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# **DBE Program Administration and Goal-Setting**

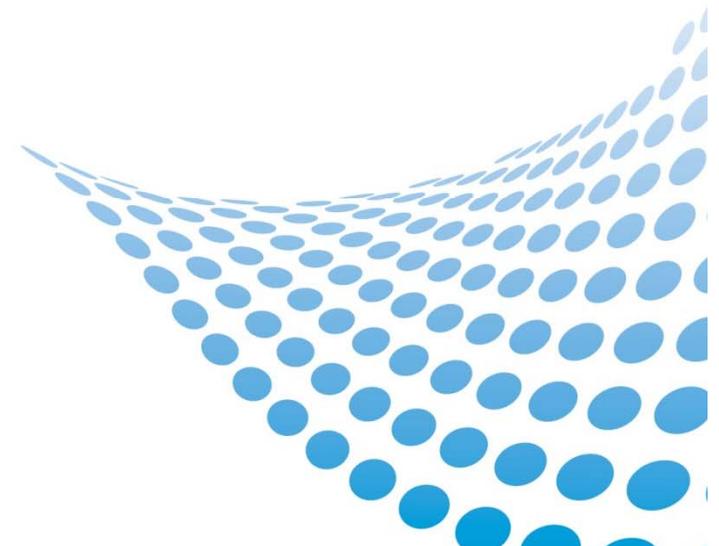
**Presented by:**

**Keturah Pristell, DBE/ACDBE Compliance  
Specialist**

**December 3, 2019**

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# What is DBE?

To whom does the program apply?

When is the program required?

# Program Legal Authorities

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# What does “DBE” Stand for?

DBE = Disadvantaged Business Enterprise



# DBE Program Rules

## Primary Program Authority:

- USDOT Issues DBE Program Regulations
- DBE Program Regulations: 49 CFR Part 26
  - Applies to FAA, FTA, and FHWA Grantees



# FAA Grant Assurance No. 37

.....The sponsor shall take all necessary and reasonable steps under **49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts.** The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. **Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement.** Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 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 1936 (31 U.S.C. 3801).

# DBE Program Objectives



# DBE Program Objectives

- (a) Ensure **nondiscrimination** in award and administration of contracts;
- (b) Create **level playing field**;
- (c) Ensure DOT's DBE program is **narrowly tailored**;
- (d) Ensure only **eligible firms** participate as DBEs;
- (e) Help **remove barriers** to participation of DBEs;
- (f) Promote use of DBEs in all types of contracts;
- (g) Assist firms ability to compete successfully outside DBE program; and
- (h) **Provide appropriate flexibility** to recipients.

# Programs Applicability

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# DBE Program Applicability

FAA recipients receiving grants for airport planning and/or development that will award prime contracts, the **cumulative total value** of which exceeds \$250,000 in FAA funds in a Federal fiscal year, must have an approved DBE Program with participation goals.

# What Funds to Count Towards the \$250,000?

– **You **MAY** count:**

- Construction Contracting Including Professional Services
- Land Acquisition Services (surveying, title, appraisal, etc.)
- Pooled AIP funds from multiple grants
- Equipment Purchases (i.e. Snow Plows, ARFF Trucks & Equipment, De-Icing Equipment, etc.)
  - If no DBE Manufacturers/ Dealers exist in the Airport Market Area, indicate 0% availability for that category during goal-setting

– **You **MAY NOT** count:**

- Funds for Land/Real Estate Purchases
- Grant for project awarded in prior year— if proper goal already set

# How long does a FAA Grant Recipient Administer the DBE Program and Goals?

- The recipient must implement established DBE goals until all eligible funds have been expended.
- Once all funding is expended, the recipient's DBE Program non-discrimination objectives must remain in effect.

# Program Submission Schedules and Reporting Requirements

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# DBE Goal Submission Requirements

**49 CFR Part 26** All Airports -- 3-Year Overall **DBE Goals** **DUE: AUGUST 1**

Airport Type	Region	Due	Period Covered	Next Goal Due
Large and Medium Hub Primary	All	2013	2014/2015/2016	2016 (2017/2018/2019)
Small Hub Primary	All	2014	2015/2016/2017	2017 (2018/2019/2020)
Non-Hub Primary	All	2015	2016/2017/2018	2018 (2019/2020/2021)
Non-Primary including GAs, Relievers, and State DOTs	Alaskan, Eastern, and Great Lakes	2013	2014/2015/2016	2016 (2017/2018/2019)
Non-Primary including GAs, Relievers, and State DOTs	New England, Northwest Mountain, and Southern	2014	2015/2016/2017	2017 (2018/2019/2020)
Non-Primary including GAs, Relievers, and State DOTs	Central, Southwest, and Western-Pacific	2015	2016/2017/2018	2018 (2019/2020/2021)

