**ATTACHMENT 5**

Section 26.45: Overall DBE Three-Year Goal Methodology

**Name of Recipient**: Port of Lopez owner of Lopez Island Airport

**Goal Period**: FY-2019-2020-2021 – October 1, 2018 through September 30, 2021

|  |  |  |
| --- | --- | --- |
| **DOT-assisted contract amount**: | FY 2019  FY 20182018 | $ 185,000 |
|  | FY 2020  FY 2021  **Total** | $ 305,000  $ 18,000  **$ 508,000** |

**Overall Three-Year Goal**: 4.9%, to be accomplished through 0% RC and 100 % RN

**Total dollar amount to be expended on DBE’s:**

4.9 % x 508,000 = $24,892

**Describe the Number and Type of Contracts that the airport anticipates awarding:**

Contracts Fiscal Year #1

1. Conduct ALP update with Narrative Report for Evaluation of Instrument Approach Procedure and AWOS - $180,000
2. Purchase Runway 34 RPZ Development Easements and First Right of Refusal - $5,000

Contracts Fiscal Year #2

1. Conduct Benefit Cost Analysis of AWOS III - $20,000
2. Conduct EA for RSA Extension, AWOS Installation - $285,000

Contracts Fiscal Year #3

1. Continued Removal/Trimming of Trees - $18,000

The market area for Lopez Island Airport includes San Juan, Whatcom, Island, Skagit, Snohomish, and King Counties. The local market area was determined to be such based upon where designers and contractors for previous projects have been located. This is also the area from which a substantial majority of the bidders and contractors and subcontractors come from and the area in which the airport spends a substantial majority of its contracting dollars.

**Methodology used to Calculate Overall Goal**

**Step 1. 26.45(c)** Actual relative availability of DBE’s

Determine the base figure for the relative availability of DBEs. The base figure for the relative availability was calculated as follows:

The data source or demonstrable evidence used to derive the numerator was the Washington State OMWBE database (https://omwbe.diversitycompliance.com/).

The data source or demonstrable evidence used to derive the denominator was the U.S. Census Bureau Economic Census, 2015 County Business Patterns for Washington State (https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t).

The firms reviewed included engineering, drafting, environmental, and surveying services to reflect the scope of work for the fiscal year periods 2019 to 2021.

Fiscal Year #1

For FY-2019, we anticipate the award of the following at LIA:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Contract Name* | *Trade Description* | *NAICS Description* | *NAICS* | *Trade ($)* | *Census*  *2016* | *DBE Directory* | *DBE (%)* | *DBE ($)* |
| ALP Update | Airport Engineering Services | Engineering Services | 541330 | 155,000 | 1,014 | 34 | 3.3% | 5,197 |
| Evaluate Instrument Approach and AWOS System | Drafting | Drafting Services | 541340 | 5,000 | 35 | 14 | 40% | 2,000 |
|  | Surveying | Geophysical Surveying and Mapping Services | 541360 | 25,000 | 16 | 0 | 0% | 0 |
|  |  |  |  |  |  |  |  |  |
|  | Total Contract |  |  | 185,000 | 1,065 | 48 | 3.8% | 7,197 |
|  |  |  |  |  |  |  |  |  |

Fiscal Year #2

For FY-2020, we anticipate the award of the following at LIA:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Contract Name* | *Trade Description* | *NAICS Description* | *NAICS* | *Trade ($)* | *Census* | *DBE Directory* | *DBE (%)* | *DBE ($)* |
| Benefit Cost Analysis | Airport Engineering Services | Engineering Services | 541611 | 200,000 | 1,014 | 34 | 3.3% | 6,600 |
| EA for RSA Area and AWOS | Drafting | Drafting Services | 541340 | 5,000 | 35 | 14 | 40% | 2,000 |
|  | Environmental Reporting and Permitting | Environmental  Services | 541620 | 50,000 | 193 | 80 | 41% | 20,500 |
|  |  |  |  |  |  |  |  |  |
|  | Total Contract |  |  | 305,000 | 1,242 | 128 | 9.5% | 29,100 |
|  |  |  |  |  |  |  |  |  |

Fiscal Year #3

For FY-2021, we anticipate the award of the following at LIA:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Contract Name* | *Trade Description* | *NAICS Description* | *NAICS* | *Trade ($)* | *Census* | *DBE Directory* | *DBE (%)* | *DBE ($)* |
| Tree Removal | Tree Removal and Trimming | Landscaping Services | 561730 | 18,000 | 1,401 | 3 | 0.2% | 36 |
|  | Total Contract |  |  | 18,000 | 1,401 | 3 | 0.2% | 36 |

