

POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

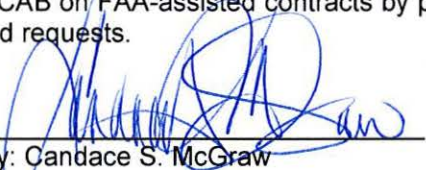
The Kenton County Airport Board ("KCAB") has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. KCAB has received Federal financial assistance from the FAA, and as a condition of receiving this assistance,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

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

1. To ensure nondiscrimination in the award and administration of FAA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FAA-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 a DBE;
5. To help remove barriers to the participation of DBEs in FAA-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Mr. Joseph Huber has been delegated as the DBE Liaison Officer. In that capacity, Mr. Joseph Huber 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 KCAB in its financial assistance agreements with the FAA.

KCAB has disseminated this policy statement to all components of our organization. KCAB has distributed this statement to DBE and non-DBE business communities that perform work for KCAB on FAA-assisted contracts by posting it on KCAB maintained websites and by reference in bid requests.


By: Candace S. McGraw
Its: Chief Executive Officer

10/1/17
Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.3 Applicability

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

Section 26.5 Definitions

KCAB adopts the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

KCAB 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, KCAB 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(b)

KCAB will submit its accomplishments annually on the Uniform Report of DBE Commitments/Awards and Payments via the FAA Civil Rights Connect Online Reporting System.

Bidders List: 26.11(c)

KCAB will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on FAA-assisted contracts. 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 KCAB's FAA-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, and DBE or non-DBE status of firms. KCAB will obtain gross receipts information by requesting firms to identify which range (e.g. less than \$1,000,000; \$1,000,001 - \$2,000,000, etc.) the firm's gross receipts falls into.

KCAB will collect this information by reviewing and recording firms that:

- 1) submitted bids on previous projects and contracts; and,
- 2) were proposed and/or used as subcontractors on previous projects and contracts.

The form used to collect this information is included as Attachment 6 to this program.

Section 26.13 Federal Financial Assistance Agreement

KCAB has signed the following assurances, applicable to all FAA-assisted contracts and their administration:

Assurance: 26.13(a)

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

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

Contract Assurance: 26.13b

KCAB will ensure that the following clause is placed in every FAA-assisted contract and requirements that it be included in every subcontract to an FAA-assisted contract:

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since KCAB has received a grant of \$250,000 or more for airport planning or development, KCAB will continue to carry out this program until all funds from FAA financial assistance have been expended. KCAB will provide updates to FAA representing significant changes in the program.

Section 26.25 DBE Liaison Officer (DBELO)

KCAB has designated the following individual as our DBE Liaison Officer:

Mr. Joseph Huber
Kenton County Airport Board
77 Comair Blvd
Erlanger, Kentucky 41018
(859) 767-3189
Email: jhuber@cvgairport.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that KCAB complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to Candace S. McGraw, Chief Executive Officer, concerning DBE program matters.

The DBELO 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 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 (both race-neutral methods and contract specific goals attainment).
6. Determines bidder/contractor compliance with good faith efforts.
7. Analyzes KCAB's progress toward attainment and identifies ways to improve progress.
8. Participates in pre-bid meetings.
9. Advises the CEO and governing body on DBE matters and achievement.
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 in Kentucky.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of KCAB 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 FAA-assisted contract to use these institutions.

KCAB reviewed information taken from the Federal Reserve Website, www.federalreserve.gov, which showed that there are no such institutions located within the normal market area or

Commonwealth of Kentucky. KCAB will periodically investigate whether new financial institutions owned and controlled by socially and economically disadvantaged individuals have been established in the community and shall make reasonable efforts to use these institutions and encourage prime contractors on FAA-assisted contract to use these institutions

Section 26.29 Prompt Payment Mechanisms

KCAB has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

KCAB 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. Per the General Provisions of Advisory Circular 150-5370-10G included in each FAA-assisted construction contract, KCAB will hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor to comply with this requirement

KCAB 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 KCAB. When KCAB 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.

KCAB will provide appropriate means to enforce the requirements of this section. These means may include:

1. Requiring and reviewing certification and/or lien waivers from subcontractors that the subcontractor has been paid before releasing further payment to the prime contractor;
2. Inserting a contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed;
3. Termination of contract for breach of the prompt payment provisions if left uncured for 15 days or more;
4. Responsibility determinations in future bids/contracts; and,
5. Seeking suspension and debarment of the prime contractor from future KCAB bids/contracts for a specified period of time.

