

Town of Whitefield
Mount Washington Regional Airport

**DRAFT Disadvantaged Business Enterprise
Program FY-2018 – FY-2020**

October 2019



DBE PROGRAM

TOWN OF WHITEFIELD, NEW HAMPSHIRE

POLICY STATEMENT FOR FY-2018-2020

Section 26.1, 26.23

Objectives/Policy Statement

The Town of Whitefield, New Hampshire has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (FAA), 49 CFR Part 26. The Town of Whitefield has received federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Town of Whitefield has signed an assurance that it will comply with 49 CFR Part 26.

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

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

The Administrative Assistant to the Board of Selectman has been delegated as the DBE Liaison Officer. In that capacity, the Administrative Assistant to the Board of Selectman 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 Town of Whitefield in its financial assistance agreements with the Department of Transportation.

Chairman, Board of Selectman

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.5 Definitions

The Town of Whitefield will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The Town of Whitefield 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 Town of Whitefield will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to FAA: 26.11(b)

We will report DBE participation to FAA as follows:

The Town of Whitefield will transmit to FAA annually, or before December 1st, the information required for the “Uniform Report of DBE Awards or Commitments and Payments”, as described in Appendix B to Part 26. All reporting will be done through the FAA Civil Rights Connect online portal.

Bidders List: 26.11(c)

The Town of Whitefield will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on the Town of Whitefield’s DOT-assisted contracts for use in helping to set overall goals. All bidders submitting on DOT-assisted contracts for the Town of Whitefield will be required to include in each submission a form containing the following information: the name, address, DBE and non-DBE status, age of firm, and annual gross receipts. A sample form is attached to this document under Attachment 3.

Records Retention: 26.11(d)

The Town of Whitefield will retain records documenting compliance with the requirements of 49 CFR Part 26 for a minimum of three (3) years.

Section 26.13 Federal Financial Assistance Agreement

Town of Whitefield has signed the following assurances, applicable to all FAA-assisted contracts and their administration:

Assurance: 26.13(a)

Town of Whitefield shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of FAA-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by FAA, 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 Town of Whitefield of its failure to carry out its approved program, the Department may impose sanction 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.*).

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

Contract Assurance: 26.13(b)

We will ensure that the following clause is placed in every FAA-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FAA-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 recipient deems appropriate, which may include, but is not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the contractor from future bidding as non-responsive.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the Town of Whitefield has received grants of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from FAA financial assistance have been expended. We will provide to FAA updates representing significant changes in the program.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Judy Ramsdell
Town of Whitefield
56 Littleton Road
Whitefield, New Hampshire
603-837-2551

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Town of Whitefield complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Chairman of the Board of Selectman concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

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

1. Gathers and reports statistical data and other information as required by FAA.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment) and identifies ways to improve progress.
6. Analyzes Town of Whitefield's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.

Section 26.27 DBE Financial Institutions

The Town of Whitefield makes reasonable efforts to use financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. The Town of Whitefield encourages prime contractors of the Airport's FAA-assisted contracts to make use of these institutions, when necessary.

Section 26.29 Prompt Payment Mechanisms

The Town of Whitefield will include the following clause in each FAA-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than fourteen days from the receipt of each payment the prime contractor receives from Town of Whitefield. The prime contractor agrees further to return retainage payments to each subcontractor within fourteen 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 written approval of the Town of Whitefield. This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 Directory

The State of New Hampshire maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The State revises the Directory annually. The Directory available at the State's website.

Section 26.33 Overconcentration

Town of Whitefield has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

Town of Whitefield has an Economic Development Corporation that meets quarterly or as needed.

Section 26.37 Monitoring and Enforcement Mechanisms

The Town of Whitefield will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program so that FAA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FAA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also 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 by requesting information/verification from the engineering consultant.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Fostering Small Business Participation

The Town of Whitefield has created a small business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. The small business element is incorporated as Attachment 8 to this DBE Program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Town of Whitefield does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

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

(c) Step 1. The first step is to determine the relative availability of DBEs in the market area, “base figure”. The Town of Whitefield will compare New Hampshire DOT DBE Directory against Census Bureau Data to determine the base figure. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the Town of Whitefield would expect in the absence of discrimination.

Any methodology chosen will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the NH market. The Town of Whitefield understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45, paragraph (c)(2), is not an acceptable alternative means of determining the availability of DBEs.

