

WESTMORELAND COUNTY AIRPORT AUTHORITY

DBE PROGRAM

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

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

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

Carol Johnston, WCAA Human Relations Director, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, Ms. Johnston is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Westmoreland County Airport Authority in its financial assistance agreements with the Department of Transportation.

The Westmoreland County Airport Authority has disseminated this policy statement to the Westmoreland County Commissioners and all of the components of our

8/28/2018

organization. We have distributed this statement to DBE and non-DBE business communities that perform or are interested in performing work for us on DOT-assisted contracts.

Gabriel E. Monzo, Executive Director

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

The Westmoreland County Airport Authority is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The Westmoreland County Airport Authority will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

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

In administering its DBE program, the Westmoreland County Airport Authority 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) WCAA must continue to provide data about its DBE Program to the Department as directed by DOT operating administrations.

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in Appendix B to this part. We will also report the DBE contractor firm information either on the FAA DBE Contractor's Form or other similar format. We will begin using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY 2015 reports due December 1, 2015.

Bidders List: 26.11(c)

The Westmoreland County Airport Authority will create and maintain a bidders list. 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 our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information in the following ways:

We will include a copy of the survey form in Attachment 3 with all bid packages that are distributed to prime contractors for bid. We will request that not only they fill it out but that they also have any subcontractors that they have quote for them, either DBE or non-DBE's, also fill a survey out and return all of them with their bid.

Section 26.13 Federal Financial Assistance Agreement

The Westmoreland County Airport Authority has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

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

The Westmoreland County Airport Authority 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 Westmoreland County Airport Authority 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 Westmoreland County Airport Authority'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 the Westmoreland County Airport Authority of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: 26.13b – The Westmoreland County Airport Authority will ensure that the following clause is included in each contract we sign with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of 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 Westmoreland County Airport Authority deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The Westmoreland County Airport Authority is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer: Carol Johnston, WCAA Human Relations Director, Westmoreland County Airport Authority, 148 Aviation Lane, Latrobe, PA 15650, phone 724-539-8100 ext. 720, email Carol@palmerairport.com.

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of 1 plus access to legal and engineering consultants to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by 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) and monitors results.
6. Analyzes Westmoreland County Airport Authority's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Acts as liaison to the Uniform Certification Process.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the agency's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the Westmoreland County Airport Authority to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. To date we have not identified any such institutions in the area. The local share of AIP funded projects is borne by the WCAA through its County Construction fund or PFC's. Several local banks are used as depositories for Authority funds.

We will continue to contact the local Chamber of Commerce and check the PA UCP for information on available DBE financial institutions at least yearly.

Section 26.29 Prompt Payment Mechanisms

The Westmoreland County Airport Authority 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 WCAA makes to the prime contractor.

We 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.

We will use the following method to comply with this requirement:

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 WCAA's payment to the prime contractor.

The Westmoreland County Airport Authority will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Westmoreland County Airport Authority. When the Westmoreland County Airport Authority has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

The Westmoreland County Airport Authority will provide appropriate means to enforce the requirements of this section. Noncompliance with this prompt payment policy by a prime contractor will result in the following:

Suspension of payments to the prime contractor for work performed by a subcontractor unless and until the prime contractor provides proof that the subcontractors have been paid for the work that they have performed.

If the prime contractor continues to withhold payment to subcontractors, then the payment to the prime contractor will be withheld or liquidated damages will be deducted as of project substantial completion for work performed by the involved subcontractors until evidence of payment is presented to the Authority or an appropriate alternate dispute resolution mechanism (arbitration) resolves the dispute between the prime and the subcontractor.

The Westmoreland County Airport Authority will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Westmoreland County Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Westmoreland County Airport Authority. This clause applies to both DBE and non-DBE subcontractors.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be

made available for inspection upon request by any authorized representative of the Westmoreland County Airport Authority or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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

Section 26.31 Directory

The Westmoreland County Airport Authority uses the State of Pennsylvania DBE directory, maintained by the PA UCP.

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

The state UCP revises the Directory at least annually. The Directory may be found at <http://www.paucp.com>.

