



**Ontario International Airport Authority (OIAA)
DBE PROGRAM – 49 CFR PART 26**

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The Ontario International Authority (OIAA) owner of Ontario International Airport (ONT) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The OIAA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the OIAA has signed an assurance that it will comply with 49 CFR Part 26.

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

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

Amy Goethals, Director of Commercial Real Estate has been delegated as the DBE Liaison Officer. In that capacity, Amy Goethals, Director of Commercial Real Estate, 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 OIAA in its financial assistance agreements with the Department of Transportation.

This policy statement is available for public access on the OIAA’s website (www.flyontario.com). This link to the OIAA website is listed on all solicitation documents qualified for DOT assistance.

Kelly Fredericks, Chief Executive Officer

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

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11

The OIAA will report DBE participation to DOT/FAA as follows:

The OIAA will transmit to FAA annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form. The OIAA will also report the DBE contractor firm information either on the FAA DBE Contractor’s Form or other similar format.

Bidders List: 26.11(c)

The OIAA will create and maintain a bidders list via the website: www.flyontario.com. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on the airport’s DOT-assisted contracts for use in helping to set the airport’s overall goals. The bidders list will include the name, address, DBE and non-DBE status, and the NAICS codes of firms.



Section 26.13 Federal Financial Assistance Agreement

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

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

The OIAA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The OIAA shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The OIAA DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the OIAA of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: 26.13b – The OIAA will ensure that the following clause is included in each contract signed with a contractor and each subcontract the prime contractor signs with a subcontractor:

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



SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The OIAA 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 OIAA is not eligible to receive DOT financial assistance unless DOT has approved the OIAA's DBE program and The OIAA is in compliance with it and this part. The OIAA will continue to carry out this program until all funds from DOT financial assistance have been expended. The OIAA does not have to submit regular updates of this program, as long as the OIAA remains in compliance. However, the OIAA will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The OIAA has designated the following individual as our DBE Liaison Officer:

Amy Goethals
Director of Commercial Real Estate
ONTARIO INTERNATIONAL AIRPORT AUTHORITY
1923 E. Avion Street | Ontario, CA 91761
Phone (909) 544-5427 | Cell (909) 452-5586
Email: Agoethals@flyontario.com

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

The DBELO or a designee is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all OIAA departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations and monitors results.

6. Analyzes the OIAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO and Board of Airport Commissioners on DBE matters and achievement.
9. Determines contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Acts as liaison to the Uniform Certification Process.
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 OIAA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

In an effort to identify and use such institutions, using the State of California, Department of General Services online directory (http://www.dot.ca.gov/hq/bep/find_certified.htm), the OIAA did not find any DBE financial institutions in the San Bernardino County area. The following NAICS Codes were used: 522110 (Commercial Banking), 522130 (Credit Unions), 521110 (Monetary Authorities - Central Banks) and 522291 (Consumer Lending).

The DBELO for the OIAA will investigate financial institutions established within the community which are owned by socially and economically disadvantaged individuals annually. When a financial institution owned and operated by socially and economically disadvantaged individuals is opened, the DBELO will recommend their services to the OIAA and provide notification to prime contractors with solicitation documents.

Section 26.29 Prompt Payment Mechanisms

The OIAA has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts.

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

Decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.



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

The OIAA will provide appropriate means to enforce the requirements of this section. These means will be included as specific terms and conditions in each contract. Any delay or postponement of payment among the parties may take place only for good cause, with the prior written approval of the OIAA.

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from *The OIAA*. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the OIAA. This clause applies to both DBE and non-DBE subcontractors.

Monitoring Payments to DBEs

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

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

Section 26.31 Directory

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

The State of California revises the Directory daily. The OIAA makes the Directory available by listing the website address on solicitation packages for interested persons. The Directory is found at <http://californiaucp.org/>

Section 26.33 Over-concentration

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



Section 26.35 Business Development Programs

The OIAA has not established a business development program. Planet Bids however, links businesses in the airport's neighboring communities with job and contract opportunities at the airport: <https://www.planetbids.com/portal/portal.cfm?CompanyID=31225>

The OIAA actively participates and collaborates with professional associations, industry organizations, and chambers of commerce.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. Implement similar action under the OIAA's own legal authorities, including responsibility determinations in future contracts.
3. Implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. Implement a monitoring and enforcement mechanism that will include written certification that the OIAA has reviewed contracting records and monitored work sites for this purpose. A copy of the Certification Process for Contract Review and Monitoring is found Attachment 7.
5. Implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In reports of DBE participation to the DOT, the OIAA will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 Fostering small business participation.

