

OCTOBER 2024

# Carroll County

## DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PLAN

for

Carroll County Regional Airport/  
Jack B. Poage Field

WESTMINSTER, MARYLAND

Prepared by



KEN WEEDEN & ASSOCIATES, INC.

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

Carroll County

for the Carroll County Regional Airport/Jack B. Poage Field, Westminster MD

**POLICY STATEMENT**

**Section 26.1, 26.23 Objectives/Policy Statement**

Carroll County (hereafter 'the County') has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT) 49 CFR Part 26. The County has received federal financial assistance from USDOT, and as a condition of receiving this assistance, the County has signed an assurance that they will comply with 49 CFR Part 26.

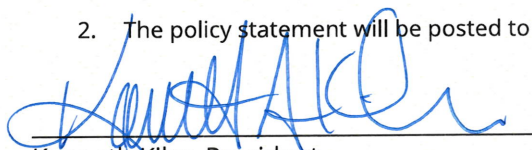
It is the policy of the County to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy:

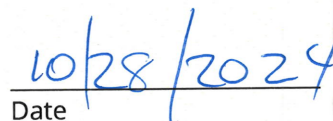
1. To ensure nondiscrimination in the award and administration of USDOT- assisted contracts.
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law.
4. To ensure that only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


**Mark L. Myers, Airport Manager, Carroll County Regional Airport, 200 Airport Drive, Box 8, Westminster, MD 21157, Phone: 410-876-9885; Email: [mlmyers@carrollcountymd.gov](mailto:mlmyers@carrollcountymd.gov)** has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Airport Manager 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 County in its financial assistance agreements with the US Department of Transportation.

The County has disseminated this policy statement to its board members, and will distribute this statement to DBE and non-DBE business communities that perform work for the Airport on USDOT-assisted contracts in the following manner:

1. This policy statement will be prepared as a handout, and made available at pre-bid conferences, and/or outreach meetings conducted by Carroll County.
2. The policy statement will be posted to the Airport's website.

  
Kenneth Kiler, President,  
Carroll County Board of Commissioners

  
Date

**REVIEWED BY:**   
**COUNTY ATTORNEY'S OFFICE FOR**  
**CARROLL COUNTY**  
**DATE:** 10.24.24

## **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**

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

### **Section 26.5            Definitions**

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

### **Section 26.7            Non-discrimination Requirements**

The County 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 County 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          Recordkeeping Requirements**

#### **Reporting to USDOT: 26.11(b)**

The County will report DBE participation to USDOT as follows:

The County will submit annually, by or before December 1, the *Uniform Reports of DBE Awards or Commitments and Payments*, as modified for use by FAA recipients, via the FAA Civil Rights Connect system (<https://faa.civilrightsconnect.com/>).

#### **Bidders List: 26.11(c)**

The County will capture and compile the bidders list information as described in § 26.11(c)(2) and enter it into USDOT's designated system. This data will assist the County in gathering accurate data on both DBE and non-DBE contractors and subcontractors who want to work on federally assisted projects at the Airport. The list may also assist the County in setting overall DBE goals and provide USDOT with data to assess how well the County is meeting the objectives of § 26.1.

The County will collect the following information about all DBE and non-DBE firms who bid as prime contractors and subcontractors on each of its federally assisted contracts:



- Firm name
- Firm address, including ZIP code
- DBE or non-DBE status of the firm
- Race and gender information of the firm's majority owner
- Applicable NAICS codes for the scopes of work the firms sought to perform
- Age of the firm
- Annual gross receipts of firms.

The County will collect the data from all bidders for its federally assisted contracts by requiring the information in paragraph (c)(2) of this section to be submitted with their bids or initial responses to negotiated procurements. The County will collect this information using the Bidders List Data Collection form, as shown in Attachment 10.

The County will enter this data in USDOT's designated system no later than December 1 following the fiscal year in which the relevant contract was awarded.

In the case of a "design-build" contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to § 26.53(e), the County will enter the data no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

## **Section 26.13 Federal Financial Assistance Agreement**

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

### Assurance: 26.13(a)

*Carroll County shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract; or in the administration of its DBE Program or the requirements of 49 CFR Part 26. Carroll County shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. Carroll County's DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the County of its failure to carry out its approved program, the Department of Transportation 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.).*

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

#### Contract Assurance: 26.13b

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

*The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County 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 County is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. The County is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the County is in compliance with it and Part 26. The County will continue to carry out this program until all funds from DOT financial assistance have been expended. The County does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

##### **Section 26.23 Policy Statement**

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

##### **Section 26.25 DBE Liaison Officer (DBELO)**

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

**Mark L. Myers, Airport Manager**  
**Carroll County Regional Airport**  
**200 Airport Drive, Box 8**  
**Westminster, MD 21157**  
**Phone: 410-876-9885**  
[mlmyers@carrollcountymd.gov](mailto:mlmyers@carrollcountymd.gov)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the County complies with all provision of 49 CFR Part 26. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO, along with his staff, will administer the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by USDOT.
2. Works with all departments to set overall triennial goals.
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
4. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract-specific goals).
5. Analyzes the County's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Advises the County on DBE matters and achievement.
8. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
9. Determines compliance of bidders/offers with good faith efforts in bid submittals.
10. Plans and participates in DBE training seminars.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.

#### **Section 26.27 DBE Financial Institutions**

It is the policy of the County to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on USDOT-assisted contracts to make use of these institutions.

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

#### **Section 26.29 Prompt Payment Mechanisms**

The County requires that all subcontractors performing work on USDOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

The County 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 10 days from receipt of each payment made to the prime contractor.

The County will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed.

The County will hold retainage from prime contractors; 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 10 days after payment to the prime contractor.

