

of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the City will submit its Overall Three-year DBE Goal to FAA by August 1st of the year in which the goal is due, as required by the schedule established by and posted to the website of FAA.

FAA:

[https://www.faa.gov/sites/faa.gov/files/about/office org/headquarters offices/acr/DBE and ACDBE Reporting Requirements Schedule Final.pdf](https://www.faa.gov/sites/faa.gov/files/about/office_org/headquarters_offices/acr/DBE_and_ACDBE_Reporting_Requirements_Schedule_Final.pdf)

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the City does not anticipate awarding prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and the City will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. Determine a base figure for the relative availability of DBEs in the market area. The City will use a *Bidders List*, the goal of another DOT recipient, or the *DBE Directory information and Census Bureau Data* as a method to determine the base figure. The City understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. Adjust, if necessary, 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. Adjustments may be made based on past participation. The City will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the City market.

In establishing the overall goal, the City will provide for consultation and publication. This includes consultation with minority, women 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 efforts by the City 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 goal setting process, and it will occur before the City is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the City engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the City will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on the City's official internet web site. If the proposed goal changes following review by FAA, the revised goal will be posted on the official internet web site.

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

The City will begin using the overall goal on October 1 of the relevant period, unless other instructions from FAA have been received.

Project Goals

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

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

The City understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the City for calculating goals is inadequate, FAA may, after consulting with the City, adjust the overall goal or require that the goal be adjusted by the City. 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.

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 City cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the City fails to administer its DBE program in good faith.

The City understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The City understands that if the awards and commitments shown on the 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 following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
- (3) The City will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to *[operating administration]* upon request.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small

businesses, by means such as those provided under §26.39.

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

The City 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.

Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established 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).

Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

The City 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 OR Responsible*].

The City 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.

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (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 (as elaborated in Appendix A of 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 bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:
 - (4) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

Administrative reconsideration

Within 14 days of being informed by the City that it is not responsive because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Sheema D. Shaw, City Clerk
City Hall – 14 East Goldfield Avenue
Yerington NV 89447
Ph: (775) 463-3511
Email: sheema@yerington.net

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 the goal was met or the bidder/offeror made adequate good faith efforts to do. The bidder/offeror will be sent 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 procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the City. This includes, but is not limited to, 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, or another DBE firm. Such written consent will be provided only if the City agrees, 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 City determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides the City 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 City 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 City a 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 City, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

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

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.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid/solicitation response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of the City as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The City 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 City 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. The City shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, the contracting office/representative of the City may 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.

The Demonstration of Good Faith Efforts Form can be found in Attachment 6 of the DBE program.

[Note: The provisions of the foregoing section apply only when a contract goal is established.]

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted 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.

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The City is a non-certifying member of the Nevada Unified Certification Program (NUCP). NUCP 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. Certifying NUCP members 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:

City of Yerington
14 East Goldfield Avenue
Yerington, NV 89447
Phone: 775-463-3511
E-mail: <http://www.yerington.net/emailpage.asp>

The Uniform Certification Application form and documentation requirements are found in Attachment 8 to this program.

SUBPART E – CERTIFICATION PROCEDURES

49 CFR Section 26.81 Unified Certification Programs

The State currently does not have a Unified Certification Program (UCP) but is in the process of creating one that includes the smaller airports in Nevada. An Attachment 9 will be prepared when available. The UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to City

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

Section 26.109 Information, Confidentiality, Cooperation and Intimidation or Retaliation

Information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law will be safeguarded from disclosure to third parties. State of Nevada public information laws are found in Nevada Revised Statutes Chapter 239.

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

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

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

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 Link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 NUCP DBE Certified Vendor List Link
- Attachment 5 Overall DBE Three-Year Goal Methodology
- Attachment 6 Demonstration of Good Faith Efforts Form
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Application Form
- Attachment 9 State's UCP Agreement (to be attached once the State has an agreement)
- Attachment 10 Small Business Element Program

ATTACHMENT 1

Regulations: 49 CFR Part 26 links

<https://www.law.cornell.edu/cfr/text/49/part-26>

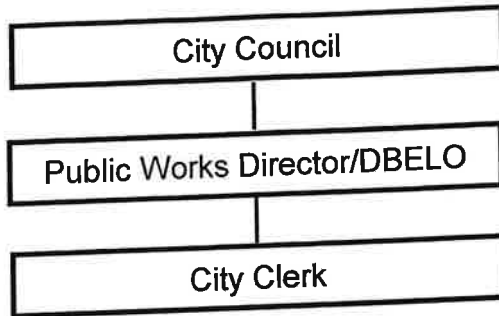
<https://www.gpo.gov/fdsys/pkg/CFR-2017-title49-vol1/xml/CFR-2017-title49-vol1-part26.xml>

<https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/official-faqs-dbe-program-49-cfr-26>

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-regulations>

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3

Bidder's List Collection Form

[Reminder: the information below must be collected from every bidder who submits a quote/bid to the recipient and every potential subcontractor who submitted a quote/bid to each bidder. §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.]