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

For professional services:

The prime consultant agrees to pay each sub-consultant under this prime contract for satisfactory performance of its contract no later than ten (10) business days from the receipt of each payment the prime consultant receives from KCAB. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of KCAB. This clause applies to both DBE and non-DBE sub-consultants. A violation of the prompt payment provision is grounds for KCAB to terminate this contract.

For contractor:

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. The Owner must 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. 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 Owner. When the Owner 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. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of KCAB. This clause applies to both DBE and non-DBE subcontractors. A violation of the prompt payment provision is grounds for KCAB to terminate this contract.

Monitoring Payments to DBEs

KCAB 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 KCAB, FAA, or DOT. This reporting requirement also extends to any certified DBE subcontractor.

KCAB performs 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 Kentucky Transportation Cabinet's Office for Civil Rights & Small Business Development maintains the Commonwealth's directory identifying all firms eligible to participate as a DBE. 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.

This directory is available online at <http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/Certified-DBE-Directory.aspx>

KCAB also provides multiple links on the KCAB maintained website to the Office for Civil Rights & Small Business Development website and the certified DBE directory.

Section 26.33 Overconcentration

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

Section 26.35 Business Development Programs

KCAB has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. KCAB will bring to the attention of the FAA any false, fraudulent, or dishonest conduct in connection with the program, so that FAA 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. KCAB will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 4 lists the regulation, provisions, and contract remedies available to KCAB in the event of non-compliance with the DBE regulation by a participant in our procurement activities.
3. KCAB will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by on-site verification of DBE provided labor and by keeping a running tally of actual payments to DBE firms for work committed to them at the time of contract award.
4. KCAB will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by: a) verification through jobsite interviews with subcontractor employees; b) certifications, signed by both the prime contractor and DBE subcontractor(s), submitted with payment requests specifying the work performed by the DBE subcontractor(s) and certifying it was actually performed by the DBE subcontractor(s); and, c) comparing certifications with payment line items and commitments submitted with the prime contractor's bid.
5. KCAB will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to FAA, KCAB will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 Fostering Small Business Participation

KCAB has created a small business element to structure contracting requirements to facilitate competition by small business concerns, taking 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.

KCAB's small business element is incorporated as Attachment 8 to this DBE Program and KCAB will actively implement the program elements to foster small business participation.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 1 to this program. This section of the program will be updated every three years.

In accordance with Section 26.45(f) KCAB will submit its overall 3-year goal to FAA on August 1 of every third year with the next 3-year goal submitted by August 1, 2016. Before establishing the overall 3-year goal, KCAB will consult with professional organizations, regional minority business groups, and such other groups as KCAB may deem appropriate to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and KCAB's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, KCAB will release a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at KCAB's administrative offices for 30 days following the date of the notice, and informing the public that KCAB and FAA will accept comments on the goals for 45 days from the date of the notice. Normally, KCAB will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to FAA will include a summary of information and comments received during this public participation process and KCAB's responses.

KCAB will begin using our overall goal on October 1 of each year, unless we have received other instructions from FAA. If a goal is established on a project basis, KCAB will begin using the goal by the time of the first solicitation for a FAA-assisted contract for the project.

Section 26.47 Failure to meet overall goals.

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

If the awards and commitments shown on our 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, KCAB will:

1. Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year; and,
2. Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to fully meet the goal for the new fiscal year.

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

The breakout of estimated race-neutral and race-conscious participation can be found as part of the overall goal in Attachment 1 to this program. This section of the program will be updated every three years when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

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

KCAB will establish contract goals only on those FAA-assisted contracts that have subcontracting possibilities. It is not necessary to 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).

KCAB will express our contract goals as a percentage of the federal share of an FAA-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

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

KCAB's DBELO, Mr. Joseph Huber, 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.

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

Information to be submitted (26.53(b))

KCAB treats bidder/offerors' compliance with good faith efforts requirements as a matter of responsiveness.

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

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

Administrative reconsideration (26.53(d))

Within five (5) days of being informed by KCAB that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration.

Bidder/offeror should make this request in writing to the following reconsideration official:

Mr. Scott Gibbons, Vice-President of Administration

P.O. Box 752000
Cincinnati, OH 45275-2000
(859) 767-4793
Email: sgibbons@cvgairport.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 so. KCAB 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 DOT.