The County 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 County. When the County 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.

To implement this measure, for every airport construction project funded under federal grant assistance programs, the County will include the applicable clause from FAA Advisory Circular 150/5370-10 (Section 90-06) pertaining to the selected retainage method. The applicable clause will be included verbatim with the exception that the reference to "30 days" will be changed to "10 days" in accordance with the State of Maryland's prompt payment act.<sup>1</sup>

- a. *From the total of the amount determined to be payable on a partial payment, 10% percent of such total amount will be deducted and retained by the County for protection of the County's interests. Unless otherwise instructed by the County, the amount retained by the County will be in effect until the final payment is made except as follows:*
  - (1) *Contractor may request release of retainage on work that has been partially accepted by the County in accordance with Section 50-14. Contractor must provide a certified invoice to the Engineer that supports the value of retainage held by the County for partially accepted work.*
  - (2) *In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.*
- b. *The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the Contractor has received a partial payment. Contractor must provide the County evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 10 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 County. When the County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.*
- c. *When at least 95% of the work has been completed to the satisfaction of the Engineer, the Engineer shall, at the County's discretion and with the consent of the surety, prepare estimates of both the*

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<sup>1</sup> <https://mgaleg.maryland.gov/mgawebwebsite/laws/StatuteText?article=GSF&section=15-226>



*contract value and the cost of the remaining work to be done. The County may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.*

The County will proactively monitor prime contractors' compliance with subcontractor prompt payment and return of retainage requirements. The County will share information regarding required documentation for payment with subcontractors. The County will take steps to promote the timely submission by contractors of invoices for payment. The County will also maintain adequate internal controls to facilitate timely payment to contractors.

## **Section 26.31            Directory**

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

MDOT maintains active lists of certified disadvantaged businesses located throughout the state. Therefore, all of the firms listed in the directory have been certified by this state and in accordance with USDOT criteria. It should be noted also that these listings and certifications are periodically updated with some firms being added, while others are removed. The directory should enable prime contractors for projects at the Airport to proceed more easily in their attempts to comply with overall goals regarding Disadvantaged Business Enterprises.

The directory lists the following details about each certified firm:

- Business name
- Business address
- Business phone number
- Firm website(s)
- Types of work the firm has been certified to perform as a DBE and/or ACDBE
- The specific North American Industry Classification System (NAICS) code(s) that describes the type of work a DBE and/or ACDBE is eligible to perform

The UCP directory may include additional data fields of other items that are readily verifiable in state or locally maintained databases, such as state licenses held, pre-qualifications, and bonding capacity. The UCP directory is an online system that permits the public to search and/or filter for DBEs by:

- Physical location
- NAICS code(s)
- Work descriptions
- All additional data fields of readily verifiable optional information described above.

The directory includes a prominently displayed disclaimer that states the information within the directory is not a guarantee of the DBE's capacity and ability to perform work.

The County will refer potential bidders to the MDOT directory that is available online. The link for the directory can be found in Attachment 2 to this program.

Prime contractors may also consider the FAA's DBE directory, which can be found at FAA Matchmaker (<https://faa.dbesystem.com>).

### **Section 26.33                    Overconcentration**

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

### **Section 26.35                    Business Development Programs**

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

### **Section 26.37                    Monitoring and Enforcement Mechanisms**

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

#### Running Tally

The County will implement a running tally mechanism to compare the cumulative DBE awards and commitments on federally funded projects to determine whether or not the implementation of contract goals is sufficient to meet the annual DBE goal. The County will also implement a running tally to provide for a comparison of payments made to each DBE firm relative to the progress of work. The running tally mechanism will help the County whether or not there exists a projected shortfall such that the prime contractor would need to address via good faith efforts to meet the DBE contract goal. The County will use the DBE Monthly Report form (see [Attachment 3](#)) to track the progress of DBE participation on its federally funded projects. The DBELO, with assistance from the engineering consultant, will maintain the running tally of DBE participation.

#### Monitoring Payments to DBEs and Non-DBEs

The County will provide ongoing monitoring of prime contractor payments to subcontractors over the course of any covered contract. The County will require prime contractors to report documentation of payments to subcontractors monthly. The DBELO will review and verify that payments have been made and retainage has been returned to subcontractors in accordance to section 26.29.

The County will require prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the County's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the County or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The County uses several DBE forms, which can be found in Attachment 3, to collect DBE information for initial project setup and for ongoing monitoring of DBE participation:

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

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

#### Prompt Payment Dispute Resolution

The County will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

A meeting will be scheduled with the prime contractor, subcontractor, DBELO and other appropriate County representative(s). Any meeting for the purpose of dispute resolution will include County representative(s) authorized to bind each interested party, including County representative(s) with County to take enforcement action.

The County has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

#### Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

1. The affected subcontractor shall file a complaint with the prime contractor directly regarding payment.

2. If filing a complaint with the prime contractor does not result in timely and meaningful action by the prime contractor to resolve the prompt payment dispute, the affected subcontractor may contact the County's DBELO.
3. If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the County to resolve prompt payment disputes, the affected subcontractor may contact the FAA Office of Civil Rights.
4. Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

#### Enforcement Actions for Noncompliance of Participants

The County will provide appropriate means to enforce the requirements of §26.29. These means may include:

- Assessing liquidated damages, in accordance with the contract, against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor
- Advising subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- Paying subcontractors directly and deducting this amount from the retainage owed to the prime contractor
- Issuing a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays, for the purposes of calculating liquidated damages, if milestones are not met.

The County will actively implement the enforcement actions detailed above.

