

Table of Contents

Page

Introduction 1
Policy Statement 2
Applicability 3
Definitions 3
Non-Discrimination..... 3
Record-Keeping 3
Federal Financial Assistance Agreement Assurance 4
Contract Language..... 4
DBE Program Updates..... 5
DBE Policy Circulation 5
Responsibility for DBE Program Implementation and Administration 5 - 6
DBE Financial Institutions 6
Prompt Payment 7
DBE Directory 7
Overconcentration..... 8
Business Development Programs..... 8
Monitoring and Enforcement Mechanisms 8 - 9
Quotas..... 9
Overall Goals 9
Breakout of Estimated Race-Neutral & Race-Conscious Participation 10
Contract Goals 11
Good Faith Efforts..... 11
Demonstration of Good Faith Efforts..... 12
Administrative Reconsideration..... 12
Good Faith Efforts when a DBE is replaced on a contract..... 13
Counting DBE Participation..... 13
DBE Certification Procedures 13
Information, Confidentiality, Cooperation 13

ATTACHMENTS

Organization Chart ATTACHMENT I
Resolution in Support of DBE Program..... ATTACHMENT II
Fiscal Year 2006 Goals..... ATTACHMENT III
Nevada Unified Certification Program Agreement ATTACHMENT IV
NUCP Certification Application..... ATTACHMENT V
CFR 49 Part 26 ATTACHMENT VI
Size Standards by SIC Industry (13 CFR Part 121) ATTACHMENT VII

Introduction

The Reno-Tahoe Airport Authority of (RTAA) has developed this Disadvantaged Business Enterprise (DBE) Program in accordance with Title 49 CFR Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The Department of Transportation regulations for the DBE Program are intended to remedy past and current discrimination against DBEs, ensure a “level playing field” and foster equal opportunity in DOT-assisted contracts.

Statement of Policy (26.1, 26.23)

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

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

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts and;
- (f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

To ensure adherence to this policy, the Reno-Tahoe Airport Authority Board of Trustees has assigned the coordination of the DBE program to the Chief Executive Director. The Chief Executive Director has delegated this responsibility to the DBE Coordinator. In that capacity, the DBE Coordinator is responsible for 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 RTAA in its financial assistance agreements with the Department of Transportation. It is the expectation of the Reno-Tahoe Airport Board of Trustees that the provisions of this DBE Program will be adhered to both in spirit and letter by all RTAA personnel. A copy of the Board of Trustees Resolution #387 in support of the RTAA DBE Program is contained in Appendix A.

This policy will be circulated to RTAA employees and to appropriate community and business organizations, DBE and non-DBE firms that perform work on federally funded contracts.

Date

Krys T. Bart, A.A.E.
Chief Executive Director

Applicability (26.3)

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

Definitions (26.5)

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

Nondiscrimination (26.7)

The RTAA 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 RTAA 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.

Record Keeping Requirements (26.11)

Reporting to DOT (26.11(b))

The RTAA will submit DOT Form 4630, the Uniform Report Of DBE Awards Or Commitments And Payments, as modified for use by FAA recipients, on an annual basis.

Bidders List (26.11(c))

The RTAA will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and range of annual gross receipts of firms.

The RTAA will require this information to be submitted by all bidders for a DOT-assisted contract at the time of bid.

Federal Financial Assistance Agreement Assurance (26.13)

The RTAA has signed the following assurance, applicable to all DOT-assisted contracts and their administration.

The Reno-Tahoe Airport Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contractor in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Reno-Tahoe Airport Authority shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The Reno-Tahoe Airport Authority DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Reno-Tahoe Airport Authority of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Required Contract Language (26.13)

The RTAA will include the following assurance in each DOT-assisted prime contract (and each subcontract the prime contractor signs with a subcontractor):

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

DBE Program Updates (26.21)

The RTAA will continue to carry out this program until all funds from DOT financial assistance have been expended. The RTAA will provide to DOT updates representing significant changes in the program.

DBE Policy Circulation (26.23)

The RTAA will circulate its approved policy statement throughout the organization and to the DBE and non-DBE business communities that perform work on our DOT-assisted contracts.

Responsibility for DBE Program implementation and Administration (26.25)

- A. The RTAA Board of Trustees is ultimately responsible for establishing DBE policy and ensuring that the DBE Program has the high priority at the RTAA.
- B. The Chief Executive Director is responsible for ensuring that the Board's policies are implemented throughout the RTAA.
- C. Designation of Disadvantaged Business Enterprise Liaison Officer

The RTAA has designated the following individual as DBE Liaison Officer:

Marily Mora
Chief Operating Officer
Reno-Tahoe Airport Authority
2001 East Plumb Lane.
Reno, NV 89502
(775) 328-6412
e-mail: mmora@renoairport.com

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

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

1. Gathers and reports statistical data and other information as required by FAA and DOT.
2. Reviews DOT-assisted contracts and subcontracts and purchase requisitions for compliance with this program.
3. Works with other Airport Divisions and community organizations to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals).
6. Analyzes RTAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid, project information and pre-construction meetings.
8. Advises the Chief Executive Director on DBE matters and achievement.
9. Chairs project status meetings to obtain information concerning upcoming projects.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE technical assistance programs.
12. Acts as liaison for the RTAA to the Nevada Uniform Certification Program (NUCP).
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Insures RTAA DBE participants are certified by the Nevada Unified Certification Program and appropriately listed in the Directory maintained by NDOT.