(d) Step 2. Once a base figure has been calculated, the Town of Whitefield will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

26.45 (g)(1) In establishing the overall goal, the Town of Whitefield will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Town of Whitefield's efforts to establish a level playing field for the participation of DBEs. The consultation will include providing as many interested stakeholders as possible with an opportunity to review the Town of Whitefield's DBE Program document and methodology and direct interactive exchange (e.g., teleconference, if requested) focused on obtaining information relevant to the Town of Whitefield's goal setting process. This exchange will occur before the required submission deadline. The Town of Whitefield will document the consultation process in the goal submission. The proposed goal will not be implemented until the Town has complied with this requirement.

GROUPS:

- Greater New England Minority Supplier Development Council
- Women's Business Enterprise National Council
- Center for Women & Enterprise
- Associated General Contractors of NH
- Northern Gateway Chamber of Commerce
- Littleton Area Chamber of Commerce

In addition, the Town of Whitefield will publish a notice announcing the proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on the Town and Airport websites. If the proposed goal changes following review by the operating administration, the revised goal will be posted on the official Town of Whitefield website. The Town of Whitefield will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at its principal office and that the Town of Whitefield and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed.

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

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from FAA. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a FAA-assisted contract for the project.

Section 26.47 Failure to Meet Overall Goals

The Town of Whitefield cannot be penalized or treated by the Department as being in noncompliance with Part 26 because DBE participation falls short of an overall goal, unless the Town of Whitefield fails to administer its DBE Program in good faith. The Town of Whitefield understands that to be considered in compliance with this part, an approved DBE Program must be administered in good faith.

If the awards and commitments shown on the Town of Whitefield's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the following actions will be taken in order to be regarded by the Department as implementing the DBE program in good faith:

1. Analyze in detail the reasons for the difference between the overall goal and awards and commitments in that fiscal year.

2. Establish specific steps and milestones to correct the problems the Town of Whitefield has identified in the analysis and to enable the Town to meet fully the goal for the new fiscal year.
3. Submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under this section for FAA approval.

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

The Town of Whitefield does not project being able to meet goals using race-neutral means and will instead use contract goals to meet the overall goal.

Section 26.51(d-g) Contract Goals

The Town of Whitefield will use contract goals to meet the overall goal. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

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

We will express our contract goals as a percentage of the Federal share of a FAA-assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

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

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

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

Information to be submitted (26.53(b))

Town of Whitefield 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/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

The bidder/offeror will be required to present the above information under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

Administrative reconsideration (26.53(d))

Within 30 days of being informed by the Town of Whitefield that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Chairman, Board of Selectman, 7 Jefferson Road, Whitefield, New Hampshire 03598 The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

Town of Whitefield 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

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

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Town of Whitefield to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 2.2 percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

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

Each Prime Contract will include a provision stating:

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

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Town of Whitefield will rely on the certification process of the NHDOT, which meet the certification standards of Subpart D of Part 26, to determine the eligibility of firms to participate as DBEs in FAA-assisted contracts. To be approved as a DBE, a firm must be certified by the NHDOT.

Information about the NHDOT certification process is available at the following website:

<https://www.nh.gov/dot/org/administration/ofc/dbe.htm>

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Town of Whitefield is not a member of the NHDOT UCP. All certification procedures under Subpart E are conducted by the NHDOT. Information about the NHDOT certification process and the contact information for the NHDOT DBE Coordinator can be found at the following website:

<https://www.nh.gov/dot/org/administration/ofc/dbe.htm>

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

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

Notwithstanding any 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 FAA) without the written consent of the submitter.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Town of Whitefield or FAA. This reporting requirement also extends to any certified DBE subcontractor.