#### Monitoring Contracts and Work Sites

The County will review contracting records and will engage in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (*e.g.*, as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring will be performed by the DBELO with assistance from the resident project representative. Contracting records will be reviewed by the DBELO. The County will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

### **Section 26.39                      Fostering Small Business Participation**

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



The program element is included as [Attachment 4](#). The County will actively implement the program elements to foster small business participation. Doing so is a requirement of good faith implementation of the DBE program.

**SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

**Section 26.43            Set-asides or Quotas**

The County does not use quotas in any way in the administration of this DBE program. However, the use of race neutral set-asides for small businesses is permissible as a strategy under 26.39 (b) (1).

**Section 26.45            Overall Goals**

The County will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding FAA funded prime contracts exceeding \$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 County will submit its overall three-year DBE Goal to FAA by August 1 as required by the established schedule below:

<b>Airport Type</b>	<b>Region</b>	<b>Date Due (Goal Period)</b>	<b>Next Goal Due (Goal Period)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>Alaskan, Eastern, &amp; Great Lakes</b>	<b>August 1, 2022 (2023/2024/2025)</b>	<b>August 1, 2025 (2026/2027/2028)</b>

DBE goals will be established for those fiscal years that the County anticipates awarding USDOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the two-step process as specified in 49 CFR Part 26.45. If the County does not anticipate awarding more than \$250,000 in USDOT-assisted prime contracts during any of the years within the three-year reporting period, the County will not develop an overall goal; however, this DBE program will remain in effect and the County will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

A description of the methodology to calculate the overall goal and the goal calculation(s) can be found in [Attachment 5](#) to this program. This section of the program will be updated on at least a triennial basis.

In establishing the overall goal, the County will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County'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 County's goal setting process, and it will occur before submitting the goal methodology to the FAA for review pursuant to paragraph (f) of this section. The County will document in the goal submission the consultation process that was utilized. Notwithstanding paragraph (f)(4) of this section, the County will not implement the proposed goal until this requirement is fulfilled.

In addition, the County will post a notice announcing the proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on the County's official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be posted on the official internet web site. The County will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at the DBELO's office, and that the County 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 1<sup>st</sup> deadline.

The County's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and responses, if any comments are received.

The County will begin using the overall goal on October 1 of the reporting period, unless it has received other instructions from USDOT. If the County establishes a goal on a project basis, it will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

#### Section 26.45 (e) - Project Goals

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

#### Section 26.45(f) - Prior Operating Administration Concurrence

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

#### **Section 26.47            Goal Setting and Accountability**

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

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

The County understands that if the awards and commitments shown on the County's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, the County will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments.
2. Establish specific steps and milestones to correct the problems identified in the analysis.
3. Prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The County will retain a copy of the analysis and corrective actions in its records for a minimum of three years. The County will make it available to the FAA upon request.

#### **Section 26.49            Transit Vehicle Manufacturers Goals**

N/A

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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 6 to this program. This section of the program will be updated annually when the goal calculation is updated.

## **Section 26.51(d-g) Contract Goals**

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

The County will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. The County does not need 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).

The County will express its contract goals on the total amount of a USDOT-assisted contract.

## **Section 26.53 Good Faith Efforts Procedures**

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

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

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

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

### Information to be submitted (26.53(b))

In its solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, the County 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 County, at the time provided in paragraph (b)(3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;



- (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of 49 CFR Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The County 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.

For each DBE listed as a regular dealer or distributor, the County will make a preliminary counting determination to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §§ 26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The County will make the preliminary determination based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor, the County will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

If the County utilizes the design-build method for project delivery, the County may set a DBE goal that proposers must meet by submitting a DBE Open-Ended Performance Plan (OEPP). The County will require proposers to be responsive by including a commitment to meet the DBE goal and to provide details of the types of subcontracting work or services that the proposer will solicit DBEs to perform. Upon the award of a design-build contract, the County will actively monitor the contract to evaluate whether the design-builder is utilizing good faith efforts to comply with the OEPP and the schedule.

This information will be collected using the forms found in Attachment 7.

#### Administrative reconsideration (26.53(d))

Within seven (7) days of being informed by the County that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following reconsideration official:

**Timothy C. Burke, County Attorney**  
**Carroll County Government**  
**225 North Center Street**  
**Westminster, MD 21157**  
[tburke@carrollcountymd.gov](mailto:tburke@carrollcountymd.gov)

The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

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

#### Good Faith Efforts procedural requirements (post-solicitation)

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

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

The County requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the County's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

In those instances where "good cause" exists to terminate a DBE's contract, the County will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The County will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the County will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The Airport will provide such written consent only if the Airport agrees, for reasons stated in a concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

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

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

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

Each prime contract will include a provision stating:

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

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

The County 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 the County deems appropriate if the prime contractor fails to comply with the requirements of this section.

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

Sample Bid Specification:

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



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

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

#### **Section 26.55 Counting DBE Participation**

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

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

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, DBE firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE credit for work in that category as long as they do not exceed the small business size standard for that category, as adjusted by the United States Small Business Administration.

#### **SUBPART D – CERTIFICATION STANDARDS**

##### **Section 26.61 – 26.73 Certification Process**

The County will refer all matters pertaining to certification to the Maryland Department of Transportation (MDOT) in accordance with the State's UCP program. MDOT will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. MDOT will make all certification decisions based on the facts as a whole.

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

Maryland Department of Transportation  
Office of Diversity and Equity  
7201 Corporate Center Drive  
P.O. Box 548  
Hanover, Maryland 21076  
Toll Free 1-888-713-1414  
<https://www.mdot.maryland.gov/tso/pages/index.aspx?pageid=91>

The certification application and documentation requirements are found in Attachment 8 to this program.