DBE Financial Institutions (26.27)

It is the policy of the RTAA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Prompt Payment (26.29)

The RTAA will include the following assurance in each DOT-assisted prime contract:

The contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contractor receives from the RTAA. The prime contractor agrees further to return retainage payments to each subcontractor within 15 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following the written approval of the RTAA. This clause applies to both DBE and non-DBE subcontractors.

DBE Directory (26.31)

The RTAA utilizes the Disadvantaged Business Enterprise Directory maintained by the Nevada Department of Transportation for the Nevada Unified Certification Program (NUCP). The Directory is a listing of companies who have been certified as Disadvantaged Business Enterprises by the NUCP. The Directory contains the following minimum information on each firm listed:

1. Firm Name
2. Address
3. Telephone Number
4. Contact Person
5. Types of Work that the DBE firm is certified to perform

The DBE directory is available to bidders and others seeking to meet DBE requirements or to locate DBE capabilities.

In the event a bidder desires more information on a listed DBE, they are encouraged to solicit that information from the firm directly by contacting the person listed in the directory. All firms listed in the NUCP DBE Directory have been certified by a process conforming with all procedures and standards required by Subpart D of 49 CFR, Part 26, including the Small Business Concerns Standards and Personal Net Worth Criteria.

Overconcentration (26.33)

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

Business Development Programs (26.35)

The RTAA has not established a business development program or mentor-protégé program at this time.

Monitoring and Enforcement Mechanisms (26.37)

The RTAA will use the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The RTAA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The RTAA will consider similar action under it's own legal authorities, including responsibility determinations in future contracts.
3. The RTAA will provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished as follows:
 - a. Prime Contractors working on projects containing a DBE goal shall be required to file monthly reports listing contract work awarded to and performed by DBE subcontractors/suppliers. These reports will be compared to bid commitments and discrepancies or questions will be followed-up in writing by the DBELO.
 - b. The DBELO or the Project Manager will periodically visit the job site to insure that DBE firms listed in bid documents are performing the work. These visits will be documented in the appropriate project files.

c. At the conclusion of the project, the Prime Contractor will be required to report payments made to DBE firms for a specific project and to identify invoice numbers, dates, amounts and check numbers for payments made to the DBE firm.

d. After the above information is received from the Prime Contractor, DBEs will be required to verify information. If there is a discrepancy reported by the DBE firm, the matter is investigated through written correspondence with the Prime Contractor and the DBE firm and actual levels of participation are confirmed.

e. Once all information has been received from Prime Contractors and verified by DBE firms, the information is recapped and compared to original commitments.

Quotas (26.43)

In compliance with CFR 49 Part 26, The RTAA does not use quotas in any way in the administration of this DBE program.

Overall Goals (26.45)

The overall goal period for the RTAA Disadvantaged Business Enterprise Program is on an annual basis from October 1 through September 30. Overall Goals are set in accordance with 49 CFR Part 26. A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment III to this program. This Attachment to the program will be updated annually.

The RTAA submits its overall goal to the FAA on August 1 of each year. Before establishing the overall goal each year, the RTAA will consult with various minority and trade organizations, including Nevada Uniform Certification Program list to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the RTAA's efforts to establish a level playing field for the participation of DBEs. Following this consultation, the RTAA will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Airport offices for 30 days following the date of the notice, and informing the public that the Airport and the DOT/FAA will accept comments on the goals for 45 days from the date of the notice. The notice will be published in Consultant Information Network; AAE; Reno Gazette-Journal; Sierra Contractor's Source; IMS; McGraw-Hill Construction Dodge Plan Room;

Minority Business Development Agency, US Department of Commerce; and Reno

Builder. In addition, the notice will be sent to all local minority and women organizations.

Normally, this notice will be issued by June 1 of each year. The notice will include addresses to which comments may be sent.

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

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

- a) Provide information on the RTAA organization, functions and its full range of contractual needs.
- b) Offer instructions and clarification on bid specifications, procurement policy, procedures, and general bidding requirements.
- c) Maintain a file of successful bid documents from past procurements and permit potential participants to review and evaluate such documents.
- d) Conduct debriefing sessions on each awarded contract to explain why certain bids were unsuccessful.
- e) Routinely issue projected procurement information.
- f) Provide instructions and clarification on job performance requirements.
- g) Provide information and assistance on certification procedures, sub-contracting practices, bonding requirements.
- h) Provide assistance in obtaining bonding and financing and provide technical assistance.
- i) Arrange solicitations, time for presentation of bids, quantities, specifications and delivery schedules so as to facilitate the participation of DBEs.

