

RESOLUTION 88-178

BE IT RESOLVED BY THE CITY COUNCIL OF DELTA CITY THAT THE FOLLOWING IS ADOPTED AS THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR THE DELTA MUNICIPAL AIRPORT.

POLICY STATEMENT

It is the policy of the City of Delta, Delta Utah, hereinafter referred to as the SPONSOR, that Disadvantaged Business Enterprises (DBE's) as defined in DOT regulation 49 CFR, Part 23 as amended, shall be afforded the maximum opportunity to participate in the performance of contracts which are funded in whole or in part through the Airport Improvement Program (AIP) for Delta Municipal Airport, Delta, Utah.

The SPONSOR will take necessary and reasonable steps in accordance with 49 CFR, part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The SPONSOR and its contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

This Policy Statement will be made known to all activities of the Delta Municipal Airport and to local business and community organizations, both disadvantaged and non-disadvantaged.

II. DISADVANTAGED AND MINORITY BUSINESS ENTERPRISE DIRECTORY

The SPONSOR will have available a directory which lists DBEs showing their capabilities relevant to general contracting requirements and to particular situations. The directory will be made available to bidders to assist them in identifying certified DBEs and to meet DBE goals for contracts.

Based on the amendment to DOT Regulation 49 CFR, Part 23, as published in the Federal Register on May 23, 1988, the Federal Aviation Administration has made the determination that sponsors of Airport Improvement Projects for which bids are issued after July 15, 1988, shall include a single Disadvantaged Business Enterprise (DBE) goal rather than separate goals for minority- and women-owned firms (MBE/WBE). The DBE goal should be the sum of the MBE and WBE percentage goals. Leasing goals at the Delta Municipal Airport will continue to be addressed based on MBE and WBE goals and participation.

The DBE Directory used by Delta City will be the most recent published directory of the Disadvantaged Business Enterprises, as prepared and certified by the Utah Department of Transportation. The directory may not differentiate between Disadvantaged, Minority, and or/Women Owned Business. Those Minority or Women Owned businesses who wish to participate in leases of airport facilities at the Delta Municipal Airport shall submit a completed Schedule A or Schedule B as applicable to substantiate their minority or women owned status.

The DBE directory will include those DBE's who are certified as eligible and will contain at least the following elements of the information:

- Name and address of firm
- Type of business - skills
- Ownership (minority or woman-owned)
- Key individuals of firm

III. CERTIFICATION OF ELIGIBILITY OF DISADVANTAGED BUSINESS ENTERPRISES

The SPONSOR will require certification of eligibility from DBEs and joint ventures involving DBEs that are owned and controlled by minorities, women, and/or other persons or groups who are presumed to be socially and economically disadvantaged and are named by firms bidding on contracts of the SPONSOR which are federally assisted. Eligibility standards are those listed in Section 23.53, 49 CFR, part 23, as may be amended. The SPONSOR may accept certifications made by other DOT grant applicants. Substitution of DBE subcontractors by prime contractors before bid opening and during contract performance must be approved by the SPONSOR.

Prior to award of the contract, the SPONSOR will require the prime contractor to submit the list of DBE subcontractors proposed for the project and evidence that they are certified Disadvantaged Business Enterprises. Any termination of a DBE will be reported to the SPONSOR. The contractor will make a reasonable effort to replace the terminated DBE subcontractor with another certified DBE. If efforts are not successful, the prime contractor will provide evidence of such efforts to the SPONSOR. Substitution of a non-DBE subcontractor must have the prior approval of the SPONSOR.

Any business, including the partner in a joint venture, that desires to participate as a DBE, shall be certified as such prior to providing any materials or performing any work which has been proposed to meet Delta City's DBE goal. Material supplied or work performed by any persons or firm prior to their becoming a certified DBE will not be accepted toward meeting the DBE goal.

IV. PERCENTAGE GOALS FOR DOLLAR VALUE OF WORK
TO BE AWARDED TO DBE'S

Goals established for work to be awarded to DBE's will be based on the following:

1. The city will review the scope of each proposed procurement contract with subcontracting possibilities, i.e., construction, professional services and supply procurements, to determine specific contract goals which the bidder or proposer must meet or exceed, or demonstrate that it could not meet despite its best efforts.
2. The City, based on the estimated cost of construction, professional service or supply procurement compared to the estimated cost of that portion which can logically be subcontracted to available qualified DBEs (as determined by the DBE Directory), shall establish a specific contract goal.