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

The County is a member of the Unified Certification Program (UCP) administered by the Maryland Department of Transportation. The UCP will meet all of the requirements of this section. Maryland's UCP program uses the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT/FAA-assisted contracts. Under the UCP Program, only MDOT will conduct all DBE certifications. To be certified as a DBE, a firm must meet all certification eligibility standards. The County will refer all certifications to MDOT.

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.101 Compliance Procedures Applicable to the County**

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

The County understands that, as provided in statute, it will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because it has been prevented from complying because a federal court has issued a final order in which the court found that the requirement is unconstitutional.

## **Section 26.103, 105 Enforcement Actions Applicable to FAA Programs**

Compliance reviews (§26.103(b)): The FAA may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the FAA to initiate a compliance review based on complaints received.

Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

## **Section 26.107 Enforcement Actions Applicable to Participating Firms**

If a firm that does not meet the eligibility criteria of subpart D of this part attempts to participate in a USDOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

## **Section 26.109 Information, Confidentiality, Cooperation**

### Availability of Records

1. USDOT adheres to the Federal Freedom of Information and Privacy Acts when responding to requests about the DBE program and can release information unless prohibited by Federal law.
2. Confidential business information, such as DBE certification applications, cannot be released to third parties without the firm's written consent. However, this information must be shared with USDOT during certification appeals or with other states for certification purposes.

### Confidentiality of Information on Complainants

- Complainants' identities are kept confidential unless necessary for due process. If confidentiality hinders proceedings, complainants may need to waive this right to avoid investigation closure or dismissal. FAA procedures for confidentiality are followed as per 14 CFR part 16.

### Cooperation

- All participants in the DBE program must fully and promptly cooperate with USDOT and recipient compliance reviews, investigations, and other requests for information. Non-cooperation can lead to penalties, such as noncompliance findings, denial of certification, or suspension.

Intimidation and Retaliation

- Participants in the program must not intimidate, threaten, coerce, or discriminate against anyone for exercising their rights under this part or for participating in investigations. Violating this prohibition results in noncompliance.

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**ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Fostering Small Business Participation
Attachment 5	Overall Goal Calculation
Attachment 6	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 7	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 8	Certification Application Forms
Attachment 9	Regulations: 49 CFR Part 26
Attachment 10	Bidders List Data Form

# **Attachment 1**

## Organizational Chart

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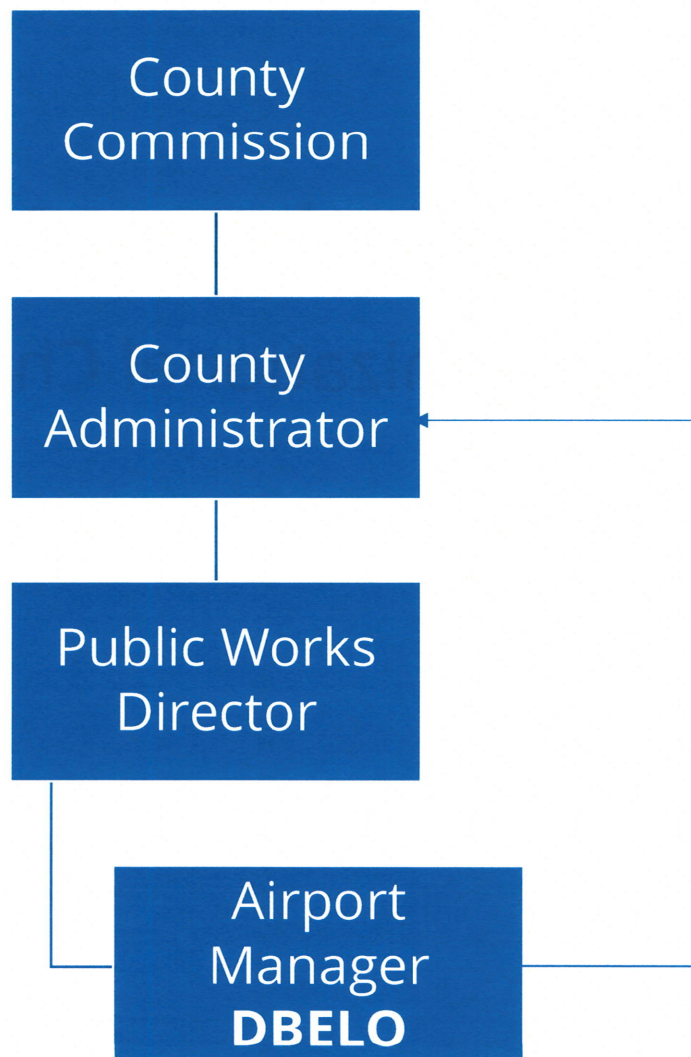


# Carroll County

## Carroll County Regional Airport/ Jack B. Poage Field

Westminster, Maryland

### Organizational Chart



# **Attachment 2**

## DBE Directory

The DBE Directory for the State of  
Maryland may be found at  
[https://marylandmdbe.mdbecert.com/?TN=  
marylandmdbe](https://marylandmdbe.mdbecert.com/?TN=marylandmdbe).

# **Attachment 3**

## **Monitoring and Enforcement Mechanisms**

## **Carroll County – Carroll County Regional Airport/Jack B. Poage Field**

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



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

Additional information on the County's Disadvantaged Business Enterprise Program can be obtained from the DBE Liaison Officer, **Mark L. Myers, Airport Manager, Carroll County Regional Airport, 200 Airport Drive, Box 8, Westminster, MD 21157, Phone: 410-876-9885; Email: [mlmyers@carrollcountymd.gov](mailto:mlmyers@carrollcountymd.gov).**

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

Attachment 9 contains a copy of 49 CFR Part 26, which describes federal regulations, provisions, and contract remedies available to the County in the event of non-compliance by a participant.