Attachment III (Report of Overall Goals) provides an estimate of the amount of the goal estimated to be met through race-neutral participation vs. race-conscious measures. The report also provides information relative to the basis for the estimated breakout.

The estimated breakout of race-neutral and race-conscious participation will be adjusted as needed to reflect actual DBE participation. Race-neutral and race-conscious participation will be tracked and reported separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

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

Contract Goals (26.51)

The RTAA 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 our overall goal that is not projected to be met through the use of race-neutral means.

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

The RTAA will express contract goals as a percentage of the total amount of a DOT-assisted contract.

Good Faith Efforts (26.53)

The RTAA treats bidder/offers' compliance with good faith efforts requirements as a matter of responsiveness.

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

- The names and addresses of DBE firms that will participate in the contract
- A description of the work that each DBE will perform
- The dollar amount of the participation for each DBE firm listed
- Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal
- Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment

- If the contract goal is not met, evidence of good faith efforts.

Demonstration of Good Faith Efforts (26.53)

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

Administrative Reconsideration (26.53)

Within 3 days of being informed by The RTAA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration.

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

Marily Mora
Chief Operating Officer
Reno-Tahoe Airport Authority
2001 East Plumb Lane.
Reno, NV 89502
Phone: (775) 328-6412
FAX: (775) 328-6510
e-mail: mmora@renoair.com

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

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a

written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts When a DBE is Replaced on a Contract (26.53)

The RTAA will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor will be required to notify the DBE Liaison Officer immediately of the DBEs inability or unwillingness to perform and provide reasonable documentation.

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

If the contractor fails or refuses to comply in the time specified, the 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.

Counting DBE Participation (26.55)

DBE participation will be counted toward overall and contract goals as provided in 49 CFR Section 26.55.

DBE Certification Procedures (Subpart E)

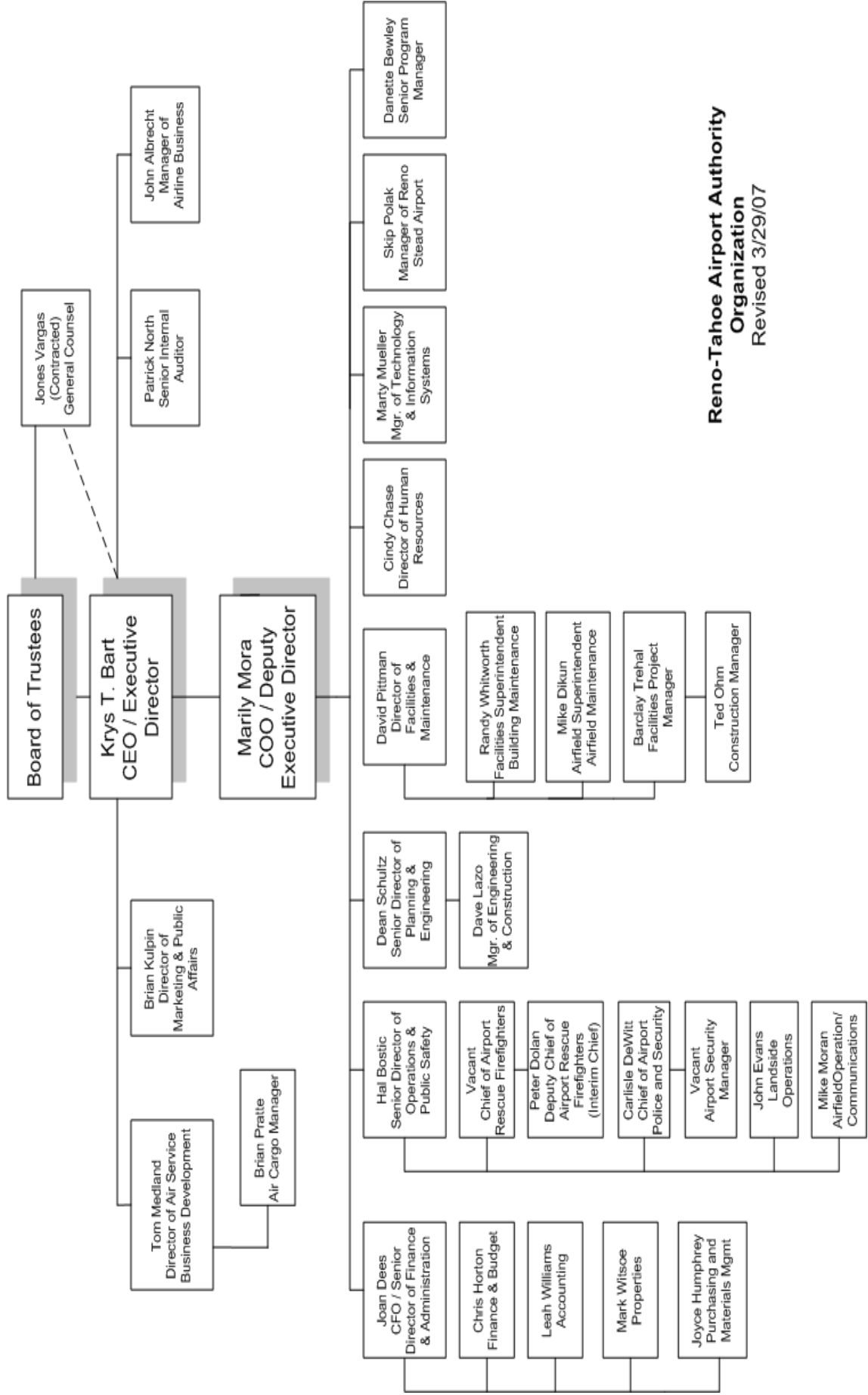
The RTAA is a member of the Nevada Unified Certification Program (NUCP) administered by the Nevada Department of Transportation (NDOT). The NUPC will meet all of the requirements of this section. The NUCP has adopted certification standards and procedures in accordance with Subparts D and E of part 26. A description of the NUCP and the certification standards and procedures are included in Attachment IV. The NUCP Certification Application is provided in Attachment V.