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

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

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

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

The prime contractor must give the DBE five (5) days to respond to the prime contractor's notice and advise KCAB and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why KCAB should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), KCAB may provide a response period shorter than five days.

If the contractor fails or refuses to comply in the time specified, the KCAB department responsible for the project will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, KCAB may issue a termination for default proceeding.

Each solicitation for which a contract goal is established will include a provision requiring a bidder/offeror to submit information concerning DBE participation. Therefore, the following provisions stating the specific contract goal will be included in such solicitation and contract documents:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of KCAB to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of # percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in 49 CFR Part 26 Appendix A, to meet the contract goal for DBE participation in the performance of this contract.

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

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

To be certified as a DBE, a firm must meet all certification eligibility standards. Certification decisions are based on the facts as a whole.

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

Office for Civil Rights & Small Business Development
200 Mero Street
Frankfort, KY 40622
(502) 564-3601
<http://transportation.ky.gov/civil-rights-and-small-business-development/Pages/default.aspx>

Links to certification application forms and documentation requirements are found in Attachment 3 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

KCAB is a member of the Kentucky Unified Certification Program (KUCP) administered by the Commonwealth of Kentucky Transportation Cabinet (KYTC).

All certification procedures will be handled through the KYTC pursuant to the August 9, 2010 Agreement Establishing a Unified Certification Program for Disadvantaged Business Enterprises in the Commonwealth of Kentucky between KCAB and the Commonwealth of Kentucky Transportation Cabinet.

Section 26.89 Certification Appeals

Any firm or complainant may appeal a decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: (202) 366-4754
Fax: (202) 366-5575

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

KCAB will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law including, but not limited to, the Commonwealth of Kentucky's Open Records Act (KRS Chapter 61.870 et seq.).

Notwithstanding any contrary provisions of state or local law, KCAB will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FAA) without the written consent of the submitter.

ATTACHMENTS

Attachment 1	Overall Goal Calculation and Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 2	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 3	Certification Application Forms
Attachment 4	Monitoring and Enforcement Mechanisms
Attachment 5	Regulations: 49 CFR Part 26
Attachment 6	Bidders' List Collection Form
Attachment 7	Organizational Chart
Attachment 8	Small Business Element

Attachment 1

Section 26.45: Overall Goal Calculation

KENTON COUNTY AIRPORT BOARD OVERALL DISADVANTAGED BUSINESS ENTERPRISE GOAL FISCAL YEARS 2017-2019

INTRODUCTION

The Kenton County Airport Board (KCAB), operator of the Cincinnati/Northern Kentucky International Airport (CVG), located in Hebron, Boone County, Kentucky derived the overall Disadvantaged Business Enterprise (DBE) Program Goal in a method consistent with the requirements of 49 CFR Section 26.45.

The Chief Executive Officer (CEO) at CVG is Candace S. McGraw, (859) 767-3153; Fax (859) 767-3080.

PROCEDURES FOR SETTING ANNUAL OVERALL GOAL

KCAB staff reviewed the type, nature and number of Airport Improvement Program (AIP) funded projects which are planned for Fiscal Years 2017-2019. KCAB then evaluated the number of purchase contracts, the number of DBE contractors known to KCAB by reason of past bids, and the individual contracting opportunities contained within each project.

In accordance with Section 49 CFR Part 26.45(f)(1), KCAB submits its overall goal for three year intervals to the Federal Aviation Administration Office of Civil Rights. In establishing the goal for Fiscal Years 2017-2019, KCAB staff reviewed prior KCAB projects and prior DBE participation. KCAB staff reviewed county census patterns for the NAICS codes which are expected to compete for projects planned for FY 2017 – 2019. KCAB staff also reviewed DBE goals of other recipients within the region. KCAB staff performed these evaluations to obtain information concerning the availability of disadvantaged businesses to participate in KCAB projects, the effects of past discrimination on DBEs to participate in KCAB projects, and to evaluate KCAB's efforts to establish a level playing field for DBE participation in KCAB projects.

CONTRACT GOAL

Pursuant to 49 CFR 26 KCAB identified the following AIP eligible contracts expected to be let during the Fiscal Years 2017, 2018, and 2019.