## **Attachment 4**

### Fostering Small Business Participation

## **Fostering Small Business Participation**

### **A. Purpose and Objective of this Element**

This element, 49 CFR Part 26.39, is newly included as part of the DBE program plan for Carroll County ("the County"), on behalf of the Carroll County Regional Airport/Jack B. Poage Field ("the Airport") and is herein referenced as the Small Business Participation Plan (SBPP). This new part calls for the inclusion of an element to

"structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation."

The County hereby sets forth its plan to implement these requirements. The County's SBPP is also regarded as a substantial effort toward fulfilling the overall intent of 49 CFR Part 26.51, which is to meet the maximum feasible portion of its overall goal by using race-neutral means to obtain DBE participation. Therefore, implementation of the County's SBPP will be based on the standard of business size, without regard to race or gender of the business owner.

This element also addresses the unnecessary and unjustified "bundling" of contract requirements which may preclude or inhibit small business participation in procurements, as either prime or subcontractors.

Further, the County perceives the objectives of this section to be consistent with its DBE Program policy statement, which says in part:

*"- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.  
- To help remove barriers to the participation of DBEs in DOT assisted contracts...  
- To assist the development of firms that can compete successfully in the marketplace outside the DBE Program."*

The County's policy statement and this small business element (SBPP) are consistent with the County's long history of creating and encouraging business opportunities at all levels.

### **B. SBPP Strategy**

The County intends to carry out the objectives of this part by employing the following strategies and supporting activities:

#### **1. Establishment of a Race-neutral "Subcontracting Goal"**

The County proposes, where feasible, on certain prime contracts that do not have a DBE contract goal, that prime contractors will be required to provide subcontracting opportunities to qualified small business concerns (SBCs), as defined herein, without regards to race or gender of the business owner. Verified business size and

subcontracting opportunities will be the basis of this subcontracting goal. The opportunities must be of a size that SBCs, including some which may also happen to be DBEs, can reasonably perform. The Airport, through the DBELO's office and/or consultants, will assess the feasibility for race-neutral subcontracting goals on projects. The DBELO will assist the potential primes by reviewing the project(s), in advance of the solicitation, and by suggesting potential subcontracting opportunities in the solicitation documents. This will help to establish a reasonable race-neutral subcontracting goal.

## **2. Consideration of "Unbundling" of Large Contracts**

The County has given consideration to "unbundling" as a small business strategy. However, because the Airport is a general aviation facility, the County believes that, at this time, such a strategy will not be suitable for the airport. Because of the limited number and size of contracts each year, the increased total number of bid solicitations with "unbundling" could significantly increase both administrative and project costs per bid. This will reduce the necessary "economy of scale" for general aviation airports.

## **C. Definitions for this Element**

### **1. Small Business**

For purposes of this program element, which is part of the County's approved DBE program, "small business" shall have the same definition as "small business concerns" contained in 49 CFR 26.5:

***"Small business concern 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)".***

For additional clarification, it is useful to include here some excerpts from the SBA regulations, 13 CFR, 121.105:

***(a)(1) Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...."*** and,

***(b) A business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.***

Small business concerns must meet the business size standards, as defined by the SBA. The business size standards are based upon the average annual revenues, and

they vary according to the type of business. More information can be found at [http://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table.pdf](http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf).

Further, it is acknowledged that the SBA rules make allowances for the dollar amounts to be adjusted from time to time.

## 2. **Disadvantaged Business Enterprise**

Disadvantaged Business Enterprise (DBE) means a for-profit small business concern (defined by SBA rules, above) that meets the standards of 49 CFR Part 26, i.e.

- *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 of the stock is owned by one or more such individuals;*
- *Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) does not exceed the described in 49 CFR Part 26. (The current PNW cap is \$1.32 million.)*
- *Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it;*
- *Has been certified as a DBE by a certifying member of the Maryland Unified Certification Program (MD UCP) in accordance with the full requirements of 49 CFR 26.*

It is understood that in the implementation of this element, all of the “small business concerns” may not necessarily be DBE firms. However, small businesses that are also owned and controlled by individuals who meet the DBE standard will certainly be encouraged to seek DBE certification. Only DBE certified firms who participate as small business concerns, pursuant to this element, will be counted towards DBE race-neutral participation on FAA-assisted contracts in this program.

## **D. Verification Standards and Procedures**

For purposes of this small business element, the County will require the following verification and/or certification:

1. **Maryland Unified Certification Program (MD UCP) DBE Certification** – DBE certification by a certifying member of the MD UCP 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 DBE certification issued by a certifying member of the MD UCP. It should be noted that the Airport is a non-certifying member of the MD UCP and relies on certification decisions of the Maryland Department of Transportation (MDOT). The MDOT certification staff applies the standards and procedures for DBE certification applicants contained in Subparts D and E of 49 CFR 26.61 – 26.91.



2. **Small business status** - A non-DBE certified potential small business concern may have to complete a simplified application and/or provide the following information at time of response to a solicitation or a bid submittal, as evidence of the small business status:
  - a. Evidence of SBA 8(a) or SBD Certification (as described in 13 CFR Parts 121 and 124);
  - b. A copy of the business tax returns for the most recent three-year period indicating the gross receipts; and/or
  - c. A notarized statement from a Certified Public Accountant indicating the firm's average gross receipts for the past three years.
3. **Use of Personal Net Worth:** The County, in addition to the standards for small business concerns described above, plans to utilize the current personal net worth standards of the DBE program (49 CFR Part 26.67), presently at \$1.32 million.

