

Glynn County Airport Commission

Disadvantaged Business Enterprise Program

Brunswick Golden Isles and
St. Simons Island Airports

Brunswick, Georgia

July 2020



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**UNITED STATES DEPARTMENT OF TRANSPORTATION
DBE PROGRAM – 49 CFR PART 26**

Glynn County Airport Commission for the
for **Glynn County Airports**
(Brunswick Golden Isles and McKinnon St. Simons Island)
Brunswick GA

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The Glynn County Airport Commission (hereafter 'the Commission') 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 Commission has received Federal financial assistance from USDOT, and as a condition of receiving this assistance, the Commission has signed an assurance that they will comply with 49 CFR Part 26.

It is the policy of the Commission 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:

1. To ensure nondiscrimination in the award and administration of USDOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients
7. To assist the development of firms that can compete successfully in the market place outside the DBE program.
8. To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

Shawna Williams, Finance and Administration Manager, 295 Aviation Parkway, Suite 205, Brunswick, GA 31525, (912)-265-2070 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 Commission in its financial assistance agreements with the US Department of Transportation.

The Commission has disseminated this policy statement to its board members, and 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 Commission.*
2. *The policy statement will be posted to the Commission's website.*



Robert Burr, Executive Director

02/11/22
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 Glynn County Airport Commission is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

The Commission 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 Commission 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 Commission will report DBE participation to USDOT as follows:

The Airport will submit annually the Uniform Reports of DBE Awards or Commitments and Payments, as modified for use by FAA recipients, via FAA dbE-Connect (<https://faa.civilrightsconnect.com/>).

Bidders List: 26.11(c)

The Commission will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

The Commission will collect this information in the following ways:

- a. *Include a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.*
- b. *Include a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report the approved information directly to the Commission's 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 Commission may also consider the use of the Bidders List Data Collection form, as shown in Attachment 9.*

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

The Glynn County Airport Commission 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 Commission 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 Commission'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 Commission 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 Commission will ensure that the following clause is placed in every USDOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of 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 Commission 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 Commission 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 Commission is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the Commission is in compliance with it and Part 26. The Commission will continue to carry out this program until all funds from DOT financial assistance have been expended. The Commission does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

Section 26.23 Policy Statement

The policy statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

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

Shawna Williams
Finance and Administration Manager
295 Aviation Parkway, Suite 205
Brunswick, GA 31525
(912)-265-2070

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Commission complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Commission Chairman 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 staff, will administer 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 triennial goals.*
4. *Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.*
5. *Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract-specific goals).*
6. *Analyzes the Commission's progress toward attainment and identifies ways to improve progress.*
7. *Participates in pre-bid meetings.*
8. *Advises the Commission on DBE matters and achievement.*
9. *Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.*
10. *Determines compliance of bidders/offerors with good faith efforts in bid submittals.*
11. *Provides outreach to DBEs and community organizations to advise them of opportunities.*

Section 26.27 DBE Financial Institutions

It is the policy of the Commission 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.

In developing this DBE program, the Commission's efforts did not identify any such institutions within its service area. The Commission will conduct an evaluation on a yearly basis, and if any such institutions are established in the Airport's service area, the Commission will consider the services offered by these institutions and refer them as noted above.

Section 26.29 Prompt Payment Mechanisms

The Commission 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 Commission 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.

The Commission 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 Commission has selected the following method to comply with this requirement:

The Commission 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 Commission's payment to the prime contractor.

To implement this measure the Commission 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 Commission for protection of the Commission's interests. Unless otherwise instructed by the Commission, the amount retained by the Commission 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 Commission in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Commission 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 Commission 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 Commission. When the Commission 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 Commission'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 Commission may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

Section 26.31 Directory

The primary Disadvantaged Business Enterprise Directory for the Commission comes from the Georgia Department of Transportation (GDOT) and contains listings of certified minority- and women-owned construction firms and material suppliers from throughout the State of Georgia.

GDOT maintains active lists of certified disadvantaged businesses located throughout the state. Therefore, all of the firms listed in the directory have been certified by this state and in accordance with USDOT criteria. It should be noted also that these listings and certifications are periodically updated with some firms being added, while others are removed. Also, the State of Georgia Department of Administrative Services, which maintains a list of small businesses¹, may be consulted to identify potential DBE firms.

These directories should enable prime contractors for projects at the Airport to proceed more easily in their attempts to comply with overall goals regarding Disadvantaged Business Enterprises.

GDOT revises the directory in real time, and the weblink may be found in Attachment 2.