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via NUCP 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

Nevada Unified Certification Program

<https://ndot.dbesystem.com/Default.asp?TN=ndot>

ATTACHMENT 5

Overall DBE Three-Year Goal Methodology

Yerington Municipal Airport (O43) DBE Goal Methodology

Federal Fiscal Years (FY) 2022-2024

Pursuant to the requirements of Title 49 Code of Federal Regulations, Part 26 of the United States Department of Transportation (U.S. DOT), the City of Yerington (the City), as a designated recipient of Federal funds from the Federal Highway Administration (FHWA), must comply with the Disadvantaged Business Enterprise (DBE) goal setting provisions for Federally-assisted contracts.

To comply with 49 CFR § 26.45, the City established an overall DBE goal based on the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able firms within the Nevada airport construction industry. The City proposes to set an overall goal of 0.5%.

A. Step One - Determination of a Base Figure - §26.45 (c)

According to 49 CFR Part 26.45, paragraph (b), "Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on DOT-assisted contracts (hereinafter, "relative availability of DBEs"). The goal must reflect the DOT's determination of the level of DBE participation it would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market."

Under the regulation, 49 CFR Section 26.45 (c), recipients must begin the goal-setting process by determining a base figure for relative availability of DBEs.

1. Method Selected

The City began the goal setting process by determining a base figure that represents the relative availability of ready, willing, and able DBEs in its market area. The base figure is the point from which The City must begin when examining all evidence available in its jurisdiction. For its FY 2022 - 2024 base figure, The City primarily relied on data from the Nevada Unified Certification Program Certified DBE Vendor List through the Nevada Department of Transportation and the United States Census Bureau County Business Pattern (CBP) data, as provided by 49 CFR 26.45(c) (1), which recommended a DBE goal of 0.0%.

By using the Census Bureau's County Business Pattern (CBP) database, the City was able to determine the number of all ready, willing, and able businesses available in its market that perform work in the same North America Industrial Classification Systems (NAICS) code. We divided the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in the City's market area.

2. Market Area

The City first determined that the relevant geographic market area for its DBE Program is the entire state of Nevada. The City based its determination on data from past airport projects, which covered five Federal-aid construction and engineering contract bids between March 2007 and July 2018. The data indicated that 100 percent of contract dollars went to firms with locations in Nevada. Additionally, all of the 25 firms that bid on the Yerington Airport projects during that period were located in northern Nevada.

3. Description of Data Used

Data used in this calculation included prime and sub-contractors, consultants and sub-consultants, and other service providers that sought work on FAA-assisted construction projects in the local market area during the period of March 2007 – July 2018. Firms with NAICS codes that do not relate to Airport construction have not been included in the calculations.

The City has identified the following NAICS Codes as areas that have been utilized in DBE performance in Nevada:

237310 – Airport Runway Construction
237310 – Airport Runway Line Painting (e.g., Striping)
237310 – Runway, Airport, Line Painting (e.g., Striping)

According to the 2019 (latest) U.S. Census CBP database and most current NUCP Certified DBE Vendor List database, there are 51 firms across the state conducting business in the NAICS codes in which the City seeks participation and of those firms one is a certified DBE firm.

The City acknowledges that FAA encourages recipients to consider supplementing the number of firms in its DBE directory for the purposes of goal-setting by considering potential DBEs. The City has determined that its current goal-setting process truly reflects the actual availability of ready, willing, and able DBEs in the local market area without the necessity to include potential DBEs.