#### **E. Supportive Services**

The Airport is a non-certifying member of the MD UCP. The Airport does not conduct DBE certifications on behalf of the Airport but relies on certifications of MDOT. While the Airport also does not provide direct supportive services or business development programs to DBEs or small businesses, the Airport is aware of several valuable resources in the surrounding area. The Airport will coordinate and make referrals to potential and qualifying small business concerns to these services. Some of the resources are listed below:

Carroll County Chamber of Commerce  
9 East Main Street, Suite 105  
Westminster, MD 21157  
Phone: (410) 848-9050  
<https://carrollcountychamber.org/>

MID-MARYLAND SCORE  
4539 Metropolitan Court  
Frederick, MD 21704  
PHONE: (443) 860-6194  
<https://mid-maryland.score.org/>

Maryland Small Business Development Center - Northern Region  
56 West Main St., Suite 203  
Westminster, MD 21157  
Phone: (443) 412-2237  
<https://www.marylandsbdc.org/locations/northern-region>

Revolving Loan Fund – Carroll County  
110 S. Main Street  
P.O. Box 50  
Mount Airy, MD 21771  
Phone: (301) 829-1424  
<https://www.mountairymd.org/286/Incentives>

## F. Assurances

To help ensure the successful implementation of the Small Business Participation Plan (SBPP), the County, by way of review, accepts the following assurances:

1. *A detailed description of the small business program, its objectives, and how it is designed to operate.*
  - a. The details of the proposed program are described in sections A through G, of this part.
2. *Assurance that the program is authorized under state law.*
  - a. The County's SBPP will adhere to all applicable local and state laws and regulations.
3. *Assurance that certified DBEs that meet the size criteria established under the program are **presumptively** eligible to participate in the program;*
  - a. As stated in D. 4, of this section, certified DBE firms that meet the size criteria established under the program are presumptively eligible to participate in the small business program.
4. *Assurance that there **are no geographic preferences** or limitations imposed on any federally assisted procurement included in the program.*
  - a. The County will assure that there will be no geographic preferences or limitations imposed on any federally assisted procurement included in the County's DBE program.
5. *Assurance that there **are no limits** on the number of contracts awarded to firms participating in the program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses.*
  - a. The County will assure that it will not limit the number of contracts awarded to firms that are participating in the small business program. The County further assures that it will make a concerted effort to avoid creating barriers to the use of new, emerging, or untried businesses.

6. *Assurance that aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.*

- a. The County recognizes that, while some firms encountering its SBPP program may be small-business eligible, not all can be certified as DBEs. If, in the verification process, such firms appear to be DBE-eligible as well, they will be referred to the state UCP and encouraged to become DBE-certified. The County will also make firms aware of additional potential business opportunities if they become certified as DBEs.

7. *Assurance that the program is open to small businesses regardless of their location (i.e., that there is no local or other geographic preference).*

- a. The assurance stated in item 4, above, is also applicable to specifically to the airport's SBPP program as well.

#### **G. Principal Responsible Person**

The principal responsible person for overseeing and implementing the County's SBPP will be the currently designated Disadvantaged Business Enterprise Liaison Officer (DBELO). The DBELO for the Airport is **Mark L. Myers, Airport Manager**.

## **Attachment 5**

### Overall Goal Calculation

**FEDERAL FISCAL YEARS (FFY) 2023-2025  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
METHODOLOGY  
FOR**



**CARROLL COUNTY REGIONAL AIRPORT/JACK B. POAGE FIELD**

**WESTMINSTER, MARYLAND**

**MARCH 2022**



## Disadvantaged Business Enterprise (DBE) Goal Methodology – FFY 2023-2025

Airport Sponsor: Carroll County

Airport: Carroll County Regional Airport/Jack B. Poage Field

**DBELO: Mark L. Myers, Airport Manager**

Carroll County Airport

200 Airport Drive, Box 8

Westminster, MD 21157

Phone: 410-876-9885

[mlmyers@carrollcountymd.gov](mailto:mlmyers@carrollcountymd.gov)

### I. Detailed Methodology: Specific Steps

#### A. Amount of Goal

Carroll County's ("the County") overall DBE goal for federal fiscal years (FFY) 2023-2025 for the federal financial assistance it will expend in USDOT-assisted contracts is the following:

Overall Goal:	<b><u>5.21%</u></b>	<b><u>FFY 2023 DBE Goal</u></b>	<b><u>5.21%</u></b>
Race-Neutral:	<b><u>0.00%</u></b>	<b><u>FFY 2024 DBE Goal</u></b>	<b><u>n/a</u></b>
Race-Conscious:	<b><u>5.21%</u></b>	<b><u>FFY 2025 DBE Goal</u></b>	<b><u>n/a</u></b>

Given the dollar amount of USDOT-assisted contracts that the County expects to let during this fiscal three-year period, which is approximately **\$2,790,000**, this means that the County has set a goal of expending approximately **\$145,350** with DBEs during FFY 2020-2022.

#### B. Determination of the Market Area of the study

The normal market area is derived by determining where the substantial majority of contracting dollars for AIP-funded projects were spent, and from where the majority of bidders over a given period of time have come. The airport has had a federally funded project in the past five years that required a DBE goal. However, the project was a construction project. The proposed projects for FFY 2023-2025 that require DBE goals are professional services projects. The market area for the airport will be based upon the location of the County's engineering consultant (Chesterfield County, Virginia).