FY-2017	Noise Exposure Map Update	\$ 200,000
FY-2017	Concourse C Aircraft Parking Apron and Deice Pad	\$ 8,050,000
FY-2017	Concourse A Apron Rehabilitation	\$ 1,000,000
FY-2017	Taxiway S Slab Replacement	\$ 1,200,000
FY-2017	East Service Road Rehab	\$ 1,350,000
FY-2017	Environmental System Expansion Project	\$ 5,700,000
FY-2017	Squitters for ARFF Vehicles	\$ 500,000
FY-2017	Master Plan Study Update	\$ 2,000,000
FY-2017	Concourse A Bag Make-Up	\$ 3,000,000
FY-2017	Common Use Bag Drop	\$ 1,500,000
FY-2017	General Aviation Customs Facility	\$ 750,000
FY-2017	Concourse B Roof Replacement	\$ 8,753,000
FY-2017	Replace/Upgrade Radio System	\$ 3,339,000
FY-2018	CCTV Server and Data Storage Replacement	\$ 840,000
FY-2019	Runway 9/27 Rehabilitation and Shoulder Widening	\$50,000,000
	Total:	\$88,182,000

MARKET AREA

Pursuant to 49 Part 26.45, the overall goals are based upon the availability of ready, willing and able DBE firms in the Normal Market Area (NMA). KCAB identified its NMA by examining its AIP projects for Fiscal Years 2012-2016. The NMA consists of Boone, Kenton, and Campbell Counties in Northern Kentucky; Hamilton, Butler, Warren, Clermont, Montgomery, and Franklin Counties in Ohio; and Dearborn County, Indiana. The NMA is proper because of geographic location and on average during Fiscal Years 2012-2016 KCAB awarded approximately 90% of its contracting dollars on AIP projects to contractors in these 10 counties and nearly 70% of the total bidders were located within these 10 counties.

FY2012	Total AIP Contracts Amount	Percentage of Total Contract Dollars	Total Number of Bidders	Percentage of Total Bidders
Normal Market Area	\$30,869,276.40	100%	11	55%
Outside Market Area	\$0.00	0%	9	45%
Totals	\$30,869,276.40	100%	20	100%

FY2013	Total Contracts Amount	Percentage of Total Contract Dollars	Total Number of Bidders	Percentage of Total Bidders
Normal Market Area	\$3,697,983.00	100%	30	81%
Outside Market Area	\$0.00	0%	7	19%
Totals	\$3,697,983.00	100%	37	100%

FY2014	Total Contracts Amount	Percentage of Total Contract Dollars	Total Number of Bidders	Percentage of Total Bidders
Normal Market Area	\$11,526,681.21	83.0%	217	87%
Outside Market Area	\$2,334,858.00	17.0%	33	13%
Totals	\$13,861,539.21	100%	250	100%

FY2015	Total Contracts Amount	Percentage of Total Contract Dollars	Total Number of Bidders	Percentage of Total Bidders
Normal Market Area	\$32,109,722.98	86%	240	63%
Outside Market Area	\$5,031,959.74	14%	144	37%
Totals	\$37,141,682.72	100%	384	100%

FY2016	Total Contracts Amount	Percentage of Total Contract Dollars	Total Number of Bidders	Percentage of Total Bidders
Normal Market Area	\$18,623,433.19	82%	149	56%
Outside Market Area	\$4,220,554.38	18%	119	44%
Totals	\$22,843,987.57	100%	268	100%

Step 1: 49 CFR 26.45(c)

To determine the percentage of DBE's, both prime and subcontractors, that are ready, willing and able to compete for contract work at CVG, the Step 1 Base Goal, the following steps were taken:

1. KCAB's Planning and Development and Capital Accounting Departments identified the proposed projects for Fiscal Years 2017-2019 likely to receive FAA funding assistance.
2. KCAB's Contract and Procurement Administration Department worked with the departments assigned to the projects to identify the types of work to be completed on each project and estimated the percentage of dollars expected to be performed under each NAICS Code as compared to the total contract price.
3. The types of work identified were classified under the appropriate NAICS Code.
4. The total number of contracting firms in the identified NMA classified under each identified NAICS code was calculated using the information available on the U.S. Census Bureau's 2014 County Business Patterns report.
5. The number of DBE firms in the NMA classified under each identified NAICS code was calculated relying on the information contained in the certification lists published and maintained by the Kentucky Transportation Cabinet, the Ohio Unified Certification Program, and the Indiana Department of Transportation.
6. The list of certified DBE firms was reviewed to ensure that each firm was ready, willing and able to perform the type of work included in the FY2017-2019 identified projects. If a DBE firm was excluded then both the number of DBE firms and the total number of firms included under that NAICS code were reduced accordingly.
7. The number of DBE firms in each NAICS code was divided by the total of all firms in that NAICS code. This quotient was then weighted by multiplying by the percentage of contract dollars estimated to be expended on the work in that NAICS code.
8. The weighted totals were then added to arrive at the base goal for each fiscal year. Fiscal Years 2017-2019 were then added and divided by three to arrive at the overall Step 1 Base Goal of 9.76%.