# DBE Participation Achievement Reporting

- Airports that awarded more than \$250,000 in Prime construction contracts must submit a DBE Participation Report by December 1
  - Report captures the total value of project awards made to non-DBE and DBE firms as well as data about DBE firm demographics
- FAA strongly encourages recipients to submit achievement reports online @ [FAACivilRightsConnect.com](https://FAACivilRightsConnect.com) .
  - Report submission training available to the public online @ [FAACivilRightsConnect.com](https://FAACivilRightsConnect.com) log-in page

# Goal Accountability Regulation

If the awards and commitments shown on your yearly achievement report at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the USDOT/FAA as implementing your DBE Program in good faith:

- (1) **Analyze in detail the reasons for the difference** between the overall goal and your awards and commitments in that fiscal year;
- (2) **Establish specific steps and milestones to correct the problems** you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;
  - If you are an Operational Evolution Partnership (OEP) Plan airport or other airport designated by the FAA, you must submit to FAA for approval within 90 days after submitting the yearly report(s)
  - Other airports must keep on file

# Record Keeping Requirements

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# Record Keeping Requirements

Recipient must have and maintain for three years:

- Contracting Records
- Program Compliance Records (monitoring forms, participation reports, etc.)
- Bidders List Requirements:
  - Include ALL firms successfully and unsuccessfully bidding, quoting, or participating (primes and subs)
  - Include name, address, age, and annual gross receipts of firms Include Firms' DBE or non-DBE status

# Staffing Requirements

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# DBE Liaison Officers & Other Staff

DBELOs Responsible for:

1. Developing
2. Implementing &
3. Monitoring the DBE Programs...

...in coordination with other appropriate staff and organizational officials.

# Key Airport Staff roles and Responsibilities

- **Maintain a DBE Program Plan document.**
- Periodically, **establish narrowly-tailored goals** for the participation of DBEs and ACDBEs on USDOT/FAA-assisted contracts.
- Carry out information and communication programs to **outreach** to firms.
- Consistently ensure contractors make **Good Faith Efforts** to meet race-conscious (contract) goals.
- Certify and/or **confirm the eligibility of DBE firms** to participate in their USDOT/FAA-assisted contracts.
- Proactively **monitor contracts, worksites, & achievements** to ensure work committed to DBE firms at bid time are actually performed by the same firms.
- Yearly, **report DBE participation achievements** to FAA.

# DBE Goal-Setting

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# Goal-Setting Resources

- Regulations in 49 CFR Part 26.45
  - offers step-by-step instruction and suggested methods
- FAA's DBE Program Sample Plan contains a goal methodology template
- USDOT's "Tips for Goal-Setting"
  - Provides Guidance & Addresses Common Issues
- Benchmark with an Experienced Airport
- **New!** FAA's DBE Goal-Setting Tool

# General Goal-Setting Process

- Recipients must set Overall Three-Year Goals
  - Do not use aspirational goals.
- Identify project needs and grant data
  - Detail project scopes; indicate timeframes and dollar amounts.
- Establish Market Area
  - Based on past bid and spending activity and locations
- Determine relative availability of DBE firms in Market Area in **two-step process**:
  - 1) Establish the percentage (of the types of firms you need for our project(s)) that are DBE-certified and/or eligible.
  - 2) Then adjust for any circumstances that affect the goal using other data available to you in your market.

# How is Goal-Setting Data Gathered?

- Census Bureau County Business Patterns Data
- UCP DBE Directories
- Bidders List Data
- DBE Past Participation Data
- Disparity Study Data (must be relevant)
- Use of another similarly situated Recipient's Goal
- Other Logical Method(s)

# Two-Step Goal-Setting Example

## Determine Baseline Data First

### ➤ Identify Projects and Grant Data:

- \$1,000,000 Project Awards Planned for Site Preparation in FY2022 at Niceland Airport. No projects Planned for FY2020-2021.
- Scopes of Work include Trucking, Tree Trimming & Land Excavation (**Research associated NAICS Codes for each scope**)

### ➤ Identify Market Area

- Determined to be the Niceland Metropolitan Area based on bidders list data (four counties) for this project type
- The data showed that over 80% of all bidders in the past two years have come from four local counties that represent the Niceland Metropolitan Area.
- Based on past successful and unsuccessful bidder activity

# Two-Step Goal-Setting Example

- Determine Relative Availability of Firms
  - Firms located in Market Area with proper NAICS codes as per State UCP/Census:
    - Land Excavation (\$333,000) value = 23/143 or 16% DBE Availability
    - Tree Trimming (\$333,000 value) = 6/72 or 8% DBE Availability
    - Trucking (\$333,000 value) = 80/257 or 31% DBE Availability
  - $16\% + 8\% + 31\%/3 = 18\% = \text{Step One Goal Figure}$

