

CITY OF SAC CITY, IOWA

**DISADVANTAGED BUSINESS ENTERPRISE
PROGRAM**

**For the Three-Year Period
October 1, 2022 through September 30, 2024**

**ADOPTED SPECIFICALLY FOR PROJECTS
FUNDED IN PART BY THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

RESOLUTION

Moved by _____ and Seconded by _____ that the following
Resolution be adopted:

WHEREAS, the city of Sac City, has received Federal financial assistance from the U.S. Department of Transportation (USDOT) for improvements at the Sac City Municipal Airport; and

WHEREAS, as a condition of receiving this assistance, the city of Sac City has signed an assurance that it will comply with the regulations of U.S. DOT, 49 CFR Part 26 regarding a Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, it is the policy of the City of Sac City to ensure that DBE's, as defined in Part 26, have an equal opportunity to receive and participate in the USDOT assisted contracts at the Sac City Municipal Airport; and

WHEREAS, it is necessary to officially adopt a DBE Program containing a Policy Statement to be included in the contract documents for all federally funded projects.

NOW, THEREFORE, BE IT RESOLVED that the City of Sac City officially adopts the attached *Disadvantaged Business Enterprise Program* and is hereby authorized to implement all aspects of the DBE Program for Federal DOT assisted projects; and

BE IT FURTHER RESOLVED that the City of Sac City's Mayor, Scott Bundt is hereby authorized to sign the official copy of the DBE Program.

CITY OF SAC CITY, IOWA

Scott Bundt, Mayor

ATTEST:

Jamie Lawrence, City Administrator

CITY OF SAC CITY, IOWA
DBE PROGRAM – 49 CFR PART 26
SAC COUNTY, IOWA
For the Three-Year Period
October 1, 2022 through September 30, 2024

Section 26.1, 26.23 Objectives/Policy Statement

The **City of Sac City**, owner of **Sac City Municipal Airport** 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 **City of Sac City** has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the **City of Sac City** has signed an assurance that it will comply with 49 CFR Part 26.

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

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 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 DOT assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The **Sac City, City Administrator, Mr. Jamie Lawrence** has been delegated as the DBE Liaison Officer. In that capacity, **Mr. Lawrence** 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 **City of Sac City** in its financial assistance agreements with the Department of Transportation.

The **City of Sac City** has disseminated this policy statement to the **city council** and all applicable components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The distribution was accomplished by **incorporating this Policy Statement within the contract documents of each FAA funded project**.

Scott Bundt, Mayor
City of Sac City

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 **City of Sac City** is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The **City of Sac City** will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

The **City of Sac City** 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 **City of Sac City** 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 DOT: 26.11

(b) You must continue to provide data about your DBE Program to the Department as directed by DOT operating administrations.

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form, found in Appendix B to this part. We will also report the DBE contractor firm information either on the FAA DBE Contractor’s Form or other similar format. We will begin using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY 2022 reports due December 1, 2022.

Bidders List: 26.11(c)

The **City of Sac City** 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 our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms, See **Attachment 3**.

Section 26.13 Federal Financial Assistance Agreement

The **City of Sac City** has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a) - Each financial assistance agreement the **City of Sac City** signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The City of Sac City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The City of Sac City 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 City of Sac City's 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 City of Sac City of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR 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.).

Contract Assurance: 26.13b – *The City of Sac City* will ensure that the following clause is included in each contract we sign with a contractor 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 City of Sac City deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The **City of Sac City** is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Name: Mr. Jamie Lawrence

Title: City Administrator

Address: City of Sac City, P.O. Box 37, 302 E Main Street, Sac City, IA 50583

Telephone Number: 712.662.7593

Fax Number: 712.662.7448

E-mail Address: saccityal@prairieinet.net

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the **City of Sac City** complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the **Mayor, Scott Bundt**, 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 will be assisted by **Olsson (Consultant)** 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 DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with city's staff 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) and monitors results.
6. Analyzes City's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings, if required.
8. Advises the mayor, city council, and airport commission on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the **City of Sac City** 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 contracts to make use of these institutions. To date, no such institutions have been found by the City of Sac City or Iowa DOT, although the following institution, which is willing to work with the DBE community, has been identified in the Iowa DOT DBE Program.