Using the data collected, the three-year base figure for the relative availability of DBEs was calculated as follows:

(Design & Planning) DBE + (Construction) Ready DBEs

Base figure =\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Design & Planning) ALL + (Construction) ALL firms ready

Therefore,

128 (Design and Planning) + 3 (Construction)

Base figure = \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ = (131/2,659) =.049

1,258 (Design and Planning) + 1,401 (Construction)

**Base figure = 4.9%**

When we add the design and construction DBE numerator, we get 131 firms. When we add the design and construction population of available firms, we get 2,659. When we divide the numerator by the denominator for Design and Construction we arrive at our overall three-year goal of 4.9%.

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

After calculating a base figure of the relative availability of DBEs, the following evidence was examined to determine that no adjustment was needed to the base figure in order to arrive at the overall goal:

1. Past Participation – There is no past participation in the State of Washington that affects airports. Therefore, the Port will not adjust the base figure based on past participation data.

1. Disparity Study - A FHWA and FTA Disparity Study was completed by Washington State Department of Transportation (WSDOT) in 2017. The WSDOT study looked at utilization and availability of DBEs in WSDOT’s geographic and industry market areas. The study gathered anecdotal information and examined barriers to DBE firms through focus groups and interviews with 202 individuals.

There is no update to the 2017 WSDOT FHWA and FTA Disparity Study, however WSDOT is working on a statewide FAA Disparity Study which is scheduled to be completed in the summer of 2019. Since the FAA Disparity Study is not yet complete, no information is available at this time from the FAA Disparity Study. This information may be available for the next updated goal calculation period.

Major items highlighted as a result of the interviews for the WSDOT 2017 Disparity Study include the following

* Contract size and complexity of larger projects remain a barrier to participation by small firms
* WSDOT slow payment schedule was of major concern regardless of firm size
* DBEs reported that the program remains necessary for them to obtain work with WSDOT and that WSDOT should provide more monitoring to assure prime contractors are meeting DBE goals
* Prequalification requirements such as readily available equipment and staff and high insurance requirements higher than the cost of the job remain barriers for DBE participation in WSDOT work.
* The DBE certification process was understandable for applicants though more outreach should be done to broaden the pool of certified firms.
* Technical assistance and supportive services for DBE firms should be increased
* Impacts to meeting DBE goals on projects included lack of capacity to do the work by DBE firms, belief that goals in Eastern Washington are set to high based on availability of firms, a large number of concurrent public projects can impact the availability of DBEs to do the work, on call contracts are difficult to meet DBE given the unknown and varying nature of the work, DBEs taking on more work than they can perform can cause problems for the general contractor.

The results of the disparity study by WSDOT found that on FHWA-funded projects with DBE goals, the ratio of use of DBE firms to availability of firms was 92.5%, whereas on state-funded projects without DBE goals the disparity or ratio of use of DBE firms to available DBE firms was 33.5%. This is evidence that DBE goals do make a difference and are important in maintaining support for and participation by DBE firms. Based on the interview in the study, while progress has been made in reducing barriers on the basis of race and gender, significant obstacles and inequities remain for DBE’s for full and fair opportunities. In the studies 202 interviews, there was almost universal agreement that the DBE Program remains necessary to reduce barriers to equal contracting opportunities. Key barriers identified in the study include stereotyping and discriminatory attitudes and negative perceptions of competence and exclusion from industry networks for DBE firms.

The following were key recommendations from the WSDOT Disparity Study of 2017 for WSDOT to implement:

* Increase certification outreach and expertise
* Monitor prompt payment to subcontractors
* Increase contract unbundling
* Ensure bidder non-discrimination and fairly priced subcontractor quotes
* Review insurance and experience requirements
* Review DBE policies for consulting contracts
* Provide information and training to bidders on program compliance
* Enhance the small business element
* Enhance supportive services and business development
* Develop a bonding and financing program for SBE
* Adopt a DBE mentor –protégé program
* Provide information and training to WSDOT staff and subrecipients regarding the program
* Increase program resources
* Use the study to set the narrowly tailored triennial DBE goal
* Use the study to set narrowly tailored DBE contract goals
* Develop Performance Measures for Program Success

The 2017 WSDOT Disparity Study identifies actions to promote and increase use of DBE firms in federally funded contracts but does not specifically provide information that would result in a modified DBE goal percentage therefore the Port will not adjust the three-year base rate DBE goal based on the disparity study. However, the Port will continue to implement measures reflecting some of the key recommendations as applicable and as described in WSDOT’s disparity study including “unbundling” contracts to assist small firms to bid as prime contractors, abbreviated procedures to prequalify contractors for contracts under $100,000, and maintaining a small works roster.