# 2-Step Goal-Setting Example

- Step 1 Goal is 18%
- Median Past participation (MPP) Data on Work Scopes (no projects occurred in FY15-16):
  - FY17 = 14% (MPP Figure)
  - FY18 = 16%
  - FY19 = 32% -outlier (Prime DBE firm hired)
- Step 2 Calculation  $18\% + 14\%/2 = 16\%$
- Step Two Goal Figure = 16% or \$160,000 for DBEs

# General Goal-Setting Process

- Determine the portion of the goal that will be race-neutral vs. race-conscious
  - *Race-Neutral* measure is one that may be used to assist and attract all small businesses.
    - Airport would *not* use DBE contract goals.
  - *Race-Conscious* measure is one that is focused specifically on assisting only DBEs
    - Airport would **use DBE contract goals.**

# Race/Gender Neutral Activities: Examples

- Use Small Business Program Element (SBE) to arrange contracts to be of a size most small businesses can perform (unbundling and setting-aside contracts).
- Outreach: Conduct SBE/DBE information sessions & post program information online.
- Outreach: Conduct pre-bid information meetings, hold business match-making sessions & post bidding information online.
- Provide business guidance and other supportive services to small businesses.
- Provide technical assistance to small businesses and help remove barriers to qualifying for participation (e.g. overcoming limitations obtaining bonding, financing, & insurance).
- Encourage Primes to utilize small firms & provide informational resources (i.e. program handbooks, DBE directories).

# Race-Conscious/Race-Neutral Split Calculation Scenario 1

Year	Previous	Achievement	Over/Under
FY17	12%	14%	+2%
FY18	17%	16%	-1%
FY19	15%	12%	-3%
	<i>14.6% Average</i>	<i>½ Race-Neutral ½ Race-Conscious</i>	<i>Median -1%</i>

- 18% = Overall Goal for FY20
  - 10% = Race-Conscious proposed
  - 8% = Race-Neutral proposed

**Adjust Contract  
Goals as Necessary**

# Race-Conscious/Race-Neutral Split Calculation Scenario 2

Year	Goal	Achievement	Over/Under
FY17	22%	14%	-8%
FY18	22%	16%	-6%
FY19	22%	12%	-10%
	<i>22% Average</i>	<i>All Race-Conscious</i>	<i>Median -8%</i>

Contract Goal Baseline Data from Step 1:

- Land Excavation = 23/143 or **16%** DBE Availability
- Tree Trimming = 6/72 or **8%** DBE Availability
- Trucking = 80/257 or **31%** DBE Availability

# Race-Conscious/Race-Neutral Split Calculation Scenario 3

Year	Goal	Achievement	Over/Under
FY17	11%	14%	+3%
FY18	11%	16%	+5%
FY19	11%	12%	+1%
	<i>11% Average</i>	<i>All Race-Neutral</i>	<i>Median +3%</i>

It is not necessary or advisable to set contract goals when an airport has been significantly overachieving goals using Race-Neutral Methods. The maximum feasible portion of goal achievement should be Race-Neutral as per program regulations.

# General Goal-Setting Process Continued

- Consultation Process
  - Consult with minority and women's contractor groups, Primes, community organizations, government officials, etc.
  - Look for and consider evidence that affects DBE/ACDBE Opportunities to Compete
- Public Notice
  - Notice must be posted on recipient [or FAA] website



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# **DBE Program Good Faith Efforts, Prompt Payment, Commercially Useful Functions, Reporting, and Certification**

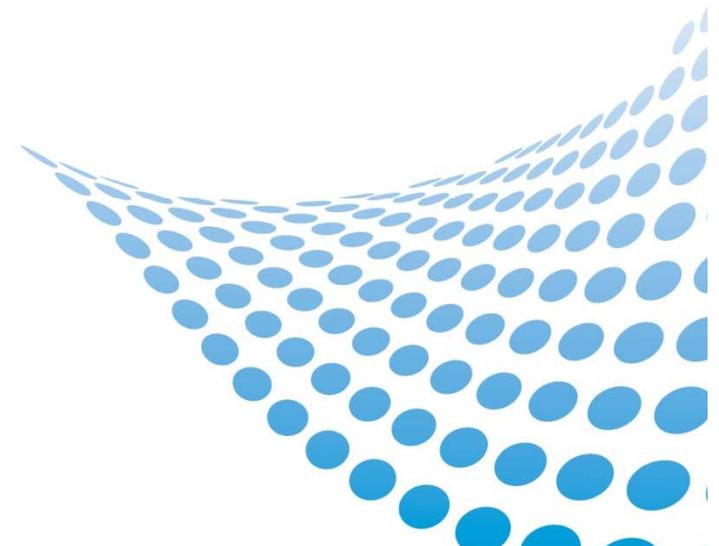
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**Presented by:**

**Gene Roth, DBE/ACDBE Program National Team  
Lead**

**December 3, 2019**



# Good Faith Efforts

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# When Must Airports Verify GFE in the Bid Process?