Section 26.33 Over-concentration

The Westmoreland County Airport Authority has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Westmoreland County Airport Authority has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The Westmoreland County Airport Authority will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation,

3. provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our DBE Program.
4. We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
5. We 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 our engineering consultant tracking each construction contract for DBE utilization and the resident project representative verifying that the DBE performed the committed work at the site.
6. We 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 DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 Fostering small business participation.

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

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

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The Westmoreland County Airport Authority will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In

accordance with Section 26.45(f) the Westmoreland County Airport Authority will submit its Overall Three-year DBE Goal to FAA by August 1st as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Hub Primary	All Regions	August 1, 2018 (2019/2020/2021)	August 1, 2021 (2022/2023/2024)

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

(c) Step 1. The first step is to determine the relative availability of DBEs in the market area, "base figure". We will use *DBE Directories and Census Bureau Data, and a Bidders List*, as a method to determine our base figure. The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on Contracts.

If we use a bidders list, we will do the following: Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on WCAA's DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in WCAA's market. When using this approach, we will establish a mechanism (documented in our goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on our DOT-assisted contracts.

Any methodology we choose 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 our market. We understand 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 paragraph (c)(2) of this section (above), is not an acceptable alternative means of determining the availability of DBEs.

(d) Step 2. Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not

suggest an adjustment is necessary, then no adjustment shall be made.

26.45 (g)(1) In establishing the overall goal, the Westmoreland County Airport Authority will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Westmoreland County Airport Authority's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the Westmoreland County Airport Authority's goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in.

Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, the Westmoreland County Airport Authority will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on our official internet web site and advertised in the local newspaper. If the proposed goal changes following review by the operating administration, the revised goal will be posted on our official internet web site. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the Westmoreland County Airport Authority and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. **The public comment period will not extend the August 1st deadline.**

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

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT.

Section 26.45 (e) - Project Goals

If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.45(f) - Prior Operating Administration Concurrent

The Westmoreland County Airport Authority understands that we are not required to

obtain prior operating administration concurrence with our overall goal. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate, the operating administration may, after consulting with us, adjust our overall goal or require that we do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

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 Westmoreland County Airport Authority 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 Westmoreland County Airport Authority 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, we will do the following in order to be regarded by the Department as implementing WCAA's DBE Program in good faith:

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

The Westmoreland County Airport Authority 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. The Westmoreland County Airport Authority will retain copy of analysis and corrective actions in records a minimum of three years, and will make it available to FAA upon request.

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

(a) The Westmoreland County Airport Authority 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,

- (2) specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.
- (3) 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);
- (4) Providing technical assistance and other services;
- (5) 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 Westmoreland County Airport Authority 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);
- (6) 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;
- (7) 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;
- (8) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (9) Ensuring distribution of WCAA's/PA UCP's DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (10) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

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

Section 26.51(d-g) Contract Goals

The Westmoreland County Airport Authority 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.

If our approved projection under paragraph (c) of this section estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order meet our overall goal.

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

We will express our contract goals as a percentage of *the* total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

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

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

We 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))

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

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the Westmoreland County Airport Authority, at the time provided in paragraph (b)(3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each DBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use a

DBE subcontractor whose participation it submits to meet a contract goal;
and

(v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.

(vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). 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) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section:

Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the Westmoreland County Airport Authority.

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by Westmoreland County Airport Authority that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Gabriel E. Monzo, Executive Director, Westmoreland County Airport Authority, Arnold Palmer Regional Airport, 148 Aviation Lane, Suite 103, Latrobe, PA 15650, phone 724-539-8100, email: gmonzo@palmerairport.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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

We will include in each prime contract a provision stating:

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

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

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

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

We will require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without our prior written consent. This includes, but 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 with another DBE firm.

We will provide such written consent only if we agree, for reasons stated in our 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) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed

DBE contractor is unable to complete its work on the contract;

- (10) Other documented good cause that we have 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 us its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

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

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

The Westmoreland County Airport Authority 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 we established for the procurement. The good faith efforts shall be documented by the contractor. If we request documentation from the contractor under this provision, the contractor shall submit the documentation to us within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the Westmoreland County Airport Authority shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

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

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of

Transportation, apply to this contract. It is the policy of the Westmoreland County Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ___percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; and (5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; (6) if the contract goal is not met, evidence of good faith efforts.