Information, Confidentiality, Cooperation (26.109)

The RTAA will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.



ATTACHMENT I



**Reno-Tahoe Airport Authority
Organization**
Revised 3/29/07

ATTACHMENT II

RENO-TAHOE AIRPORT AUTHORITY

DBE RESOLUTION

**AIRPORT AUTHORITY OF WASHOE COUNTY
RESOLUTION 387**

**A RESOLUTION IN SUPPORT OF THE DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM PARTICIPATION
IN AIRPORT IMPROVEMENT PROJECTS**

WHEREAS, the Airport Authority of Washoe County ("Authority"), a quasi-municipal corporation operating by virtue of the laws of the State of Nevada, owns and operates the Reno/Tahoe International Airport and the Reno Stead Airport (hereinafter referred to as "Airports"); and

WHEREAS, the Authority, in the operation of said Airports, has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation 49 CFR Part 23 and as a condition of receiving federal financial assistance under the Airport Improvement Program (AIP); and

WHEREAS, the U.S. Department of Transportation has issued new regulations concerning the Disadvantaged Business Enterprise (DBE) program under Title 49 CFR Part 26, the Authority is required to submit a revised DBE program in accordance with 49 CFR Part 26 by September 1, 1999; and

WHEREAS, the Authority desires to reaffirm its commitment in the operations of said Airports and continue to dedicate itself to the principle of equal business opportunity for all.

NOW, THEREFORE, BE IT RESOLVED by the members of the Board of Trustees of the Airport Authority of Washoe County as follows:

It is the policy of the Airport Authority of Washoe County to ensure Disadvantaged Business Enterprises (DBE's) as defined in U.S. Department of Transportation (DOT) Regulations (Title 49 CFR Part 26) have an equal opportunity to receive and participate in DOT-assisted contracts. It is the Authority's policy to:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is tailored in accordance with applicable law;
4. To ensure that only firms that fully meet Title 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts and;
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

The DBE/EEO Coordinator has been delegated by the Executive Director as the DBE Liaison Officer. In that capacity, the DBE/EEO Coordinator 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 Authority in its financial assistance agreements with the Department of Transportation.

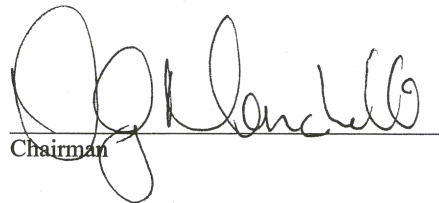
On motion by Trustee Miller, seconded by Trustee Gribbin, the foregoing Resolution was passed and adopted this 12th day of August, 1999, by the following vote of the Board of Trustees:


AYES: Trustees Martin, Hill, Moore, Miller, Gribbin, Chairman Menchetti

NAYS: None

ABSTAIN: None ABSENT: Bruce, Farahi

APPROVED this 12th day of August, 1999.