## X Race-Neutral Measures Supporting DBE Goals

- GFE not solicited or reviewed
- Prime firms are strongly encouraged to Utilize DBEs.
- Airport conducts outreach, provides firms with information & provides firms with supportive services.

## OK Race-Conscious Contracts with Required DBE/ACDBE Goals

- A contract goal is required to meet the portion of an overall goal not met via Race-Neutral Measures.
- Prime firms are required to meet the set contract goal or show well-documented, thorough GFE.
- Appendix A Provides details on how to evaluate GFE.
- DBE Primes have same GFE Requirements as non-DBE Primes.

# Good Faith Efforts & Termination

1. Prime MUST notify DBE/ACDBE of intent to terminate and copy airport staff.
2. Airport MUST allow five days for DBE/ACDBE to respond before approving termination request for good cause only.
3. Prime MUST receive written consent from airport to terminate & replace with another DBE/ACDBE firm.
  - If DBE/ACDBE terminated or replaced without airport consent, Prime is not entitled to payment/credit for work performed by a replacement firm.
4. Document and submit replacement DBE/ACDBE GFEs within “reasonable time” (seven days) after obtaining approval to terminate & replace DBE/ACDBE firm.

# DBE Certification

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# What are DBE Firms?

- a) A for-profit small business concern
- b) That is at least 51% owned by one or more individuals who are both socially and economically disadvantaged
- c) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it
- d) Must be officially certified in the state by the UCP



# Basic DBE Certification Standards

	<b>DBE Standards</b>
<b>PNW Cap</b>	\$1.32 Million
<b>Business Size Cap</b>	\$23.98 Million
<b>Application &amp; PNW Forms</b>	Found in Part 26 Appendix F & G
<b>Certification Duration</b>	Until Decertified via 26.87 procedures
<b>CUF Performance</b>	Not a Factor
<b>Prequalified at Airport</b>	Not a Factor
<b>Governing Regulations</b>	Part 26 Subparts D & E

# What kinds of businesses can be DBE-Certified?

- Construction Firms
- Supplier Firms/Manufacturers/Brokers
- Service Providers (i.e. Security Firms)
- Consulting Firms
- Management Firms
- Potentially Many Others (i.e. caterers)

# Prompt Payment & Retainage Requirements

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# Prompt Payment Requirements

- Does not apply to ACDBE Program
- Applies to ALL Federal construction and professional services contract subcontractors (DBE & non-DBE)
- Payment required no later than 30 days after “satisfactory completion” and acceptance of work – **after the Prime firm is paid**
  - **“Satisfactory Completion”** is defined in (26.29(c))  
*“...all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient 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.”*

# Return of Retainage: Three Options

Airport	Prime	DBE/Sub
Does not withhold from Prime	Does not withhold from sub	
Does not withhold from Prime	Does withhold from subs	Prime must pay within 30 days of completion of subcontractor's work
Withholds partial payments to prime upon completion of work	Does withhold from subs	Prime must pay all retainage to sub for completion of accepted work within 30 days of prime's receipt of payment from Airport

# Prompt Payment Requirements

- The DBE Program, contracts, and contract-related documents should state what constitutes satisfactory completion of work, as defined in section § 26.29(c).
- FAA recipients must use the partial payment language from Section 90-06 of FAA Advisory Circular 150/5370-10G.
- Identify enforcement mechanisms
- Dispute resolution mechanisms encouraged

# Prompt Payment Template

- Available Online
  - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-program-best-practices>
- Contains examples of Monitoring, Dispute Resolution Mechanisms, Enforcement Measures, etc.

# New! Prompt Payment Complaints

Section 157 of the 2018 FAA reauthorization  
(Public Law No. 115-254)

- Airport sponsors must track and report subcontractors' allegations of non-compliance.
- FAA is required to assess and improve airport sponsor compliance based on analysis of reports received.
- Airports must update their DBE Program to provide assurance that they will report these complaints.

# Prompt Payment Complaint Reporting

Report complaints and related data directly to  
FAA @

<https://www.surveymonkey.com/r/PromptPaymentComplaints> .