[Note: When a contract goal is established pursuant to the Westmoreland County Airport Authority's DBE program, the sample bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found in Attachment 6 can be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.]

Section 26.55 Counting DBE Participation

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

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Westmoreland County Airport Authority is a non-certifying member of the PA UCP. The PA UCP will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The UCP will make its certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact the PA Unified Certification Program through the website: <http://www.paucp.com>.

The PA UCP website address where the Uniform Certification Form and other documentation requirements are found is also listed in Attachment 8 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Westmoreland County Airport Authority is a non-certifying member of a Unified Certification Program (UCP) administered by the PA UCP as evidenced in Attachment 9. The UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

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

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

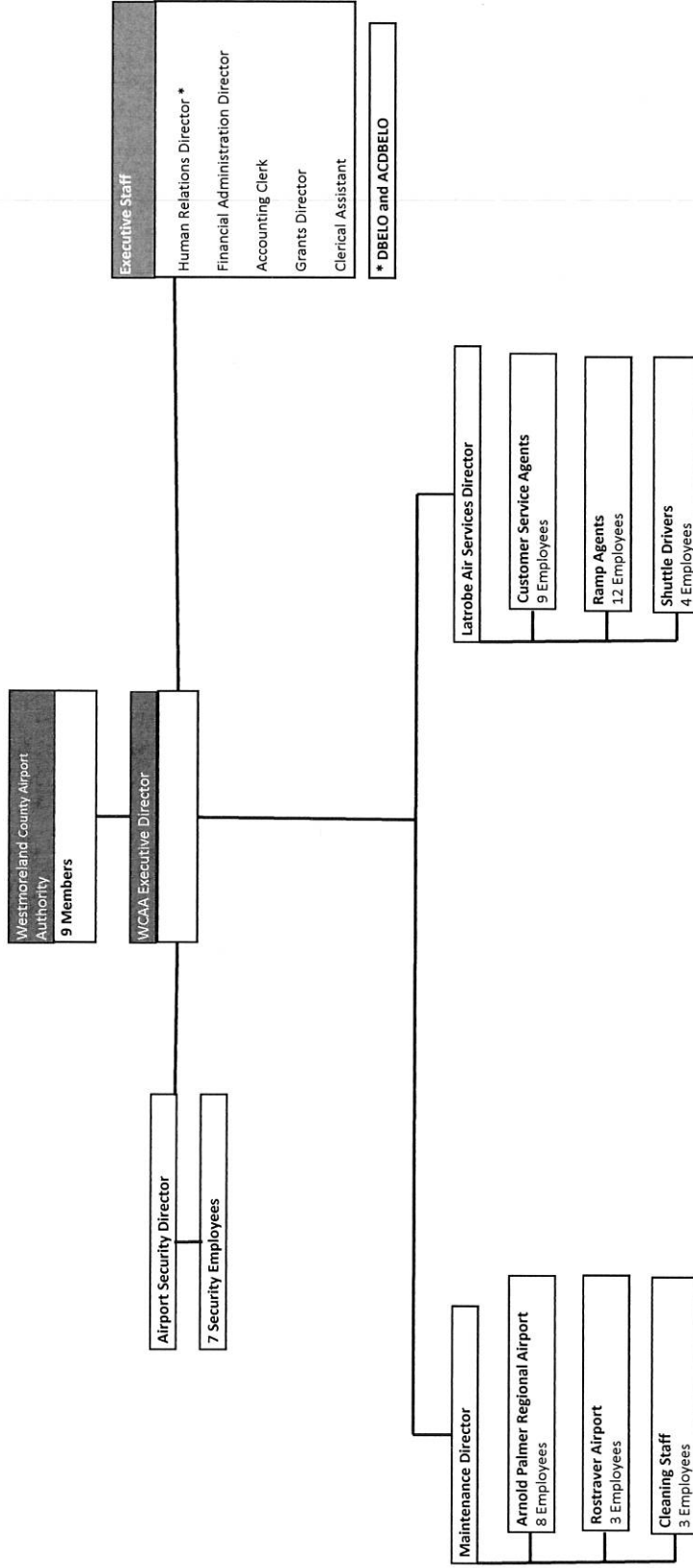
and promptly with DOT and Westmoreland County Airport Authority compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; 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 Westmoreland County Airport Authority, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.