Pinnacle Bank of Marshalltown

Information on the availability of such institutions can be obtained from the City's DBE Liason Officer and Iowa DOT's External Civil Rights Section.

Section 26.29 Prompt Payment Mechanisms

The **City of Sac City** has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. We will use one of the following methods to comply with this requirement:

Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

The **City of Sac City** will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the **City of Sac City**. When the **City of Sac City** has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

The **City of Sac City** will provide appropriate means to enforce the requirements of this section. These means include:

- 1) Holding further payment for Prime Contractor until subcontractor has shown proof of payment.
- 2) Contacting the Prime Contractors Payment Bond provider.

The **City of Sac City** will include the following clause in each DOT-assisted prime contract:

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. The City of Sac City must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City of Sac City. When the City of Sac City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. This clause applies to both DBE and non-DBE subcontractors.

Section 26.31 Directory

The **City of Sac City** uses the Iowa DOT's DBE directory, maintained by the State. The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The directory is reprinted every calendar year and updated every month. This information is also available on the Internet as described in [Attachment 4](#) and at the Iowa DOT's Office of Contracts, which is located at 800 Lincoln Way, Ames, Iowa.

Section 26.33 Over-concentration

The **City of Sac City** has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The **City of Sac City** has not established a DBE Business Development Program (BDP). However, firms will be encouraged to participate in two statewide business development programs offered by the Iowa DOT, the emerging small business (ESB) program and the supportive services program.

Section 26.37 Monitoring and Enforcement Mechanisms

The **City of Sac City** 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 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 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. [Attachment 9](#) lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our DBE Program.

3. We will also provide a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by monitoring the work site and performing payroll reviews to ensure compliance.
5. We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 Fostering small business participation.

The City of Sac City has included in this document 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 12](#) to this DBE Program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The **City of Sac City** does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculation can be found in [Attachment 5](#) to this program. This section of the program will be updated on a project by project basis.

The **City of Sac City** will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f) the **City of Sac City** will submit its Overall Three-year DBE Goal to FAA by August 1st as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Primary (GAs, Relievers and State DOTs)	Central, Southwest, and Western-Pacific	August 1, 2022 (2022/2023/2024)	August 1, 2024 (2025/2026/2027)

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the **City of Sac City** 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, we will not develop an overall goal; however this DBE Program will remain in effect and the **City of Sac City** will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. The first step is to determine the relative availability of DBEs in the market area, "base figure". We will use **Iowa DOT Civil Rights office, Sac City Chamber of Commerce, and other small business groups** to determine our 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 recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on Contracts.

Step 2. Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our 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 **City of Sac City** 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 **City of Sac City** efforts to establish a level playing field for the participation of DBEs.

In addition, the **City of Sac City** will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be published in the local and nearest large metropolitan newspaper. If the proposed goal changes following review by the operating administration, the revised goal will be again published in the local and nearest large metropolitan area newspaper. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the **City of Sac City** 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.

Our 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 our responses.

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT.

Section 26.45 (e) - Project Goals

If permitted or required by the FAA Administrator we will express our overall goals as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.45(f) - Prior Operating Administration Concurrent

The **City of Sac City** understands that we are not required to obtain prior operating administration concurrence with our overall goal. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate, the operating administration may, after consulting with us, adjust our overall goal or require that we do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

Section 26.47 Failure to meet overall goals.

The **City of Sac City** will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the **City of Sac City** awards and commitments shown on our 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, we will do the following in order to be regarded by the Department as implementing your DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;

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

The breakout of estimated race-neutral and race-conscious participation can be found in **Attachment 5** to this program. This section of the program will be updated on a project by project basis when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The **City of Sac City** will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39. 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 DOT-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 total amount of a US DOT-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 project engineer 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.

We 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.

Information to be submitted (26.53(b))

In our solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, we will require the following:

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 if 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 contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.
 - a. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
 - b. We will require that the bidder/offeror present the information required within the sealed bid procedures or within 5 days of the bid opening as a matter of responsiveness.

Administrative reconsideration (26.53(d))

Within 5 business days of being informed by **City of Sac City** 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: **Mr. Jamie Lawrence, Sac City - City Administrator, 302 E Main Street, Sac City, Iowa, 50583 712.662.7593, city.admin@saccity.city.** 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 **Mr. Jamie Lawrence** 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 procedures in situations when there are contract goals (26.53(f)(g))

We will include in each prime contract a provision stating:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph 26.53(f); and

That, unless our consent is provided under this paragraph 26.53(f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

We will require the contractor that is awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

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.