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

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



SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The OIAA will establish an overall DBE goal covering a three-year federal fiscal year period if the OIAA 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 OIAA 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)
Large & Medium Hub Primary	All Regions	August 1, 2016 (2017/2018/2019)	August 1, 2019 (2020/2021/2022)

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

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

In establishing the overall goal, the OIAA will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the OIAA’s efforts to establish a level playing field for the participation of DBEs.

The OIAA will publish a notice announcing its proposed overall goal informing the public that the proposed goal and its rationale are available for inspection on its official internet web site (www.flyontario.com) and during normal business hours at the OIAA’s principal office (1923 East Avion St., Ontario, CA 91761). The OIAA and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will be issued in general circulation media and available minority-focused media and trade publications. The notice will include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline.



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

The OIAA will begin using the overall goal on October 1st of the reporting period, unless it has received other instructions from the DOT.

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

Section 26.47 Failure to meet overall goals.

The OIAA will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer its DBE Program in good faith to be considered to be in compliance with this part.

If the OIAA awards and commitments shown on its Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the OIAA will do the following to be regarded by the Department as implementing the DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and its awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified during analysis so that it can meet fully its goal for the new fiscal year;
- (3) The OIAA will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c) (1) and (2) of this section to the FAA for approval.

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

The OIAA 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 the following:

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.
- (2) 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);

(3) Ensuring distribution of the State of California DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

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

Section 26.51(d-g) Contract Goals

The OIAA 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.

During the course of any year in which the OIAA determines that it will exceed the overall goal, the OIAA will reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If the OIAA determines that it will fall short of the overall goal, it will make appropriate modifications in the use of race-conscious measures to meet the overall goal.

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

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

Section 26.53 Good Faith Efforts Procedures

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.

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



Information to be submitted - 26.53(b)

The OIAA treats bidder/offers' compliance with good faith effort's requirements as a matter of responsiveness in all instances where a contract goal has been established (all bidders will submit the DBE information at the time of bid). Each solicitation for which a contract goal has been established will require all bidders/offers to submit the following information at the time of bid:

- (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.
- (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) If the contract goal is not met, evidence of good faith efforts must be documented.

Administrative reconsideration - 26.53(d)

Within 5 business days of being informed by the OIAA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offers should make this request in writing to the following reconsideration official:

Amy Goethals
Director of Commercial Real Estate
ONTARIO INTERNATIONAL AIRPORT AUTHORITY
1923 E. Avion Street | Ontario, CA 91761
Phone (909) 544-5427 | Cell (909) 452-5586
Email: Agoethals@flyontario.com

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The OIAA will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

The OIAA will include in each prime contract a provision stating that the contractor is utilizing DBEs to perform a certain percentage of the work to comply with OIAA stated and approved goals. The OIAA will require the contractor that is awarded the contract to make available, upon request, a copy of all DBE subcontracts.

The OIAA will require the prime contractor to substitute a DBE firm with another DBE firm when necessary to maintain stated goals, and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The good faith efforts shall be documented by the contractor.

In instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, it may only do so with prior approval and written consent from the OIAA.

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

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) The OIAA 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 OIAA 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 OIAA has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to the OIAA its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the OIAA, 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 OIAA and the contractor of the reasons, if any, why it objects to the proposed



termination of its subcontract and why the OIAA should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the OIAA may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements. If the contractor fails or refuses to comply in the time specified, the OIAA 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 OIAA 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 OIAA 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. The bidder/offeror shall make good faith efforts, as defined in 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. 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; (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; and (5) 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; (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

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

If the firm is not currently certified as a DBE in accordance with the standards of this part at the time of the execution of the contract, The OIAA will not count the firm's participation toward any DBE goals, except as provided for in 26.87.



SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

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

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

Amy Goethals
Director of Commercial Real Estate
ONTARIO INTERNATIONAL AIRPORT AUTHORITY
1923 E. Avion Street | Ontario, CA 91761
Phone (909) 544-5427 | Cell (909) 452-5586
Email: Agoethals@flyontario.com

The OIAA's certification application forms and documentation requirements are found on the OIAA website: www.flyontario.com and in Attachment 9 to this program.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

The OIAA will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with provisions of the Federal Freedom of Information and Privacy Act (5 U.S.C. Section 552) and other federal, state, and local law.

Notwithstanding any provision of federal or state law, the OIAA will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, the OIAA will transmit this information 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 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 or suspension and debarment; with respect to a complainant



or appellant, dismissal of the complaint or appeal; with respect to a contractor that uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The OIAA, 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. If the OIAA violates this prohibition, it is in noncompliance with this part.

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

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

ATTACHMENTS

- Attachment 1 Link to 49 CFR Part 26: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 Link to State of California DBE Directory:
http://www.dot.ca.gov/hq/bep/find_certified.htm
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts - Forms 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 Link to DBE Certification Application Forms:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/obtaining-certification>

http://www.dot.ca.gov/hq/bep/business_forms.htm
- Attachment 9 Link to the State of California UCP Agreement:
<http://www.dot.ca.gov/hq/bep/ucp.htm>
- Attachment 10 Small Business Program



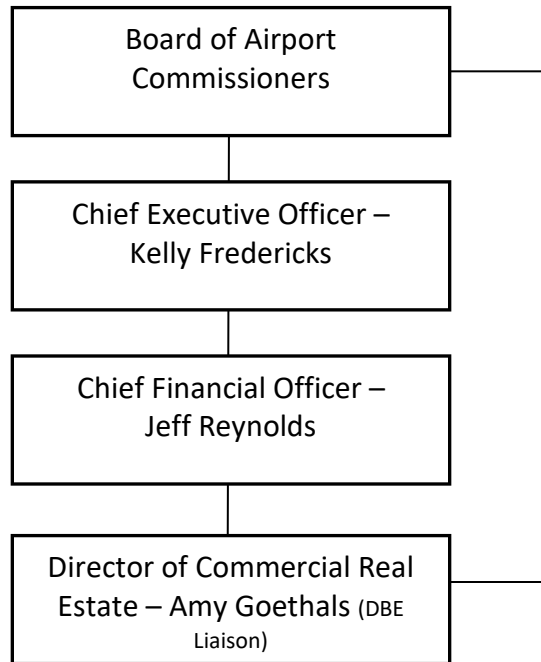
ATTACHMENT 1

Download a copy of 49 CFR Part 26 at:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3

BIDDER'S LIST COLLECTION FORM

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



ATTACHMENT 4

Link to State of California DBE Directory: http://www.dot.ca.gov/hq/bep/find_certified.htm

ATTACHMENT 5

Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: Ontario International Airport Authority (OIAA), owner of Ontario International Airport (ONT)

Goal Period: FY-2017-2018-2019 (October 1, 2016 through September 30, 2019)

There are 13 projects that are expected to occur in FY 2017 - 2019 that would be eligible for AIP funding. The individual projects are listed in the chart below. The total AIP value of the contracts is projected to be \$96,644,020, and represents the portion that may be applicable to DBE goals.

