electronically and in printed form to Florida Recipients, contractors, and other interested members of the general public.

3.03.1 FDOT shall serve as Manager for the UCP's electronic DBE Directory, which shall include all DBE certifications made by Certifying Members.

3.03.2 FDOT, as DBE Directory Manager, shall assume the following responsibilities with regard to the DBE Directory:

- (a) Keep and maintain the up-to-date electronic DBE Directory;
- (b) Ensure its availability to all UCP Members and other interested parties;
- (c) Make available printed copies of the Directory upon request; and
- (d) Provide Certifying Members with access to certification information in the DBE Directory through the Internet.

3.03.3 Certifying Members will, within 3 business days of receipt of any new application for DBE certification, complete input to a Directory application screen, whenever a new application for DBE certification is received, so that other Certifying Members will not process or otherwise duplicate work on any DBE application.

3.03.4 When a Certifying Member makes a DBE certification approval decision, information shall be submitted, through the Internet, by the Certifying Member, directly to the DBE Directory within three (3) business days of said approval. Pursuant to 49 CFR, Section 26.31, this information shall include:

- a) Firm Name, Street Address, P.O. Box, Telephone and Facsimile Numbers, and e-mail address;
- b) Name of Majority Owner, Gender, and Minority Code;
- c) Type(s) of work performed by the DBE using North American Industry Classification system (NAICS) adopted by the SBA on October 1, 2000, and other work specialty codes as needed;
- d) Name of Certifying Member;
- e) Expiration Date of DBE Certification; and
- f) Any other appropriate information, as agreed upon by UCP Members.

3.03.5 Certifying Members shall also input, through the Internet, within three (3) business days of the action, information as required in 3.03.3 on firms denied DBE certification. This information will be input on the DBE Status Page.

3.03.6 Firms denied DBE certification by a Certifying Member are eligible to re-submit a DBE application after one (1) year.

**3.04 Transition of Currently Certified DBEs**

Each UCP Member shall electronically submit its current DBE Directory to the DBE Directory Manager (FDOT) for inclusion into the UCP's DBE Directory. Each UCP Member Directory shall include complete information as required in 3.03.4, and a statement attesting to the fact that each DBE firm submitted has been certified under the provisions of 49 CFR Part 26.

3.04.1 The Executive Committee shall meet and review those certified DBE firms submitted by Certifying UCP Members, and will determine the appropriate Certifying Member who will be responsible for future certification and re-certification of the DBE.

3.04.2 Upon determination by the Executive Committee of the appropriate Certifying Member, the Certifying UCP Member having possession of the DBE firm's certification file will be notified, and shall immediately forward that DBE file to the responsible Certifying Member, who shall assume custody and responsibility for the DBE file.

3.04.3 Presently certified non-Florida DBE firms must document current DBE certification by the DOT of the state in which they are domiciled or that state's UCP, if it is in place, prior to being included in the DBE Directory.

3.04.4 Designation of a Responsible Certifying Member for a non-Florida DBE firm shall follow the same process as described above.

**3.05 Executive Committee Duties**

It is agreed that upon approval by the Secretary of the USDOT, the Executive Committee shall begin implementing the provisions of this agreement and the Implementation Plan, attached as Exhibit C.

3.05.1 The Executive Committee shall meet as necessary to provide oversight and ensure compliance with 49 CFR Section 26.81. The Executive Committee shall at all times seek the participation, and may call special meetings of all UCP Members to ensure compliance with said regulation.

3.05.2 The Executive Committee may establish special committees, by majority vote, which may include, but are not limited to, Airport Concessions, UCP Member Dispute Resolution, UCP Process, Quality Assurance, Training, and Intake.

3.05.3 The Executive Committee will ensure that the UCP has sufficient resources and expertise to carry out the requirements of 49 CFR Section 26.81.

3.05.3 The Executive Committee will advise all UCP Members when it appears resources and expertise are not sufficient to carry out the requirements of 49 CFR Section 26.81.

