

DEPARTMENT OF TRANSPORTATION

DBE PROGRAM – 49 CFR PART 26

CITY OF EASTPORT, MAINE



EASTPORT MUNICIPAL AIRPORT



DBE PROGRAM FOR FFY 2024, 2025, 2026

ATTACHMENTS

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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

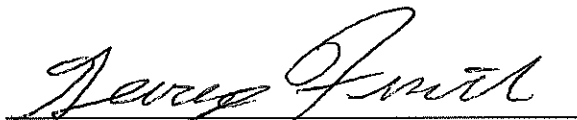
It is the policy of the **City of Eastport / Eastport Municipal Airport** to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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 assist the development of firms that can compete successfully in the market place outside the DBE Program.


The **Interim City Manager, George “Bud” Finch**, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the **DBELO** 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 Eastport / Eastport Municipal Airport** in its financial assistance agreements with the Department of Transportation.

The **City of Eastport / Eastport Municipal Airport** has disseminated this policy statement to all the components of the airport organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts **as part of bid packages and contract documents**.

As detailed in ATTACHMENT 5 – OVERALL GOAL CALCULATIONS, we estimate that, in meeting our overall goal of **0.60%**, we will obtain 100% from race-neutral participation and 0% through race-conscious measures.



 Authorized Signature



 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 Eastport / Eastport Municipal Airport** is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The **City of Eastport / Eastport Municipal Airport** will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

The **City of Eastport / Eastport Municipal Airport** 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 Eastport / Eastport Municipal Airport** 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

The **City of Eastport / Eastport Municipal Airport** will provide data about its DBE Program to the Department as directed by DOT operating administrations.

DBE participation to USDOT/FAA as follows:

The **City of Eastport / Eastport Municipal Airport** will transmit to FAA annually on December 1, the “Uniform Report of DBE Commitments / Awards and Payments” form, found in Appendix B to this part. The **City of Eastport / Eastport Municipal Airport** will also report the DBE Contractor contact information on the FAA DBE Contractor’s Form or other similar format. Information will be transmitted electronically via dbE-Connect (<https://faa.dbeconnect.com/faa/login.asp>.)]

Bidders List: 26.11(c)

The **City of Eastport / Eastport Municipal Airport** will create and maintain a bidders list. The purpose of the list is to assist in providing data about contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals.

We will collect this information during the process of selling plans and specifications to prospective bidders via a manual process of requesting data from contractors and subcontractors purchasing these bid sets. Additionally, more detailed information is obtained at the time of bid through completion of required documentation in the bid package.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

The **City of Eastport / Eastport Municipal Airport** 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 recipient 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 recipient'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 of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

Contract Assurance: 26.13(b)

The **City of Eastport / Eastport Municipal Airport** 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 Eastport / Eastport Municipal Airport** deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The **City of Eastport / Eastport Municipal Airport** will receive grant(s) for airport planning or development exceeding \$250,000 in a Federal fiscal year. We will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. We will provide updates representing significant changes in the program for approval.

The **City of Eastport / Eastport Municipal Airport** is 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.

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:

George “Bud” Finch, Interim City Manager
City of Eastport
22 Washington Street
Eastport, Maine 04631
(207) 853-2300
citymanager@eastport-me.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the **City of Eastport / Eastport Municipal Airport** complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the **City Council for the City of Eastport / Eastport Municipal Airport** 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 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 all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the **City of Eastport / Eastport Municipal Airport** on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.

10. Acts as referral liaison to the Uniform Certification Process in **the State of Maine**.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

Through the State of Maine, the **City of Eastport / Eastport Municipal Airport** conducted an investigation into the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged persons in order to make reasonable efforts to use these institutions, within state law. No such financial institutions have been identified.

Section 26.29 Prompt Payment Mechanisms

The **City of Eastport / Eastport Municipal Airport** requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR § 26.29, the **City of Eastport / Eastport Municipal Airport** established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the **City of Eastport / Eastport Municipal Airport**.

The **City of Eastport / Eastport Municipal Airport** ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to § 26.29, **City of Eastport / Eastport Municipal Airport** has selected the following method to comply with this requirement:

We will 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 our payment to the prime contractor.