ATTACHMENTS

Attachment 1	Link to 49 CFR Part 26
Attachment 2	Organizational Chart
Attachment 3	Bidders List Collection Form
Attachment 4	DBE Directory (refer to NHDOT web site)
Attachment 5	Monitoring and Enforcement Mechanisms
Attachment 6	Overall Goal Calculation
Attachment 7	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 8	Small Business Element Program

Attachment 1

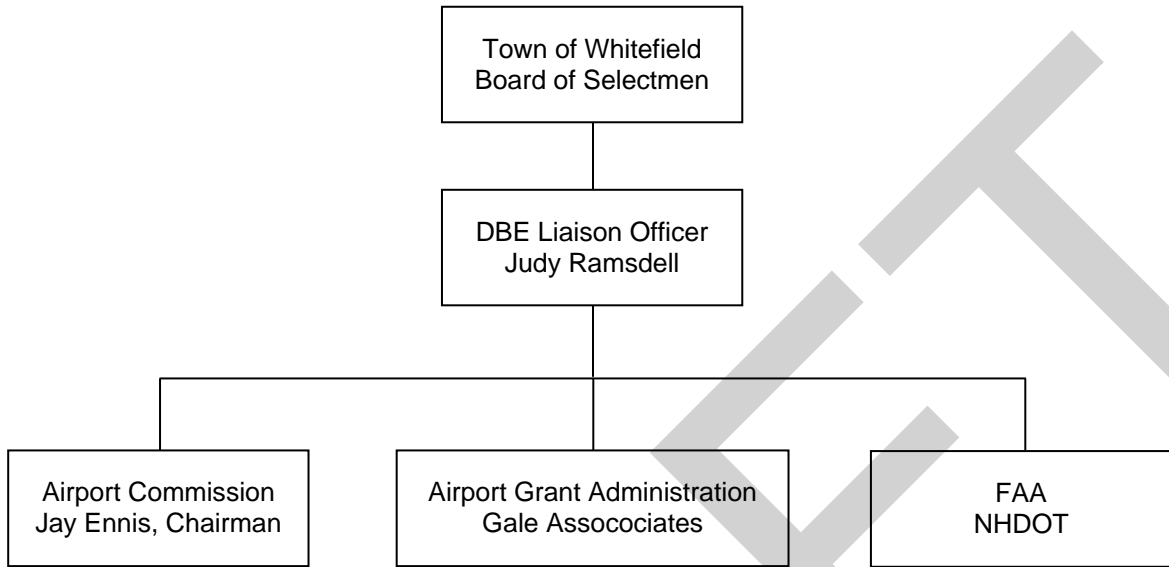
Link to 49 CFR Part 26

https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

DRAFT

Attachment 2

Organizational Chart



Attachment 3

Bidders List Collection Form

DRAFT

DBE PROGRAM BIDDERS LIST COLLECTION FORM

The following grayed out blocks are for internal use only:

Project Title:			
AIP#		Request Bid Docs <input type="checkbox"/> Yes <input type="checkbox"/> No	
Gale Project#		Receive Bid Deposit <input type="checkbox"/> Yes <input type="checkbox"/> No	Date Bid Deposit Rec'd Cash <input type="checkbox"/> Yes <input type="checkbox"/> No; Check #

This project receives Federal funding. In order to comply with 49 CFR Part 26, it is mandatory to complete this form in its entirety. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our FAA-assisted contracts and for use in helping to set our overall goals. This requirement applies to all firms, prime contractors and subcontractors, DBEs and non-DBEs, winners and losers, that bid on projects at the Airport. This information must be submitted at the time of bid.

Contact Person:	
Company Name:	
PO Box:	
Street Address 1:	
Street Address 2:	
City:	
State:	
Zip Code:	
Telephone Number:	
E-mail Address:	
DBE Status	<input type="checkbox"/> Certified DBE, State: <input type="checkbox"/> NON-DBE
Date of Certification	_ / _ / _
Age of Firm	_ years
Annual Gross Receipts	
<input type="checkbox"/> <\$500,000	<input type="checkbox"/> \$50,000,000 - \$100,000,000
<input type="checkbox"/> \$500,000 - \$1,000,000	<input type="checkbox"/> \$100,000,000 - \$250,000,000
<input type="checkbox"/> \$1,000,000 - \$2,000,000	<input type="checkbox"/> \$250,000,000 - \$500,000,000
<input type="checkbox"/> \$2,000,000 - \$5,000,000	<input type="checkbox"/> \$500,000,000 - \$750,000,000
<input type="checkbox"/> \$5,000,000 - \$10,000,000	<input type="checkbox"/> >\$750,000,000
<input type="checkbox"/> \$10,000,000 - \$50,000,000	<input type="checkbox"/>

Description of Services provided by firm:

If available, please provide NAICS Code:

Attachment 4

DBE Directory

For a directory of DBE firms, use the following website:

<https://www.nh.gov/dot/org/administration/ofc/documents/dbe-directory.pdf>

DRAFT

Attachment 5

Monitoring and Enforcement Mechanisms

The Town of Whitefield has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract; and
2. Breach of contract action, pursuant to 49 CFR Part 31.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26;
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

Attachment 6

Section 26.45: Overall Goal Calculation

Name of Recipient: Town of Whitefield

Goal Period: FY-2018/2019/2020 (October 1, 2017 through September 30, 2020)

DOT-assisted contract amount:	FY-2018	\$	0.00
	FY-2019	\$	0.00
	FY-2020	\$	324,000.00
	Total	\$	324,000.00

Overall Three-Year Goal: 2.2%, to be accomplished through 0.0% RN and 2.2% RC.

Total dollar amount to be expended on DBEs: \$7,068.71

Describe the number and type of contracts the Airport anticipates awarding:

FY-2018 – No Project

FY-2019 – No Project

FY-2020 – Replace Hazard Beacons

Market Area: The Town of Whitefield defines its market area as the State of New Hampshire. The contracting community that the Town works with is relatively small and primarily New Hampshire-based. Although out-of-state firms do bid and subcontract on projects, because of high mobility costs and capacity, many out-of-state firms are less likely to mobilize to Whitefield, New Hampshire to work on construction projects.

Step 1 26.45(c) Actual Relative Availability of DBEs

Pursuant to 49CFR 26.45, the Town of Whitefield has used the following methodology to determine the baseline figure for its 2018-2020 DBE goal. The Town has used US Census data and the New Hampshire Department of Transportation (NHDOT) DBE Directory to determine the number of ready, willing, and able DBEs in the New Hampshire market area.

The Town of Whitefield has carefully reviewed the area of work performed by DBEs in the NH market area to categorize each firm into specific areas of expertise through extensive research and outreach. For each area of work, the total number of DBEs found in the NHDOT DBE Directory is divided by the total number of all firms found through analysis of the US Census data for New Hampshire to arrive at the percentage of DBE firms that are ready, willing, and able to perform contract work.

In order to determine the expected DBE participation in dollars, the estimated contracting dollars for each area of work is multiplied by the percentage of firms that are ready, willing, and able to perform contract work. To establish the DBE project goal, the overall projected DBE participation (in dollars) is divided by the estimated total project costs. This is the base goal for each project.

To determine the overall base figure for more than one project, the sum of all the dollars expected to be spent on DBE participation is divided by the estimated total of all project costs. This number is the overall base goal for the Airport. A breakdown of all mathematical calculations is provided in the table at the end of this section.

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

Insufficient historical DBE data for the Town of Whitefield resulted in no adjustment to the Step 1 base figure; therefore, the Town is adopting the Step 1 base figure as its overall goal for this three-year goal period.

26.51(b) (1-9) Breakout of Estimated “Race and Gender Neutral” (Race Neutral) and “Race and Gender Conscious” (Race Conscious) Participation.

The Town of Whitefield will meet the maximum feasible portion of its overall goal by using project goals (Race Conscious) to facilitate DBE participation.

PUBLIC PARTICIPATION

26.45(g)(1) Consultation

In establishing the overall goal, the Town of Whitefield provided for consultation and publication. This included consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Town’s efforts to establish a level playing field for the participation of DBEs. The consultation occurred in accordance with section 26.45(g) of this Program.

We also published our goal information via electronic posting on the Mount Washington Regional Airport website at www.mtwashingtonairport.com, and the Town of Whitefield website at www.whitefieldnh.org.com.

Before finalizing the overall goal, the Town of Whitefield consulted with the Greater New England Minority Supplier Development Council, Women’s Business Enterprise National Council, Center for Women & Enterprise, Associated General Contractors of NH, the Littleton Area Chamber of Commerce, and the Northern Gateway Chamber of Commerce without limiting consultation to these persons or groups.

No comments were received from any of the groups listed above.

The Town of Whitefield also published a notice on the Mount Washington Regional Airport website at www.mtwashingtonairport.com, and the Town of Whitefield website at www.whitefieldnh.org.com. This notice announced the proposed overall goal and informed the public that the proposed goal and rationale were available for inspection via electronic posting for 30 days following the date of the notice. The Town of Whitefield and DOT accepted comments on the goals for 30 days from the date of the notice.

Summary of public comments to be provided here, following the 30-day review period.