FY2017 Calculations:

NAICS	Type of Work	DBE Firms	All Firms	% of Total 2017 Contracts	Weighting: ((DBE/All firms) x %) x 100
237310	Taxiway/Roadway	21	88	22	5.25
238160	Roofing	8	204	19.4	0.76
238210	Electrical	17	616	4.8	0.13
238220	Mechanical/Plumbing	6	921	6.4	0.04
238910	Site Work	22	250	8	0.70
237110	Stormwater Basin Liner & Cover	4	79	3.8	0.19
238990	Fencing	21	270	0.8	0.06
238350	Finish Carpentry	2	199	0.2	0.002
238130	Framing Carpentry	5	67	0.9	0.07
334220	Transceiver Equipment	0	0	10.3	0.00
333922	Baggage Handling Systems	0	0	6.0	0.00
561730	Landscaping	15	1077	0.8	0.01
541330	Engineering Services	37	669	9.4	0.51
541310	Architectural Services	16	268	4.4	0.26
541620	Environmental Consulting Services	16	102	2.8	0.44
					FY2017 Base Goal: 8.45%

FY2018 Calculations:

NAICS	Type of Work	DBE Firms	All Firms	% of Total 2018 Contracts	Weighting: ((DBE/All firms) x %) x 100
334220/ 517110	Transceiver Equipment/CCTV	0	0	60	0.00
238210	Electrical	17	616	25	0.69
541512	Design/Project Management	23	511	15	0.68
					FY2018 Base Goal: 1.37%

FY2019 Calculations:

NAICS	Type of Work	DBE Firms	All Firms	% of Total 2019 Contracts	Weighting: ((DBE/All firms) x %) x 100
237310	Taxiway/Roadway	21	88	76.6	18.28
238210	Electrical	17	616	6.8	0.19
238910	Site Work	22	250	1.7	0.15
541330	Engineering Services	37	669	15.0	0.83
					FY2019 Base Goal: 19.45%

3-year (FY2017-19) Base Goal: 9.76%

$$8.45\% \text{ (FY2017)} + 1.37\% \text{ (FY2018)} + 19.45\% \text{ (FY2019)} = 29.68 / 3 \text{ years} = \mathbf{9.76\%}$$

Step 2: 49 CFR 26.45(d)

After calculating the base figure of the relative availability of DBEs, evidence was examined to determine if an adjustment was needed in order to arrive at the overall goal. KCAB considered the past DBE participation level in AIP assisted contracts at CVG.

Fiscal Year	DBE Percentage Committed on AIP Funded Contracts Awarded
2011	60.29%
2012	0%
2013	25.78%
2014	17.06%
2015	6.2%

In considering past participation, KCAB noted that a significant contribution to past DBE participation in recent years was due to one DBE electrical subcontractor for airfield lighting and sign elements. All AIP funded contracts awarded during fiscal years 2011-2015 were airfield pavement rehabs with significant lighting and sign upgrade components. The participation on these components accounted for 56.8% of the 60.29% in commitments in 2011 (this project continued into 2012 and was the only AIP funded project for these fiscal years); 24% of the 25.78% in commitments in 2013; 17.06% of the 17.06% in commitments in 2014; and, 5.9% of the 6.2% in commitments in 2015. The projects currently included on the ACIP (with the exception of the potential FFY2019 runway project) do not have similar components; therefore, this past participation is not indicative of expectations for opportunities for future participation. Consequently, KCAB determined that a step 2 adjustment based on past participation is not necessary.

Additionally, KCAB reviewed the July 2015 City of Cincinnati Disparity Study (the "Study") since the Study area includes Hamilton County within KCAB's NMA. The Study noted disparities in utilization of minority (particularly African American) and non-minority women owned business on city contracts for professional services, construction, and supplies. However, the Study only encompassed one county of the 10 counties identified in the NMA. The Study did not provide a direct relation between the types of procurements let by the City of Cincinnati and those FAA-assisted contracts let by KCAB. Accordingly, KCAB decided that a Step 2 adjustment based on the Study is not necessary.