Project Name	Estimated Project Cost	AIP eligible?	Eligible Percent?	PFC eligible?	PFC eligible percent?	Total Cost by Calendar Year			
						2017	2018	2019	Subtotal 2017-2019
Twy S & W Intersection Repair	\$8,030,000	Yes	80%	Yes	<20%	\$8,030,000			\$8,030,000
Twy S from Twy F to Cucamonga Channel (Phase I)	\$6,100,000	Yes	80%	Yes	<20%		\$6,100,000		\$6,100,000
Twy S from Twy F to Cucamonga Channel (Phase II)	\$18,860,000	Yes	80%	Yes	<20%			\$18,860,000	\$18,860,000
Reconstruct Rwy 8R-26L Shoulders	\$18,592,000	Yes	80%	Yes	<20%			\$18,592,000	\$18,592,000
Install Rwy 26R TDZ Lighting	\$4,000,020	Yes	80%	Yes	<20%			\$4,000,020	\$4,000,020
Taxiway N1 Centerline Lighting	\$2,412,000	Yes	80%	Yes	<20%			\$2,412,000	\$2,412,000
Airport Master Plan	\$5,000,000	Yes	80%	Yes	<20%	\$5,000,000			\$5,000,000
Airport Pavement Management Plan	\$1,500,000	Yes	80%	Yes	<20%		\$1,500,000		\$1,500,000
Airport Marking Lighting and Signage Plan	\$200,000	Yes	80%	Yes	<20%			\$200,000	\$200,000
ARFF Vehicles and Equipment	\$5,000,000	Yes	80%	Yes	<20%			\$5,000,000	\$5,000,000
Security Screening Improvements	\$750,000	Yes	80%	Yes	<20%			\$750,000	\$750,000
Northwest Cargo Area Remediation, Demolition, Clean Up, Site Prep	\$16,200,000	Yes	80%	Yes	<20%		\$16,200,000		\$16,200,000
ACAMS Security System Rehabilitation	\$10,000,000	Yes	80%	Yes	<20%			\$10,000,000	\$10,000,000
TOTAL	\$96,644,020					\$13,030,000	\$23,800,000	\$59,814,020	\$96,644,020

Market Area: The following map shows the market area in which it is expected that the substantial majority of the Airport’s contractors and subcontractors that seek to do business with the Airport are located **and** the area in which it is expected that the Airport will spend the substantial majority of its contracting dollars. The market area surrounding the Airport includes San Bernardino County, Riverside County, Orange County, and Los Angeles County.



DBE Goal:

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

CFR Part 26.45 recommends five methodologies for determining a base DBE goal based on relative availability of DBEs. The recommendations and examples are provided as a starting point but are not intended as an exhaustive list. As per CFR Part 26.45, “Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.”

Since there was little historical data, no bidder’s list, and no disparity study for ONT, the base figure for the relative availability of DBEs was calculated through an analysis of the State of California DBE directory and Census Bureau County Business Patterns in the market area counties, as well as a comparison of goals at airports in the region.

The total certified DBE firms in a particular county may include firms who possess an interstate certification, meaning they may be physically located in another state yet have expressed an interest in doing business in California, thus obtaining a California DBE certification. For example, a DBE firm located in New York City can register to do business in San Bernardino County. This often times, as seen in the table below, can exceed total firms by NAICS code because the Census Bureau only takes into consideration firms that have a physical address in a specific county.



Since there is a presumption that the market area is the area in which it is expected that the substantial majority of the Airport's contractors and subcontractors that seek to do business with the Airport **are located**, data from the State of California was further analyzed to assess DBE firms physically located in the market (San Bernardino, Riverside, Orange, and Los Angeles counties).

The 2014 U.S. Census County Business Patterns by NAICS classifications for San Bernardino County, Los Angeles County, Orange County and Riverside County were compared to the number of firms certified as DBEs by the California UCP and located in the market area counties to arrive at the base percentage.

NAICS Total Firms Compared to Total and County Registered DBE Firms

2012 NAICS code	Definition of 2012 NAICS code	San Bernardino County DBE - Registered Firms	San Bernardino County DBE - Located Firms	Total San Bernardino Firms	Riverside County DBE - Registered Firms	Riverside County DBE - Located Firms	Total Riverside Firms	Orange County DBE - Registered Firms	Orange County DBE - Located Firms	Total Orange Firms	Los Angeles County DBE - Registered Firms	Los Angeles County DBE - Located Firms	Total Los Angeles Firms	TOTAL DBE FIRMS LOCATED IN MARKET AREA	TOTAL FIRMS	PERCENT (%) DBE
237310	Highway, street, and bridge construction	159	9	54	168	16	46	170	26	67	188	27	84	78	251	31%
237990	Other heavy and civil engineering construction	109	4	23	114	4	22	112	20	37	123	16	42	44	124	35%
Total Heavy Construction		268	13	77	282	20	68	282	46	104	311	43	126	122	375	33%
238110	Poured concrete foundation and structure contractors	65	6	107	68	6	140	72	6	150	75	12	220	30	617	5%
238120	Structural steel and precast concrete contractors	51	9	30	51	6	24	52	3	28	57	5	88	23	170	14%
238210	Electrical contractors & other wiring contractors	102	12	360	98	9	467	104	10	795	121	10	1,726	41	3348	1%
238910	Site preparation contractors	93	9	145	97	13	196	100	18	186	107	9	348	49	875	6%
238990	All other specialty trade contractors	128	9	161	135	17	247	134	14	302	150	20	506	60	1216	5%
Total Other Construction Categories		439	45	803	449	51	1074	462	51	1461	510	56	2888	203	6226	3%
541310	Architectural services	85	1	42	92	1	56	94	6	378	114	46	943	54	1419	4%
541330	Engineering services	325	12	206	336	16	260	332	25	1,099	362	96	1,511	149	3076	5%
541370	Surveying and mapping (except geophysical) services	64	4	31	63	3	35	61	1	45	67	6	53	14	164	9%
541620	Environmental consulting services	270	3	39	274	11	46	272	16	169	304	76	231	106	485	22%
Total Design Categories		744	20	318	765	31	397	759	48	1477	847	224	2738	323	5144	6%