2018 Project Name: No Project

Contract Amount
\$0.00

DBE Participation	
in dollars	in percentage
\$0.00	0.0%
\$0.00	0.0%

STEP 1: Calculation of Goal
STEP 2: Goal Adjustment
PROJECT DBE PARTICIPATION GOAL

2019 Project Name: No Project

AIP Eligible Amount
\$0.00

DBE Participation	
in dollars	in percentage
\$0.00	0.0%
\$0.00	0.0%

STEP 1: Calculation of Goal
STEP 2: Goal Adjustment
PROJECT DBE PARTICIPATION GOAL

2020 Project Name: Replace Hazard Beacons

AIP Eligible Amount
\$324,000.00

DBE Participation	
in dollars	in percentage
\$7,068.71	2.2%
\$7,068.71	2.2%

STEP 1: Calculation of Goal
STEP 2: Goal Adjustment
PROJECT DBE PARTICIPATION GOAL

TOTAL FOR ALL MOUNT WASHINGTON REGIONAL AIRPORT

Overall Project Costs
\$324,000.00

DBE Participation	
in dollars	in percentage
\$7,068.71	2.2%
\$7,068.71	2.2%

STEP 1: Calculation of Goal
STEP 2: Goal Adjustment

\$7,068.71	2.2%	FINAL OVERALL AIRPORT DBE PARTICIPATION GOAL
------------	------	---

2019 Project Name: No Project

Overall Project Cost: \$0.00
Federal Share: \$0.00

STEP 1: Calculation of Goal

Description of Services	NAICS Code	Available Businesses*	Available DBEs**	% of Available DBEs	Project Costs	DBE Participation in Dollars
Professional/Consultant Contract						
Engineering and Management Services	541330	359	14	3.9%		\$0.00
Engineering Construction Phase Services	541330	359	14	3.9%		\$0.00
Acoustical/Noise Engineering	541330					\$0.00
Aerial Mapping and Photogrammetry (Survey)	541370					\$0.00
Architect	541310					\$0.00
Geotechnical	541330					\$0.00
Demolition and Removal of Structures	238910					\$0.00
Electrical Design Consultant	238210					\$0.00
Electrical Engineering Subconsultant	541330					\$0.00
Engineering / Environmental	541330					\$0.00
Engineering/Subconsultant Specialty (FAA Flight Check)	541330					\$0.00
Environmental Engineering, Compliance and Permitting Subconsultant	541620	55	15	27.3%		\$0.00
Erosion Control Engineering	541690					\$0.00
Historical /Archaeological Investigation Subconsultant	541720					\$0.00
Legal Services	541110					\$0.00
Materials Testing (Soils Investigation) Subconsultant	541380					\$0.00
Negotiation & Relocation Services (Property Services)	531390					\$0.00
Real Estate Appraisal / Review Appraisal	531320					\$0.00
Reprographics Subconsultant	561439	18	1	5.6%		\$0.00
Structural Engineer	541330					\$0.00
Survey (GIS) Subconsultant	541370					\$0.00
Survey (Land) Subconsultant	541370	61	6	9.8%		\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
FAA Airways Facilities	NA	0	0			\$0.00
Subtotal						\$0.00
% DBE Participation						#DIV/0!

Independent Fee Estimate Contract						
Engineering/Specialty Subconsultant - IFE	541330	359	0	0.0%		\$0.00
Subtotal						\$0.00
% DBE Participation						#DIV/0!