## **ARTICLE 4 – RIGHTS AND RESPONSIBILITIES OF UCP MEMBERS**

### **4.01 Types of UCP Members**

Florida recipients acknowledge that this Agreement provides for two (2) classes of members, Certifying Members and Non-Certifying Members as defined in 2.01 and 2.03, and that each class shall have specific rights and responsibilities as set forth herein.

### **4.02 Certifying Member Rights and Responsibilities**

Each Certifying Member shall have the following rights and responsibilities:

- (a) Comply with the terms and conditions of this Agreement.
- (b) Collect and evaluate information received regarding DBE certification applications, conduct site visits, and make certification decisions as to DBE status, in accordance with 49 CFR Part 26.
- (c) Promptly provide current information to the DBE Directory as required by and in the manner prescribed in 3.03 above.
- (d) Update the DBE Directory with all new and updated information (renewals, removals, change of address, etc.).
- (e) Retain and maintain appropriate DBE certification files.
- (f) Make file information available to other USDOT recipients and other state UCPs in response to questions or complaints, upon written request.
- (g) Upon request of a UCP Member, may conduct a site visit to a DBE applicant in its vicinity.
- (h) Process annual updates to verify continuing eligibility of DBE firms certified by it.
- (i) Perform specific file reviews at any time upon request by a UCP Member.
- (j) Make timely final decisions on DBE applications as outlined in 49 CFR Section 26.83(k) or within (90) ninety days of receipt of all information.
- (k) Provide information on any certified DBE upon request by a UCP Member.

### **4.03 Non Certifying Member Rights and Responsibilities**

Each Non-Certifying Member shall have the following rights and responsibilities:

- (a) Comply with the terms and conditions of this Agreement.
- (b) Promptly forward DBE applications to the Responsible Certifying Member.

- (c) Provide information on any certified DBE upon request by a UCP Member.

## **ARTICLE 5 – RIGHTS AND RESPONSIBILITIES OF THE UCP**

### **5.01 Certification Decisions**

The UCP shall maintain processes and programs that conform to the overall certification standards set out in 49 CFR Part 26.

Certification decisions made by UCP Certifying Members shall be binding on all DOT recipients with respect to participation in the DBE Program. In the event of a conflict, the UCP, through the Executive Committee, shall make a final decision, subject to the provisions of 49 CFR, Part 26.

### **5.02 “One-Stop Shopping”**

The UCP shall provide “one-stop shopping” to applicants for DBE certification in Florida, such that an applicant is required to apply only once for a DBE certification that will be honored by all UCP Members.

### **5.03 Processing Out-of-State Applications**

The UCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state. When a Certifying Member processes an out-of-state application, a full certification application file with all supporting documentation will be compiled by the Certifying Member, including a copy of the Site Visit Report obtained from the applicant’s home state or from the state’s UCP if it is in place, before the firm is included in the DBE Directory.

### **5.04 Reciprocity With Other UCPs**

It is understood that:

- (a) The UCP, through its Executive Committee, may enter into written reciprocity agreements at any time with UCPs of other states subject to approval of USDOT.
- (b) Such reciprocity agreement(s) must outline the specific responsibilities of each participating UCP.



- (c) The UCP, and its Members, may accept a DBE certification decision, made by another UCP or state DOT, on a case-by-case basis.
- (d) The UCP, and its Members, shall share information concerning Florida DBE firms or applicants with other UCPs and state DOTs upon written request.

**5.05 UCP Information Program**

UCP Members and the Executive Committee will provide information on the Florida UCP to the public and to DBE applicant firms; provide individuals and firms seeking DBE certification with UCP applications; accept DBE applications from any applicant firm, and forward DBE applications to the appropriate Certifying Member for processing.