ATTACHMENTS

- Attachment 1 Organizational Chart
- Attachment 2 Regulations: 49 CFR Part 26 (Website link)
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory (Website link)
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Application Form
- Attachment 9 State's UCP Agreement
- Attachment 10 Small Business Element Program

WCAA Organization Chart 1/1/2018



ATTACHMENT 2

Regulations: 49 CFR Part 26 (Website link)

<http://www.ecfr.gov/cgi-bin/ECFR?page=browse>

or

<http://www.ecfr.gov/cgi-bin/text-idx?SID=5babef2534ab560832254e897b66f273&mc=true&node=pt49.1.26&rgn=div5>

ATTACHMENT 3

Bidder's List Collection Form

(SAMPLE BIDDERS LIST COLLECTION FORM)

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

ATTACHMENT 4

Pennsylvania UCP DBE Directory

<https://www.dotsbe.pa.gov/PAUCPWeb/paucp/viewHome.do>

<http://www.paucp.com>

ATTACHMENT 5**Section 26.45: Overall DBE Three-Year Goal Methodology**

Westmoreland County Airport Authority: Owner of Arnold Palmer Regional and Rostraver Airports

Goal Period: FY-2019-2020-2021 – October 1, 2018 through September 30, 2021

DOT-assisted contract amount:	FY-2019	\$5,466,668
	FY-2020	\$9,141,666
	FY-2021	\$4,916,666
	Total	\$19,525,000

Overall Three-Year Goal: 8.9%, to be accomplished through 8.9% RC and 0% RN

Total dollar amount to be expended on DBE's: \$1,737,725.00

Describe the Number and Type of Contracts that the airport anticipates awarding:

Contracts Fiscal Year 2019:

- Widen Runway 6-24 and Replace HIRL, PH. I - \$4,140,805.00 (Construction)
- Widen Runway 6-24 and Replace HIRL PH. I - \$859,197 (Design/CM)
- Remove Obstructions, Runway 6-24 - \$200,000.00 (Construction)
- Remove Obstructions, Runway 6-24 - \$100,000.00 (Design/CM)
- Wildlife Hazard Site Assessment & Plan - \$166,666.00 (Rostraver-Design)

Contracts Fiscal Year 2020:

- Widen Runway 6-24 and Replace HIRL, PH. II - \$5,050,000.00 (Construction)
- Relocate Connecting Taxiways C, D, and E - \$1,625,000 (Construction)
- Strengthen Runway 6-24, PH. II - \$2,050,000.00 (Construction)
- Widen Runway 6-24 and Replace HIRL, PH. II - \$250,000.00 (CM)
- Remove Obstructions, Runway 8-26 - \$110,000.00 (Rostraver-Construction)
- Remove Obstructions, Runway 8-26 - \$56,666.00 (Rostraver-Design/CM)

Contracts Fiscal Year 2021:

- SRE/ARFF Building Addition - \$2,500,000.00 (Construction)
- SRE/ARFF Building Addition - \$250,000.00 (Design/CM)
- Rehabilitate and Strengthen Apron, PH. I - \$1,750,000.00 (Construction)
- Rehabilitate and Strengthen Apron, PH. I - \$250,000.00 (Design/CM)
- Construct Vehicular Parking/Access Roads (Corp. Hangar Area) - \$100,000.00 (Rostraver-Construction)
- Construct Vehicular Parking/Access Roads (Corp. Hangar Area) - \$66,666.00 (Rostraver-Design/CM)

Market Area: Westmoreland County Airport Authority has determined that its market area is the Commonwealth of Pennsylvania. This is the geographical area in which the substantial majority of firms which seek to do construction and consulting with the airport are located.