Chairman

ATTEST:

Secretary

**ATTACHMENT III
FISCAL YEAR 2006 DBE GOALS**

RENO-TAHOE AIRPORT AUTHORITY

PROPOSED DBE GOALS

FY 2006

Airport Sponsor: Reno-Tahoe Airport Authority
Reno-Tahoe International Airport

Name of Preparer: Katherine Keever

Telephone Number: (775) 328-6475

Goal Period: **From:** October 1, 2005
Thru: September 30, 2006

Overall DBE Goal for FAA-Assisted Projects: .7%

Race-Neutral Goal: .2%

Race-Conscious Goal: .5%

RENO-TAHOE AIRPORT AUTHORITY

PROPOSED DBE GOALS

FY 2006

Airport Sponsor: Reno-Tahoe Airport Authority
Reno Stead Airport

Name of Preparer: Katherine Keever

Telephone Number: (775) 328-6475

Goal Period: **From:** October 1, 2005
Thru: September 30, 2006

Overall DBE Goal for FAA-Assisted Projects: 0.0%

Race-Neutral Goal: 0.0%

Race-Conscious Goal: 0.0%

**ATTACHMENT IV
NEVADA UNIFIED CERTIFICATION PROGRAM
AGREEMENT**

EXHIBIT A

NEVADA UNIFORM CERTIFICATION PROGRAM

Section 1. Definitions

Section 2. Administration

2.1 Nevada Uniform Certification Program

2.2 Nevada Uniform Certification Committee

2.3 Non-applicable Contracts

Section 3. Procedures

3.1 Policy for Processing Applications

3.2 Application and Decision

3.3 Denials

3.4 Removals

3.5 Appeals

3.6 Result of Appeal

Section 4. Standards

4.1 Generally

4.2 Business Size

4.3 Confidentiality

Section 5. Cooperation

SECTION 1. DEFINITIONS

1.1 Agreement

“Agreement” means this document, the Nevada Uniform Certification Program agreement.

1.2 Committee

“Committee” means the Committee created by this document to administer and implement the UCP.

1.3 Contract

“Contract” means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

1.4 Contractor

“Contractor” means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

1.5 Department or DOT

“Department” and “DOT” mean the United States Department of Transportation.

1.6 Disadvantaged Business Enterprise or DBE

“Disadvantaged Business Enterprise” and “DBE” mean a for-profit small business concern --

- (a) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- (c) Meets all certification criteria under 49 CFR, Part 26.

1.7 Processing Agency

“Processing Agency” means the specific UCP agency to which a firm applies for DBE certification.

1.8 Joint Venture

“Joint venture” means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

1.9 Operating Administration

“Operating administration” means the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).

1.10 Personal Net Worth

“Personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted as defined in the Regulation.

1.11 Primary Industry Classification

“Primary industry classification” means the North American Industry Classification System (NAICS) code designation which best describes the primary business of a firm. The NAICS Manual is available through the National Technical Information Service (NTIS) of the U. S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site (www.ntis.gov/naics).

1.12 Recipient

“Recipient” means a Nevada recipient of any of the following types of funds:

- (a) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Pub L. 102-240, 105 Stat.1914, or Titles I, Ill, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat.107.
- (b) Federal transit funds authorized by titles I, Ill, V, and VI of ISTEA, Pub. L. 102-240 or be Federal transit laws in Title 49, U.S. Code, or Titles I, Ill, and V of the TEA-21 Pub. L. **105-178**.
- (c) Airport funds authorized by 49 U.S.C. 47101, et. seq.

1.13 Regulation

“Regulation” means 49 CFR, Parts 26 and 23, and any revisions, additions, deletions, or replacements.

1.14 Secretary

“Secretary” means the Secretary of the United States Department of Transportation.

1.15 Socially and Economically Disadvantaged Individual

Socially and economically disadvantaged individual” means any individual who is a citizen (or lawfully admitted permanent resident) of the United States as set forth in 49 CFR, Part 26.

1.16 State

“State” means the State of Nevada.

1.17 Uniform Certification Program or UCP

“Uniform Certification Program” and “UCP” mean the program created by this agreement.

SECTION 2. ADMINISTRATION**2.1 Nevada Uniform Certification Program**

The Nevada Uniform Certification Program is established according to this agreement to certify all DBEs on DOT-assisted contracts in Nevada.

2.2 Nevada Uniform Certification Committee

The Nevada Uniform Certification Committee is established to implement and administer the Nevada Uniform Certification Program (UCP). The UCP shall follow all certification procedures and standards of 49 CFR Part 26, and shall comply with all certification and nondiscrimination requirements of the regulation. The Committee shall consist of the Director of the State of Nevada Department of Transportation or designee; the Director of Aviation of the Clark County Department of Aviation, McCarran International Airport, or designee; the Director of Aviation for Airport Authority of Washoe County, or designee;

the General Manager of Regional Transportation Commission of Southern Nevada, or designee; the Executive Director of Regional Transportation Commission of Washoe County, or designee; and any agencies within the state of Nevada who may become recipients of DOT-assisted contracts. Any subsequent agencies will be invited to participate through a memorandum of Understanding. The agency shall have the option to participate as a certifying agency, a non-certifying Committee member, or may participate solely as a user of the UCP Directory.

(a) The Committee shall:

(1) Make all certification decisions on behalf of all recipients in the state with respect to participation in the DOT DBE Program;

(i) Certification decisions by the Committee shall be binding on all recipients within the state.