We will require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without our prior written consent. This includes, but not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that we have determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to us its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise us and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why we should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), we may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

The **City of Sac City** 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. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that we established for the procurement. The good faith efforts shall be documented by the contractor. If we request documentation from the contractor under this provision, the contractor shall submit the documentation to us within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient

shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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 **City of Sac City** 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 **0.42** 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. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract; (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; and (5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract 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.

If the firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, we will not count the firm's participation toward any DBE goals.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The **Iowa DOT** has established a unified certification program (UCP) for all government entities receiving US DOT funds in the State of Iowa. With respect to participation as a DBE on US DOT-assisted contracts, the Iowa DOT makes all DBE certification decisions through the UCP on behalf of these entities including the **City of Sac City**. The purpose of the UCP is to provide "one-stop-shopping" to certification applicants, which means that once they have been certified, their certification will be honored by all other entities in the Stat that receive US DOT funds including the **City of Sac City**.

A copy of the Unified Certification Application Form and/or information about the certification process can be obtained by contacting:

The certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

Todd Sadler, Director (DBE Compliance Officer)
Office of Employee Services Iowa DOT
800 Lincoln Way
Ames, Iowa 50010

The Iowa DOT's certification application forms and documentation requirements are found in [Attachment 11](#).

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The **Iowa DOT** is the lead organization in Iowa's Unified Certification Program (UCP). The Iowa DOT's UCP will meet all of the requirements of this section.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

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 provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, we will transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

All participants in the Department's DBE program (including, but not limited to, 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 recipient 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).

The **City of Sac City**, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a

complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 or website link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory or link to DBE Directory
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
- Attachment 7 Public Participation
- Attachment 8 Public Notice
- Attachment 9 DBE Monitoring and Enforcement Mechanisms
- Attachment 10 DBE Certification Application Form
- Attachment 11 State's UCP Agreement
- Attachment 12 Small Business Element Program