2. Methodology used to Calculate Overall Goal

Step 1. 26.45(c) Actual relative availability of DBEs

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

$$\text{Base Figure} = \frac{\text{Ready, Willing, and Able DBEs}}{\text{All Firms Ready, Willing and Able}}$$

The Westmoreland County Airport Authority identified DBE Construction and Consulting firms from the PA UCP database and the PennDOT Engineering and Construction management system website. This total was then compared to the total number of construction and consulting design service companies physically located in the Commonwealth of Pennsylvania as identified from the Census Bureau's NAICS database. The market area, is based upon the fact that the substantial majority of bidders, for work similar to that which is proposed to be completed in the FFY 2019 to FFY 2021, come from this area and the substantial majority of contracting dollars have been expended with companies from this area.

The NAICS codes for currently active contractors and consultants for relevant work are as follow:

	DBE/Total
237310-Asphalt/Concrete Paving	144 / 396
238210-Electrical Construction	64 / 2469
541330-Engineering Consultant	236 / 2190
541620-Environmental Consultant	119 / 430
541370-Field Surveying	63 / 249
236220-Commercial Building Contractor	116 / 1594
238110-Foundation and Structure Contractor	31 / 709
238130-Framing Contractor	28 / 345
238140-Masonry Contractor	31 / 1112
238220-Plumbing, and HVAC Contractors	34 / 3779
238910-Excavation Contractors	71 / 1658

Contracts Fiscal Year 2019:

Widen Runway 6-24 and Replace HIRL, PH. I - \$4,140,805.00 (Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Asphalt and Concrete Paving	153	396
238910	Excavation Contractors	71	1658
238210	Electrical Construction	64	2469
Total		288	4523

6.4%

Widen Runway 6-24 and Replace HIRL, PH. I - \$859,197 (Design/CM)

NAICS	Type of Work	Total DBE's	Total All Firms
541330	Engineering Consultant	236	2190
541370	Field Surveying	63	249
Total		299	2439

12.3%

Remove Obstructions, Runway 6-24 - \$200,000.00 (Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
238910	Excavation Contractors	71	1658
Total		71	1658

4.3%

Remove Obstructions, Runway 6-24 - \$100,000.00 (Design/CM)

NAICS	Type of Work	Total DBE's	Total All Firms
541330	Engineering Consultant	236	2190
541370	Field Surveying	63	249
Total		299	2439

12.3%

Wildlife Hazard Assessment & Plan - \$166,666.00 (Rostraver-Design)

NAICS	Type of Work	Total DBE's	Total All Firms
541330	Engineering Consultant	236	2190
541370	Field Surveying	63	249
Total		299	2439

12.3%

Contracts Fiscal Year 2020:

Widen Runway 6-24 and Replace HIRL, PH. II - \$5,050,000.00 (Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Asphalt Paving	153	396
238910	Excavation Contractors	71	1658
238210	Electrical Construction	64	2469
Total		288	4523

6.4%

Relocate Connecting Taxiways C, D, and E - \$1,625,000.00 (Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Asphalt Paving	153	396
238910	Excavation Contractors	71	1658
238210	Electrical Construction	64	2469
Total		288	4523

6.4%

Strengthen Runway 6-24, PH. II - \$2,050,000.00 (Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Asphalt Paving	153	396
238910	Excavation Contractors	71	1658
Total		224	2054

10.9%

Widen Runway 6-24 and Replace HIRL, PH. II - \$250,000.00 (Design/CM)

NAICS	Type of Work	Total DBE's	Total All Firms
541330	Engineering Consultant	236	2190
541370	Field Surveying	63	249
Total		299	2439

12.3%

Remove Obstructions, Runway 8-26 - \$110,000.00 (Rostraver-Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
238910	Excavation Contractors	71	1658
Total		71	1658

4.3%

Rehabilitate and Strengthen Apron, PH. I - \$250,000.00 (Design/CM)

NAICS	Type of Work	Total DBE's	Total All Firms
541330	Engineering Consultant	236	2190
541370	Field Surveying	63	249
Total		299	2439

12.3%

Construct Vehicular Pking/Access Roads (Corp. Hangar Area) - \$100,000.00 (Rostraver-Construction)

NAICS	Type of Work	Total DBE's	Total All Firms
237310	Asphalt Paving	153	396
238910	Excavation Contractors	71	1658
238210	Electrical Construction	64	2469
Total		288	4523

6.4%

Construct Vehicular Pking/Access Roads (Corp. Hangar Area)- \$66,666.00 (Rostraver - Design/CM)