(ii) The Committee shall provide “one-stop shopping” to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state of Nevada.

(iii) The Committee shall carry out all obligations of recipients with respect to certification.

(2) Ensure that only firms certified as eligible DBEs under this section participate as DBEs in each recipient’s program by only re/certifying eligible DBEs as DBEs (This does not require the Committee to monitor the recipients);

(3) Maintain a Uniform DBE directory containing, for all firms certified by the Committee (including those from other states certified under the provisions of this section), in the listing for each firm, its address, phone number, and the types of work the firm has been certified to perform as a DBE. The Committee shall also:

(i) print the directory at least annually;

(ii) make updated information available to contractors and the public on request;

(iii) make the directory available to the public electronically, on the internet, as well as in print; and

a) the electronic directory will be maintained by the Agency designated by this Committee on their website for public viewing.

(b) the electronic directory will be updated as needed by the designated Agency.

- (4) Follow all certification procedures and standards of this agreement, on the same basis as recipients;
 - (5) Cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations;
 - (6) Implement DOT directives and guidance concerning certification matters; and
 - (7) Make all decisions administering and implementing the UCP.
- (b) All certifications by the Committee shall be pre-certifications; i.e., certifications that have been made final before the opening date for bids or offers on a contract on which a firm seeks to participate as a DBE.
- (c) The Committee is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The “home state” UCP shall share its information and documents concerning the firm with other UCPs certifying under 49 CFR 26 that are considering the firm’s application.
- (d) The Committee may accept the certification of any other UCP or DOT recipient. The Committee may also enter into written reciprocity agreements with other UCPs.
- (e) This agreement shall commit recipients to ensuring that the Committee has sufficient resources and expertise to carry out the requirements of this agreement.
- (1) Each Recipient shall allocate sufficient funding to ensure the implementation of this Program. No significant additional funding or shifting of resources is required to carry out the requirements of the UCP.
- (f) The UCP will be fully operational immediately upon the approval of the agreement by the Secretary.

2.3 Non-applicable Contracts

- (a) If a recipient is letting a contract, and that contract is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands, this agreement does not apply to the contract.

(b) If the recipient is letting a contract in which DOT financial assistance does not participate, this agreement does not apply to the contract.

SECTION 3. PROCEDURES

3.1 Policy for Processing Applications

Certification applications are not processed for:

(a) Not for profit firms.

Firms who have been determined as ineligible to participate in the DBE program and have been denied certification based on 49 CFR, Parts 26 and 23 shall not reapply for certification for twelve (12) months from date of denial

In order to mitigate the administrative and processing costs incurred by the Processing Agency, firms who withdraw their applications shall not reapply for certification for six (6) months from date of withdrawal.

3.2 Application and Decision

(a) To become a DBE a firm must submit an application to the Committee through one of the designated Processing Agencies of the Committee. The designated Processing Agencies are: Clark County Department of Aviation (DOA), Airport Authority of Washoe County (AAWC), or State of Nevada Department of Transportation (NDOT). The Committee shall:

- (1) Use the uniform application required by 49 CFR Part 26;
- (2) Ensure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(b) The Processing Agency shall review all information on the form and associated documentation provided by DBE applicant.

(c) The Processing Agency shall conduct an onsite visit to the principal offices of the firm. Any other Committee Member(s), or designee, may also attend. The Processing Agency shall be responsible to:

- (1) Interview the principal officers of the firm and review their resumes and/or work histories; and
 - (2) Perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in the local area. The Committee may rely upon the site visit report of any other recipient with respect to a firm applying for certification;
- (d) The Processing Agency shall report its findings and make a recommendation to the Committee relative to a applicant firm's eligibility. The Committee shall meet monthly, either in person, by phone, electronically or any combination thereof, to review and determine certification eligibility.
- (e) Three (3) Committee members, or designee(s), shall constitute a quorum, and the approval of the quorum regarding certification decisions shall be binding on the entire Committee.
- (f) The Committee shall take all the following steps in determining whether a DBE firm meets the standards of section 3 of this agreement:
- (1) If the firm is a corporation, analyze the ownership of stock in the firm;
 - (2) Analyze the bonding and financial capacity of the firm;
 - (3) Determine the work history of the firm, including contracts it has received and work it has completed;
 - (4) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any;
 - (5) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;
 - (6) Follow the on-site reporting form and standards set forth by the Committee.
- (g) The Processing Agency shall maintain the files of DBEs processed by that agency. When a Committee member, in connection with its consideration of the eligibility of a firm, makes a written request for certification information the Processing Agency has obtained about that firm (e.g., including application materials or the report of a site visit, if the Processing Agency has made one to the firm), the Processing Agency shall promptly make the information available to that member.
- (h) The Committee, including the Processing Agency, shall safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential, personal financial or business information, consistent with applicable DBE rules, Federal, state, and local law.