Construction and Project Improvement						
(Electrical Power Distribution) Utility Backcharges	221122					\$0.00
Airport Runway Lighting Contractors/Electrical Contractors	238210					\$0.00
Asbestos Removal/Remediation	562910					\$0.00
Asphalt Paving	237310					\$0.00
Building Demolition	238910					\$0.00
Drainage Subconsultant	237310					\$0.00
Electrical Contractors (Electrical Installation)	238210					\$0.00
HazMat Inspection/Remediation	541620					\$0.00
Hydroseeding/Seeding	561730	834	5	0.6%		\$0.00
Landscaping	561730	834	5	0.6%		\$0.00
Lead Paint Inspection Services	541620					\$0.00
Masonry (Block Retaining Wall)	238140					\$0.00
Pavement and Pavement Markings (Painting) Subconsultant	237310					\$0.00
Remediation (UST Removal) Subconsultant	562910					\$0.00
Sedimentation and Erosion Control (Landscaping)	561730					\$0.00
Site Preparation (Land/Tree Clearing)	238910	367	0	0.0%		\$0.00
Specialty Contractor (Fence and Gate)	238990					\$0.00
Specialty Contractor (Install Aboveground Fueling System)	238990					\$0.00
Specialty Contractor (Irrigation)	561730					\$0.00
Specialty Contractor (Underground Storage Tank Removal)	238990					\$0.00
Rare Species Habitat Replication	541620					\$0.00
Trucking (hauling of bulk materials, gravel, sand etc.)	484220					\$0.00
Unclassified Excavation	238910					\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
Construction Material Providers:						
* Asphalt	324121					\$0.00
* Castings (die)	331511					\$0.00
* Concrete	327320					\$0.00
* Electrical supplies	423610					\$0.00
* Geotechnical Fabrics	313230					\$0.00
* Pipe & Pipe Fitting Suppliers	332996					\$0.00
* Pre-cast Concrete Pipe Manufacturer	32733					\$0.00
* Safety Equipment	444190					\$0.00
5% Contingency	NA	NA	NA	0.0%		\$0.00
Subtotal						\$0.00
% DBE Participation						#DIV/0!

Non - Contributive Expenses						
X Sponsor Admin Fee	N/A	N/A	N/A	0%	\$6,500.00	\$0.00
Acquisition of Parcel	N/A	N/A	N/A	0%	\$0.00	\$0.00
Subtotal						\$6,500.00
% DBE Participation						0.0%

Overall Total					\$6,500.00	\$0.00
% Overall DBE Participation					0.0%	

*based on the 2014 U.S. Government Economic Census for New Hampshire
**based on the NHDOT DBE Directory (July 2019) with adjustments for specific disciplines

STEP 2: Goal Adjustment

% Goal Adjustment: 0%

FINAL PROJECT DBE PARTICIPATION GOAL: 0.0%

2020 Project Name: Replace Hazard Beacons

Overall Project Cost: \$324,000.00
Federal Share: \$291,600.00

STEP 1: Calculation of Goal

Description of Services	NAICS Code	Available Businesses*	Available DBEs**	% of Available DBEs	Project Costs	DBE Participation in Dollars	
Professional/Consultant Contract							
X Engineering and Management Services	541330	359	14	3.9%	\$61,000.00	\$2,378.83	
X Engineering Construction Phase Services	541330	359	14	3.9%	\$41,000.00	\$1,598.89	
Acoustical/Noise Engineering	541330					\$0.00	
Aerial Mapping and Photogrammetry (Survey)	541370					\$0.00	
Architect	541310					\$0.00	
Geotechnical	541330					\$0.00	
Demolition and Removal of Structures	238910					\$0.00	
Electrical Design Consultant	238210					\$0.00	
Electrical Engineering Subconsultant	541330					\$0.00	
Engineering / Environmental	541330					\$0.00	
Engineering/Subconsultant Specialty (FAA Flight Check)	541330					\$0.00	
X Environmental Engineering, Compliance and Permitting Subconsultant	541620	55	15	27.3%	\$9,000.00	\$2,454.55	
Erosion Control Engineering	541690					\$0.00	
Historical /Archaeological Investigation Subconsultant	541720					\$0.00	
Legal Services	541110					\$0.00	
Materials Testing (Soils Investigation) Subconsultant	541380					\$0.00	
Negotiation & Relocation Services (Property Services)	531390					\$0.00	
Real Estate Appraisal / Review Appraisal	531320					\$0.00	
X Reprographics Subconsultant	561439	18	1	5.6%	\$2,000.00	\$111.11	
Structural Engineer	541330					\$0.00	
Survey (GIS) Subconsultant	541370					\$0.00	
X Survey (Land) Subconsultant	541370	61	6	9.8%	\$4,000.00	\$393.44	
FAA Airways Facilities	NA	0	0			\$0.00	
					Subtotal	\$117,000.00	\$6,936.82
					% DBE Participation		5.9%

Independent Fee Estimate Contract							
X Engineering/Specialty Subconsultant - IFE	541330	359	0	0.0%	\$3,000.00	\$0.00	
					Subtotal	\$3,000.00	\$0.00
					% DBE Participation		0%