Weighting by Type of Project and the Type of Firm that Would Bid

The availability calculations in the above chart were then weighted by the anticipated expenditures for Heavy Construction categories, Other Construction categories, and Design categories for each project. **The result of these calculations yields a base goal of 13%.**

Project Name	Estimated Project Cost	Weighting	Contractor Type	DBE Availability	Weighted DBE Dollars for Subtotal 2017-2019
Twy S & W Intersection Repair	\$8,030,000	50%	Heavy Construction	33%	\$1,324,950
		30%	Other Construction	3%	\$72,270
		20%	Design	6%	\$96,360
Twy S from Twy F to Cucamonga Channel (Phase I)	\$6,100,000	50%	Heavy Construction	33%	\$1,006,500
		30%	Other Construction	3%	\$54,900
		20%	Design	6%	\$73,200
Twy S from Twy F to Cucamonga Channel (Phase II)	\$18,860,000	50%	Heavy Construction	33%	\$3,111,900
		30%	Other Construction	3%	\$169,740
		20%	Design	6%	\$226,320
Reconstruct Rwy 8R-26L Shoulders	\$18,592,000	50%	Heavy Construction	33%	\$3,067,680
		30%	Other Construction	3%	\$167,328
		20%	Design	6%	\$223,104
Install Rwy 26R TDZ Lighting	\$4,000,020	20%	Heavy Construction	33%	\$264,001
		60%	Other Construction	3%	\$72,000
		20%	Design	6%	\$48,000
Taxiway N1 Centerline Lighting	\$2,412,000	20%	Heavy Construction	33%	\$159,192
		60%	Other Construction	3%	\$43,416
		20%	Design	6%	\$28,944
Airport Master Plan	\$5,000,000	0%	Heavy Construction	33%	\$0
		0%	Other Construction	3%	\$0
		100%	Design	6%	\$300,000
Airport Pavement Management Plan	\$1,500,000	0%	Heavy Construction	33%	\$0
		0%	Other Construction	3%	\$0
		100%	Design	6%	\$90,000
Airport Marking Lighting and Signage Plan	\$200,000	0%	Heavy Construction	33%	\$0
		0%	Other Construction	3%	\$0
		100%	Design	6%	\$12,000
ARFF Vehicles and Equipment	\$5,000,000	0%	Heavy Construction	33%	\$0
		0%	Other Construction	3%	\$0
		100%	Design	6%	\$300,000
Security Screening Improvements	\$750,000	0%	Heavy Construction	33%	\$0
		80%	Other Construction	3%	\$18,000
		20%	Design	6%	\$9,000
Northwest Cargo Area Remediation, Demolition, Clean Up, Site Prep	\$16,200,000	20%	Heavy Construction	33%	\$1,069,200
		60%	Other Construction	3%	\$291,600
		20%	Design	6%	\$194,400
ACAMS Security System Rehabilitation	\$10,000,000	0%	Heavy Construction	33%	\$0
		80%	Other Construction	3%	\$240,000
		20%	Design	6%	\$120,000
TOTAL	\$96,644,020				\$12,854,006