(i) Once the Committee has certified a DBE, it shall remain certified for a period of at least three years unless and until its certification has been removed through the procedures of subsection 3.4 of this agreement. The Committee may elect not to require DBEs to reapply for certification as a condition of continuing to participate in the program during this three-year period, unless the factual basis on which the certification was made changes.

(j) Every DBE certified by the Committee shall inform the Processing Agency, in writing, of any change in circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this agreement or any material change in the information provided in the Committee's application form.

(1) Changes in management responsibility among members of a limited liability company are covered by this requirement.

(2) The DBE shall attach supporting documentation describing in detail the nature of such changes.

(3) The notification of changes shall take the form of an affidavit sworn to by the owners of the firm before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. The DBE shall provide the written notification within 30 days of the occurrence of the change. If the DBE fails to make timely notification of such a change, it may be deemed to have failed to cooperate in accordance with section 26.83(1)(3) of the Regulation.

(k) Every DBE shall provide to the Committee, via the Processing Agency, on the anniversary of the date of the DBE's certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit shall affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which the DBE has notified the Committee under paragraph (e) of this section. The affidavit, which shall be provided by the Processing Agency, shall specifically affirm that the firm continues to meet the size standards for a small business as established by SBA business size criteria, the subpart of 49 CFR Part 26 governing concession size standards, or any other cap provided in 49 CFR Part 26, documenting this affirmation with supporting documentation of the firm's size and gross receipts. If the DBE fails to provide this affidavit in a timely manner, it shall be deemed to have failed to cooperate under section 5(a) of this agreement.

(h) The Processing Agency shall present applications for certification to the Committee within 90 days of receipt of all information required under this part from the applicant firm. The Processing Agency may extend this time period once, for no more than an

additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. The Committee shall make certification decisions at the time the application is presented to the Committee by the Processing Agency unless specific additional information is deemed to be required by the Committee to assist in rendering a decision on an applicant's eligibility. The Processing Agency shall request such additional information from applicant within thirty (30) days, and shall re-present the case to the Committee at the next meeting of the UCP, immediately following receipt of information. The Committee's failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under section 3.5 of this agreement.

3.3 Denials

(a) When the Committee denies a request by a firm to be certified as a **DBE**, which is not currently certified by the recipients or the Committee, the Processing Agency shall provide the firm a written explanation of the Committee's reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based shall be made available to the applicant, on request.

(b) When the Committee makes an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under section 3.5 of this agreement. Firms may reapply for Certification in as specified in Section 3.1

3.4 Removals

Consideration for removal of eligibility may occur via internal review of the Processing Agency per 49CFR, Part 26.87 (3)(b), DOT/FHWA/FTNFAA directive to initiate a proceeding per 49CFR Part 26.87 (3)(c), or a third party complaint. Third party complaints shall be processed by the UCP Committee as follows:

(a) Ineligibility complaints by a third party.

(1) Any person may file with the Committee, through any one of the member agencies, a written complaint alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. The Committee is not required to accept a general allegation that a firm is ineligible or an anonymous complaint. Confidentiality of complainants' identities shall be protected as provided in section 26.109(b) of the Regulation.

(2) Once acknowledged by the Committee the complaint will be referred to the Processing Agency who shall review its records concerning the firm, any material provided by the firm and the complainant, and other available information, and present its results and recommendations to the Committee. The Processing Agency, either independently or under recommendation by the Committee, may

request additional information from the firm or conduct any other investigation that it deems necessary to render a decision.

(3) If the Committee determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, it shall instruct the Processing Agency to provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If the Committee determines that such reasonable cause does not exist, it shall instruct the Processing Agency to notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause shall specifically reference the evidence in the record on which each reason is based.

Committee or Processing Agency-initiated proceedings. If, based on other information that comes to the attention of the Committee or a Processing Agency, it determines that there is reasonable cause to believe that a currently certified firm is ineligible, the Processing Agency shall conduct an investigation and inform the Committee of its actions. If the Processing Agency finds evidence that the firm should be considered ineligible, the information shall be provided to the Committee. Once the Committee makes a determination, the Processing Agency shall provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause shall specifically reference the evidence in the record on which each reason is based.

(b) **Hearing.** When the Processing Agency notifies a firm that there is reasonable cause to remove its eligibility as provided in paragraph (a) or (b) of this section, it shall give the firm an opportunity for a hearing with a third party Reviewing Agency identified in 3.4(d) of this agreement, at which time the firm may respond to the reasons for the recommendation to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, the Committee bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) The Committee shall maintain a complete record of the hearing and will retain the original record of the hearing at the site of the Processing Agency. The Committee may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, the Committee bears the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as it would during a hearing.

(4) The decision of the reviewing agency shall be binding upon the UCP.