Construction and Project Improvement							
(Electrical Power Distribution) Utility Backcharges	221122				\$0.00	\$0.00	
Airport Runway Lighting Contractors/Electrical Contractors	238210				\$0.00	\$0.00	
Asbestos Removal/Remediation	562910				\$0.00	\$0.00	
Asphalt Paving	237310				\$0.00	\$0.00	
Building Demolition	238910				\$0.00	\$0.00	
Drainage Subconsultant	237310				\$0.00	\$0.00	
Electrical Contractors (Electrical Installation)	238210				\$0.00	\$0.00	
HazMat Inspection/Remediation	541620				\$0.00	\$0.00	
X Hydroseeding/Seeding	561730	834	5	0.6%	\$9,000.00	\$53.96	
X Landscaping	561730	834	5	0.6%	\$13,000.00	\$77.94	
Lead Paint Inspection Services	541620				\$0.00	\$0.00	
Masonry (Block Retaining Wall)	238140				\$0.00	\$0.00	
Pavement and Pavement Markings (Painting) Subconsultant	237310				\$0.00	\$0.00	
Remediation (UST Removal) Subconsultant	562910				\$0.00	\$0.00	
Sedimentation and Erosion Control (Landscaping)	561730				\$0.00	\$0.00	
X Site Preparation (Land/Tree Clearing)	238910	367	0	0.0%	\$182,000.00	\$0.00	
Specialty Contractor (Fence and Gate)	238990				\$0.00	\$0.00	
Specialty Contractor (Install Aboveground Fueling System)	238990				\$0.00	\$0.00	
Specialty Contractor (Irrigation)	561730				\$0.00	\$0.00	
Specialty Contractor (Underground Storage Tank Removal)	238990				\$0.00	\$0.00	
Rare Species Habitat Replication	541620				\$0.00	\$0.00	
Trucking (hauling of bulk materials, gravel, sand etc.)	484220				\$0.00	\$0.00	
Unclassified Excavation	238910				\$0.00	\$0.00	
Construction Material Providers:							
* Asphalt	324121				\$0.00	\$0.00	
* Castings (die)	331511				\$0.00	\$0.00	
* Concrete	327320				\$0.00	\$0.00	
* Electrical supplies	423610				\$0.00	\$0.00	
* Geotechnical Fabrics	313230				\$0.00	\$0.00	
* Pipe & Pipe Fitting Suppliers	332996				\$0.00	\$0.00	
* Pre-cast Concrete Pipe Manufacturer	32733				\$0.00	\$0.00	
* Safety Equipment	444190				\$0.00	\$0.00	
5% Contingency	NA	NA	NA	0.0%	\$0.00	\$0.00	
					Subtotal	\$204,000.00	\$131.89
					% DBE Participation		0.1%

Non - Contributive Expenses							
X Sponsor Admin Fee	N/A	N/A	N/A	0%	\$0.00	\$0.00	
Acquisition of Parcel	N/A	N/A	N/A	0%	\$0.00	\$0.00	
					Subtotal	\$0.00	\$0.00
					% DBE Participation		0%

*based on the 2014 U.S. Government Economic Census for New Hampshire
**based on the NHDOT DBE Directory (July 2019) with adjustments for specific disciplines