**5.06 Meetings for Continued UCP Monitoring**

The UCP, through its Executive Committee, shall hold a statewide membership meeting at least once a year or more often as needed for continued monitoring of the UCP, and on-going processes.

5.06.1 The Executive Committee shall notify UCP Members in writing of the date and location of the meeting at least (30) thirty days in advance of the meeting.

5.06.2 A majority of those recipients having agreed in writing to participate as members of the UCP shall constitute a quorum for conducting UCP business.

5.06.3 When a quorum is established at a meeting, a majority vote of those members present and voting shall be required to pass on a matter.

**ARTICLE 6 – CERTIFICATION PROCEDURES**

**6.01 Certification Application**

UCP Members agree to utilize the USDOT Disadvantaged Business Enterprise Certification Application format attached as Exhibit A.

**6.02 Certification Process**

The UCP and its Members shall follow DBE certification processes and adhere to standards set forth in 49 CFR Part 26, Subparts D and E, Certification Procedures, as well as those guidelines set forth herein or otherwise attached hereto.

**6.03 Certification Site Visits**

Certifying Members shall conduct a site visit to the principal place of business of an applicant firm prior to DBE certification and submission or direct input via the Internet to the DBE Directory.

- (a) Certifying Members will utilize the On-Site Review Checklist, which is included as Exhibit D herein.
- (b) Certifying Members may conduct site visits for one another when requested, in instances where the member requested is geographically close to the DBE's location.

**ARTICLE 7 – APPEALS, COMPLAINTS AND DISPUTES**

**7.01 Appeals/Third Party Complaints**

DBE Certification appeals and third party complaints may only be filed with the Certifying Member whose action is being appealed or complained about and shall be handled in accordance with 49 CFR Part 26, Sections 26.85, 26.87, and 26.89.

**7.02 Member Agreement**

This Agreement recognizes that each Certifying Member has a DBE Program Plan approved by USDOT, and that each such Program Plan may be unique. Therefore, it is herein agreed, that actions under this Section shall, in addition to the foregoing requirements of 49 CFR Part 26, comply with the process and procedure provided for in those individual DBE Program Plans.

External or Internal Complaints regarding certification decisions of a Certifying Member may only be filed with that Certifying Member, and shall be processed in accordance with 49 CFR Part 26, Section 26.87, or as otherwise provided for herein.

**7.03 Notice Requirements**

An action by a Certifying Member (certification denial, de-certification, etc.) shall be in writing, and shall:

- (a) Be delivered via Certified U.S. Mail, Return Receipt Requested.
- (b) Be specific as to the action being taken.
- (c) Be specific as to the basis of the action.
- (d) Be specific as to the facts relied upon.
- (e) Advise the party of the right to appeal.
- (f) Provide detailed information on the appropriate appeal process.

**7.04 Member Disputes**

UCP Members shall make every effort to resolve disputes that may arise between them.

**7.04.1 Unresolved Member Disputes**

When UCP Members are unable to resolve an internal dispute, the matter will be submitted to the Executive Committee for resolution. The decision of the Executive Committee shall be binding on all those UCP Members subject to the provisions of 49 CFR Part 26.

**ARTICLE 8 – TRAINING**

**8.01 Executive Committee Oversight**

The Executive Committee shall retain DBE certification oversight of UCP Members. FDOT will be responsible for DBE certification training of UCP Members. Upon approval of the Executive Committee, FDOT may provide, or otherwise arrange for, DBE certification training for any Certifying Member upon request or it may require a Certifying Member to attend DBE certification training in order to ensure compliance with the provisions of this Agreement and 49 CFR Part 26.

**8.02 Training Costs**

Certifying Members requesting DBE certification training through FDOT, or who have been required to obtain such training, agree to bear the costs and expenses for said training.

## **ARTICLE 9 – DBE DIRECTORY**

### **9.01 Organization of the Directory**

The DBE Directory shall be organized and maintained by FDOT, using industry standard state-of-the-art software. All UCP Members agree to maintain compatible software and systems in order to best use the electronic DBE Directory, and to timely provide DBE certification information and updates for the DBE Directory.