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

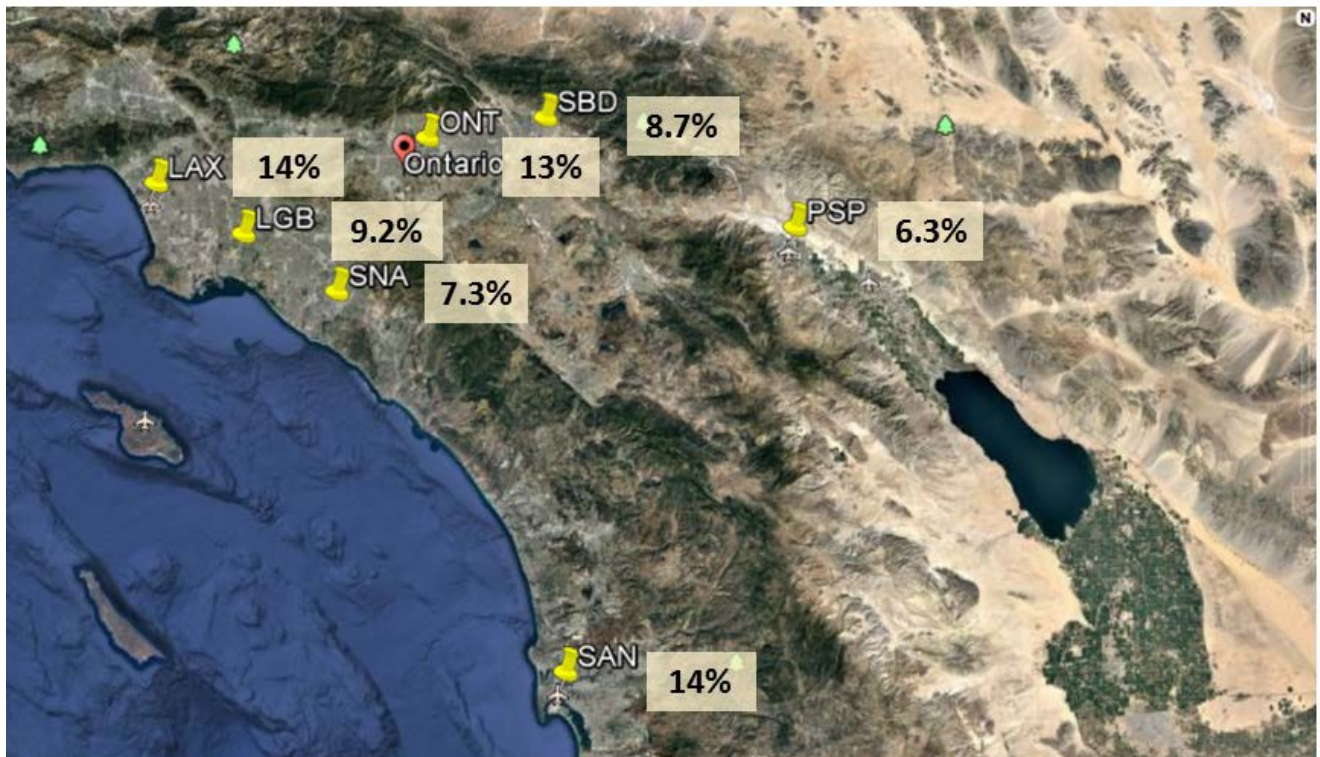
On November 1, 2016, ownership of the Ontario International Airport transferred from Los Angeles World Airports (LAWA) to the Ontario International Airport Authority (OIAA). There was not sufficient historical DBE data to reference, no bidder's list, and no disparity study for ONT to make an adjustment to the Step 1 base figure; therefore, the OIAA is adopting its Step 1 base figure as its overall goal for this three-year goal period.

This is in line with the DBE goals of other airports in the region, as depicted in the graphic below. It is also in line with the project-specific goal setting of the City of Ontario. The City of Ontario, had two recent federal projects and the DBE goals were as follows:

Philadelphia at Cypress Traffic Signal (Right of Way Services) - 14% DBE goal

Various Bridge Repair (Design Services) - 10% DBE goal

Comparing ONT DBE Goal to other Airport DBE Goals in Region





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

The OIAA estimates that in meeting its overall goal of 13%, it will obtain 100% participation through RC measures (setting a DBE goal for each project).

The OIAA, as the new owner of ONT, does not have a history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, the OIAA is applying the entire goal of 13% to race-conscious participation.