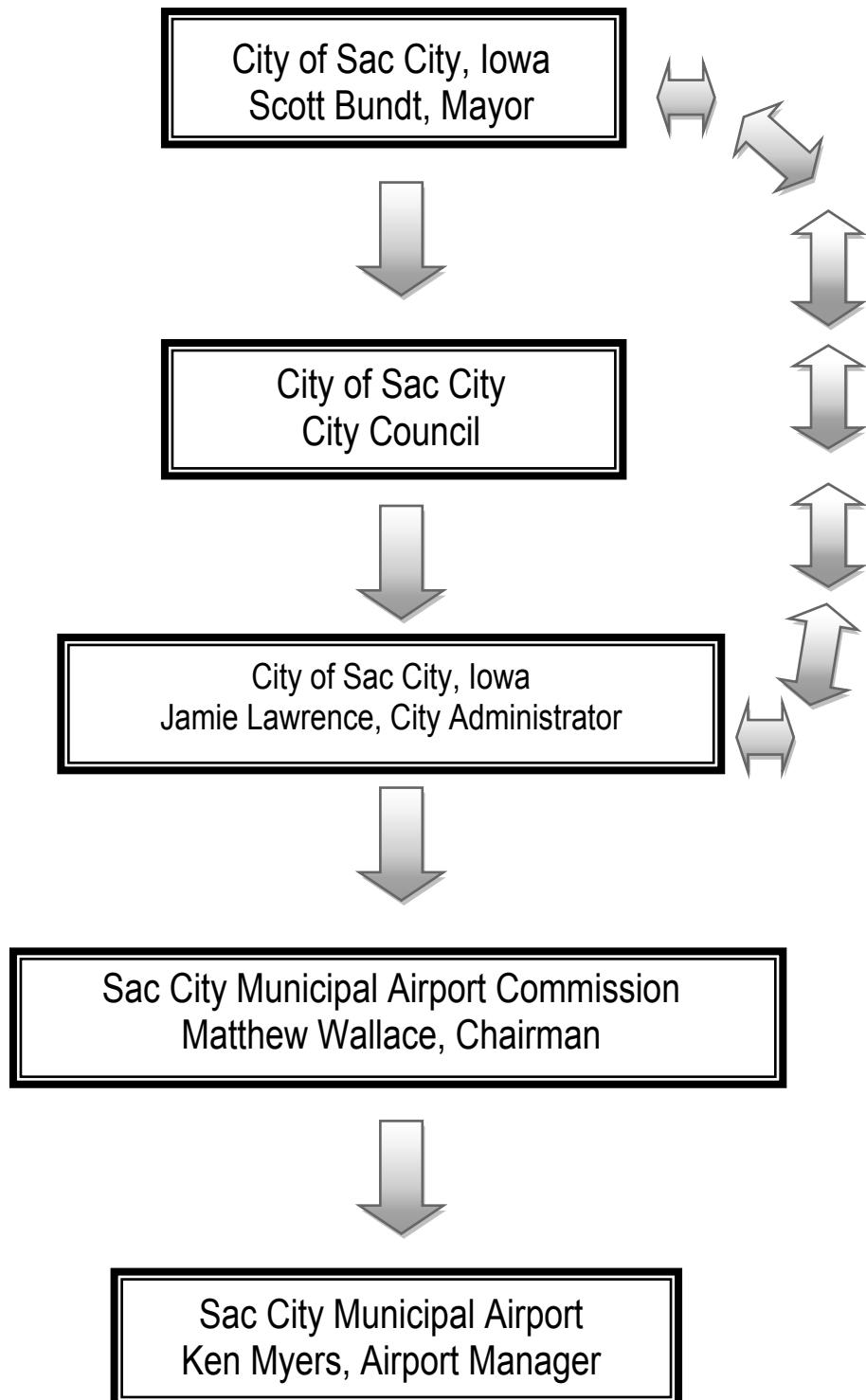
ATTACHMENT 1

Regulations: 49 CFR Part 26 – website Link:

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

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3
Bidder's List Collection Form

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

ATTACHMENT 4

The Iowa DOT maintains a directory identifying all firms eligible for participate as DBEs in its program. The directory lists each firm's name, address, phone number, fax number, email address, and the type of work it has been certified to perform as a DBE.

A current listing of the DBEs can be found on the Iowa DOT Civil Rights home page as follows:

<https://secure.iowadot.gov/DBE/Home/Index/>

and/or

<https://secure.iowadot.gov/DBE/Directory/Results>

ATTACHMENT 5

Section 26.45: Overall DBE Three-Year Goal Methodology

Airport: Sac City Municipal Airport (SKI)

Sponsor: City of Sac City, Iowa

Goal Period: Fiscal years 2022 – 2024 (October 1, 2022 to September 30, 2024)

Anticipated DOT-Assisted Contract Amount: \$560,000

Fiscal Year	Project	Contract Amount
2022	None	\$0
2023	Apron Expansion	\$640,000
2024	No Anticipated Federal Projects	\$0
Total (3-year)		\$640,000

Overall 3-Year DBE Goal: 1.36%

Total dollar amount to be expended on DBEs: \$7,591

Number and Type of Projects that the airport anticipates awarding for these Fiscal Years:

Contracts Fiscal Year #1 – FY2022

1. No AIP Projects Planned

Contracts Fiscal Year #2 – FY2023

1. Construction - \$430,000
2. Engineering - \$130,000

Contracts Fiscal Year #3 – FY2024

1. No AIP Projects Planned

Determination of Market: The market area was determined based on available information indicating that the substantial majority of contractors and subcontractors will come from this area. Information from Iowa Department of Transportation (DOT) was also utilized.

Due to the size and type of the project, we anticipate contractors from the following counties willing and able to travel for the project: Sioux, O'Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Woodbury, Ida, Sac, Calhoun, Webster, Monona, Crawford, Carroll, Greene, Boone, Harrison, Shelby, Audubon, and Guthrie. Consultants were included across the state.