Section 26.33 Overconcentration

The Commission has not identified that overconcentration exists in the types of work that DBEs perform. However, the DBELO will continue to monitor the various categories every three years to ensure that non-DBE firms are not unduly burdened.

Section 26.35 Business Development Programs

The Commission has not established a business development program. The DBELO will re-evaluate the need for such a program every three years.

Section 26.37 Monitoring and Enforcement Mechanisms

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

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

Monitoring Payments to DBEs and Non-DBEs

The Commission undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method:

¹ <http://doas.ga.gov/state-purchasing/suppliers/minority-business-enterprise-certification>

The Commission will require prime contractors to report documents of payments to subcontractors monthly. The DBELO will review and verify that payments have been made and retainage has been returned to subcontractors in accordance to section 26.29.

The Commission 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 Commission's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Commission or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Commission uses a number of DBE forms, examples of which can be found in Attachment 10, to collect DBE information for initial project setup and for ongoing monitoring of DBE participation:

- DBE Project Compliance Review Checklist
- Listing of DBE Subcontractors
- DBE Monthly Report
- DBE Commercially Useful Function Report

The DBELO or representative conducts onsite compliance reviews of FAA funded projects. The DBELO reviews DBE subcontracts, payments, and evaluates any DBE firms working on the project during the date of the visit. The DBELO will conduct a CUF review at least once during the project for all DBEs. The DBELO also reviews monthly progress reports submitted by prime contractors to determine if they are on track to meet the DBE goal. Written certification will be documented by the DBELO on the DBE Project Compliance Review Checklist form.

Prompt Payment Dispute Resolution

The Commission 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 Commission representative(s). Any meeting for the purpose of dispute resolution will include Commission representative(s) authorized to bind each interested party, including Commission representative(s) with authority to take enforcement action.

The Commission 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 Commission 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 Commission's DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the Commission 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 Commission 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 Commission will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The Commission 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 actually performed by the DBEs to which the work was committed. Work site monitoring is performed by the DBELO with assistance from the resident project representative. Contracting records are reviewed by the DBELO. The Commission will

maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering Small Business Participation

The Commission 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 4. The Commission will actively implement the program elements to foster small business participation. Doing so is a requirement of good faith implementation of the DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goal

The Commission 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 Section 26.45(f) the Commission will submit its overall three-year DBE goal to FAA by August 1st as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Primary (GAs, Relievers and State DOTs)	New England, Northwest Mountain, & Southern	August 1, 2017 (2018/2019/2020)	August 1, 2020 (2021/2022/2023)

DBE goals will be established for those fiscal years that the Commission anticipates awarding USDOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Commission 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 Commission will not develop an overall goal; however, this DBE Program will remain in effect and the Commission 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 5 to this program. This section of the program will be updated triennially.

In establishing the overall goal, the Commission 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 Commission'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 Commission'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 Commission will document in the goal submission the consultation process that was utilized. Notwithstanding paragraph (f)(4) of this section, the Commission will not implement the proposed goal until this requirement is fulfilled.

In addition, the Commission 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 Commission'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 Commission 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 Commission 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 1st deadline.

The Commission'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 Commission will begin using the overall goal on October 1 of the required year of submission, unless it has received other instructions from USDOT. If the Commission 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 Commission 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 Commission, adjust the

overall goal or require that the Commission 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 Goal Setting and Accountability

If the awards and commitments shown on the Commission’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;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. 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. The Commission will retain a copy of the analysis and corrective actions in its records for a minimum of three years, and will make it available to FAA upon request.

Section 26.49 Transit Vehicle Manufacturers Goals

N/A

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 the Overall Goal Calculation Attachment 5 to this program. This section of the program will be updated when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The Commission 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 through the use of race-neutral means.

The Commission will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. The Commission needs 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 Commission will express its contract goals as a percentage of the total 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/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

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

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

Information to be submitted (26.53(b))

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

1. Award of the contract will be conditioned on meeting the requirements of this section;
2. All bidders or offerors will be required to submit the following information to the Commission, at the time provided in paragraph (b)(3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each DBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of 49 CFR Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
3. The Commission will require that the bidder/offeror present the information required by paragraph (b)(2) of this section under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

This information will be collected using the forms found in Attachment 6.