NAICS	Type of Work	Total DBE's	Total All Firms
541330	Engineering Consultant	236	2190
541370	Field Surveying	63	249
Total		299	2439

12.3%

Relative Availability of DBEs:

FY 2019:

$$\frac{4.3\% + 6.4\% + (12.3\%) \times 3}{5} = 9.5\%$$

FY 2020:

$$\frac{4.3\% + (6.4\%) \times 2 + 10.9\% + (12.3\%) \times 2}{6} = 8.8\%$$

FY 2021:

$$\frac{3.2\% + 6.4\% + 10.9\% + (12.3\%) \times 3}{6} = 9.6\%$$

$$\text{Average} = \frac{9.5\% + 8.8\% + 9.6\%}{3} = 9.3\%$$

9.3% Step 1 Base Figure

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

a) Adjustment factors to consider:

Historical DBE Goal Accomplishment

Report Period	Total Expenditures	Approved DBE Goal Percentage	Total DBE Percentage Achieved	Percentage Achieved over/under
FY 2016	\$941,637	8.1%	3.9%	-4.2%
FY 2017	\$3,760,838	8.1%	8.6%	0.5%
FY 2018	\$1,560,019	8.1%	8.4%	0.3%
Median		8.1%	8.4%	0.3%

The median annual accomplished DBE Goal for the reported periods above is 8.4% compared to the Step 1 DBE Base Figure for the airport of 9.3% derived using the methodology detailed above.

4. Consultations

a) Evidence from Disparity Studies

There was no disparity study available from which to gather information to adjust the base figure. Several agencies were contacted to inquire about disparity studies, including the Pennsylvania Department of Transportation and the Pennsylvania Attorney General's office.

b) Data on Statistical disparities regarding access to capital, employment, self-employment, education, training, and union apprenticeship programs.

No information was available for the region discussing disparities between minorities and non-minorities in accessing financing, bonding, insurance, etc. The agencies mentioned above were contacted to inquire about disparity information.

5. Adjustments to Step 1 Base Figure:

a) Data Sources for Determining DBE Participation in Absence of Discrimination

The airport's history of DBE achievement has averaged around 10% historically. This achievement reflects both DBE Prime Contractors and Subcontractors. These contracts include construction and non-construction, including engineering and professional services, and vehicle and equipment acquisition contracts awarded subject to the DBE Program.

Consultations and Public Participation

An open conference call was held at 10:30 am on October 9, 2018 to consult with invited stakeholders on the proposed DBE plan and goals. Invitees that were not able to participate were encouraged to submit comments by email. The invitation included a copy of the draft plan and goals.

The following people participated:

Gabe Monzo, WCAA
Chuck Quiggle, WCAA
Dwayne Pickels, WCAA
Carol Johnston, WCAA
Scott Kunselman, GAI Consultants, Inc.
Nick Barber, GAI Consultants, Inc.
Raena Lindemuth, GAI Consultants, Inc.
Alexander Horton, FAA

No comments were provided in regards to the DBE plan or goals.

The Airport will publish its proposed goal information for FY 2019 thru FY 2021 on its website and in the local major newspaper. Any comments received by November 10, 2018 will be addressed.

b) Adjustments

Projects anticipated for FY 2019 thru FY 2021 are very similar to past projects that were awarded during the last five years. The Airport has averaged about 10% DBE participation historically, combining all of the Federal Funds for professional services, construction and vehicle and equipment purchases.

The Airport has not found any evidence of a disparity study for its jurisdiction nor has it been able to identify any other Step 2 evidence.

The Airport has adjusted the base percentage data for the relative availability of DBE's

from 9.3% to an 8.9% overall goal which reflects an average of the relative availability of DBEs and the historical participation median of 8.4% over the last three years.

$$\frac{9.3\% + 8.4\%}{2} = 8.9\% \text{ Overall Goal}$$

6. Process

Westmoreland County Airport Authority submits its overall goal to DOT on August 1 of each year.