The SPONSOR will use available data including existing directories of federal, state, and local agencies when available, to determine the availability of DBEs within the immediate or adjacent counties, and in a reasonably wider geographic area, if a particular contract requires work for which no DBEs are available in the immediate areas.

Goals are established as follows:

1. OVERALL GOALS - The overall percentage goal for the dollar value of work to be awarded to DBEs participating as prime or subcontractors will be determined by dividing the estimated dollar total of work that could be performed by available and qualified DBEs under the prim contract or subcontractor, by the estimated dollar total of the federally funded projects anticipated during the period.

$$\text{Overall DBE Percentage Goal} = \frac{\text{Potential DBE Contracts (Dollars)}}{\text{Anticipated Federally Funded Contracts (Dollars)}}$$

A combined overall percentage goals will be set for DBEs owned and controlled by minorities, woman, and persons and/or firms presumed to be socially and economically disadvantaged. The overall percentage goal shall be viewed as a combined goals and will not require a specific breakdown or minority, woman or disadvantaged business participation. The SPONSOR will publish a notice announcing these goals. This information will be made available for inspection during normal business hours at the principal office of the SPONSOR for 3 consecutive weeks following the date of the notice and it will be noted that the FAA and the SPONSOR will accept comments of the public on the goals during that time. The notice shall include addresses to which comments may be sent, and shall be advertized by Delta City. The advertisement shall state that the comments are for information purposes only.

2. GOALS FOR SPECIFIC CONTRACTS - The percentage goals for the dollar value of work to be awarded to DBEs for a specific project will be established after the grant application is submitted. Upon determination of the total scope or work of the project and the estimates of the total project cost, the SPONSOR will identify the work items which could be awarded to a prime contractor or subcontractor, and the approximate dollar value of the prime contract and each subcontract item. Using the DBE directory and other available information on the location, capability, and availability of qualified DBEs, the potential subcontract items and/or prime contract which could be performed by DBEs will be noted. The goals for the dollar value of work to be awarded to DBEs will then be determined by dividing the total estimated dollar value of the contract.

$$\begin{array}{l} \text{Specific Contract} \\ \text{DBE Percentage Goal} \end{array} = \frac{\text{Potential DBE Contracts (Dollars)}}{\text{Anticipated Federally Funded Contracts (Dollars)}}$$

Specific contract percentage goals will be set for DBE participation. The SPONSOR will not establish nor require the contractor to identify separate goals for minority or women owned businesses.

V. PROCEDURES FOR NAMING DBES IN CONTRACT BIDS

On all solicitations for bids for federally funded contracts the SPONSOR shall state the goal for Disadvantaged Business Enterprise Participation. Solicitations shall require all bidders to submit with their bids written assurance that sufficient reasonable efforts will be made to meet the goals.

The solicitations will state the stipulation that a listing of proposed DBEs to be used by the Prime contractor shall be available upon request by the SPONSOR. The contractor will submit to the SPONSOR, prior to Notice of Award, a complete listing of DBEs proposed to be used by the contractor the work to be performed and the dollar value of each proposed DBE subcontract. At that time, the SPONSOR will evaluate the efforts of the apparent successful bidder to meet the DBE goals established for the contract.

Agreements between a bidder and a DBE in which the DBE promises not to provide subcontractor quotations to other bidders is expressly prohibited by CFR 49, Part 23.

VI. SELECTION CRITERIA FOR AWARDING PRIME CONTRACTS TO BIDDERS

Prime Contracts shall be awarded in the following order of preference:

1. The competitor offering the lowest and most reasonable price and meeting the DBE contract goals.
2. The competitor offering a reasonable price and who in the judgement of the SPONSOR has made a reasonable and good faith effort to secure DBE participation, based on the following documented information:
 - a. Whether the contractor attended any pre-bid meetings that were scheduled by the SPONSOR to inform DBEs of subcontracting opportunities.
 - b. Whether the contractor advertised in general circulation and trade association media concerning the subcontracting opportunities.
 - c. Whether the contractor provided timely written notice (notification by regular U.S. mail at least seven days before bid opening) to a reasonable number of specific DBEs that their interest in the contract is being solicited.
 - d. Whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract.
 - e. Whether the contractor negotiated in good faith with interested DBEs, not rejecting DBEs as qualified without sound reasons based on thorough investigations of their capabilities.*

*These procedures are based on provisions of the final rule amending 49 CFR, part 23 for participation by Minority Business Enterprises in the Department of Transportation Programs (Federal Register, Monday, April 27, 1981, Volume 46, No. 80).