## PROMPT PAYMENT AND RETAINAGE COMPLAINTS

### 1. Sponsor and DBELO Information:

Sponsor/Owner Name	<input type="text"/>
Airport Name	<input type="text"/>
Airport ID Code (3 digit)	<input type="text"/>
DBELO Name	<input type="text"/>
DBELO Email Address	<input type="text"/>
DBELO Phone Number	<input type="text"/>

### 2. Date of Complaint

Date

MM/DD/YYYY	\
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### 3. How was this complaint submitted?

- Email
- Formal Letter
- Telephone
- Via weblink
- Other (please specify)

#### 4. Complainant Information:

Complainant Name	<input type="text"/>
Company Name	<input type="text"/>
Certified DBE Firm (Yes/No)	<input type="text"/>
Address	<input type="text"/>
City/Town	<input type="text"/>
State/Province	<input type="text"/>
ZIP/Postal Code	<input type="text"/>
Email Address	<input type="text"/>
Phone Number	<input type="text"/>

#### 5. FAA funded project information:

Project Name	<input type="text"/>
Project Number	<input type="text"/>
AIP Grant Number	<input type="text"/>

#### 6. Description of complaint (include internal tracking #):

#### 7. Resolution for Complaint:

#### 8. Did all project contracts include the following provisions (check all that apply):

- A. Contract assurances as required by 49 CFR 28.13(b).
- B. 90-80 Partial Payment clause as required by AC150/5370-10G.
- C. Additional Prompt Payment language related to 49 CFR 28.29(a)-(c).
- D. Prompt Payment enforcement provision as required 49 CFR 28.29(d)-(e)
- If you checked D, please describe how contractual enforcement provisions are included, specify document name and section/clause.

9. Does the Sponsor proactively monitor prompt payment of all subcontractors?

- YES
- NO
- If YES, please describe how.

10. Did the Sponsor implement enforcement actions with this complaint to prevent prompt payment complaints from recurring?

- YES
- NO
- If YES, please describe how.

11. Has the Sponsor's DBE Program been updated to address USDOT prompt payment guidance released in 2016 and 2018?

- YES
- NO
- If YES, has a copy of it been uploaded to FAA Civil Rights Connect?

12. Was FAA involved in the resolution of the complaint?

- YES
- NO
- If YES, please provide staff name.

Done

# Monitoring Contracts & Worksites

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# DBE & ACDBE Monitoring Requirements

- (a) Implement Appropriate Mechanisms to Ensure Compliance by ALL PROGRAM PARTICIPANTS
- (b) Ensure Work Committed to DBE is Performed by DBE
- (c) Written certification that you have reviewed contracting records and worksites
- (d) Running Tally of DBE Participation

# How should contracts be reviewed?

- Regulations require that airports review all DBE contracts.
- Compare DBE information in bid documents to information in DBE contracts.
- Written Certification Required
- Primes must make all DBE subcontracts available for review without exception including all supply, management, services and sub-agreements.
- Contracts should be reviewed prior to allowing work to proceed.
  - Ensure bid information matches contract information and language for DBE subcontracts.
  - Ensure all required contract clauses are incorporated into the contract.
  - Ensure you review lower-tiers of DBE participation, too.
  - Ensure all DBE firms have a copy of their contract.

# Contract Review Requirements

Recipients' contracts must contain these provisions required by regulations:

1. Non-discrimination Clause (26.13)
2. Prompt payment & Retainage Clause (26.29)
3. Termination Clause (26.53(f))
4. Enforcement provisions (26.105 & 107)
5. Scope of Work and Value Comparison

# How should worksites be monitored?

Regulations require that airports review all DBE worksites proactively while work is in progress.

- Monitors must visit DBE location at least once each year; try to visit at least twice (perhaps more for larger/lengthier projects).
- If you have many DBE firms participating at your airport, then you may want to create a review schedule to keep yourself on track.
- Require Prime firms to submit detailed supplier, trucking, and equipment counting plans for DBE firms performing in those categories

# How Should Worksites be Monitored?

## Key Elements of DBE Work-Site Monitoring:

- Ensure agreement matches what is actually happening on worksite.
  - Verify DBE firm and scope of work is the same as identified on participation plan for race-conscious contracts. Ensure DBE firms are performing as expected and independently.
  - Verify no unapproved DBE Terminations Occurred on race-conscious contracts.
- Provide for written certification by memorializing reviews in writing (include date of review and staff signature). Incorporate CUF Review by producing Site-Visit Reports/CUF Forms/Checklists. Produce Follow-Up Reports (as needed).
  - May combine contract and worksite reviews CUF forms with written certification form to simplify process
- Keep data on file for three years (after agreement term/project ends).
- Ensure you review lower tiers of DBE participation, too.