Before establishing the overall goal each year, the Westmoreland County Airport Authority will consult with available minority, women's, and general contractors groups, along with various agencies within the Commonwealth of Pennsylvania including the PA Bureau of Aviation and various other equal opportunity development agencies to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Westmoreland County Airport Authority's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the WCAA office for 30 days following the date of the notice, and informing the public that we and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will be published in local newspaper. Normally, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices) where the proposal may be reviewed. Notice of our proposed DBE FY 2019 to 2021 Goal will be advertised in the local newspaper and posted on the airport website shortly.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses. We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT.

7. Breakout of Estimated Race-Neutral and Race-Conscious Participation

Westmoreland County Airport Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Airport uses the following race-neutral means to increase DBE participation:

1. Arranging solicitations, quantities, and specifications in ways that facilitate DBE and other small business participation.
2. Ensuring availability of the Authority's DBE Directory to prime contractors.
3. Providing assistance in meeting the Authority's bonding and financing requirements.
4. Provide technical and legal assistance through the airport solicitor and engineer.
5. Implement a supportive services program, through the airport accounting firm, to develop and improve immediate and long-term business management, record keeping, and financial capability for DBE's and other small businesses.

6. Provide services to help DBE's and other small businesses improve long-term development, increase work opportunities, handle increasingly significant projects, and achieve eventual self-sufficiency.
7. Establish a program to assist new, start-up firms, particularly in areas where DBE participation has been historically low.
8. Assist DBEs and other small businesses in the development in their capability to use new, electronic technology.
9. Carrying out information and communication programs on contracting procedures and specific contract opportunities such as ensuring the inclusion of DBEs and other small businesses on mailing lists for bidders, and ensuring the dissemination of information on subcontractors.

We estimate that, in meeting our overall goal of 8.9%, we will obtain 0% from race-neutral participation and 8.9% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

The Airport proposes a race conscious goal of 8.9% and a race neutral goal of 0% for a total of 8.9%. The reason for this is that the recent historical information on DBE participation showed that the median annual DBE accomplishment on FAA AIP projects funded in FY 2016-2018 was only marginally above the established median annual goal by a median amount of 0.3% during the period.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see §26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

8. Contract Goals (§26.51)

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

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

We will express our contract goals as a percentage of the total amount of a DOT assisted

contract.

PUBLIC NOTICE

The Westmoreland County Airport Authority hereby announces its fiscal years 2019 through 2021 DBE goal of 8.9% for Disadvantaged Business Enterprise (DBE) airport construction contracts. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at the Authority Offices located at Arnold Palmer Regional Airport, 148 Aviation Lane, Latrobe, PA 15650 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 30 days from the date of this publication or November 10, 2018 and can be sent to the following:

Carol Johnston,
Human Relations Director
Westmoreland County Airport Authority
148 Aviation Lane
Latrobe, PA 15650
Phone: 724-539-8100 ext. 720
carol@palmerairport.com

AND/OR

Federal Aviation Administration
Office of Civil Rights Staff
Alexander Horton, DBE/ACDBE Compliance Specialist
Phone: 310-725-3947
Fax: 301-725-6819
alexander.horton@faa.gov

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

[Forms 1 and 2 should be provided as part of the solicitation documents.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

Demonstration of Good Faith Efforts - Forms 1 & 2

[Forms 1 and 2 should be provided as part of the solicitation documents.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____

Date: _____

(Signature)

(Title)

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

Submit this page for each DBE subcontractor.

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

MONITORING

The Westmoreland County Airport Authority will monitor that concession contracts committed to ACDBEs are actually performed by the DBEs.