The OIAA will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation and track and report RN and RC participation separately.

PUBLIC PARTICIPATION

In accordance with Public Participation Regulatory Requirements of 49 CFR Part 26, minority, women, local businesses, chambers, and community organizations within the OIAA’s market area will be provided an opportunity to review this goal analysis. The OIAA will issue a Public Notice to community groups, publish the notice in minority-focused media and the OIAA’s website (www.flyontario.com).



ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)



FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature)

Date: _____

(Title)

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

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to California Civil Code, Article 1. Damages for Breach of Contract 3300.-3322.

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

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



ATTACHMENT 8

Link to DBE Certification Application Forms:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/obtaining-certification>

http://www.dot.ca.gov/hq/bep/business_forms.htm



ATTACHMENT 9

Link to the State of California UCP Agreement: <http://www.dot.ca.gov/hq/bep/ucp.htm>

Signed OIAA CUCP Agreement on following page.

CUCP AGREEMENT/DECLARATION OF STATUS LETTER

TO: CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

FROM: Ontario International Airport Authority (OIAA), (Recipient)
Address: 1923 East Avion Street Ontario, CA 91761

Recipient hereby acknowledges and agrees that:

- (1) As a recipient of Federal Financial Assistance from the U.S. Department of Transportation (DOT), Recipient has an established Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26.
- (2) By this Letter, Recipient officially becomes a signatory to the Memorandum of Agreement (MOA) for the establishment of a Unified Certification Program among all U.S. DOT recipients in California, as approved by the Secretary of Transportation on March 13, 2002, and amended on March 21, 2006.
- (3) In accordance with said MOA, Recipient hereby makes a declaration to become either a Certifying CUCP Member or a Non-Certifying CUCP Member.
 - (a) A Certifying CUCP Member maintains DBE certification processes including reviewing DBE applications, conducting site visits and making decisions on DBE status; processing annual updates; maintaining DBE certification files; and conducting appeal and third party challenge hearings. A Certifying CUCP Member is responsible for providing certification information and updates for inclusion in the DBE Database.
 - (b) A Non-Certifying CUCP Member does not process DBE certifications for inclusion in the DBE Database.
- (4) CUCP Members may be requested to contribute funds to support the CUCP.
- (5) All CUCP Members will accept the DBE status of firms included in the DBE Database for use in their contracting activities.

Based on the foregoing, Recipient hereby declares its status as:

A CERTIFYING CUCP MEMBER
 A NON-CERTIFYING CUCP MEMBER

Recipient may change its status upon submission of a new Declaration Letter to the Chair of the CUCP.

DATE: 03/14/2017


(Signature of Recipient Agency Official)

Amy Goethals, Director of Commercial Real Estate
(Name and Title)

Participation in CUCP acknowledged:

Date
(Secretary, California Unified Certification Program)

Date
(Chair, California Unified Certification Program)



Attachment 10

Small Business Program

The Ontario International Airport Authority (OIAA) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at the Ontario International Airport (ONT).

The OIAA will implement this Program within 9 months of FAA approval.

APPLICABILITY:

OIAA Procurement will establish the mandatory SBE participation levels for construction, non-professional and personal services including professional services projects valued over \$150,000. Failure to meet those mandatory SBE participation levels may disqualify bidding/proposing firms from being considered for award of the contract. The OIAA SBE Program requires Prime Contractors who receive contracts from the OIAA to utilize certified small businesses at the levels promised.

The OIAA defines an SBE as an independently-owned and operated business that meets the criteria set forth by the Small Business Administration 8(a) Business Development Program. The State of California SBE program defines an SBE as a business with 100 or fewer employees with average annual gross receipts of \$14 million or less over the last three years. The Federal Small Business Administration (SBA) program uses a much broader range of size thresholds (see [www.sba.gov/sites/default/files/Size Standards Table.pdf](http://www.sba.gov/sites/default/files/Size%20Standards%20Table.pdf)).

Prime contractors will be responsible for determining the SBE status of its subcontractors for purposes of meeting the SBE requirement. The SBE participation level will be determined by the percentage of the total amount of compensation under the project paid to SBEs.