Per 49 CFR 26.45(d), after considering the evidence available, KCAB determined that a Step 2 adjustment was not necessary and was not made.

DBE 3-Year Overall Goal: 9.76%

Total Dollar Amount expected to be expended with DBEs:

\$3,155,399 (FY2017) + \$11,508 (FY2018) + \$9,725,000 (FY2019) = **\$12,891,907**

BREAKOUT OF ESTIMATED RACE-NEUTRAL and RACE CONSCIOUS PARTICIPATION

KCAB will meet the maximum feasible portion of its overall goal by using race/gender neutral means of facilitating DBE participation. KCAB uses the following race/gender neutral means to increase DBE participation:

1. Advertise bids in minority publications;
2. Advertise and post bids on CVG's website;
3. Directly notify women and minority groups, contractors, and suppliers of opportunities;
4. Conduct outreach programs;
5. Network with local minority groups and chambers of commerce; and,
6. Direct contractors to the certified DBE lists in Kentucky, Ohio, & Indiana.

KCAB reviewed the DBE goal accomplishments for Fiscal Years 2011-2015 to calculate the breakout of Race Neutral (RN) and Race Conscious (RC) participation. This review demonstrated that KCAB met or exceeded its goal four of the past five years. The **median** by which the goals were exceeded was 7.32%.

	FY2011	FY2012	FY2013	FY2014	FY2015
Overall Goal	8.14%	8.14%	8.14%	9.74%	5.47%
RC Goal	0	0	0	0	0
RN Goal	8.14%	8.14%	8.14%	9.74%	5.47%
Commitment	60.29%	0%	25.78%	17.06%	6.2%
RC Accomplish.	0	0	0	0	0
RN Accomplish.	60.29%	0%	25.78%	17.06%	6.2%
Exceeded Goal	52.15%	(8.14)%*	17.64%	7.32%	0.73%

* No new AIP funded projects awarded in FFY2012

Considering the median by which contractors have exceeded contract goals for Fiscal Years 2011-2015 KCAB estimates that, in meeting its overall goal of **9.76%**, KCAB will obtain 9.76% from race/gender neutral participation.

In order to ensure that KCAB's DBE program will be narrowly tailored to overcome the effects of past discrimination, KCAB will adjust the estimated breakout of race/gender neutral and race/gender conscious participation as needed to reflect actual DBE participation and KCAB will track and report race/gender neutral and race/gender conscious participation separately. For reporting purposes, race/gender neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
- DBE participation on a prime contract exceeding a contract goal; and
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

PUBLIC PARTICIPATION

Consultation: Section 26.45(g)(1).

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

In establishing the overall goal, KCAB provided for consultation and publication. This included consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and KCAB's efforts to establish a level playing field for the participation of DBEs. The consultation included discussions with attendees at pre-bid meetings and outreach events; participating in meetings/events hosted by local minority chambers of commerce, minority supplier development councils, and Airport Minority Advisory Council (AMAC); and, participation in regularly scheduled committee calls with the ACI-NA Business Diversity Committee.

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

Through various events and meetings KCAB presented to and/or participated in discussion about KCAB's DBE program and goal with the: Minority Business Accelerator – Cincinnati Regional Chamber of Commerce; Tri-State Minority Supplier Development Council (TSMSSDC); Ohio Minority Supplier Development Council (OMSDC); Greater Cincinnati Northern Kentucky African American Chamber-Commerce; KY Transportation Cabinet Office of Civil Rights & Small Business Development; Ohio Dept of Transportation; Small Business Summit; and, DBE-eligible and certified firms. KCAB received no specific comments on the goal or methodology.

KCAB published notice the overall goal for Fiscal Years 2017-2019 in the Cincinnati Enquirer and on the CVG website at www.cvgairport.com/about/biz/dbe. The notice, in accordance with 49 CFR Part 26, also informed the public that KCAB and the United States Department of Transportation will accept comments on the goal for forty-five (45) days from the date of the notice in the newspaper referred to above. KCAB made the rationale for the proposed overall goal, the nature of the projects, the methodology used in establishing the goals and any other pertinent information available for public inspection during normal working hours at its administrative offices. At the conclusion of the forty-five (45) days, no comments were received.