### **9.02 Availability**

The DBE Directory shall be available electronically on the Internet (and in printed form, when requested) to UCP Members, contractors, and other interested parties.

## **ARTICLE 10 – FEES/COSTS**

### **10.01 UCP Fees**

The UCP may assess its Members such fees as may, from time to time, be required in order to operate and maintain the UCP, ensuring that resources and expertise are sufficient.

The Executive Committee shall certify the need for a fee assessment to Members at statewide membership meeting, and shall recommend a fee amount to the Members.

Members shall vote to approve the imposition of any such fee.

UCP Members that receive less than \$250,000.00 annually from USDOT shall be exempt from the payment of any such fees.

### **10.02 DBE Applicant Firms**

Certifying Members may charge a reasonable fee for DBE certification application processing.

## **ARTICLE 11 – GENERAL PROVISIONS**

### **11.01 Exhibits**

All exhibits to this Agreement are incorporated herein by reference and made a part hereof.

### **11.02 Interpretation**

Article and section headings and Table of Contents are for convenience only and shall not affect construction of this Agreement.

### **11.03 Amendments**

This Agreement may not be amended, modified, or supplemented except by an instrument in writing agreed to by the UCP Members. Notwithstanding the foregoing, should any provisions of 49 CFR Part 26 be changed or modified, corresponding provisions of this Agreement shall be modified accordingly.

### **11.04 Compliance with Law**

UCP Members agree that the operation of this Agreement and performance of all obligations hereunder shall at all times comply with 49 CFR Part 26 and with applicable federal and state laws.

### **11.05 Signed Agreement**

This Agreement will become effective upon approval by the Secretary of USDOT, and will be fully operational within (18) eighteen months of approval.

By executing the Signature and Declaration of Status page of this Agreement recipients agree to become Members of the UCP, and agree to accept the terms and conditions of this Agreement.

Following USDOT approval, a recipient may become a member by submitting a fully executed Signature and Declaration of Status page from this Agreement to the Executive Committee, which shall be delivered to FDOT's Equal Opportunity Office, where it shall remain on file.

**11.06 Severability**

Should any part, term, portion, or provision of this Agreement be in conflict with any law of the United States or of the State of Florida, or otherwise be unenforceable or ineffectual, the remaining provisions shall be deemed valid and severable, and not affected thereby.

**11.07 Successors**

This Agreement shall be binding upon and inure to the benefit of any successors or assigns of the UCP Members.

**11.08 Execution**

Execution of this Agreement by UCP Members shall comply with appropriate procedures, resolutions, authorized signatures, and required filings pursuant to the law governing each UCP Member. This Agreement will be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.



STATE OF FLORIDA  
UNIFIED CERTIFICATION PROGRAM  
UCP AGREEMENT

*SIGNATURE and DECLARATION OF STATUS*  
(ST. PETERSBURG-CLEARWATER INTERNATIONAL AIRPORT)

IN WITNESS WHEREOF, the UCP Members execute this Agreement prepared  
May 23, 2002, by authorized signatures, and attached resolutions if  
appropriate.

ATTEST: KARLEEN F. DE BLAKER,  
CLERK  
BY: Linda R. Reed  
Signature DEPUTY CLERK  
LINDA R. REED  
Name, printed

BOARD OF COUNTY COMMISSIONERS  
Signatory Entity Name, printed  
Barbara Sheen Todd  
Signature and Title  
BARBARA SHEEN TODD, CHAIRMAN  
Name and Title, printed

This 23 day of May, 2002.

Approved as to form: /

K. W. W.  
(Attorney for Signatory)

Certifying Member Status ☒

Non-Certifying Member Status ☐

# ATTACHMENT 8

## DBE BIDDER'S LIST COLLECTION FORM

(NEXT PAGE)