To determine the reasonableness of the bidder's offer, the SPONSOR shall use the same criteria it would use if a bidder had made the only offer to perform the contract. In addition to price, the following criteria shall be used to determine the lowest and best bidder:

1. The ability, capability, and skill of the bidder to perform the contract.
2. Whether the bidder can perform the contract within the time specified, without delay or interference.
3. The character, integrity, reputation, judgement, experience, and efficiency of the bidder.
4. The quality of performance of previous contracts.
5. Previous and existing compliance by the bidder with laws and ordinances relating to the contract.
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
7. The quality, availability, and adaptability of the supplies or contractual services to the particular use required.
8. The ability of the bidder to provide future maintenance of service for the use of the subject of the contract.
9. The level of DBE participation achieved and the adequacy of the best effort initiatives.
10. Compliance with the requirements of the bid proposal.

Bidders who fail to meet DBE contract goals and who, in the judgment of the SPONSOR, fail to demonstrate sufficient reasonable efforts to secure DBE participation, shall not be eligible to be awarded a contract.

To ensure that all obligations under contracts awarded to DBEs are met, the SPONSOR shall review the contractor's DBE involvement effort during the performance of the contract. The contractor shall bring to the attention of the SPONSOR any situation in which regularly scheduled progress payments are not made to DBE subcontractors.

VII. LEASING GOALS

The SPONSOR will establish goals for the participation of MINORITY-OWNED FIRMS and WOMEN-OWNED FIRMS in leases for space on the airport for providing aviation-related and other goods and services on the airport. These goals shall be based on the following considerations:

1. A projection of the number and types of contracts to be awarded by Delta City.
2. A projection of the number and types of minority businesses likely to be available to complete for contracts from Delta City over the period during which the goals will be in effect.

The goals for lessees will be reviewed annually and revised based on past experience, the types of leases which will require execution in the following year, and the potential DBE firms in a reasonable geographic area which could provide the goods or services involved.

NOTE: The Delta Municipal Airport does not currently present a sufficient commercial base from which to generate a meaningful Minority/Women owned lease program. Such leases might include, but are not limited to, a gift shop, restaurant, concessions, taxistand, car rentals, or agricultural leases. The one Fixed Base Operator lease contains no clause for exclusive use. Until such time as this situation changes, leasing goals will be zero percent for both minority and women owned businesses.

VIII. RECORDS AND REPORTS

To monitor the progress of this DBE/MBE program, the SPONSOR will maintain adequate records which will reflect the following:

1. Efforts made to identify and award contracts to disadvantaged businesses for construction contracts and to minority and women owned businesses for airport facility leases.
2. Awards made to DBEs/MBEs measured against projected goals.

Records and reports will show information separately for disadvantaged businesses, and minority-/women-owned businesses.

XI. TERMS OF THE DBE PROGRAM

This DBE/MBE program is effective beginning July 1, 1988. The award of any contract for improvements at the Delta Municipal Airport by the SPONSOR after that date, which involves federal monies issued under the AIP or other DOT-assisted programs, requires compliance with this program. The provisions of this program will be reviewed at least annually and revised or amended as required.

ATTACHMENT I

DELTA MUNICIPAL AIRPORT
DISADVANTAGED AND MINORITY
BUSINESS ENTERPRISE
PLAN

July 1988

Percentage Goals

Overall Project Cost (Est.)	\$325,230.00
Engineering and Administration (Est.)	44,000.00
General Construction Contract Amount (Est.)	281,230.00

Potential DBE Subcontract Work Items

Bituminous Tack Coat, SS-1	6,200.00
Constant Current Regulator, 7.5 kw	6,100.00
Instructional Sign, 2 figure	2,100.00
Instructional Sign, 5 figures	<u>2,500.00</u>
	16,900.00

Overall Annual DBE Goal	5.0%
Construction DBE Goal	6.0%
DBE Dollar Value	\$ 16,900.00

Note:

The items listed under "Potential DBE Subcontract Work Items" are arbitrary subcontract cuts used by the City to arrive at an equitable DBE goal, while allowing the General Contractor awarded the contract some measure of flexibility. The above cost estimates and respective goals are based on the Engineer's estimate. The DBE dollar value may be adjusted based on 6% of the general contract bid amount. The Contractor will not be required to the above cuts, but must implement a good faith effort to meet the City's goals of 6% of the general contract amount.