#### C. Determination of relevant NAICS codes

Based on information provided by the consulting engineer concerning the proposed projects for this three-year period, a list of NAICS codes corresponding to these projects was developed and is shown below:

**Table 1: Carroll County Regional Airport/Jack B. Poage Field —  
FFY 2023-2025 Projects & Activities**

FFY 2023 Projects		
PROJECT	ACTIVITY	NAICS CODE
Reconstruct Runway 16/34 (Design)	Engineering/design	541330
	Surveying	541370
	Geotechnical	541380
Relocate Automated Weather Observing System (AWOS) – Design and Construction Administration	Engineering/design	541330
Reconstruct Runway 16/34 Land Acquisition Reimbursement		n/a
Reconstruct Runway 16/34 Land Acquisition Services Reimbursement		n/a
FFY 2024 Projects		
PROJECT	ACTIVITY	NAICS CODE
Reconstruct Runway 16/34 Land Acquisition Reimbursement		n/a
Reconstruct Runway 16/34 Land Acquisition Services Reimbursement		n/a
FFY 2025 Projects		
Reconstruct Runway 16/34 – Environmental Mitigation		n/a
Reconstruct Runway 16/34 Land Acquisition Reimbursement		n/a
Reconstruct Runway 16/34 Land Acquisition Services Reimbursement		n/a

Source: Delta Airport Consultants

**D. Determination of Relative Availability of DBEs in Market Area, Compared to all Firms**

**Table 3a: DBEs—Carroll County Regional Airport/Jack B. Poage Field, by Relevant NAICS Codes—FFY 2023**

RECONSTRUCT RUNWAY 16/34 (DESIGN)									
Activity	NAICS CODES	DBE Firms	/	All Firms	=	Percentage of DBE Firms Available	x	Grant Amount Breakdown	= DBE Amount
Engineering/design	541330	4	/	87	=	4.60%	x	\$2,160,000	= \$99,360
Surveying	541370	1	/	12	=	8.33%	x	\$270,000	= \$22,491
Geotechnical	541380	1	/	14	=	7.14%	x	\$270,000	= \$19,278
TOTAL =								\$2,700,000	= \$141,129
STEP 1 DBE Base Figure =									5.23%

**Table 3b: DBEs—Carroll County Regional Airport/Jack B. Poage Field, by Relevant NAICS Codes—FFY 2023**

RELOCATE AUTOMATED WEATHER OBSERVING SYSTEM (AWOS) - DESIGN AND CONSTRUCTION ADMINISTRATION									
Activity	NAICS CODES	DBE Firms	/	All Firms	=	Percentage of DBE Firms Available	x	Grant Amount Breakdown	= DBE Amount
Engineering; construction administration	541330	4	/	87	=	4.60%	x	\$90,000	= \$4,140
TOTAL =								\$90,000	= \$4,140
STEP 1 DBE Base Figure =									4.60%

**SOURCES:**

1. 2020 County Business Patterns, U.S. Census Bureau, April 28, 2022.
2. Virginia Department of Small Business & Supplier Diversity Directory, August 2022.

**NOTE:** The County Business Patterns data were used as the source to determine the denominator, or the number of all firms in the market area. The DBE directories listed above were used to determine the numerator, or the number of DBE firms in the market area. No other MBE/WBE data were available in the market area for the airport.

**E. Determination of the DBE Base Figure**

The Step 1 DBE Base Figure for each project was derived by multiplying the dollars for each activity by the percentage of relevant DBE firms to all relevant firms. The total DBE goal in dollars was divided by the total grant amount to derive the step 1 goals.

**FFY 2023**

- Reconstruct Runway 16/34 (Design) – **5.23%**
- Relocate Automated Weather Observing System (AWOS) – Design And Construction Administration – **4.60%**

**FFY 2024**

- n/a

**FFY 2025**

- n/a

**II. Adjustments to the DBE Base Figure**

After the DBE Base Figure has been developed, the regulations (49 CFR Part 26) require that:

“...additional evidence in the sponsor’s jurisdiction be considered to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal” (26:45(d)).

**A. Adjustment Factors to Consider**

The regulations further state that there are several types of evidence that must be considered when adjusting the base figure. These include:

*“(i) The current capacity of DBEs to perform work in your USDOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.*

*“(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...”*

The County has had only one project in the past five years that required a DBE goal. That project was a construction project. The proposed projects for FFY 2023-2025 are professional services projects. It would not be a good comparison to use the past participation data from that project to make adjustments to the base figure.

49 CFR Part 26.45(d)(2) also states that the following must be considered for the purposes of considering an adjustment to the base figure:

*“(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;*



*(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program."*

The Maryland Department of Transportation conducted a disparity study for its Minority and Women Owned Business Enterprise (MWBE) program in 2018. The study determined that there is evidence of significant disparities between minority and female participation in business enterprise activity in the State of Maryland's relevant market area and the actual current availability of those businesses. The study, however, provided no quantifiable data specific to the Airport to use to adjust the DBE base figure and therefore, is not listed in the analysis.

The [Maryland Small Business Development Financing Authority](#) (MSBDFA) exists to assist socially and/or economically disadvantaged businesses in Maryland with their growth and development. The MSBDFA has several programs available for DBEs, including a Contract Financing Program that assists businesses with direct loans or as a guarantor for loans from financial institutions. The MSBDFA also offers a Surety Bond Program for DBEs who need bonding assistance. The Maryland Small Business Development Center – Northern Region in Westminster MD serves four counties (Baltimore, Carroll, Harford, and Cecil), and offers one-on-one business consulting, assistance in 8(a) certification and MBE certification in Maryland, as well as low or no-cost classes and workshops on a number of business-relevant topics.

**B. Adjustment to Step 1 DBE Base Figure: Carroll County Regional Airport/Jack B. Poage Field, FFY 2023-2025**

With the adjustment factors considered to this point, the County will not make adjustments to the Step 1 base figures. The calculation for the overall DBE goal is shown below.