ENFORCEMENT

1. The Westmoreland County Airport Authority will refer to the Department of Transportation any false, fraudulent, or dishonest conduct by contractors so that DOT can take those steps deemed appropriate (e.g. referral to the Department of Justice or criminal prosecution, referral to the DOT Inspector General for suspension or debarment, and/or imposition of civil penalties) provided in §26.109.
2. The Pennsylvania Municipal Authorities Act: The Pennsylvania Municipal Authorities Act, Act of May 2, 1945, P.L. 382 as amended allows a municipal authority to evaluate contractors in accordance with evaluation factors and applicable contract terms and conditions. The Authority will consider suspension, debarment, or findings of non-responsibility for future contracts of any parties involved in any false, fraudulent, or dishonest conduct.
3. The Pennsylvania Municipal Authorities Act: Section 306 of the Pennsylvania Municipal Authorities Act, Act of May 2, 1945, P.L. 382 as amended empowers municipal authorities to contract for services and to award contracts in accordance with evaluation factors and applicable contract terms and conditions. The Authority will include (or require) the following provisions in all contracts and subcontracts:
 - a. The DBE requirements for concession contracts under 49 CFR Part 26 are incorporated by reference;
 - b. The concessionaire acknowledges and agrees that 49 CFR Part 26, as amended, during the contract period and as construed by the FAA or DOT shall be a condition of the contract and an obligation of the contractor;
 - c. Any failure to comply with 49 CFR Part 26, as amended, and as construed by the FAA or DOT shall constitute a material breach of the contract providing the Authority with the following remedies which shall be cumulative:
 1. Termination of contract;
 2. An action in equity for specific performance for which jurisdiction is acknowledged without any requirement that the Authority provide that its legal remedies are insufficient;
 3. An increase in retaining notwithstanding any statutory or legal limitations.
4. The federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to the following:
 1. Enforcement action pursuant to 49 CFR Part 31; and
 2. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 8

DBE Certification Application Form
(New form October 2, 2014)

Located at:

<http://www.paucp.com>.

ATTACHMENT 9

State's UCP Agreement

The Westmoreland County Airport Authority is a non-certifying member of the Pennsylvania Unified Certification Program.

ATTACHMENT 10

Westmoreland County Airport Authority

Small Business Element Program

Section 26.39 Fostering Small Business Participation

The Westmoreland County Airport Authority (Authority) has created an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. For clarification purposes, 49 CFR Part 26.5 states, "Small business concerns means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 26.65(b)." 13 CFR 121.402 defines what size standards are applicable to Federal Government Contracting programs.

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the Authority seeks to implement a small business element into its current DBE policy in accordance with applicable law. The Authority is including this element to facilitate competition by and expand opportunities for small businesses. The Authority is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The Authority will meet its objectives using a combination of the following methods and strategies:

1. **Small Business Goal:** Where feasible, the Airport will establish a percentage goal of the total value of all prime contract and subcontract awards for participation by small businesses on FAA assisted contracts. This requires that the Airport and its prime contractors/consultants provide a portion of the value of each contract for a participation goal by small businesses. A small business goal is open to all small businesses regardless of the owner's gender, race, or geographic location. The project manager and DBELO 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. A separate small business goal should not be used in conjunction with a DBE contract goal on the same project. In the event that a small business goal is not established on an FAA- assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.

2. **Unbundling:** The Authority, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The Authority will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. Similarly, the Authority will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

Definitions

1. **Small Businesses:** A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).
2. **Disadvantaged Business Enterprise:** A for-profit small business (as defined by the Small Business Administration)
 - a. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent or more of the stock is owned by one or more such individuals;
 - b. Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) amount as described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
 - c. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
 - d. Has been certified as a DBE by one of the PA UCP certifying agencies in accordance with 49 CFR 26.

For the purposes of the small business element of the Authority's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted toward DBE participation on FAA-assisted contracts.

Certification and Verification Procedures

The Authority will accept the following certifications for participation in the small business element of the Authority's DBE Program with applicable stipulations:

1. PA DOT DBE Certification (through the UCP) – DBE Certification by the PA DOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DEB certification by the PA DOT. (Website: <http://www.paucp.com/>).
2. PA DOT Small Business Enterprise (SBE) – Will require completion and submittal of a Small Business Enterprise Certification application to the PA DOT, Bureau of Equal Opportunity. (Website: <https://www.dotsbe.pa.gov>).
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) – will require submittal of three years of business tax returns. (Website: <http://www.sba.gov/content/8a-business-development/>).

Implementation Schedule

The Authority will implement this small business element within nine months of the FAA's approval of this document describing the element. In order to actively implement the Authority's program elements to foster small business participation and to comply with the requirement of good faith implementation of our DBE program, the Authority will require the Prime Contractor(s) for Construction Work Items and Professional Services Work Items to complete the form entitled, SBE Contact/Solicitation and Commitment Statement (sample attached). The Special Conditions of the Contract will indicate the amount of small business participation as determined by the Authority.

Assurances

The Authority makes the following assurances:

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