



SALINA AIRPORT AUTHORITY

**DISADVANTAGED BUSINESS ENTERPRISE
(DBE)**

PROGRAM MANUAL

**Revised 9-4-03
Program Developed 3-12-2002**

**Timothy F. Rogers, A.A.E.
Executive Director
Salina Airport Authority**

Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR 26.5.

Objectives /Policy Statement (26.1, 26.23)

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

It is the policy of the Salina Airport Authority 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; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Michelle R. Swanson, Manager of Administration and Finance, has been delegated as the DBE Liaison Officer. In that capacity, Ms. Swanson 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 Salina Airport Authority in its financial assistance agreements with the Department of Transportation.

Salina Airport Authority has disseminated this policy statement to the Salina Airport Authority Board of Directors and all the 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 through a bound published booklet and on the Salina Airport Authority's web site: www.salair.org.

Date: _____

 Timothy F. Rogers, A.A.E.
 Salina Airport Authority
 Executive Director

Nondiscrimination. (26.7)

Salina Airport Authority 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 Salina Airport Authority 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.

DBE Program Updates (26.21)

We will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Quotas (26.43)

We do not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO) (26.45)

We have designated the following individual as our DBE Liaison Officer: Michelle R. Swanson, Salina Airport Authority, 3237 Arnold Ave., Salina, KS 67401, phone: 785-827-3914, fax: 785-827-2221, e-mail: shellis@salair.org. In that capacity, Swanson is responsible for implementing all aspects of the DBE program and ensuring that the Salina Airport Authority complies with all provisions of 49 CFR Part 26. Ms. Swanson has direct, independent access to Timothy F. Rogers, Executive Director of the Salina Airport Authority, concerning DBE program matters.

Ryan Rocha, Salina Airport Authority Manager of Operations, Maintenance and ARFF, devotes a portion of his time to the program.

An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination other appropriate officials. 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 SAA's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the SAA Board of Directors on DBE matters and achievement.
9. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

Federal Financial Assistance Agreement Assurance (26.13)

Salina Airport Authority has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

Salina Airport Authority 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 to the Salina Airport Authority of its failure to carry out its approved program, the Department may impose sanctions 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.).

DBE Financial Institutions

It is the policy of the Salina Airport Authority 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. We have made the following efforts to identify and use such institutions: 1.) Contacting the Kansas Bankers Association; and, 2.) Contacting the Kansas Department of Transportation.

There are no DBE financial institutions in Salina or Saline County. The DBE liaison officer will update this list periodically. We will continue to monitor the availability of area DBE financial institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer at 785-827-3914.

Directory (26.25)

The Salina Airport Authority utilizes the Directory of Disadvantaged Business Enterprises as published by the Kansas Department of Transportation which identifies all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. A revised Directory is obtained from KDOT on an annual basis. The directory may be obtained from the Salina Airport Offices at 3237 Arnold Ave., Salina, KS, or by calling the SAA offices at 785-827-3914 or by visiting our web site at www.salair.org and clicking on the business opportunities link. A copy of the current directory may be found as Attachment 2 to this program document.

Overconcentration (26.33)

There is not an overconcentration element in this program.

Required Contract Clauses (26.13, 26.29)

Contract Assurance

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

The contractor 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 recipient deems appropriate.

Prompt Payment

We will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Salina Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Salina Airport Authority. This clause applies to both DBE and non-DBE subcontractors. If the contractor, without reasonable cause, fails to make any payment to his subcontractors and material suppliers within 30 days after receipt of payment, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of one and one-half percent per month, calculated from the expiration of the 30-day period until fully paid. This shall also apply to any payments made by the subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

In the event a contractor fails to comply, the Authority (sponsor) may choose to pay subcontractors directly if the contractor does not comply with this directive and future payments to the contractor will be reduced by the amount of those payments or withhold further payments to the contractor and/or determine there is a contract breach and terminate the contract.

Monitoring and Enforcement Mechanisms (26.37)

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 §26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

Attachment No. 3 lists the regulations, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

Overall Goals (26.45)

Amount of goal

The Salina Airport Authority's overall goal for FY 2004 is the following: 10.86% of the Federal financial assistance we will expend in DOT-assisted contracts.

Given the amount of DOT-assisted contracts the SAA expects to let during this fiscal year, which is \$5.2 million, we have set a goal of expending \$500,162 with DBE's during this fiscal year.

Method

The following is a summary of the method we used to calculate this goal:

The SAA used the total of 14 firms which are listed in the KDOT Disadvantaged Business Enterprise Directory that are ready and able to perform the type of work which will be available during the fiscal year 2004. Then from Census Bureau's County Business Pattern (CBP) database, the SAA identified the total number of firms with the same North America Industry Classification System (NAICS) codes from the six immediate area counties (Dickinson, Ellsworth, Lincoln, McPherson, Ottawa, and Saline).

Next the SAA determined the percentage of work to be performed in each type of work category and applied weighting to the calculation.