Step 1 of Analysis: Actual Relative Availability of DBEs

Method: We counted the number of DBE firms in the market area from the Iowa DOT DBE Directory. The total number of all firms in the market area was identified from US Census information based on the same NAICS code found at the following websites:

U.S. Census:

<https://data.census.gov/cedsci/table?q=&g=&d=ANN%20Business%20Patterns%20County%20Business%20Patterns&table=CB1700CBP&tid=CBP2017.CB1700CBP&hidePreview=true&lastDisplayedRow=18>

Iowa DOT:

<https://iowadot.gov/civilrights/disadvantaged-business-enterprise-program-dbe/dbe-program>

Fiscal Year	NAICS	Type of Work	Total DBEs Firms (a)	Total All Firms (b)	% DBE Firms (c) = (a/b)	Contract Amount (d)	DBE Contract Amount (c * d)
2022	No Project					\$ 0	\$ 0
2023	237310	Paving	4	152	2.63%	\$215,600	\$5,674
	238910	Grading	1	1,166	0.09%	\$214,400	\$184
	541330	Engineering Services	8	600	1.33%	\$130,000	\$1,733
2024	No Project					\$ 0	\$ 0
Total						\$ 560,000	\$ 7,591

The calculation for our total 3-year base figure is as follows:

$$\$7,591 / \$560,000 = 1.36\%$$

This was calculated as follows: Divide the total number of DBE's by the total number of All Firms Weighted by the Contract Amount = base figure for each contract.

Base figure = 0.68% of all firms ready, willing and able.

The data source or demonstrable evidence used to derive the numerator and denominator is described above and shown in the above table.

Step 2 of Analysis: Adjustment to Step 1 Base Figure

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the overall goal. An examination was made of the anticipated contracts for each fiscal year, the availability of the DBE firms by trade classification and the volume of work performed by DBE firms over previous years.

Fiscal Year #1 – FY2022 - None

Fiscal Year #2 – FY2023 – Apron Expansion Construction - \$430,000
Engineering - \$130,000

Fiscal Year #3 – FY2024 – None

Past History Participation

Other data used to determine the adjustment to the base figure was the median and average of historical DBE accomplishments, as shown on the table below.

Fiscal Year	Grant Amount	DBE Goals			DBE Accomplishments			Type of Work
		RC*	RN*	Total	RC	RN	Total	
2014	\$173,016	0%	0%	0%	0%	0%	0%	Snow Removal Equipment
2015	\$123,052	0%	0%	0%	0%	0%	0%	Airport Master Planning
2016	\$273,960	0.42%	0%	0.42%	0.42%	5.64%	6.06%	Pavement Rehabilitation
2017	No Project							
2018	\$80,640	0%	0%	0%	0%	0%	0%	Fuel System Improvements 18-0960
2019	No Project							
2020	\$445,918	0.10%	0%	0.10%	0.10%	2.12%	2.22%	Electrical Improvements
2021	No Project							
Average					0.26%	3.88%	4.14%	

* RC is race-conscious; RN is race-neutral

The following adjustment was made for past participation:

- Average the Step 2 goal of 1.36% and the Total Average Accomplishments of 4.14%. The result is 2.75%

We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of project work being awarded during this three-year period. Further, there are no applicable disparity studies for the local market area or recent legal case information available from the State of Iowa Department of Transportation to show any evidence of barriers to entry or competitiveness of DBEs in Sac County.

The Fiscal Year DBE Goals are as follows:

- Fiscal Year 2022: 0%
- Fiscal Year 2023: 2.75%
- Fiscal Year 2024: 0%

Our proposed overall three-year goal will be reflected as an average of the three years.

Overall DBE Goal: 1.36%

Step 3: Breakout of Estimated Race and Gender Neutral (RN) and Race and Gender Conscious (RC) Participation. (Section 26.51(b)(1-9).

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

1. Arranging solicitations in ways that facilitate DBE, and other small business, participation, whenever possible.
2. Ensuring that DBEs are notified on DOT-assisted contract lettings
3. Ensuring distribution of the DBE directory to potential prime contractors
4. When requested, conduct debriefing sessions to explain why certain bids were unsuccessful
5. Provide information on certification procedures, subcontracting, and bonding requirements to small businesses upon request

Based on past participation, RC participation has achieved 24% of the total participation and RN has achieved 76% of total participation, which is evidence of race-neutral participation and therefore, we adjusted our goal based on this. The recipient estimates that its overall goal and FY2020 goal will be as shown below. We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of work being awarded during this three-year period

Overall 3-Year Goal:

Race-Conscious:	$24\% \times 1.36\% = 0.33$
Race-Neutral:	$76\% \times 1.36\% = 1.03$

In the future, we will continue to adjust the estimated breakout of race-conscious and race-neutral participation as needed to reflect actual DBE participation (per Section 26.51(f)) and we continue to 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 that 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.