Administrative reconsideration (26.53(d))

Within seven (7) calendar days of being informed by the Commission that it is not responsible 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 administrative reconsideration official (ARO):

**Robert Burr, Executive Director
295 Aviation Parkway, Suite 205
Brunswick, GA 31525
(912)-265-2070**

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

Good Faith Efforts procedures in situations when there are contract goals (26.53(f)(g))

The Commission will include in each prime contract a provision stating:

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

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

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

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

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

In those instances where "good cause" exists to terminate a DBE's contract, the Commission 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 Commission will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the Commission 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. The Commission will provide such written consent only if the Commission agrees, for reasons stated in a concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. The Commission 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 us written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE credit for the type of work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

10. Other documented good cause that the Commission has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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

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

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements. The Commission will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If the Commission requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

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

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 Glynn County Airport Commission, as owner of

the 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/offerors, including those who qualify as a DBE. A DBE contract goal of ___ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information:

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

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Commission will refer all matters pertaining to certification to the Georgia Department of Transportation's Equal Opportunity Division in accordance with the State's UCP program. The Equal Opportunity Division 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 Equal Opportunity Division 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:

Georgia Department of Transportation
Equal Opportunity Division
600 West Peachtree Street, N.W.
7th Floor
Atlanta, Georgia 30308
(404) 631-1972
<http://www.dot.ga.gov/PS/Business/DBE>.

A link to the certification application forms and documentation requirements is found in Attachment 7 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Commission is a member of the Unified Certification Program (UCP) administered by the Georgia Department of Transportation (GDOT)'s Equal Opportunity Division. The UCP will meet all of the requirements of this section. Georgia'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 GDOT UCP Program, only GDOT and Atlanta's MARTA will conduct all DBE certifications. To be certified as a DBE, a firm must meet all certification eligibility standards. The Commission will refer all certifications to either of these two agencies.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The Commission 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 Commission 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.

Monitoring Payments to DBEs

The Commission will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Commission or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

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

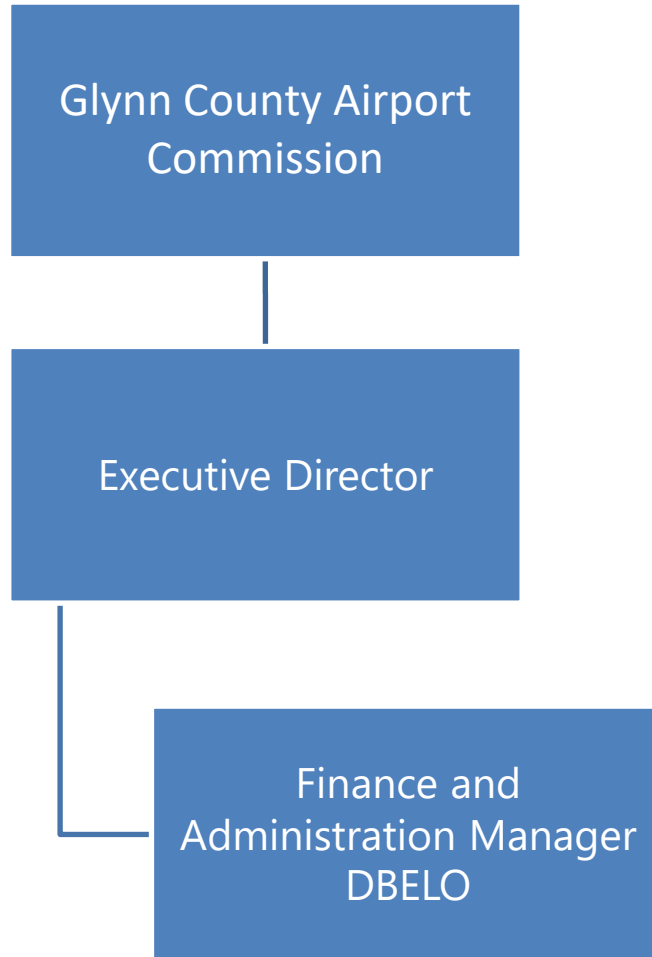
ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Fostering Small Business Participation
Attachment 5	Overall Goal Calculation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
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Attachment 9	Bidders List Data Form
Attachment 10	DBE Forms

Attachment 1

Organizational Chart

Glynn County Airport Commission Organizational Chart



Attachment 2

DBE Directory

The DBE Directory for the State of Georgia may be found at <http://www.dot.ga.gov/PS/Business/DBE>.