Overall Total	\$324,000.00	\$7,068.71
% Overall DBE Participation		2.2%

STEP 2: Goal Adjustment

% Goal Adjustment 0%

FINAL PROJECT DBE PARTICIPATION GOAL 2.2%

Attachment 7

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

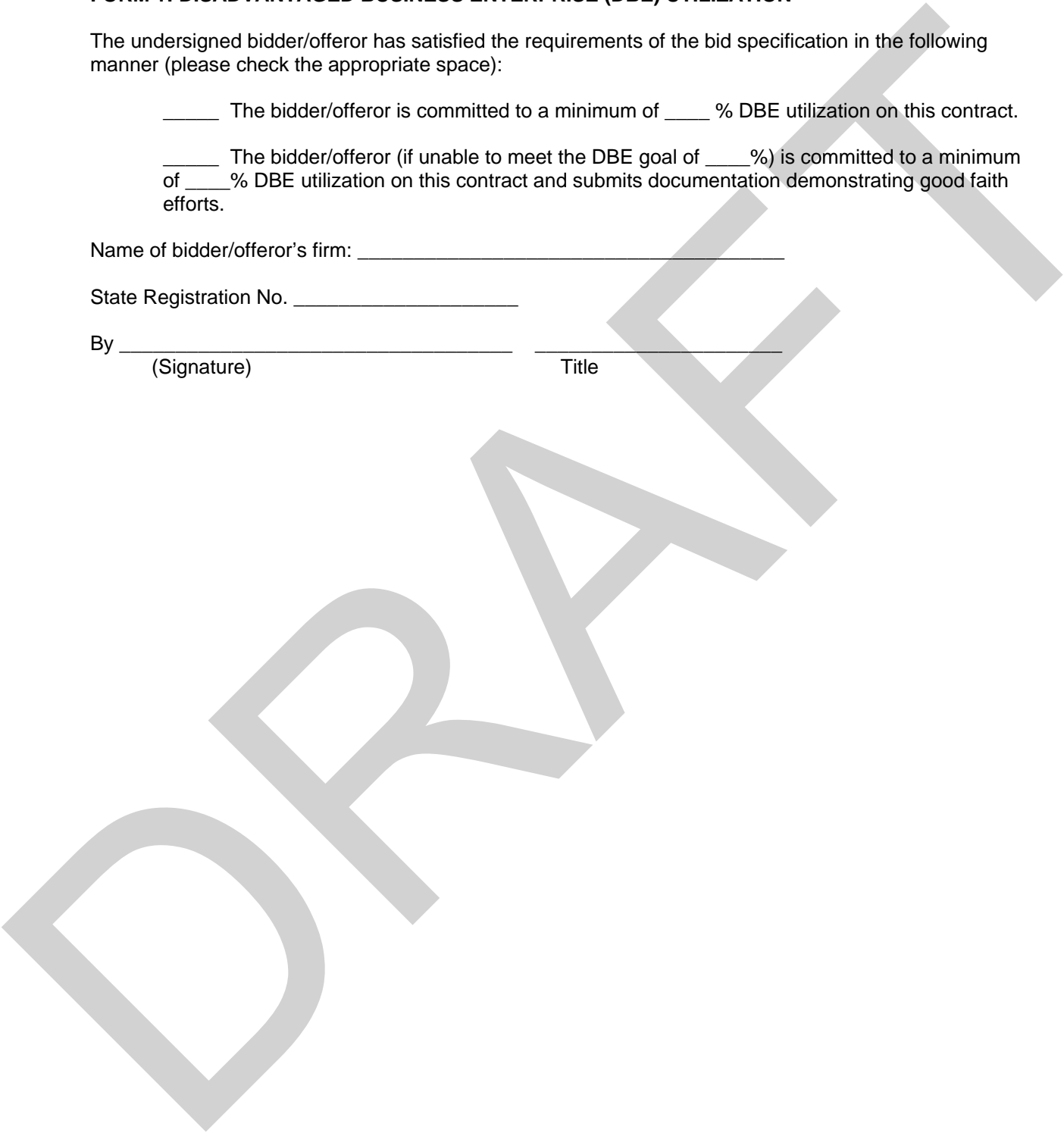
_____ The bidder/offeror is committed to a minimum of _____ % DBE utilization on this contract.

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)



FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

.....
.....
.....
.....

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

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

Attachment 8

Fostering Small Business Participation

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

In compliance with this policy, the Town's DBE Program in regard to §26.39 Fostering Small Business Participation may include, but is not limited to, the following strategies:

1. On prime contracts not having DBE contract goals (prime contracts under \$250,000 of grant funding in a federal fiscal year), requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
2. Offering a reasonable number of prime contracts of a size that small businesses, including DBEs, can reasonably perform.

In order to actively implement the Town's program elements to foster small business participation and to comply with the requirement of good faith implementation of its DBE program, the Town will require that the Prime Contractor(s) for Construction Work Items and for Professional Services Work Items complete the form entitled, Fostering Small Business Participation, which follows this section of the DBE program.

The Special Conditions of the Contract will indicate the amount of small business participation as determined by the Town.

Fostering Small Business Participation

Sponsor's Name:	
Airport Name:	
City, State:	
AIP Number:	
Federal Fiscal Year:	

In accordance with Section 26.39 the following detailed list shall be completed by Prime Contractor(s) for Construction Work Items as well as by Prime Contractor(s) for Professional Services Work Items. Note: The firms listed below may or may not be certified DBEs.

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	Yes No		

Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	Yes No		

Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	Yes No		

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

Accepted by: _____ Date: _____