(c) **Separation of functions.** The Committee shall ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility

and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions. The decision maker shall be an individual who is knowledgeable about the certification requirements of the DBE program and this agreement as agreed upon by mutual consent by the Committee. The Committee has currently agreed to utilize the following reviewing agencies: Contracting: Arizona Dept. of Transportation and Alaska Dept. of Transportation DBE Program Managers. Concessions: Director of Clark County Department of Aviation. The Processing Agency shall facilitate the hearing, by telephone, at no cost to the DBE.

(d) Grounds for Decision. The decision to remove eligibility shall not base a on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. Such a decision shall be based only on one or more of the following:

- (1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;
- (2) Information or evidence not available to the Committee at the time the firm was certified;
- (3) Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;
- (4) A change in the certification standards or requirements of the Department since the Committee certified the firm; or
- (5) A documented finding that the Committee's determination to certify the firm was factually erroneous.

(e) Notice of decision. Following the final decision, The Committee/Processing Agency shall provide the firm written notice of the decision not later than ten (10) working days of the final decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice shall inform the firm of the consequences of the decision and of the availability of a final appeal to the U.S. Department of Transportation as stated in 3.5 of this agreement.

(f) Status of firm during proceeding.

- (1) A firm remains an eligible DBE during the pendency of the proceeding to remove its eligibility.
- (2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (f) of this section.

(g) Effects of removal of eligibility. When the Committee removes a firm's eligibility, it shall take the following action:

- (1) The firm shall not be a DBE even though the firm's name may remain in the directory until the next update.

(2) When a prime contractor has made a commitment to use the ineligible firm, or a Recipient has made a commitment to use a DBE prime contractor, but a subcontract or contract has not been executed before the Committee issues the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. The Recipient shall direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to the Recipient that it has made a good faith effort to do so.

(3) If a prime contractor has executed a subcontract with the firm before the Committee has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard *or* Personal Net Worth cap during the performance of the contract, the Recipient may continue to count its participation on that contract toward overall and contract goals.

(h) Availability of appeal. A firm may appeal the removal of eligibility under this section to the Department under section 3.5 of this agreement.

3.5 Appeals

A firm denied certification or whose eligibility is removed by the Committee, may make an administrative appeal to the Department.

(a) A complainant in an ineligibility complaint to the Committee may appeal to the Department if the Committee does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding as outlined in Section 3.4, above, determines that the firm is eligible.

(b) Send appeals to the following address:
U.S. Department of Transportation
Office of Civil Rights
400 7th Street, S.W., Room 5414
Washington, D.C. 20590

(c) Pending the Department's decision in the matter, the Committee's decision remains in effect. The Department does not stay the effect of the Committee's decision while it is considering an appeal.

(d) All decisions under this section are administratively final, and are not subject to petitions for reconsideration.

3.6 Result of Appeal

(a) The decision of an appeal under section 3. of this agreement is binding on all recipients party to the UPC.

(b) The UCP shall take action as described in the Regulation to implement the result of the appeal.

SECTION 4. STANDARDS

4.1 Generally

(a) In determining whether to certify a firm as eligible to participate as a DBE, the Committee shall apply the standards set forth in 49 CFR, Part 26.

(b) The Committee may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

(c) The Committee shall evaluate the eligibility of a firm on the basis of the requirements set forth in the Regulation.

4.2 Business Size

(a) To be an eligible DBE, a firm (including its affiliates) shall be an existing small business, as defined by Small Business Administration (SBA) standards or as determined by governing Department regulations. The Committee shall apply current SBA business size standard(s) found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts where not otherwise revised by conditions of the Regulation limiting overall size standards or in determining size standards for Airport Concessions.

(b) Even if it meets the requirements of paragraph (a) of this section, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three fiscal years, in excess of \$17,420,000. The Secretary may adjust this amount for inflation from time to time.

4.3 Confidentiality

The Committee shall safeguard from disclosure to unauthorized persons information that may reasonably be considered as confidential personal-financial or business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, the Committee shall not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without written consent of the submitter.

SECTION 5. COOPERATION

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

ATTACHMENT V

NEVADA UNIFIED CERTIFICATION PROGRAM

DBE CERTIFICATION APPLICATION

The current application is available from the DBE Website maintained by Nevada Department of Transportation:

<http://www.nevadadb.com/> ;

or the specific forms are available at:

<http://zeedesigns.com/cms/res/files/313/DBEPUApplication.pdf>

A printed form is also available from Reno-Tahoe International Airport.

ATTACHMENT VI

CFR 49 Part 26

This title and part can be found at the website:

http://www.access.gpo.gov/nara/cfr/waisidx_02/49cfr26_02.html

If you require a paper copy, you may inquire at Reno-Tahoe International Airport.

ATTACHMENT VII

SIZE STANDARD BY SIC INDUSTRY (13 CFR Part 121)

This title and part can be found at the website:

http://www.access.gpo.gov/nara/cfr/waisidx_03/13cfr121_03.html

If you require a paper copy, you may inquire at Reno-Tahoe International Airport.