1. Consultation Process

Scheduled direct consultation processes were conducted with various associations and DBE consultants/contractors. The Port consulted with the following business advocacy agencies:

San Juan Island Chamber of Commerce

Lopez Island Chamber of Commerce

Associated Builders and Contractors – Western Washington Chapter

Home Builders Association

Jefferson County Center for Economic and Business Research, Western Washington University

Economic Development Councils in Clallam, Jefferson, and Snohomish counties

Small Business Development Centers in Port Angeles, and Port Townsend

Contacts with business advocacy agencies provided mixed results. While some reported that they were not aware of any barriers or difficulties, others reported that they were aware of difficulties being experienced by DBE-certified contractors in the construction business community. The results of these consultations indicate that barriers to entry may exist for DBE contractors in this market area particularly related to the more rural and remote location of the San Juan Islands from major population centers in King County, Pierce, and Snohomish Counties. Consultations with these agencies resulted in the following comments:

1. They are not aware of complaints of discrimination of DBE based on race and gender.
2. There are few DBEs in the remote counties and they tend to be spread out across the region. There is a greater concentration of DBEs in the more urban counties rather than in San Juan County that respond to work in San Juan County. Much of the work in San Juan County is done by firms outside the County.
3. There is limited population in San Juan County so it can be hard for DBEs and small businesses as well as other businesses to find new hires within the County.
4. Obtaining financial assistance in starting up a DBE or small business is difficult but once they are established continued financing has not been as difficult. There are financial institutes that provide good support for small businesses including providing guidance and assistance in navigating financing processes.
5. It does not appear that many businesses have difficulty getting paid and association members report very few problems being paid.
6. There are associations such as the Home Builders Associations that provide insurance for DBE and small businesses with at least two employees that decrease barriers for DBEs and small businesses to obtain insurance.
7. Bonding expenses can be difficult for DBE contractors to absorb.
8. The amount of time to prepare bids and paperwork and other hurdles involved in identifying and submitting subcontractor bids to get on large construction contracts is often more effort than small businesses are able to handle.
9. Many DBE contractors specialize in just one area, so they are often not suited to work as the prime contractor on large construction projects, and it can be difficult to find a general contractor willing to hire them as a subcontractor.
10. Larger prime contractors from the metro counties do reach out to smaller and DBE firms in remote counties for specialty work or when they need to supplement their own work forces. This has occurred for example with electrical companies using local DBE electrical firms on local projects and larger prime contractors using solar specialists on projects.
11. Associations have websites and member contact lists online that facilitates larger prime contractors reaching out to DBE and smaller businesses for project work. The associations do see many larger prime contractors using the general internet search features to find DBEs and other smaller businesses to solicit subcontracting bids from the local areas of work.
12. It is more likely that the larger primes reach out to smaller subcontractors rather than small businesses reaching out to the larger firms. The smaller firms have less staff and time to identify potential projects and market to the larger firms.
13. Separating out projects into smaller projects or having specific requirements on use of DBEs and small businesses could be beneficial to these businesses in winning more work.
14. The EDC and other organizations do provide a lot of classes on business topics that DBEs and small businesses can attend and benefit from by participating.
15. There has not been a lot of DBE specific outreach or regional meetings by the organizations but it is expected that there are a good number of firms that may benefit from outreach programs.
16. DBE contractors are often unfamiliar with Davis-Bacon wage rates and other requirements of large construction projects.
17. The amount of paperwork and other hurdles involved in getting large construction contracts is often more effort than small businesses are able to handle.
18. Many DBE contractors specialize in just one area, so they are often not suited to work as the prime contractor on large construction projects, and it can be difficult to find a general contractor willing to hire them as a subcontractor.
19. The Port can improve regional participation of DBE-certified business by advertising projects and contract opportunities directly to DBEs, including women-owned, minority-owned, and veteran‑owned companies, through the local and state Procurement Technical Assistance Centers (PTAC). The closest PTAC is located in Everett, as part of the Economic Alliance of Snohomish County.
20. Scope and scale of airport construction projects often exceed the capacity for smaller DBE firms to accommodate and they lose out on contract awards because of size and productivity requirements compared to larger firms.
21. No direct evidence was seen of restrictions or discrimination against DBEs on larger state and federal contracts, but a challenge remains with the winning Primary contractors to hire DBEs as subcontractors.