Attachment 2

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

FORM 2: LETTER OF INTENT

Name of bidder's firm: _____

Bidder's address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

.....
.....
.....
.....

The bidder intends to utilize the above-named DBE firm for the work described above. The estimated amount of work is valued at \$ _____.

Affirmation

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

By _____
(Signature) (Title)

If the above-named bidder is not determined to be the successful bidder, this Letter of Intent and Affirmation is null and void.

(Submit this page for each DBE subcontractor.)

Attachment 3

Certification Application Forms

The KUCP Uniform Certification Application is available at the following website:
<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Documents/New%20DBE%20Certification%20Application%2011-18-2014.pdf>

Interstate Certification Forms are also available at: <http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Documents/Interstate%20Certification%20Affidavit.pdf>

Attachment 4

Monitoring and Enforcement Mechanisms

KCAB 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. Similar actions pursuant to Kentucky revised Statutes;
3. Responsibility determinations in future bids/contracts; and
4. Violation of the Rules and Regulations of the Kenton County Airport Board.

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; and
3. Prosecution pursuant to 18 USC 1001.

Attachment 5

Regulations: 49 CFR Part 26

49 CFR Part 26 is available at

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

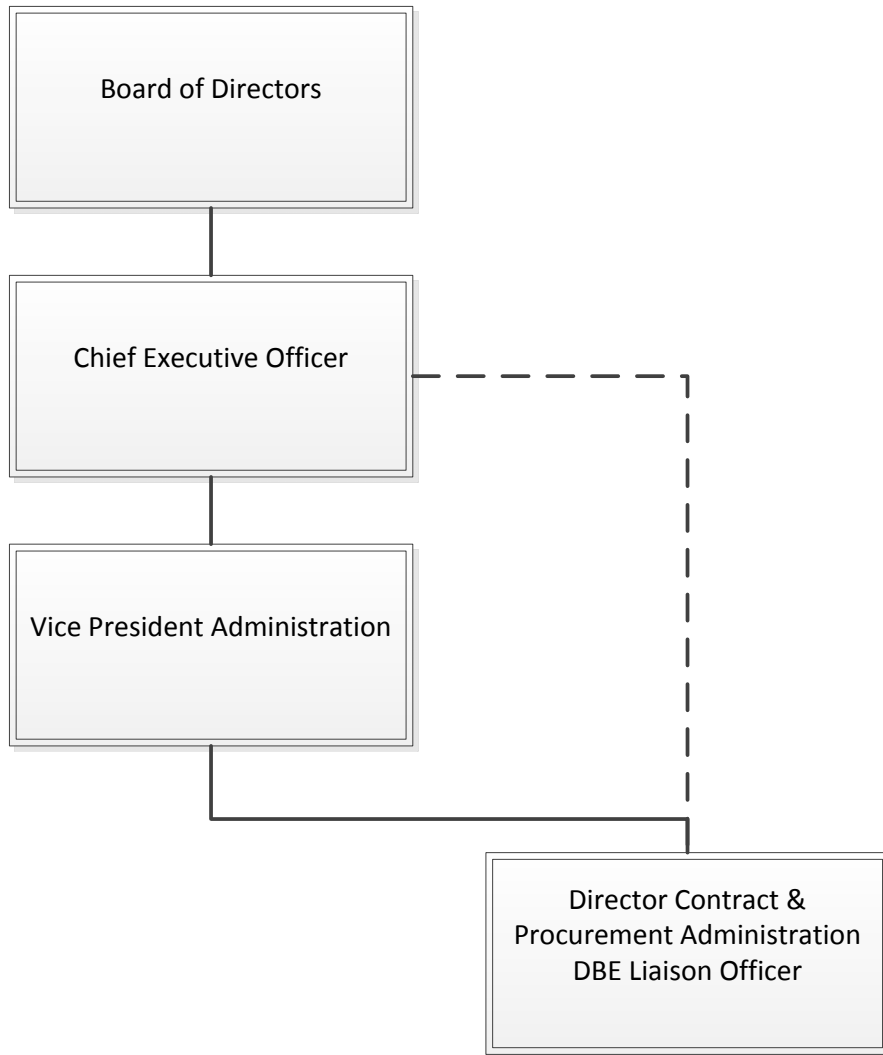
Attachment 6

Bidders' List Collection Form

Subcontractor Name	Subcontractor Address	Certified DBE (Y or N)	Years in this Business	GRS*	Estimated Subcontract Dollar Amount	Work to be Performed