Section 26.31 Directory

The **City of Eastport / Eastport Municipal Airport** uses the **State of Maine** DBE directory, maintained by the State. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. 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 **State of Maine** constantly updates the Directory. In addition, they provide technical and management assistance to certified businesses through their DBE Supportive Service Program. More information can be found at the **EMDC Website** <http://www.mainedbe.com/>. The DBE Directory may be found at <https://www.maine.gov/mdot/civilrights/docs/dbe/WeeklyDBEVendorList.pdf>.

Section 26.33 Over-concentration

City of Eastport / Eastport Municipal Airport has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

City of Eastport / Eastport Municipal Airport has not established a business development program, however, the **State of Maine** DBE Program provides certified DBE companies with substantial benefits, including being listed in the MaineDOT and DBE Supportive Services Directories which are distributed among prime contractors and consultants throughout New England. Certified Maine DBEs receive information regarding upcoming MaineDOT projects and have access to the Maine DBE Supportive Services program.

Section 26.37 Monitoring and Enforcement Mechanisms

The **City of Eastport / Eastport Municipal Airport** 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 implement similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will implement 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 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.

Section 26.39 Fostering small business participation.

The **City of Eastport / Eastport Municipal Airport** has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The **City of Eastport / Eastport Municipal Airport's** small business program element is incorporated as [Attachment 10](#) to this DBE Program. We will actively implement the program elements to foster small business participation, doing so is a requirement of good faith implementation of our DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The **City of Eastport / Eastport Municipal Airport** does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

The **City of Eastport / Eastport Municipal Airport** will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding FAA funded prime contracts exceeding \$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 Eastport / Eastport Municipal Airport** will submit its Overall Three-year DBE Goal to FAA by August 1 as required by the established schedule below.

49 CFR Part 26

All Airports - - 3-Year Overall DBE Goals

DUE: August 1st

Large and Medium Hub Primary	All	2022	2023/2024/2025	2025 (2026/2027/2028)
Small Hub Primary	All	2023	2024/2025/2026	2026 (2027/2028/2029)
Non-Hub Primary	All	2024	2025/2026/2027	2027 (2028/2029/2030)
Non-Primary including GAs, Relievers, and State DOTs	Alaskan, Eastern, and Great Lakes	2022	2023/2024/2025	2025 (2026/2027/2028)
Non-Primary including GAs, Relievers, and State DOTs	New England, Northwest Mountain, and Southern	2023	2024/2025/2026	2026 (2027/2028/2029)
Non-Primary including GAs, Relievers, and State DOTs	Central, Southwest, and Western-Pacific	2024	2025/2026/2027	2027 (2028/2029/2030)

DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45.

The first step is to determine the relative availability of DBEs in the market area, “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 projects.

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. 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.

A description of the methodology to calculate the overall goal and the goal calculations can be found in [Attachment 5](#) to this program.

Section 26.47 Failure to meet overall goals.

The **City of Eastport / Eastport Municipal Airport** 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.

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

The **City of Eastport / Eastport Municipal Airport** will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The **City of Eastport / Eastport Municipal Airport** follows the State of Maine DBE methodology and the State of Maine aims for 100% race neutral participation.

Section 26.51(d-g) Contract Goals

The **City of Eastport / Eastport Municipal Airport** 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.

If our approved projection under paragraph (c) of this section estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order meet our overall goal.

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 Federal share of a 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 **City of Eastport / Eastport Municipal Airport** 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))

The **City of Eastport / Eastport Municipal Airport** treats bidder/offers' compliance with good faith efforts' requirements as a matter of **responsiveness** – *all bidders submit DBE information at the time of bid.*

Responsiveness - Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

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

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by the **City of Eastport / Eastport Municipal Airport** 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 **City of Eastport / Eastport Municipal Airport**, as designated on the "Ad for Bids".

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

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

The **City of Eastport / Eastport Municipal Airport** will require a contractor to make good faith efforts to

replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

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.

Sample Bid Specification:

See form to be included in bid specification packages included as [Attachment 6](#).