Attachment 3

Monitoring and Enforcement
Mechanisms

Glynn County Airport Commission

1. All participants are hereby notified that pursuant to Title 49 Code of Federal Regulations, United States Department of Transportation, Part 26 and the Disadvantaged Business Enterprise Participation Program for the Glynn County Airport Commission, they must affirmatively ensure that, in any contract entered into with the Commission, DBEs will be afforded *equal* opportunity to participate in subcontracting activities. It is the policy of the Commission to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is further the policy of the Commission to ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
2. All contracts between the Commission, and a Contractor shall contain an appropriate provision to the effect that failure by the Contractor to comply with the Commission's DBE Program shall constitute a breach of contract, exposing the Contractor to a potential termination of the contract or other appropriate remedy, including withholding of funds, until such time as the contractor complies with all the DBE requirements of this program. Under authority granted by Georgia law, the Commission may impose liquidated damages, contract suspension, or even contract termination.
3. All documentation submitted at time of bid, as well as additional data provided by the successful bidder, is considered part of the contract documents. Any alterations, substitutions, deletions, etc., to data provided at time of submission of bid must have prior approval of the Commission's DBE Liaison Officer.
4. Should a DBE firm not certified by the Georgia Department of Transportation be proposed by a potential contractor as a part of his/her DBE plan efforts, the inclusion of said firm will not be considered a demonstration of making good faith efforts towards meeting the DBE goal.
5. In contracts with DBE contract goals, bids submitted which do not meet the DBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered non responsive bids, and bidders will be notified of the deficiency and given opportunity to appeal to the Administrative Reconsideration Official (49 CFR 26.53). The bidder will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Official will make the determination on the sufficiency of the good faith efforts.
6. The Commission reserves the right to reject any or all bids, or to re-advertise for bids. Award, if made, will be to the lowest responsive and qualified bidder. A bid will not be considered responsive unless the bidder complies with Title 49 Code of the Federal Regulations, Part 26, and the Disadvantaged Business Enterprise Program of the Commission.
7. The Commission shall require contractors to make good faith efforts to replace a DBE subcontractor that is terminated, or fails to complete its work on the contract for any reason, with another DBE subcontractor. If a DBE subcontractor is terminated, or fails to complete

its work on the contract for any reason, the Contractor must notify the Airport immediately. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established contract goal. The Commission shall approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible DBEs.

Additional information on the Commission's Disadvantaged Business Enterprise Program can be obtained from the DBE Liaison Officer, **Shawna Williams, Finance and Administration Manager, 295 Aviation Parkway, Suite 205, Brunswick, GA 31525, (912)-265-2070 swilliams@flygcairports.com.**

8. The Commission will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBE's. This mechanism will provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. These mechanisms will include, but not be limited to, the following:
 - a. *Reviewing bid package documentation thoroughly, obtaining clarification, if necessary.*
 - b. *Reviewing monthly reports regarding employment as well as DBE participation to ensure adherence to plan as represented in bid documents and as stipulated in this program.*
 - c. *Monitoring progress of payments to DBEs through monthly reports from prime contractors.*
 - d. *Monitoring progress of DBEs work through on-site visits and communication with DBEs. The Commission will implement a monitoring and enforcement mechanism that will include written certification that the Commission has reviewed contracting records and monitored work sites for this purpose. This monitoring will be conducted during routine project site visits on a monthly basis. The DBELO will sign off on the written certifications.*
9. The Commission will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
10. The Commission also will consider similar action under its own legal authority, including responsibility determinations in future contracts. In addition, the Commission will apply legal and contract remedies under state and local law. This includes, for example, applying liquidated damages, withholding payments, etc.
11. In its reports of DBE participation to the USDOT, the Commission will show both commitments and attainments, as required by the USDOT reporting form.

Attachment 8 contains a link to 49 CFR Part 26, which describes federal regulations, provisions, and contract remedies available to the Commission in the event of non-compliance by a participant.

Attachment 4

Fostering Small Business

Attachment 5

Overall Goal Calculation

Attachment 6

Form 1 & 2 for
Demonstration of
Good Faith Efforts

Glynn County Airport Commission

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

Glynn County Airport Commission

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Attachment 7

Certification Application Forms

The DBE certification application for the State of Georgia may be found at <http://www.dot.ga.gov/PS/Business/DBE>.

Attachment 8

Regulations: 49 CFR Part 26

The federal regulations,
Title 49
Code of Federal
Regulations Part 26, may
be found at www.ecfr.gov.

Attachment 9

Bidders List Data Form

Firm Name	Firm Address and Phone No.	DBE or Non-DBE Status <i>(verify via GDOT DBE Directory)</i>	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Greater than \$5M

Attachment 10

DBE Forms