Consultations with DBE-certified consultants and contractors chosen from the DBE directory at the OWMBE web site resulted in the following comments:

1. Getting certification for a WBE was time consuming and took a couple years. However, it has helped in the marketing of services and is beneficial on getting on teams.
2. Becoming a DBE contractor has not resulted in any additional work.
3. Firm has not been able to establish a contact with a general contractor who will use them as a subcontractor.
4. Have provided subcontract bids to general contractors but then found that the general contractor used its own workforce to do the work.
5. It can be difficult on large projects to get on a team because it’s more efficient for the larger prime consultant or contractor to do more work in house than break out work for DBEs or small businesses. If owners could break out smaller contracts for specialty work and procure or bid those separate that would give more opportunities for DBE and small businesses to win more work.
6. Have not been able to establish a contact with a general contractor who will use them as a subcontractor.

**Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender**

**Conscious” (RC) Participation** 26.51(b) (1-9)

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

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate); and
3. Ensuring distribution of the State DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

The Port estimates that, in meeting its overall goal from race-neutral participation and zero percent through race-conscious measures.

Based on the 9th Circuit Court Decision in Washington State Paving Company vs. Washington State Department of Transportation, the Port of Lopez has determined that it is appropriate to use a race neutral goal. The Port of Lopez encourages all bidders to take active race neutral steps to include DBE’s in this and other airport contracts. Race/gender neutral steps include: unbundling large contracts, subcontract work the prime contractor may self-perform, provide bonding or financing assistance, provide technical assistance, etc. This contract can be awarded without the lowest responsive bidder meeting the goal or demonstrating good faith effort to meet the goal.

The following is a summary of the basis of the Port’s estimated breakout of race-neutral and race-conscious DBE participation: the Port has determined to proceed with a race-neutral policy because: A) There is no past participation in the State of Washington that affects Airports. B) The 2017 WSDOT Disparity Study supports a race-neutral approach, including the WSDOT race-neutral small business program, C) Consultations (see above comments) revealed no barriers to participation or discrimination on which to base a race-conscious goal.

In order to ensure that the Port’s DBE program will be narrowly tailored to overcome the effects of discrimination, if the Port uses contract goals it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.

The Port will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

The Port of Lopez will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation (see Section 26.51(f)) and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract obtained 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.

**PUBLIC PARTICIPATION**

**Consultation** Section 26.45(g)(1)

In establishing the overall goal, the Port of Lopez provided for consultation with a variety of associations and entities. This included consultation with economic development agencies, a local homebuilder association, small business advocate agencies, and DBE businesses 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 Port of Lopez’s efforts to establish a level playing field for the participation of DBEs. The consultation included scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with many interested stakeholders focused on obtaining information relevant to the Port of Lopez’sgoal setting process.

**PUBLIC NOTICE**

The Port of Lopez hereby announces its fiscal year 2019-2021 goal of 4.9% for Disadvantaged Business Enterprise (DBE) for airport construction projects. The proposed goals and rationale are available for inspection between 8:00 a.m. and 4:30 p.m., Monday through Friday at:

Lopez Island Airport

In the Pilot Lounge building

Interested stakeholders that would like to obtain information relevant to the Lopez Island Airport goal setting process are encouraged to call in to a scheduled teleconference held by the Lopez Island Airport as follows:

Date: **Monday, April 20th, 2020**

Time: **1:00pm – 1:30pm**

To join the call: Dial 423-657-0161‬ and when prompted dial access PIN:

Comments on the DBE goal will be accepted for 30 days from the date of this publication and can be sent to the following:

Rick Hoffman, Airport Manager

PO Box 907

Lopez, WA 98261

Telephone: (360) 468-4116

Email: rhoffman@portoflopez.com

**or**

Federal Aviation Administration

Office of Civil Rights Staff

(Attn: Sonia Cruz)

PO Box 92007

Los Angeles, CA 90009

310-725-6819

**Contract Goals**

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

The Port of Lopez will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. It need not establish a contract goal on every such contract, and the size of the contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work and availability of DBE’s to perform the particular type of work).

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