**Table 5: Overall DBE goal calculation – Carroll County Regional Airport/  
Jack B. Poage Field**

<b>Fiscal Year</b>	<b>Project</b>	<b>Step 1 base figure</b>	<b>Step 2 adjustment</b>	<b>Overall Goal</b>	<b>Federal portion project costs</b>	<b>DBE Goal (dollars)</b>
<b>FFY 2023</b>	Reconstruct Runway 16/34 – Phase 6 Runway Design	5.23%	n/a	5.23%	\$2,700,000	\$141,210
	Relocate Automated Weather Observing System (AWOS) – Design and Construction Administration	4.60%	n/a	4.60%	\$90,000	\$4,140
<b>FFY 2023 Total</b>				<b>5.21%</b>	<b>\$2,790,000</b>	<b>\$145,350</b>
<b>FFY 2024</b>			n/a			
<b>FFY 2024 Total</b>						
<b>FFY 2025</b>			n/a			
<b>FFY 2025 Total</b>						
<b>FFY 2023 - 2025 Overall DBE Goal</b>			<b>5.21%</b>		<b>\$2,790,000</b>	<b>\$145,350</b>

**Resources:** Carroll County Regional Airport/Jack B. Poage Field - Disadvantaged Business Enterprise Program Methodology (FFY 2023-2025)

**A. Resource Documents:**

1. 2020 County Business Patterns, U.S. Census Bureau, April 28, 2022.
2. Virginia Department of Small Business & Supplier Diversity Directory, August 2022.



## **APPENDIX A:**

### **PUBLIC COMMENTS**

No comments were received from the public regarding the DBE goal for Carroll County Regional Airport/Jack B. Poage Field for FY 2020-2022. The notice to the public was posted at \_\_\_\_\_ (see Appendix B).

The DBE subconsultant to the Airport's engineering consultant hosted a web conference on Thursday, September 1, 2022, at 11:00 a.m. EDT. There were \_\_\_\_ invitations sent out, and there were \_\_\_\_ participants. The presentation covered the DBE program, recent changes to the federal regulations, and the calculation of the overall DBE goal for federal fiscal years 2023-2025. The session lasted about 30 minutes.

## **APPENDIX B:**

### **NOTICE TO THE PUBLIC**

## **Attachment 6**

# Breakout of Estimated Race-Neutral & Race-Conscious Participation

## **I. Breakout of Estimated Race-Conscious/Race-Neutral Participation**

Carroll County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The County will use a combination of the following race-neutral means to increase DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Disseminating information communications on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors).

The County estimates that, in meeting its overall goal of **5.21%** for FFY 2023-2025, that it will meet its goal via race-conscious measures. The County has only one year of data to analyze, and those data were for a construction project. Since the County is proposing professional services projects for FFY 2023-2025, the County proposes to meet its goal using race-conscious measures.

The County will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (26.51(f)) and it 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.

## **II. Process**

The County will normally submit its overall goal to the FAA on August 1 of the required year of submission for non-hub primary airports.

In establishing the overall goal, the County provided for consultation and publication. The consultation included minority-, women's and general contractor groups, and small business organizations that could be expected to have information concerning the

availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange via a web conference with as many interested stakeholders as possible focused on obtaining information relevant to the County's goal setting process. The consultation web conference was held on September 1, 2022, prior to the submission of the DBE goal methodology to the FAA for review pursuant to paragraph (f) of this section. The County documented in the goal submission the consultation process that was utilized (see [Appendix A of Attachment 5](#)).

Following this consultation, the County published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for inspection during normal business hours at the office of the Airport Manager for 30 days from the date of the notice. The notice was posted on the airport's website (<http://carrollcountyregionalairport.com/>).

The County will begin using the overall goal on October 1 of the required year of submission for general aviation airports in the FAA's Eastern Region, unless the County has received other instructions from USDOT/FAA (or, if the goal is established on a project basis) by the time of the first solicitation for a USDOT/FAA-assisted contract for the projects.

### **III. Contract Goals**

The County will use contract goals to meet any portion of the overall goal that the County 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 its overall goal that is not projected to be met through the use of race-neutral means.

The County will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. The County does not need 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).

The County will express its contract goals on the total amount of a USDOT-assisted contract.

## **Attachment 7**

Form 1 & 2 for Demonstration of  
Good Faith Efforts



## CARROLL COUNTY REGIONAL AIRPORT

### FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
Signature Title

## CARROLL COUNTY REGIONAL AIRPORT

### FORM 2: LETTER OF INTENT

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

Name of bidder/offeror's firm: \_\_\_\_\_

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Name & title of DBE firm's AR: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Work to be performed by DBE firm:

Description of Work	NAICS	Dollar Amount / %*	Dealer/Manufacturer**

*\*Percentage is to be used only in negotiated procurements, including design-build contracts*

*\*\*For material suppliers only, indicate whether the DBE is a manufacturer, or a regular dealer as defined by §26.55.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is \$ \_\_\_\_\_. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

\_\_\_\_\_  
Signature of Bidder/Offeror's Authorized Representative

Date: \_\_\_\_\_

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

\_\_\_\_\_  
Signature of Bidder/Offeror's Authorized Representative

Date: \_\_\_\_\_

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

*Submit this page for each DBE subcontractor.*

## **Attachment 8**

### Certification Application Forms

The UCP DBE certification application for the State of Maryland may be found at <https://www.mdot.maryland.gov/tso/pages/Index.aspx?PageId=103>.

## **Attachment 9**

Regulations: 49 CFR Part 26

The federal regulations, Title 49 of the Code of Federal Regulations, Part 26, can be found at <https://www.ecfr.gov/>.



# **Attachment 10**

## Bidders List Data Form

### BIDDERS LIST DATA FORM

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