*GRS - Annual Gross Receipts
Enter "1" for less than \$1 million
Enter "2" for more than \$1 million, less than \$5 million
Enter "3" for more than \$5 million, less than \$10 million
Enter "4" for more than \$10 million, less than \$15 million
Enter "5" for more than \$15 million

Attachment 7
Organizational Chart



ATTACHMENT 8

Small Business Element

In accordance with 49 CFR Part 26, KCAB's Small Business Enterprise (SBE) element of its DBE Program is intended to facilitate competition by, and expand opportunities for, all small businesses regardless of race, gender, or geographic location. KCAB is committed to taking reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or as subcontractors. DBE Program goals should be met through a mixture of race conscious and race neutral methods and, by definition, DBE firms are small businesses. Therefore, when KCAB is unable or does not expect to meet its goals through race neutral measures KCAB will use the following methods to meet the SBE objectives:

1. **SBE Project/Contract Goals:** Where feasible, KCAB will identify and establish an SBE goal that is a percentage of the total value of an FAA-assisted procurement. Bids submitted for FAA-assisted procurements that include an SBE goal must meet or exceed the SBE goal percentage, or evidence good faith efforts in the discretion of the DBELO, as a matter of bid responsiveness. This requires that KCAB and its prime contractors/consultants include a portion of the value of each identified contract for participation by small businesses. KCAB will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the goal percentage. The final determination will be made by the DBELO and based upon the estimated availability of small businesses that are able to provide the requisite scope(s) of work. These goals are in conjunction with the DBE contract goals which may be required pursuant to applicable law or policy. However, KCAB will not include an SBE goal for FAA-assisted contracts with a DBE contract goal. In the event that an SBE goal is not established on an FAA-assisted contract, KCAB will document why an SBE goal was not established.
2. **Unbundling:** KCAB, where feasible, may unbundle projects or separate large contracts into smaller contracts which may be more suitable for small business participation. KCAB will review FAA-assisted procurements to determine whether portions could be unbundled or bid separately. This determination will be made by the DBELO and based upon the estimated availability of small businesses that are able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, KCAB will encourage its prime contractors/consultants to unbundle contracts to facilitate participation by small businesses. KCAB will assist prime contractors/consultants in identifying portions of work which may be unbundled and performed by small businesses. KCAB will document the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.
3. **Outreach and technical assistance:** KCAB will continue to conduct and participate in outreach and training opportunities for small businesses through various partnerships. Additionally, KCAB advertises opportunities through its website and various media, including, but not limited to, local newspapers, minority-based organizations, trade publications, direct e-mail, and local chambers of commerce.

SBEs which are awarded contracts under this program and are also owned and controlled by socially and economically disadvantaged individuals will be encouraged to seek DBE certification in order to be counted towards race-neutral DBE participation. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

Certification and Verification Procedures

A small business concern must be certified by a certifying agency in its home state or locality. Firms competing on, or presented as a subcontractor for, FAA-assisted contracts let by KCAB as a small business concern will be required to submit evidence of certification. KCAB will accept the following certifications for participation as an SBE under this program:

1. Kentucky Transportation Cabinet (KYTC) SBE certification
2. KYTC DBE certification
3. Ohio Department of Transportation (ODOT) SBE certification
4. ODOT DBE certification
5. Small Business Administration (SBA) small business certification as evidenced in the System for Award Management (SAM) database.

KCAB will consider small business certifications from other government agencies. If, in KCAB's sole discretion, the certification procedures of the proffered agency is consistent with the objectives of this small business element, KCAB and its prime contractors/consultants may count participation of SBEs certified by the proffered agency.

KCAB will verify eligibility by checking the directories and/or databases maintained by the certifying agencies noted above. The SBE's eligibility must be current as of the date of the bid opening to be counted as participation.

Implementation Schedule

KCAB will implement updates to the small business element of KCAB's DBE Program within nine (9) months of the FAA's approval of this element.

Assurances

As part of the small business element of its DBE Program, KCAB makes the following assurances:

1. The DBE Program small business element is not prohibited by Kentucky law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element;
3. There are no geographic or local preferences or limitations imposed on any FAA-assisted procurement;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program and reasonable efforts will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
5. Aggressive steps will be taken to encourage those DBE-eligible minority and women owned firms participating in the small business element to become certified; and,
6. The program is open to small businesses regardless of their location.