Consultation:

In establishing the overall goal, the Sponsor provided for consultation and publication. This process included attempts for 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 Sponsor's efforts to establish a level playing field for the participation of DBEs. There are no certified DBE firms in the county and no minority or contractor groups in the county or adjacent counties. Thus, a scheduled, direct, interactive exchange was not possible. Therefore, we consulted with the Iowa Department of Transportation to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Sponsor's efforts to establish a level playing field for the participation of DBEs. This was conducted before the goal methodology was submitted to the operating administration for review. No comments were received.

A notice of the proposed goal will be published on the city's official website before the methodology was submitted to the FAA.

If the proposed goal changes following review by the FAA, the revised goal will be posted on airport's official website.

Notwithstanding paragraph (f)(4) of §26.45, the airport's proposed goals will not be implemented until this requirement has been met.

PUBLIC NOTICE

The City of Sac City hereby announces its proposed Disadvantaged Business Enterprise (DBE) participation goal of 1.36% for FAA-funded contracts and agreements. The proposed goal pertains to federal fiscal years 2022 through 2024. The proposed goal and its attendant methodology are available for inspection between 8:00 a.m. and 5:00 p.m. Monday through Friday at the City Office, 302 E. Main Street, Sac City, IA for 30 days from the date of this publication.

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

Jamie Lawrence
City Administrator
302 E. Main Street
PO Box 37
Sac City, IA 50583
city.admin@saccity.city

AND

Ofelia Medina
Compliance Specialist
Disadvantaged Business Enterprise Program
FAA Office of Civil Rights
777 S. Aviation Blvd Suite #150
El Segundo, CA 90245
Ofelia.Medina@faa.gov

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

FORM 1: UTILIZATION STATEMENT (DBE Participation Form) Disadvantaged Business Enterprise

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner. (Please mark the appropriate box)

- The bidder/offeror is committed to a minimum of _____ % DBE utilization on this contract.
- The bidder/offeror, while unable to meet the DBE goal of _____ %, hereby commits to a minimum of _____ % DBE utilization on this contract and also submits documentation, as an attachment, demonstrating good faith efforts (GFE).

The undersigned hereby further assures that the information included herein is true and correct, and that the DBE firm(s) listed herein have agreed to perform a commercially useful function in the work items noted for each firm. The undersigned further understands that no changes to this statement may be made without prior approval from the Civil Right Staff of the Federal Aviation Administration.

Bidder's/Offeror's Firm Name

Signature

Date

DBE UTILIZATION SUMMARY

	<u>Contract Amount</u>	<u>DBE Amount</u>	<u>Contract Percentage</u>
DBE Prime Contractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Subcontractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Supplier	\$ _____ x 0.60 =	\$ _____	_____ %
DBE Manufacturer	\$ _____ x 1.00 =	\$ _____	_____ %
Total Amount DBE		\$ _____	_____ %
DBE Goal			_____ %

* If the total proposed DBE participation is less than the established DBE goal, Bidder must provide written documentation of the good faith efforts as required by 49 CFR Part 26.

FORM 2:

LETTER OF INTENT
Disadvantaged Business Enterprise
(This page shall be submitted for each DBE firm)

Bidder/Offer Name: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE Firm: DBE Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE Contact Person: Name: _____ Phone: (____) _____

DBE Certifying Agency: _____ Expiration Date: _____

Each DBE Firm shall submit evidence (such as a photocopy) of their certification status.

Classification: Prime Contractor Subcontractor Joint Venture
 Manufacturer Supplier

Work item(s) to be performed by DBE	Description of Work Item	Quantity	Total

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$ _____ Percent of total contract: _____ %

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) _____

In the event 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.

ATTACHMENT 7

PUBLIC PARTICIPATION

Consultation: Section 26.45(g)(1).

In establishing the overall goal, the **City of Sac City** 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 **City of Sac City** efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the **City of Sac City** goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

Before establishing the overall goal, the **City of Sac City** will consult with Sac County Chamber of Commerce and Iowa DOT, without limiting consultation to these persons or groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the **City of Sac City** efforts to establish a level playing field for the participation of DBEs

Following the consultation, we will publish a notice in the Council Bluffs Daily Nonpareil newspaper 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 administration building for 30 days following the date of the notice, and informing the public that the **City of Sac City** and FAA will accept comments on the goals for 30 days from the date of the notice

Our overall goal submission will include a summary of information and comments received during this public participation process and our responses, if any.

The following comments were received: [discuss comments]

OR

No comments have been received.

ATTACHMENT 8

PUBLIC NOTICE

The City of Sac City hereby announces its fiscal years 2016 through 2018 goal of 0.42% for Disadvantaged Business Enterprise (DBE) airport construction Contracts. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at Sac City – City Hall, 302 E Main Street, Sac City, IA 50583 for 30 days from the date of this publication.

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

Jamie Lawrence, City of Sac City, City Administrator
Sac City – City Hall
302 E Main Street
Sac City, IA 50583

AND

Ofelia Medina, AWP-9
Federal Aviation Administration
Office of Civil Rights Staff
PO Box 92007
Los Angeles, CA 90009-2007

Contract Goals

The City of Sac City will use contract goals to meet any portion of the overall goal that the recipient 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 recipient's overall goal that is not projected to be met through the use of RN means.

The City of Sac City 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).

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

ATTACHMENT 9

DBE Monitoring and Enforcement Mechanisms

The **City of Sac City** 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;
2. Breach of contract action, pursuant to Iowa Code Section 614 and 616.

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
3. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 10

DBE Certification Application Form can be found at the following link:

<https://forms.iowadot.gov/FormsMgt/External/650194.pdf>

ATTACHMENT 11

State's UCP Agreement can be found at the following link:

<http://www.iowadot.gov/civilrights/documents/DBEProgram.pdf>

ATTACHMENT 12
Small Business Element

Section 26.39: Fostering Small Business Participation

A. Objectives

The City of Sac City has developed this Small Business element in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. We consider it to be a race- and gender-neutral means for providing additional contracting opportunities for small businesses, including DBEs, to fairly compete for contracts.

The objective of this program is to eliminate obstacles that by nature preclude small business participation in procurements as prime contractors or subcontractors. We will also consider this program to be a tool that has the potential to positively address procurement concerns relating to costs, innovation, quality, and customer satisfaction.

Work performed by DBE's under the Small Business Element will be counted towards race neutral DBE participation.

B. Small Business Size Standards

All contractors wishing to participate as small businesses (DBEs and non-DBEs alike) are subject to the same size standards. Iowa Code 314.14 defines a "Small Business" as any enterprise which is operated for profit, under a single management, and which has either fewer than twenty employees or an annual gross income of less than four (4) million dollars computed as the average of the three preceding fiscal years. There are no ethnic or gender limitations. The Personal Net Worth (PNW) of any owners should not exceed \$1.32 million.

C. Small Business Verification Procedures

The City of Sac City will accept the following certifications or documents for participation in the small business element of the DBE Program with applicable stipulations:

- (1) Targeted Small Business (TSB) Certification -Businesses owned, operated, and actively managed by women, minority group members, or persons with disabilities are eligible for certification as TSB's. TSB Certification is issued by the Iowa Department of Inspections and Appeals (DIA).
- (2) Other Small Businesses-Will require submittal of three years of business tax returns.
- (3) All Small Businesses (DBE and non-DBE) - Will require submittal of the "SMALL BUSINESS VERIFICATION" form attached at the end of the small business element of the DBE Program.

D. Strategies for Increasing Participation by Small Businesses

The City of Sac City will take the following proactive steps to increase contracting opportunities for small businesses at the Sac City Municipal Airport:

- (1) We will require contractors bidding on projects without DBE goals to solicit quotations from small businesses. Contractors must use the "PRE-BID SMALL BUSINESS CONTACT INFORMATION" form attached at the end of the small business element of the DBE Program and may submit additional documentation that demonstrates reasonable positive efforts toward encouraging participation in the contract by Small Businesses.
- (2) We will contact Small Businesses in the market area at least 2 business days prior to the general release of bid documents to notify them of upcoming projects.

- (3) We will post City of Sac City bids online at the "FAA dbE-Connect System" (<https://faa.dbesystem.com>) to make information about bid opportunities more readily available to Small Business concerns.
- (4) We will include language in our public notices that encourages consortia or joint ventures consisting of small businesses to compete for prime contracts (e.g. *"joint ventures consisting of small businesses are encouraged to submit proposals as prime contractors"*).
- (5) We will review each FAA-assisted contract to identify individual phases or elements of a project that can be "unbundled" or bid separately to make them more accessible to small businesses. The resulting work will be advertised for sealed bids in accordance with Iowa Code 26.3.
- (6) We will review each contract to develop provisions that eliminate barriers to the participation of new, emerging, or untried businesses in procurements.
- (7) We will contact and strongly encourage minority and women owned businesses that participate in the small business element to seek Iowa DOT DBE certification. We will count their work towards race neutral DBE participation if they are successfully certified.

E. Monitoring and Enforcement Mechanisms

The City of Sac City will take the following monitoring and enforcement mechanisms to ensure compliance with the small business element of the DBE program.

- (1) False, fraudulent, or dishonest conduct in connection with Small Business participation will be brought to the attention of the Iowa DOT and U.S. DOT so that appropriate steps can be taken (e.g., referral to the Department of Justice for criminal prosecution, referral to the U.S. DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules). We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Regulations, provisions, and contract remedies available to us in the events of non-compliance are provided in Section 26.37 of the DBE program.
- (2) We will verify that work committed to Small Businesses at contract award is actually performed by the Small Business by monitoring the work site, and performing payroll reviews to ensure compliance.
- (3) We will perform interim audits of contract payments to Small Businesses to ensure that the actual amount paid to Small Business subcontractors equals or exceeds the dollar amounts stated in the *"PRE-BID SMALL BUSINESS CONTACT INFORMATION"* form submitted with the contractor's bid.
- (4) We will require prime contractors to maintain records and documents of payments to Small Business subcontractors 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 City of Sac City or U.S. DOT. This reporting requirement also extends to any participating Small Business.

F. Small Business Directory

Contractors can find current listings certified Iowa DIA TSBs, Iowa DOT DBEs, and other DOT DBE listings (including Iowa DOT) at the following links:

- (1) Iowa DIA TSB Directory: <https://dia.iowa.gov/tsb/index.php/search>
- (2) Iowa DOT DBE Directory listings by name: <http://www.ia.bidx.com/lettings/dbealpha.pdf>
- (3) Iowa DOT DBE Directory listings by work: <http://www.ia.bidx.com/lettings/dbework.pdf>
- (4) FAA dbE-Connect System listings: <https://faa.dbesystem.com>

G. Implementation Schedule

The City of Sac City will implement this small business element within nine months of the FAA's approval of this document describing the small business element.

PRE-BID SMALL BUSINESS CONTACT INFORMATION

Contractor Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

In order for your bid to be considered responsive, you are required to provide information on this form showing the Small Business contacts made with your bid submission. This information is subject to verification and confirmation.

TABLE OF INFORMATION SHOWING BIDDERS PRE-BID SMALL BUSINESS CONTACTS

AMOUNT TO BE SUBCONTRACTED TO SMALL BUSINESSES

SMALL BUSINESS VERIFICATION

To be considered a Small Business, a company must meet the requirements of Iowa Code 314.14 or be certified as a Disadvantaged Business Enterprise (DBE). This form allows a contractor to self certify that their company meets the requirements of a Small Business as defined by Iowa Code 314.14 or through their status as a certified DBE. This form must accompany the bid submission.

Company Name _____ of _____

City and State _____

(1) The following two must apply:

Is this business operated for a profit and under a single management? (single management for the purpose of certification means the business cannot be a subsidiary of another business)

Yes No

Do the owners have a Personal Net Worth (PNW) **less than** \$1.32 million each?

Yes No

(2) At least one of the following three must apply:

Does this business have fewer than twenty (20) employees during its peak seasonal employment?

Yes No

OR

Does this firm have an annual gross income of less than four (4) million dollars computed as the average of the three preceding fiscal years?

Yes No

OR

Does this firm have a Disadvantaged Business Enterprise certification?

Yes No

I, _____, give this unsworn declaration executed under penalty of perjury of the laws of the United States and the State of Iowa that all the statements in this Small Business Certification are true and correct.

Dated _____