Relative Availability Percentage Calculation

$$\begin{aligned}
 & [\frac{.5032 (7 \text{ airport heavy construction DBEs})}{55 \text{ airport heavy construction firms}} + \frac{.874 (1 \text{ airport marking DBEs})}{8 \text{ airport marking firms}} + \\
 & \frac{.1117 (1 \text{ runway lighting DBEs})}{35 \text{ runway lighting firms}} + \frac{.1823 (2 \text{ runway electrical supplier DBEs})}{29 \text{ runway electrical supplier firms}} \\
 & + \frac{.0443 (1 \text{ liquid asphalt supplier DBEs})}{6 \text{ liquid asphalt supplier firms}} + \frac{.0131 (1 \text{ landscaping service DBEs})}{15 \text{ landscaping service firms}} + \\
 & \frac{.0581 (1 \text{ underdrain construction DBEs})}{6 \text{ underdrain construction firms}}] * 100 = \text{Relative availability of DBEs}
 \end{aligned}$$

$$\begin{aligned}
 & [.5032(.1273) + .874(.1250) + .1117(.0286) + .1823(.0690) + .0443(.1667) + \\
 & .0131(.0667) + .0581(.1667)] * 100 = \mathbf{10.86\%}
 \end{aligned}$$

Over 95% of the federal dollars expended on projects during this fiscal year will be on construction type projects. Over the past five years (1999-2003) the SAA's federally assisted projects have consisted of planning and engineering projects only. Therefore, because of the different type of projects to be let this year, the SAA has determined it unnecessary to make an adjustment based on past participation. In addition, we have found no evidence of statistical disparities that would warrant an adjustment to our step one calculation.

This goal has been established based on information obtained from the United States Census Bureau, the State of Kansas Department of Transportation and the Salina Area Chamber of Commerce.

It is estimated that the overall goal of 10.86% will be met as follows: 7.86% contract goals and 3% with race-neutral measures.

Process

The SAA submits its overall goal August 1 of each year.

Before establishing the overall goal each year, SAA will consult with the Kansas Department of Transportation, the Salina Area Chamber of Commerce, the City of Salina and Saline County and the Salina National Association for the Advancement of Colored People (NAACP) to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and the SAA's efforts to establish a level playing field for the participation of DBE's.

Following this consultation, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for

inspection during normal business hours at our principal office for 30 days following the date of the notice, and that the SAA and the DOT will accept comments on the goals for 45-days from the date of the notice. This notice will be published in the Salina Journal, which is the official newspaper of the SAA and the City of Salina and Saline County. The notice will also be published in the Salina Buyer's guide which is a free publication distributed to all the residents of the City of Salina and the surrounding five counties. In addition the notice will be published on the Salina Airport Authority's official website at www.salair.org. A special notice will be mailed to the U.S. Small Business Administration and the Salina NAACP. Normally, we will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

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

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

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Salina Airport Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The SAA uses the following race-neutral means to increase DBE participation: 1.) Provide outreach to DBEs and community organizations to advise them of the opportunities. 2.) Provide assistance in areas such as preparing bids and obtaining bonding and insurance. 3.) Encourage prime contractors to subcontract portions of work normally done by their own forces, when a subcontractor submits a lower quote than the prime contractor cost.

We estimate that, in meeting our overall goal of 10.86%, we will obtain 3% from race-neutral participation and 7.86% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

After an analysis of the SAA's capital improvement program over the last five years on contracts similar in construction type to those that will be let this fiscal year and where no federal participation was involved, the DBE participation averaged 2%. The SAA believes that with our community outreach and contractor assistance, we can reach 3% of the overall goal with race-neutral means.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and we will track and report race-neutral and race-conscious participation separately. For reporting

purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.

Contract Goals

The SAA will use contract goals to meet any portion of the overall goal the SAA does not project being able to meet using race-neutral 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 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 DOT-assisted contract.

Good Faith Efforts (26.53)

Information to be submitted

Salina Airport Authority treats bidder/offers' compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offers to submit the following information along with their 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 participation
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of good faith efforts

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 following personnel are 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: Michelle R. Swanson, SAA DBELO, 785-827-3914.

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.

Administrative reconsideration

Within 15 days of being informed by Salina Airport Authority 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:

Timothy F. Rogers
Executive Director
Salina Airport Authority
3237 Arnold Ave.
Salina, KS 67401
Ph: 785-827-3914
Email: trogers@salair.org

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

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

The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract

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

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Counting DBE Participation (26.55)

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification (26.61 – 26.91)

In Kansas, there is a uniform certification program (USP) for disadvantaged businesses named the Kansas Statewide Certification Program or KSCP. Parties interested in the DBE certification process can contact the Office of Engineering Support at the Kansas Department of Transportation, Docking State Office Building, Topeka, KS 66612-1568, Ph. 1-800-854-3613, or by visiting their website at www.ksdot.org/public/kdot/business.

"No Change" Affidavits and Notices of Change

We require all DBEs to inform the Salina Airport Authority, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR part 26 or any material changes in the information provided with the DBEs application for certification.

Information Collection and Reporting

Bidders List

The Salina Airport Authority will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status.

The information is added to the list when firms request to be added to the Salina Airport Authority's Bidder's list and from information obtained from contracts when bids are let.

Monitoring Payments to DBEs

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

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

We 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.

Reporting to DOT

We will report DBE participation to DOT as follows:

We will submit annually DOT Form 4630, as modified for use by FAA recipients.

Confidentiality

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Attachments

Attachment No. 1: Salina Airport Authority Organizational Chart

Attachment No. 2: Kansas Department of Transportation DBE Directory

Attachment No. 3: Monitoring and Enforcement Mechanisms