The OIAA encourages Prime Contractors to utilize Emerging Business Enterprises (EBEs). The OIAA defines an Emerging Business Enterprise (EBE) based on the State of California's Micro-business definition, which is (1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees. A firm that is certified with the State of California as a Micro-business will be recognized by the OIAA as an EBE. Additionally, the OIAA encourages Prime Contractors to utilize Disabled Veterans Business Enterprises (DVBEs). A firm that is certified with the State of California as a DVBE will be recognized by the OIAA as a DVBE.

SBE PARTICIPATION LEVELS:

The OIAA will review each Request for Bid/Request for Proposal (project) estimated to be in excess of \$150,000 to determine whether a mandatory SBE participation level should be set on the project. Setting the mandatory SBE participation level consists of the following steps:



The OIAA and the requesting division will discuss the project to determine whether there are reasonable subcontracting opportunities. The OIAA will review various databases to determine the availability of SBE subcontractors in the identified subcontracting work areas. The OIAA will review the historical achievement of subcontractor utilization on the same/similar projects

If the OIAA determines that there are sufficient SBEs available in the identified work areas, it will set a mandatory SBE participation level for the project. The OIAA reserves the right to review cooperative agreements with other governmental agencies ("Piggy Back") to determine if subcontracting opportunities exist and to set mandatory SBE participation levels, if appropriate.

Since the SBE Program is a mandatory program, Bidders/Proposers are strongly encouraged to attend pre-bid and pre-proposal meetings for projects with mandatory SSE participation levels so that they understand the requirements of the SBE Program. The OIAA will verify the SBE status of the proposed subcontractors, regardless of the dollar amount of work to be performed. It is important to note that if a Prime Contractor is itself an SBE, their participation in the contract will count as 100% SBE.

SUBCONTRACTORS:

Contractors are required to comply with California's "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Sections 4100 et seq.) (www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20).

Any reduction, increase, or other change to any SSE Subcontract amount without prior written approval of the OIAA is considered an Unauthorized Subcontractor Substitution. A subcontract dollar value increased or reduced as the result of a Change Order issued by the OIAA to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.

Only the OIAA is authorized to grant either initial approval of SSE Subcontractor(s) or SBE Subcontractor substitution(s).

Contractors must list all Subcontractors and include all requested information.

PENALTIES:

A Contractor violating any provision(s) of this section shall, subject to prior notice of the alleged violations and an opportunity to be heard and to present evidence in its own defense, be deemed in violation of the Contract, and the OIAA may:

Cancel the contract or assess the Contractor a penalty of not more than ten percent (10%) of the amount of the unpaid/underpaid amount of the Subcontract(s) involved.

At the end of each project, before calculation of any actual final subcontracting penalties, the OIAA may withhold as disputed funds 15% of all subcontract(s) that appear to be in violation of any subcontracting provision of the project.

SUB-AGREEMENT FALSIFICATION:

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subcontractor may result in sanctions set forth under Penalties.

MONTHLY REPORT SUBMITTAL:

The Contractor shall submit to the OIAA, on a monthly basis, together with its invoice the Subcontractor Utilization Report listing the SBE subcontractors utilized during the reporting period. The Contractor shall cooperate with the OIAA in providing such information as requested by the OIAA to ensure compliance. The OIAA will not process or pay Contractor's subsequent invoices if the Subcontractor Utilization Reports are not timely submitted or if the Contractor fails to cooperate with the OIAA by promptly providing any and all information related to SSE participation requested by the OIAA.

FINAL SUBCONTRACTING REPORT SUBMITTAL:

The Contractor must submit the Final Subcontracting Report to the OIAA within fifteen (15) calendar days after a request for the report by the OIAA. Failure to comply may result in the assessment of liquidated damages in the amount of \$100.00 per day by the OIAA.

ASSURANCES:

1. *This program is authorized under state law;*
2. *Certified DBEs that meet the size criteria established under this program are presumptively eligible to participate in the program;*
3. *There are no geographic preferences or limitations imposed on any federally assisted procurement included in the program;*
4. *There are no limits on the number of contracts awarded to firms participating in the program and every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and*
5. *Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified; and*
6. *The program is open to small businesses regardless of their location (i.e., that there is no local or other geographic preference).*

FUTURE REVISIONS TO RULES AND REGULATIONS:

The Chief Executive Officer is authorized make modifications to these Rules and Regulations as necessary from time to time.