4. Calculations Performed

A. Relative Base Figure

Consistent with the Federal guidance, the base figure is calculated by taking the number of all DBEs firms that are ready, willing and able to compete for FAA-assisted contracts and dividing it by the numbers of all firms (DBEs and non-DBEs) that are ready, willing, and able to perform work under the same NAICS code. The result of the calculation is as follows:

Table 1: Relative Base Figure

NAICS Code	NO. OF AVAILABLE FIRMS		DBE PERCENT OF ALL AVAILABLE FIRMS		
	DBE Firms	All Firms	DBE %	Non-DBE %	ALL
237310	1	51	1.96%	98.04%	0.11%
238990	19	284	6.69%	93.31%	2.07%
541330	24	584	4.11%	95.89%	2.61%
Total	44	919	4.79%	95.21%	4.79%

The NAICS codes used in Table 1 include the following services/industries:

237310: Airport runway construction
237310: Airport runway line painting (e.g., striping)
237310: Runway, airport, line painting (e.g., striping)
238990: All other specialty trade contractors
541330: Civil engineering services
541330: Engineers' private practices
541330: Environmental engineering services
541330: Geological engineering services

As shown above, there is one DBE firm located within the State of Nevada that can perform runway and airport line striping, although there are no DBE firms that can perform airport runway construction within the State of Nevada. However, there are some specialty trade and engineering service providers.

B. Step Two - Adjustments - §26.45 (d)

DBE regulations 49 CFR §26.45 (d), require that once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal.

- There are many factors that must be considered when adjusting the base figure which include:
 - (i) The current capacity of DBE's to perform work in your DOT-assisted contracting program as measured by the volume of work DBEs have performed in the past years;
 - (ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and
 - (iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.
- If available, you must consider evidence from related fields that affect opportunities for DBEs to form, grow and compete. These include, but are not limited to:
 - (i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in the program;
 - (ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to opportunities for DBEs to perform in your program.
- If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on a demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought."

The City examined all available evidence to determine what adjustments, if any, are needed to the base figure to determine a final overall goal. In compliance with this requirement, the City has considered when and where available the following factors:

- Past DBE participation;
- Data on employment, self-employment, education and training, union apprenticeship programs; and
- Any other data that would help to better measure the percentage of work that DBEs would be likely to obtain in the absence of discrimination.

C. Past Participation

Consistent with 49 CFR 26.4S(d)(1)(i) and FAA guidance, the City considered a Median Past DBE Participation (MPP) adjustment based on the demonstrated capacity of DBEs to perform work on the City's federally assisted contracts, measured by the awards, commitments, and subcontract amounts for DBE firms over the past ten (10) fiscal years: 2007 - 2018. For this, the City determined that the data from past projects was the most relevant and reliable data available.

From FY 2007 through FY 2018, DBEs performed 0% of the FAA aid amount on City airport projects. Consequently, the median past participation for these years is 0%.

Table 2: Contracts

Fiscal Year	FAA Assisted Contracts	Expenditures to DBEs	Attainment of DBE Goal
2007	\$54,335	\$0	0%
2008	\$95,730	\$0	0%
2009	\$97,809	\$0	0%
2011	\$342,000	\$0	0%
2014	\$385,000	\$0	0%
2018	\$2,416,000	\$0	0%

The adjustment base figure taken from the median MPP percentage of 0% and the base figure percentage of 4.79% from Table 1 calculates an average of 2.39%. If only considering the DBEs under the 237310 NAICS code for the construction and striping of airports and runways, the adjustment base figure is 0.98%.

D. Other Evidence Considered

With the exception of Reno, Nevada, northern Nevada is a relatively small construction market. Airport projects are particularly rare and there are few contractors, both non-DBE and DBE, who have the capability to do airport work.

Due to the above factors, the City is proposing to continue a 0.5% DBE goal for fiscal years 2022-2024. The City believes that a 0.5% goal is reasonable considering the current and projected availability of ready, willing, and able DBEs, and the capacity of Nevada certified DBEs.

E. Public Participation - §26.45 (g)

The City, as a matter of course and in compliance with the applicable Regulations, will, as soon as possible, announce its Proposed Triennial DBE Goal and provide for a "Public Comment Period." The announcement and publication will be through different mediums including the following:

- Nevada Press Association

And through the following organizations:

- Association of General Contractors
- Asian American Chamber of Commerce
- American Indian Chamber of Commerce
- Latin Chamber of Commerce
- National Association of Minority Contractors-Nevada Chapter
- National Association of Women Business Owners-Nevada Chapter
- Nevada Minority Supplier Development Council
- Urban Chamber of Commerce

A Sample of the Proposed Announcement is attached: See attached "NOTICE". Opportunities will be provided for written public comments. Written comments will be submitted through the electronic media at: danny@farrwestengineering.com or by regular mail to:

Farr West Engineering
C/O Danny Sommers
5510 Longley Lane
Reno, Nevada 89511

F. Conclusion

The City's goal methodology is consistent with the requirements of 49 CFR § 26.45 and reflects the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able businesses within the Nevada Airport construction industry. The City has used all available evidence to set an overall goal of 0.5%.