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.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The **City of Eastport / Eastport Municipal Airport** will use 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:

Mary Bryant at (207) 624-3056
or
mary.bryant@maine.gov

Our certification application forms and documentation requirements are found in [Attachment 9](#) to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

Disadvantaged Business Enterprises

MaineDOT is committed to engaging small disadvantaged, minority and women-owned business enterprises as defined herein in all contracts to the maximum feasible extent, and will continue working to ensure the maximum feasible opportunity for these businesses to participate in contracts financed in whole or in part with federal funds.

As a recipient of federal USDOT funding, MaineDOT is required to develop and administer the DBE Program. MaineDOT administers the DBE Program and certifies all DBEs in Maine in compliance with federal regulations under 49 CFR Part 26. This Program is intended to remedy past and current discrimination against disadvantaged business enterprises, ensure a “level playing field”, and foster equal opportunity in USDOT-assisted contracts; improve the flexibility and efficiency of the DBE Program; and reduce burdens on small businesses.

DBE Certification does not mean the Contractor has the ability to work in the State of Maine - it is up to the Contractor to verify eligibility.

DBE Information found at <http://www.maine.gov/mdot/civilrights/dbe/>

General Information/DBE Documents

- DBE Supportive Services - [EMDC](#) (Off site)
- [MaineDOT DBE Program](#) (Word)
- [2014 US DOT Interstate Certification Guidance](#) (PDF)

D/WBE Directory of Businesses

- **Listing of Businesses** ([Excel](#)) ([PDF](#)) - **updated every Friday at 4:00 p.m**
- Description of Creditable Services for DBE's ([Word](#))

Contractor and Consultant CUF and Utilization Forms

- Contractor DBE Utilization Form ([Word](#)) ([PDF](#))
- Commercially Useful Function Form ([PDF](#))
- Certification of Final DBE payment ([PDF](#))
- Consultant Forms
 - Consultants DBE Utilization Form ([Word](#)) ([PDF](#))
 - Certification of Final DBE Payment ([PDF](#))
 - Certification of Final Subconsultant Payment ([Word](#)) ([PDF](#))

Subrecipient DBE Instructions and Reporting Forms

Instructions

- MaineDOT Subrecipient DBE Program Instructions and Forms ([Word](#)) ([PDF](#))

Forms

- Subrecipient DBE Utilization Form ([Word](#)) ([PDF](#))

- DBE Quarterly Forms
 - Quarterly Contract Awarded ([Word](#)) ([PDF](#))
 - FAA Payments on Ongoing Contracts ([Word](#)) ([PDF](#))
 - Contract Completed ([Word](#)) ([PDF](#))

DBE Application Information

The following is a list of application forms and Instructions for applying as a Disadvantaged Business Enterprise (DBE). These can also be found at <https://www.maine.gov/mdot/civilrights/dbe/>. Please forward completed applications to the following address:

Maine Department of Transportation
Attn: Mary Bryant, Civil Rights Office
#16 State House Station
Augusta, ME 04333-0016

Telephone: (207) 624-3056
E-Mail: mary.bryant@maine.gov

MaineDOT In-State DBE Documents

- DBE Application - **Required** ([PDF](#))
- Personal Net Worth Statement ([PDF](#))
- [Personal Financial Statement](#) - Required (PDF)
- [Supporting Documents Checklist](#) - Required (PDF)

MaineDOT Out-Of-State DBE Documents

As of January 1, 2013, the Maine Department of Transportation (MaineDOT) will require any out-of-state firm certified in the federal DBE program in its home state to submit the following for consideration for certification in Maine:

- Interstate Certification Request Form - ([Word](#)) ([PDF](#))
- Copy of the Latest Letter of Certification from the DBE's Home State
- [Current Personal Net Worth Statement \(if more than 90 days since the date of the last certification renewal\)](#) (PDF)
- Interstate Affidavit of Disclosure - ([Word](#)) ([PDF](#))

Certification in Maine will be determined by the MaineDOT and the Department reserves the right to ask for further documentation before it renders its decision to certify in the Maine DBE Program.

For more information on the MaineDOT DBE Program, please contact:

Mary Bryant, DBE Program Administrator

Tel: (207) 624-3056

E-mail: mary.bryant@maine.gov

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

The **City of Eastport / Eastport Municipal Airport** will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information.

Monitoring Payments to DBEs

The **City of Eastport / Eastport Municipal Airport** will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the **City of Eastport / Eastport Municipal Airport**. This reporting requirement also extends to any certified DBE subcontractor.

The **City of Eastport / Eastport Municipal Airport** will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENT 1

Regulations: 49 CFR Part 26, link to website:

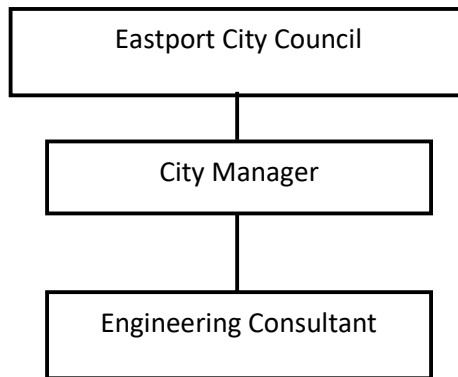
<http://www.gpo.gov/fdsys/pkg/CFR-2010-title49-vol1/pdf/CFR-2010-title49-vol1-part26.pdf>

ATTACHMENT 2

Organizational Chart

City of Eastport, Maine

Eastport Municipal Airport



ATTACHMENT 3
Bidder's List Collection Form

[Reminder: the information below must be collected from every bidder who submits a quote/bid to the recipient and every potential subcontractor who submitted a quote/bid to each bidder. §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.]

PLAN HOLDERS LIST

PROJECT TITLE:

BID DUE DATE:

PLACE:

PLAN FEE:

PRE-BID MEETING DATE:

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

State of Maine DBE Directory

<https://www.maine.gov/mdot/civilrights/docs/dbe/WeeklyDBEVendorList.pdf>

ATTACHMENT 5 – OVERALL GOAL CALCULATIONS

Section 26.45: Overall DBE Three-Year Goal Methodology

Name of Recipient: City of Eastport / Eastport Municipal Airport

Goal Period: FFY2024-2025-2026 – October 1, 2023 through September 30, 2026

Overall Three-Year Goal: City of Eastport / Eastport Municipal Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. City of Eastport / Eastport Municipal Airport follows the State of Maine DBE methodology and the State of Maine aims for 100% race neutral participation.

We estimate that, in meeting our overall goal of **0.60%**, we will obtain 100% from race-neutral participation and 0% through race-conscious measures.

Projects expected over the three-year period covered by this DBE Plan:

	Total Project	Federal Share
2024 Airfield Drainage	\$625,555	\$563,000
2024 Construct Terminal Building	\$630,000	\$598,500
2025 Snow Removal Equipment	\$800,000	\$720,000
2025 Replace Taxiway Lights	\$170,000	\$153,000
2026 Design & Permit Snow Removal Equipment Building & Taxilane C	\$150,000	\$135,000

Total dollar amount anticipated to be expended on DBE's is \$14,253.33 (0.60% of Total Project Dollars)

Step 1. Analysis: Actual relative availability of DBE's

The City of Eastport / Eastport Municipal Airport has elected to use the STEP 1 Methodology as produced by the State of Maine Department of Transportation. The following narrative is reprinted from the DOT's Final Goal document. **George "Bud" Finch, Interim City Manager, and the City of Eastport / Eastport Municipal Airport DBE Liaison Officer**, understands the commitment of the MaineDOT to comply with federal regulations and is prepared to take the steps necessary to ensure that every effort is made to attain the DBE Goal as identified in the STEP 2 Methodology.

MaineDOT's Annual DBE Goal for FFY 2022-2024

Pursuant to 49 CFR 26 MaineDOT has researched upcoming potential contracts for our agency and Federal Aviation Administration (FAA) subrecipients, analyzed census data, reviewed bidding and DBE attainment history and has determined that the overall annual Disadvantaged Business Enterprise (DBE) attainment on FAA funded projects for FFY 2022-24 (October 1, 2021 through September 30, 2024) is 1.97%

METHOD OF ESTABLISHING GOAL

Step 1 – Determining a base figure

49 CFR 45 (b) states “Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.”

MaineDOT will calculate the overall goal using the criteria based in 49 CFR § 26.45(c) “Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs.”

The determination will be based on a level of DBE participation relative to all businesses ready, willing and able to participate on FAA-assisted contracts and reflect a level MaineDOT would expect in the absence of discrimination. The overall goal setting procedure is based on the following:

- (1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

Market Area:

The market area was determined to be Statewide, since the substantial majority of the contractors and subcontractors with which MaineDOT does business are located in Maine, and the entire state is the area in which MaineDOT spends the substantial majority of its contracting dollars.

Data Sources:

MaineDOT got information from the 2019 County Business Patterns Database:

<https://www.census.gov/naics/>

And from the Maine DBE Directory: <https://www.maine.gov/mdot/civilrights/dbe/>

To determine the number of certified DBE firms that are ready, willing and able to work on a given FAA-assisted project, we looked at the Maine DBE directory for firms that offer aviation-related services. We also looked for NAICS codes based on anticipated contracts specified by our subrecipients where DBEs are eligible for work. (See Future Participation, P. 5)

Table 1: Projected Contracting Opportunities, NAICS Codes, and Relative Availability of Ready, Willing and Able DBE Firms to All Firms

NAICS Code	Description	Number of Maine Firms Per CBP Database	Number of DBE Firms in Geographic Market Area
212321	Construction sand and gravel mining	6	2
237310*	Highway, street, and bridge construction	77	6
237990	Other heavy and civil engineering construction	45	0
238110*	Poured concrete foundation and structure contractors	157	0
238140	Masonry contractors	133	3
238910*	Site preparation contractors	558	5
238990*	All other specialty trade contractors	185	2
423840	Industrial supplies merchant wholesalers	39	0
484210	Used household and office goods moving	33	0
484220	Specialized freight (except used goods) trucking, local	306	0
488490	Other support activities for road transportation	19	0
541320	Landscape architectural services	25	6
541330*	Engineering services	294	13
541340	Drafting services	22	1
541370*	Surveying and mapping (except geophysical) services	91	1
541380*	Testing laboratories	35	0
541430	Graphic design services	69	4
561110	Office administrative services	97	0
541613	Marketing consulting services	119	1
541620*	Environmental consulting services	80	1
541690	Other scientific and technical consulting services	76	0
541820	Public relations agencies	30	0
561320	Temporary help services	132	1
561720	Janitorial services	366	1
561730	Landscaping services	899	0
	Totals:	4,015	48

*NAICS codes with FAA component

To determine the relative availability of DBEs, the Department created a ratio wherein the numerator represents the number of ready, willing and able DBE firms and the denominator represents all firms, both DBEs and Non-DBEs, available in each work category.

For the numerator: MaineDOT UCP DBE Database of Certified Firms in the geographic market area

For the denominator: 2019 U.S. Census Bureau's County Business Pattern Database (CBP)

As noted in Table 1, the Department identified 4,015 ready, willing and able firms in the NAICS codes for the projected federally-assisted contracting opportunities. In the federally prescribed formula below, this number is used as the denominator. The numerator was found by determining the number of ready, willing and able DBE certified firms within the same NAICS sub-sectors. For the purposes of this goal setting methodology, 48 firms currently DBE certified in Maine are considered ready, willing and able to perform work in the areas identified. The 48 ready, willing, and able DBE certified firms, divided by the 4,015 total number of all ready, willing, and able firms (DBEs and non-DBEs), yields a base figure of 1.20%.

$$\text{Formula} \quad \frac{\text{DBE (48)}}{\text{CBP (4,015)}} = 0.01195 \times 100 = 1.20\%$$

Therefore, the denominator would be 4,015 to represent all potential aviation firms and aviation related firms for potential contracts and subcontracts in Maine for the upcoming 3 fiscal years.

The numerator would be 48, the number of DBE's under these categories available to perform the identified support work in Maine.

Maine chooses not to use weighting in the determination of the base goal because of the similarity in the types of DBEs that participate on FAA projects and because of the limited number of NAICS codes that DBEs work under in the market area.

The base goal based upon the 2019 County Business Patterns (NAICS) and DBE Directory data would be: $48/4,015 = 1.20\%$

- (2) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.

Maine has not conducted any disparity studies that would apply to the calculation of this goal.

- (3) Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule; you may use that goal as a base figure for your goal.

This method was not used for goal calculation.

- (4) Alternative methods. You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs

in your market.

MaineDOT does not propose any alternative method for base goal calculation.

MaineDOT – Funded DBE BASE GOAL = **1.20%**.

PUBLIC PARTICIPATION

As Maine's only Unified Certification Program entity, MaineDOT has done extensive public outreach to ensure that eligible businesses are aware of the DBE Program. For many years, MaineDOT has hired Eastern Maine Development Corporation (EMDC), a community development and small business development agency, to administer its DBE Supportive Services Program. EMDC's contract with MaineDOT includes a recruitment component that requires the consultant to promote the DBE program to businesses at trade shows, networking and matchmaker events.

Below is the complete list of events, and workshops that the DBESS Specialist and/or the DBE Administrator attended and participated in from September, 2021 through May, 2022 for the purpose of networking with small businesses and other resources that work with small businesses in order to promote the DBE Program gather input on how best to promote the program and work with groups to bring prime contractors and providers together with small business groups.

1. 10/27/2021 – Peer Exchange Sessions 1, 2, 3, 4
2. 10/28/2021 – Peer Exchange Sessions 1, 2, 3, 4
3. 10/29/2021 – WrapME Luggage DBE Meeting
4. 2/14/2022 – DBE Training Course
5. 2/15/2022 – DBE Training Course
6. 2/16/2022 – DBE Training Course
7. 2/17/2022 – DBE Training Course
8. 2/22/2022 – DBE EMDC Youth Informational Seminar
9. 3/02/2022 – U.S.DOT DBE Contract Goal Setting Webinar
10. 3/28/2022 – DBESS Quarterly Review Meeting
11. 4/20/2022 – DBE Prompt Payment

Public Process

Pursuant to 49 CFR 26.45 (g)(i), MaineDOT: “must consult 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 your efforts to establish a level playing field for the participation of DBEs.”

MaineDOT works closely with our DBESS Consultant and regularly discusses concerns and successes with DBE firms in Maine. The DBESS consultant works directly with DBEs and assists firms addressing their concerns and challenges. The DBESS Consultant is a conduit to MaineDOT for DBEs.

On June 18, 2021, MaineDOT held a public meeting via zoom at 2:00 PM Eastern Time (US and Canada). General contractor associations, DBEs, the DBE Supportive Services consultant, Associated General Contractors of Maine, Inc. (AGC), National Association of Women in Construction (NAWIC), the Maine Better Transportation Association (MBTA), the Maine Women’s Business Center, the National Association for the Advancement of Colored People (NAACP) Maine Chapter, the American Council of Engineering Companies in Maine (ACEC), the Maine Chamber of Commerce, and the Maine Asphalt Pavement Association were sent emails to participate in a discussion of our Goal Methodology, to obtain information relevant to our goal setting process and to express any concerns about MaineDOT’s DBE program. Advance copies of the draft Goal Methodology were provided to invitees prior to the meeting. The draft was available at the Civil Rights Office website:

<https://www.maine.gov/mdot/civilrights/dbe/>

At the meeting, the draft Goal Methodology was presented and representatives of MaineDOT’s Civil Rights Office listened to concerns, received comments and answered questions. A follow-up email was sent to the entities listed above soliciting additional feedback. Other than some minor corrections to the document, there were no comments on the draft methodology.

Step 2. Analysis: Adjustments to Step 1 base figure.

After determining a base figure of the relative availability of DBEs of **1.2%**, evidence was examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the overall goal.

26.43(d) states “Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any is needed to the base figure in order to arrive at your overall goal.”

- (1) There are many types of evidence that must be considered when adjusting the base figure. These include:
- i. The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

Past participation in FAA-funded services for the **City of Eastport / Eastport Municipal Airport** are as follows:

FFY	DBE Goal	DBE Participation
2020	2.00%	0.00%
2021	2.72%	0.00%
2022	2.72%	4.40%

Past History Participation

Other data used to determine the adjustment to the base figure was the median of historical DBE accomplishments as follows:

City of Eastport / Eastport Municipal Airport

AIP Year	Project	Value	DBE	%
2020	Improve Airport Drainage/Erosion Control; & PAPI & REILs	\$864,916.43	\$0.00	0.00%
2020	Reconstruct, Mark and Light Runway 15-33	\$5,806,900.00	\$0.00	0.00%
2021	Update Airport Master Plan; & Airport Wildlife Hazard Assessment Site Visit	\$226,500.00	\$0.00	0.00%
2022	Install Runway Vertical/Visual Guidance System – Install Runway 15 PAPI	\$178,470.00	\$13,711.74	7.68%
2022	Crack Seal a Portion of the Terminal Apron Pavement	\$133,340.00	\$0.00	0.00%
Total DBE Participation		\$7,210,126.43	\$13,711.74	0.19%

DBE participation during those federal fiscal years was 0.00% for FFY20, 0.00% for FFY21 and 7.68% for FFY22. To adjust the base figure using past participation, MaineDOT adds the median participation from the relevant three-year period to the base figure and divides that sum by two. The median participation during this time period was 0.00%.

Adjustment for past participation:

$$\text{Median } 0.00\% + \text{Base Figure } 1.20\% = 1.20\%$$

$$1.20\% / 2 = 0.60\%$$

- (i) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

There have been no related disparity studies for Maine.

- (ii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

The base figure selected is not the goal of another recipient. Maine does not currently have enough specific data from the other states on their aviation programs to adjust the goal for differences in Maine.

The **City of Eastport / Eastport Municipal Airport** will submit its overall DBE three-year goal to DOT on August 1 as required by the set schedule.

PUBLIC NOTICE

The **City of Eastport / Eastport Municipal Airport** hereby announces its proposed Disadvantaged Business Enterprise (DBE) goal of **0.60%** for Federal Aviation Administration funded contracts/agreements. The proposed goal pertains to federal fiscal years 2024 through 2026. A virtual meeting will be held on **September 21, 2023 at 11:45 a.m.** for the purpose of consulting with stakeholders to obtain information relevant to the goal-setting process. You can access the meeting here:

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 241 707 893 722

Passcode: h6FFGe

[Download Teams](#) | [Join on the web](#)

Join with a video conferencing device

123940270@teams.bjn.vc

Video Conference ID: 112 018 768 1

[Alternate VTC instructions](#)

Or call in (audio only)

[+1 603-326-7480,,260488046#](#) United States, Manchester

Phone Conference ID: 260 488 046#

[Find a local number](#) | [Reset PIN](#)

The proposed goals and rationale is available for inspection during normal business hours at the **Eastport City Hall, 22 Washington Street, Eastport, Maine 04631** 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:

George "Bud" Finch, Interim City Manager
City of Eastport
22 Washington Street
Eastport, Maine 04361
(207) 853-2300
citymanager@eastport-me.gov

or

Alexander Horton
DBE/ACDBE Program Compliance
- New England Region -
FAA Office of Civil Rights, ACR-4a
alexander.horton@faa.gov
Phone: (754) 226-4134
Physical Location: 2895 SW 145th Avenue, Suite #291, Miramar, FL 33027

ATTACHMENT 6**Demonstration of Good Faith Efforts****Sample From Bid Package**

The DBE goal for this project is xx.x percent.

All Bidders must submit an Assurance stating the percentages of minority business and women-owned businesses they intend to employ on this project.

Within 4 days of the opening of Bids and before the award of a contract, the apparent successful competitor shall submit the following:

1. Name(s) of DBE subcontractor(s).
2. Description of work each is to perform.
3. Dollar value of each proposed minority business subcontract(s).

If Bidders wish, they may submit the above information, in a separate, sealed envelope marked "D.B.E. Participation Information" with their Bid.

REQUIRED ASSURANCE TO BE INCLUDED IN ALL PROPOSALS

This firm assures that it will utilize no less than ____% DBE participation.

CERTIFICATION OF BIDDER for the above:

BIDDER'S NAME _____

ADDRESS _____

IRS NUMBER _____

If the apparent successful competitor does not meet the goal, it shall submit a statement showing that a good faith effort was made by the competitor to meet the goal.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

ATTACHMENT 7*DBE Monitoring and Enforcement Mechanisms*

The **City of Eastport / Eastport Municipal Airport** has a breach of contract action, pursuant to the terms of the contract, option available to enforce the DBE requirements contained in its contracts.

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 8

DBE Certification Application

For forms required to initiate the DBE Certification process, visit the State of Maine website:

<https://www.maine.gov/mdot/civilrights/dbe/>

MaineDOT In-State DBE Documents

- Affidavit - **Required** ([Word](#)) ([PDF](#))
- [DBE Application - Required \(PDF\)](#)
- Instructions - ([PDF](#))
- [Personal Net Worth Statement - Required \(PDF\)](#)
- Personal Financial Statement - **Required** ([Word](#)) ([PDF](#))
- Supporting Documents Checklist - **Required** ([PDF](#))

MaineDOT Out-Of-State DBE Documents

As of January 1, 2013, the Maine Department of Transportation (MaineDOT) will require any out-of-state firm certified in the federal DBE program in its home state to submit the following for consideration for certification in Maine:

- Interstate Certification Request Form - ([Word](#)) ([PDF](#))
- Copy of the Latest Letter of Certification from the DBE's Home State
- [Current Personal Net Worth Statement \(if more than 90 days since the date of the last certification renewal\)](#) (PDF)
- Interstate Affidavit of Disclosure - ([Word](#)) ([PDF](#))

Certification in Maine will be determined by the MaineDOT and the Department reserves the right to ask for further documentation before it renders its decision to certify in the Maine DBE Program.

ATTACHMENT 9

Uniform Certification Program

For information on the DBE Uniform Certification Program and an application, visit the website at:

<https://www.maine.gov/mdot/civilrights/dbe/>

Unified Certification Program (UCP) Annual MAP 21 Report

Each year, Maine DOT, as Maine's Unified Certification Program (UCP), must submit to the US DOT Departmental Office of Civil Rights, information on its participating DBE firms. MaineDOT goes through its statewide unified DBE directory and counts the number of firms controlled, respectively, by: (1) White women, (2) minority or other men, and (3) minority women, and then convert the numbers to percentages, showing the calculations. The information reported includes the location of the firms in the State; per USDOT request, it does not include Airport Concessionaire DBEs (ACDBEs) in the numbers. The location of the DBE firm is annotated as the total firms in-state and total firms out-of-state.

ATTACHMENT 10

Small Business Element Program

SMALL BUSINESS PARTICIPATION

A. Objective (49 CFR Part 26.39)

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the **City of Eastport / Eastport Municipal Airport** will implement a small business element into its DBE policy in accordance with applicable law. **City of Eastport / Eastport Municipal Airport** is including this element to facilitate competition by and expand opportunities for small businesses. **City of Eastport / Eastport Municipal Airport** is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. **City of Eastport / Eastport Municipal Airport** will meet its objectives using a combination of the following methods and strategies:

1. Set asides:

Where feasible, **City of Eastport / Eastport Municipal Airport** will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the **City of Eastport / Eastport Municipal Airport** and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.

2. Unbundling:

The **City of Eastport / Eastport Municipal Airport**, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. **City of Eastport / Eastport Municipal Airport** will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. Similarly, **City of Eastport / Eastport Municipal Airport** will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

B. Definitions

1. Small Business:

A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the State Department of Transportation (MaineDOT) in accordance with 49 CFR 26.

For the purposes of the small business element of the **City of Eastport / Eastport Municipal Airport's** DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

C. Certification and Verification Procedures

The **City of Eastport / Eastport Municipal Airport** will accept the following certifications for participation in the small business element of their DBE Program with applicable stipulations:

1. State DOT DBE Certification – DBE Certification by the State DOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the State DOT.
2. State DOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the State DOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

D. Implementation Schedule

The **City of Eastport / Eastport Municipal Airport** will implement this small business element within nine months of the FAA's approval of this document describing the element.

E. Assurances

The **City of Eastport / Eastport Municipal Airport** makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.