# Monitoring is a Team Effort!

- Involve other airport staff like Project Inspectors, Construction Managers, Project Engineers, Procurement/Finance Specialists, Legal Counselors, etc.
- Consider creating an DBE Program Planning & Oversight committee of employees where the DBELO is the chair
- Consider creating standard forms and checklist to assist with monitoring.
- Create DBE oversight as an essential job function for certain employees. Consider training airport staff using CUF and monitoring training videos found @ <https://www.fhwa.dot.gov/federal-aidessentials/indexofvideos.cfm>



# Counting & Commercially Useful Function (CUF)

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# Why is it important to review CUF?

- Regulations require that airports review ALL DBE worksites proactively while work is in progress in order to verify CUF.
- **Prime Contractors and Recipients only get credit for DBE participation when an DBE performs a CUF regardless of whether participation is race-conscious or race-neutral.**
- For race-conscious contracts, CUF review actually begins when airports verify that firms are properly certified to perform their proposed scope(s) of work during the bidding stages as GFEs are reviewed.
- For race-conscious contracts, recipients can proactively review how a prime plans to count proposed DBE participation during the bid process.

# Verifying CUF During Worksite Reviews

A DBE performs a CUF when it is...

*“Responsible for execution of the work of the contract [or a distinct element of the work]. . . by actually performing, managing, and supervising the work involved.”*

- A DBE must perform at least 30% of work with its own workforce.
- DBE firms must own or lease trucks and equipment it uses; leases from Primes are not appropriate unless the Prime firm is a DBE.

# Verifying DBE CUF During Worksite Reviews

- ✓ Interview DBE firm employees to ask if they know the owner they work for, who the DBE supervisor is, and if they see the supervisor or owner often. Verify the supervisor and employees appear on DBE firm payroll documentation. Employees should not be shared with the Prime.
- ✓ Observe whether or not it appears the DBE is performing at least 30% of their contract with their own forces or if there are non-DBE firms taking over some of the DBE's work.
- ✓ Observe whether or not it appears the DBE supervisor controls the DBE employees' work, and ask about their daily duties.
- ✓ Check trucks and equipment VIN numbers to verify they are owned or leased by the DBE firm and not owned by the Prime firm.
- ✓ Check supply orders, bills of lading, drop slips, invoices, and payment records for supplies and equipment to verify they have purchased, negotiated, and paid for the items independently. If Joint Checks are in play be sure the Joint Check agreement is airport approved.

# Fraud Detection: See Something? Say Something!



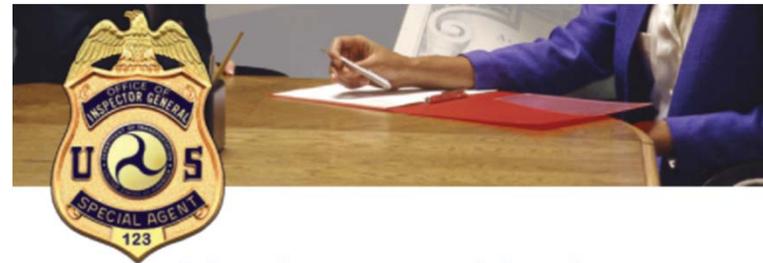
**DBE Fraud:** A contractor or concessionaire misrepresents who performed work in order to increase profit while appearing to be in compliance with program and goal requirements.

- Fraud is much more likely to be detected by tips rather than by any other method.

# DBE Fraud Detection

## USDOT's DBE Fraud Pamphlet:

[https://www.oig.dot.gov/sites/default/files/files/OIG\\_DBE%20card.pdf](https://www.oig.dot.gov/sites/default/files/files/OIG_DBE%20card.pdf)



### Disadvantaged Business Enterprise (DBE) Fraud

Under this scheme, a contractor misrepresents who performed the contract work in order to increase job profit while appearing to be in compliance with contract goals for involvement of minority- or women-owned businesses.

**Recognize and Report Fraud in Federally Funded Programs, Contracts, and Grants**

**(800) 424-9071**

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# DBE Fraud Detection: Common Red Flags

## USDOT's DBE Fraud Pamphlet:

[https://www.oig.dot.gov/sites/default/files/files/OIG\\_DBE%20card.pdf](https://www.oig.dot.gov/sites/default/files/files/OIG_DBE%20card.pdf)

### Selected "Red Flag" Indicators of Disadvantaged Business Enterprise (DBE) Fraud

- ✓ DBE owner lacking background, expertise, or equipment to perform subcontract work
- ✓ Employees shuttling back and forth between prime contractor and DBE-owned business payrolls
- ✓ Business names on equipment and vehicles covered with paint or magnetic signs
- ✓ Orders and payment for necessary supplies made by individuals not employed by DBE-owned business
- ✓ Prime contractor facilitated purchase of DBE-owned business
- ✓ DBE owner never present at job site
- ✓ Prime contractor always uses the same DBE
- ✓ Financial agreements between prime and DBE contractors
- ✓ Joint bank accounts (Prime/DBE)
- ✓ Absence of written contracts

# How is DBE Participation Counted?

- Count the 100% of a construction contract that is performed by a DBE's own forces. Work that a DBE subcontracts to a non-DBE does not count.
  - Goods or supplies furnished and installed by the contractor are also counted at 100% of the cost.
- Count the 100% of reasonable fees or commissions charged by a DBE for providing a bona fide service (i.e. consulting).

# How is DBE Participation Counted?

- If materials or supplies are purchased from a DBE manufacturer, count 100% of the cost.
  - A manufacturer is a firm that operates or maintains a factory that produces goods needed for the contract on the premises, or it is a firm that alters a product to meet contract specifications.
- If materials or supplies are purchased from a regular dealer, count 60% of the cost.
  - A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which goods needed for the contract are kept in stock and regularly sold and leased to the public in the normal course of business.
  - For bulk items like mixed concrete, regular dealers are only required to own their distribution equipment (i.e. a cement truck). If the distribution equipment is leased then the lease must be long-term.

# How is DBE Participation Counted?

- If materials or supplies are purchased with the assistance of a broker, count 100% of fees charged for the service **but none of the cost of the goods**.
  - A broker is a supplier that does not meet the definition of a regular dealer or manufacturer.
  - May include transportation and delivery fees
  - Ensure charges are not inflated or excessive

# How is DBE Participation Counted?

Generally count the total value of trucking services provided by the DBE; be mindful of the special rules described in the regulation.

- If using DBE Truckers for projects, the DBE must own and operate at least one truck.
- If a DBE supplements its fleet with trucks it does not own, count the entire value of other DBE-owned trucks.
- Count the value of supplemented trucking services provided by non-DBE firms (with non-DBE firm drivers) in an amount not to exceed the value of trucking services provided by DBE firms (1:1 ratio). Non-DBE truck participation beyond that receives credit only for fees or commissions received by the DBE for arranging the use of the trucks.
- If the DBE leases trucks from a non-DBE truck leasing company and uses its own drivers, then it is entitled to credit for the total value of the services.
- Ensure all trucks appear on trucking counting plans and check trucks and drivers in and out when they enter and leave the worksite.
- Ownership/leasing documentation as well as driver documentation (licenses) should be kept in the truck while it is working on a project as a DBE truck.

# DBE Program Report Submissions

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# Basic Reporting Form Structure

Airports must submit reports using the form found in Appendix B of 49 CFR Part 26. Ensure you have procedures in place to gather all the data needed.

## Essential Sections of the Form:

- Lines 1-7 capture basic airport information, goal data, and grant numbers.
- Section A captures information about the **new awards** and commitments made during the prior fiscal year.
  - This section contains rows that further break down participation by type (prime & sub). The section columns allow airports to attribute dollar values of awarded work for DBEs and non-DBEs for each participation type. DBE information is further broken down into race-conscious and race-neutral award achievement.

# Basic Reporting Form Structure

## Essential Sections of the Form (continued):

- Section B breaks down the DBE participants from Section A by ethnicity and gender.
- Section C captures payments made on ongoing contracts that have not been completed during the reporting period.
- Section D captures payments made on closed contracts that have been completed during the reporting period.

# What does the reporting form look like?

7 Annual DBE Goal(s):		Race Conscious Projection			Race Neutral Projection			OVERALL Goal		
Awards/Commitments this Reporting Period										
		A	B	C	D	E	F	G	H	I
A	AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts committed during this reporting period)	Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
	8 Prime contracts awarded this period									
	9 Subcontracts awarded/committed this period									
10	TOTAL									

# What does the reporting form look like?

B	BREAKDOWN BY ETHNICITY & GENDER	Contracts Awarded to DBEs this Period					
		A			F		
		Total to DBE (dollar amount)			Total to DBE (number)		
		Women	Men	Total	Women	Men	Total
11	Black American						
12	Hispanic American						
13	Native American						
14	Asian-Pacific American						
15	Subcontinent Asian Americans						
16	Non-Minority						
17	<b>TOTAL</b>						

# What does the reporting form look like?

		A	B	C	D	E	F
C	PAYMENTS ON ONGOING CONTRACTS (report activity of ongoing contracts)	Total Number of Contracts	Total Dollars Paid	Total Number of Contracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs
<sup>18</sup>	Prime and sub contracts currently in progress						

# What does the reporting form look like?

D	TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	Number of Contracts Completed	Total Dollar Value of Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percent to DBEs
19	Race Conscious					
20	Race Neutral					
21	Totals					

# FAA's Online Reporting System

<https://faa.civilrightsconnect.com/FAA/login.asp>

The screenshot shows a web browser window with the URL <https://faa.civilrightsconnect.com/FAA/login.asp>. The browser's address bar and tabs are visible. The main content area displays the "FAA Civil Rights Connect Login" page. At the top of the page is a green header with the title "FAA Civil Rights Connect Login". Below the header is a disclaimer: "Disclaimer: This system is strictly for the use of authorized FAA, airport, and consultant users to provide and manage DBE/Part 26, ACDBE/Part 23, Title VI, and ADA/Sec. 504 data. All user activity is logged." The login form consists of two input fields: "Username (email address)" and "Password". Below these fields is a "Login" button. Underneath the button is a link: "[User Lookup, Password Reset, and Create Account](#)". At the bottom left of the page is a link for "[Customer Support](#)". At the bottom right, there are links for "Civil Rights Connect User Guide: [PDF](#)" and "Uniform Report: [PDF](#), [Video](#)". A large red arrow points from the right side of the page towards the bottom right corner.

# New Technology

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# New Program Technology

## DBE/ACDBE Online Self-Assessment for Airport Sponsors

<https://faa.civilrightsconnect.com>

Airports with a profile/account in the system can  
take the self-assessment at any time.

# New Program Technology

Introducing the FAA Matchmaker Website

<https://faa.dbesystem.com>

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FAA Matchmaker System x  
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# FAA Matchmaker System

### National Certified Directory

Search our database of certified DBE and ACDBE firms

[Search Certified Directory](#)

### Airport Opportunities

[View Bid Board](#)

[Register for Bid Alerts](#)

[Submit a Bid Opportunity](#)

### DBE & ACDBE Resources

[DBE & ACDBE Links](#)

[Airport Goals](#)

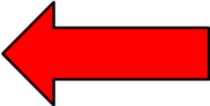
[FAA Training](#)

[View FAA Jobs](#)

### About the Matchmaker System

Learn more about this system and how it works today

[Information for Vendors & Airports](#)



The FAA Matchmaker System is operated by **B2Gnow** in conjunction with the FAA Disadvantaged Business Enterprise Program.  
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# Introducing FAA Matchmaker

- Established in 2009, the system has provided a searchable National DBE/ACDBE Directory and reposting of airport bid opportunities.
- Also includes airport goals and program links

<https://faa.dbesystem.com>

# Introducing FAA Matchmaker

- There are about 5000 airports and 40,000+ DBEs and ACDBEs in the United States.
- Airports publish opportunities and procure through widely varying methods.

**How can firms efficiently find business?**

# Introducing FAA Matchmaker

- Combines airport opportunities notifications with the DBE/ACDBE Directory
- Offers automated (opt-in) bid alerts to DBE and ACDBE firms
- Airports and Prime firms can effortlessly expand their sourcing efforts.
- Enhanced search tool for DBE and ACDBE firms to identify opportunities

# FAA Matchmaker System's Key Points

- **No cost** to airports to post opportunities
- **No cost** to DBE/ACDBE firms to view opportunities and receive automated bid alerts
- **No cost** for general contractors/primes to submit subcontractor opportunities
  - Airports are encouraged to submit their opportunities through the website and advise their DBE/ACDBE firms to confirm their profile/sign up for bid alerts.

FAA Matchmaker System x  
https://faa.dbesystem.com/

United States Department of Transportation

 **Federal Aviation Administration**

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# FAA Matchmaker System

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Search our database of certified DBE and ACDBE firms

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The FAA Matchmaker System is operated by [B2Gnow](#) in conjunction with the FAA Disadvantaged Business Enterprise Program.  
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# FAA Matchmaker System's Support for Queries

**NOTE: The response to your support query will come from [faa@dbesystem.com](mailto:faa@dbesystem.com).**

- Please ensure you are able to receive email messages from this address.
  - Security systems at your location may prevent you from receiving email messages from FAA System.
  - Your IT support office can unblock the messages so you can receive them.
  - Please make sure your DBE/ACDBE firms are aware of these potential IT issues, too.

# Success!

Finally we have a tool that fills the gap of assisting airport sponsors and primes in identifying potential DBEs and ACDBEs and increasing the awareness of the DBE and ACDBE community about airport contracting and concession opportunities.

# DBE Goal-Setting Tool

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# Legal Update

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# Additional Program Resources

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# Additional Program Resources

USDOT DBE Program Website:

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

FAA DBE & ACDBE Program Website:

[https://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/](https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/)

US Census Bureau County Business Patterns Website:

<https://www.census.gov/programs-surveys/cbp.html>

FAA Matchmaking Website (Includes DBE/ACDBE Directories):

<https://faa.dbesystem.com/>

FAA DBE/ACDBE Points of Contact:

[https://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/contact/](https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/contact/)

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# Questions & Comments?