If you have any questions regarding this proposed DBE goal for the triennium (2022-2024), please feel free to contact me at (775) 853-7265.

NOTICE

City of Yerington Disadvantaged Business Enterprise (DBE) Goal for Federal Aviation Administration Contracts Only

Notice is hereby given that in accordance with 49 CFR Part 26 of the US DOT, the City of Yerington (the City) has established a Disadvantaged Business Enterprise Program that incorporates disadvantaged businesses participation in projects funded in whole or in part with Federal Aviation Administration (FAA) funds.

For federal fiscal years (FFY) 2022-2024, the City has established a DBE goal of 0.5%. The City intends to meet this entire 0.5% goal by race-gender conscious and neutral means.

Contractors/Providers/Suppliers/Consultants should examine each element (line item) of work on all Federally Funded projects for DBE subcontracting or sub-consulting opportunities.

Interested parties may view the City's DBE Program and FAA Goal Methodology for the next 30 business days at the City Hall, 14 East Goldfield Avenue, Yerington, Nevada 89447 during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday). Appointments are not necessary but would be appreciated. Appointments can be scheduled by telephone at (775) 463-3511.

All written comments should be forwarded to:

Danny Sommers, Farr West Engineering, 5510 Longley Lane, Reno, NV 89511 or by e-mail to danny@farrwestengineering.com

ATTACHMENT 6

Demonstration of Good Faith Efforts Form

ASSURANCE OF DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

To meet the mandated requirements of the United States Department of Transportation, 49 CFR Part 23, the assurance below shall be signed by the bidder and submitted prior to award of the contract.

NOTE: The bidder's execution of the signature portion of this proposal shall also constitute execution of this assurance.

Bidder's Assurance of Compliance With Title 49 CFR Part 23 Relating To Disadvantaged Business Enterprise Participation

The bidder hereby gives assurance pursuant to the requirements of Title 49 CFR Part 23 that bidder has made a reasonable effort to meet the goals for Disadvantaged Business Enterprise participation specified for the contract for which this proposal is submitted and that bidder, if the contract is awarded to bidder, will have a DBE participation of 0.5% percent of the amount of this bid. Bidder further gives assurance that bidder will submit the documentation required by said Regulations and the contract specifications, including the Listing of Disadvantaged Business Enterprises with which the bidder will subcontract if the contract is awarded and if bidder is unable to meet the contract goals for DBE participation, of the steps bidder has taken to obtain DBE participation.

(Name and Title of Signer)

Signature

Date

Company Name _____

Business Address _____

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

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

Breach of contract action, pursuant to the terms of the contract, as follows;

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

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

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

ATTACHMENT 8

DBE Certification Application Form



UNIFORM CERTIFICATION APPLICATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) /
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
49 C.F.R. Parts 23 and 26

Roadmap for Applicants

1. Should I apply?

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed \$23.98 million in gross annual receipts for DBE (\$56.42 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

2. How do I apply?

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

3. Where can I send my application? [INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION]

4. Who will contact me about my application and what are the eligibility standards? A transportation agency in your state that performs certification functions will contact you. The agency is a member of a statewide Unified Certification Program (UCP), which is required by the U.S. Department of Transportation. The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

5. Where can I find more information?

U.S. DOT—<https://www.transportation.gov/civil-rights> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS):
<http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §26.5 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §23.3. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 2, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 C.F.R. Parts 180 and 1200, No procurement Suspension and Department, take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.



INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UNIFORM CERTIFICATION APPLICATION

NOTE: All participating firms must be for-profit enterprises. If your firm is not for profit, then you do **NOT** qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information

- (1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website addresses, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

B. Prior/Other Certifications and Applications

- (10) Check the appropriate box indicating whether your firm is currently certified in the DBE/ACDBE programs, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of state/UCP members that conducted the review.
- (11) Indicate whether your firm or any firms owned by the persons listed has ever been denied certification as a DBE/ACDBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

Section 2: GENERAL INFORMATION

A. Business profile:

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.

- (2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.
- (3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.
- (4) State the date each person became a firm owner.
- (5) Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (6) Check the appropriate box that indicates whether your firm is "for profit." If you checked "No," then you do **NOT** qualify for the DBE/ACDBE program and should not complete this application. All participating firms must be for-profit enterprises. Provide the Federal Tax ID number as stated on your firm's Federal tax return.
- (7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. If you checked "Other," briefly explain in the space provided.
- (8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.
- (9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firm(s) Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

B. Relationships and Dealings with Other Businesses

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral