

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Fiscal Years 2014-2016

SAN MANUEL AIRPORT San Manuel, Arizona

February 13, 2013

DRAFT



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Attachment 3: Regulations: 49 CFR Part 26 (PDF file included on CDROM)

** NOTE: The Arizona DBE database, Registrar of Contractors database, and copy of 49 CFR Part 26 will be attached to the Final DBE Program document on a CDROM. This information is available for public review upon request.*

POLICY STATEMENT

DBE PROGRAM SAN MANUEL AIRPORT (Pinal County) SAN MANUEL, ARIZONA

DRAFT - February 13, 2013

Objectives/Policy Statement (§26.1, 26.23)

Pinal County, Arizona (the owner of the San Manuel Airport) has established a Disadvantaged Business Enterprise (DBE) program for the San Manuel Airport in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The San Manuel Airport has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Pinal County has signed an assurance that it will comply with 49 CFR Part 26.

In this DBE Program document Pinal County, as Sponsor for the San Manuel Airport, will be referred to as “Pinal County” or simply as “the County”. The San Manuel Airport will be referred to as “the San Manuel Airport” or simply as “the Airport”.

It is the policy of the County 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.

Jim Petty, Director of Aviation, has been delegated as the DBE Liaison Officer. In that capacity, Mr. Petty 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 County in its financial assistance agreements with the Department of Transportation.

The County has disseminated this policy statement to the Pinal County Board of Supervisors. We have also made this statement available to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by advertisement of its availability in the local legal publication.

Jim Petty
Director of Aviation, Pinal County

Date

SUBPART A – GENERAL REQUIREMENTS

Objectives (§26.1)

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

Applicability (§26.3)

The San Manuel Airport, through Pinal County, is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Definitions (§26.5)

The County will adopt the definitions contained in 40 CFR Part 26, Section 26.5 for this program.

Non-discrimination Requirements (§26.7)

The County 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 County 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.

Record Keeping Requirements (§26.11)

Reporting to DOT: 26.11(b)

DOT Form 4630, as modified for use by FAA recipients, will be submitted annually.

Bidders List: 26.11(c)

The County will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts at the Airport. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals in future updates. The bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

The County will include a contract clause requiring prime bidders on all DOT-funded projects to report the names and addresses, DBE/SBE status, and contact information, of all firms who quote to them as potential subcontractors.

Federal Financial Assistance Agreement (§26.13)

The County has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

The County 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 County 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.*).

Contract Assurance: 26.13b

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

"The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of 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."

SUBPART B - ADMINISTRATIVE REQUIREMENTS

DBE Program Updates (§26.21)

Since the County has received a grant of \$250,000 or more for airport planning or development at the San Manuel Airport, 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.

Policy Statement (§26.23)

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

DBE Liaison Officer (DBELO) (§26.25)

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

Jim Petty, Director of Aviation
Phone: (520) 866-6545
Fax: (520) 866-6325
Jim.Petty@pinalcountyz.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the County complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Pinal County Board of Supervisors concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **APPENDIX B, Attachment 1**.

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

1. Gathers and reports statistical data and other information as required by 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 attainment and identifies ways to improve progress.
6. Analyzes the County's progress toward attainment of goals at the Airport and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Board of Supervisors on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Coordinates certification of DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Arizona.

12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the County's updated directory on certified DBEs.

DBE Financial Institutions (§26.27)

It is the policy of the County to identify and 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 contract to make use of these institutions.

The County's Finance Director has informed the DBELO that, since the County does not require business licensing, there is no mechanism to determine DBE ownership of local financial institutions. The Finance Director is not aware of any DBE financial institutions doing business within the County.

Prompt Payment Mechanisms (§26.29)

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

"Prompt payment of subconsultants by prime contractors is governed by the Arizona Prompt Payment Act (A.R.S. § 32-1129.02). The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the prime contract receives from the County. The prime contractor agrees further to return retainage payments to each subcontractor within seven (7) 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 County. This clause applies to both DBE and non-DBE subcontracts. An unpaid subcontractor or supplier is entitled to interest on unpaid amounts at 18% per annum. For licensed contractors, failure to pay is also grounds for disciplinary action by the Arizona Registrar of Contractors."

Directory (§26.31)

The County has adopted the Arizona Disadvantaged Business Enterprise Program database identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. This directory is kept current by the State and is available at the following URL address:

http://www.azdot.gov/azdbe/DBE_search.aspx

Overconcentration (§26.33)

The County has not identified that overconcentration exists in the types of work that DBEs perform.

DBE Business Development Programs (§26.35)

The County has not established a Disadvantaged Business Enterprise business development program.

Monitoring and Enforcement Mechanisms (§26.37)

The County will utilize 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 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by monitoring of contractor invoicing and payments, along with on site observation of construction activities.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas (§26.43)

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

Overall Goals (§26.45)

A description of the methodology to calculate the overall goal and the goal calculations can be found in **APPENDIX A** of this program.

In accordance with Section 26.45(f), and as directed by the FAA, the County will update and submit its overall goal to DOT on August 1 of every third year.

Following preparation of an updated DBE Program and overall goal, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Director of Aviation's office for 30 days following the date of the notice, and informing the public that the County and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will publish this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) 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. (see **APPENDIX C** for evidence of publication and response for this Program).

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

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

The breakout of estimated race-neutral and race-conscious participation can be found in **APPENDIX A** of this program. This section of the program will be updated when the goal calculation is updated.

Contract Goals (§26.51 (d-g))

The County will use contract goals to meet any portion of the overall goal the County 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 Procedures (§26.53)

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 40 CFR Part 26.

The DBELO 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 County treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

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

Administrative reconsideration (26.53(d))

Within ten (10) business days of being informed by the County 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:

Gloria Bean, Contracts Coordinator
PO Box 727
Florence, Arizona 85132
(520) 866-6009

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 (26.53(f))

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

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

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

Sample Bid Specification:

The County will include the following clause in each Request for Bids or Request for Qualifications (RFQ) for any DOT-assisted prime contract that includes a contract goal:

"The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of Pinal County 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 ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

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

Counting DBE Participation (§26.55)

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

SUBPART D – CERTIFICATION STANDARDS

Certification Process (§26.61 – 26.73)

The County 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 rely upon the Arizona Department of Transportation's Arizona Unified Certification Program (UCP) certification process and accept only firms certified under their jurisdiction as eligible for consideration on San Manuel Airport projects.

General Criteria for DBE Certification

In order for a business to be considered for Arizona Department of Transportation DBE certification, the business must meet the following general guidelines:

1. The business must be at least 51% owned by one or more socially or economically disadvantaged individuals. A socially disadvantaged individual is a citizen (or lawfully admitted permanent resident) who is a member of one of the following groups: Black American, Hispanic American, Native American, Asian-Pacific American, Subcontinent American, or a woman.
2. The company must be an independent business, and one or more of the socially disadvantaged owners must control its management and daily operations.
3. Only existing "for-profit" businesses may be certified, and DBE applicants are subject to applicable small business size standards.
4. The personal net worth (PNW) of each socially and economically disadvantaged owner must not exceed \$750,000 with regulatory exclusions.

To apply for DBE certification through the Arizona Department of Transportation web site, firms may use the following link:

<https://adot.dbesystem.com/FrontEnd/VendorsIntroduction.asp?XID=2999&TN=adot>

For information about the ADOT DBE certification process or to apply for certification, firms may contact:

Jamie Geist
(602) 712-7761
Jgeist2@azdot.gov

SUBPART E – CERTIFICATION PROCEDURES

Unified Certification Programs (§26.81)

Arizona Unified Certification Program (UCP)

The Arizona UCP has been established to facilitate statewide DBE certification. The UCP eliminates the need for DBE applicant businesses to obtain certification from multiple agencies, and provides reciprocity within Arizona. The Arizona Department of Transportation, City of Phoenix, and the City of Tucson are members of the Arizona UCP. The official UCP DBE database includes DBE firms certified by these three agencies. Bidders who are meeting goals on FAA contracts being let by other in-state entities can only use the DBEs certified by the Arizona UCP.

Pinal County utilizes the Arizona UCP, which will meet all of the requirements of this section.

Procedures for Certification Decisions (§26.83)

Re-certifications 26.83(a) & (c) and “No Change” Affidavits and Notices of Change (26.83(j))

The County recognizes the Arizona UCP certification, review, and re-certification process. Only firms that are certified under the Arizona UCP are recognized as eligible DBE firms who may participate in DOT-assisted projects. The County relies upon the Arizona UCP for certification of DBE firms, as well as for all certification decisions.

Denials of Initial Requests for Certification (§26.85)

The County recognizes the Arizona UCP certification, review, and re-certification process. Only firms that are certified under the Arizona UCP are recognized as eligible DBE firms who may participate in DOT-assisted projects. The County relies upon the Arizona UCP for certification of DBE firms.

Removal of a DBE’s Eligibility (§26.87)

In the event the County believes that a DBE firm certified by the Arizona UCP who is being considered for, or is under contract for, work under a DOT-assisted project may be ineligible for participation under federal or state law, we will bring the matter to the attention of the Arizona UCP to initiate de-certification proceedings. The Arizona UCP will serve as the impartial decision-maker in de-certification proceedings.

Certification Appeals (§26.89)

Any firm or complainant may appeal any decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation	Phone: (202) 366-4754
Departmental Office of Civil Rights	TTY: (202) 366-9696
External Civil Rights Programs Division (S-33)	Fax: (202) 366-5575
1200 New Jersey Ave., S.E.	
Washington, DC 20590	

SUBPART F – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation (§26.109)

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with existing 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 any contractual or certification requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

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

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.

APPENDICES

APPENDIX A: CALCULATION OF DBE GOAL – SAN MANUEL AIRPORT, SAN MANUEL, ARIZONA

Exhibit A: Arizona Department of Transportation 2014-2018
Five-Year Airport Capital Improvement Program for San Manuel Airport

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Opportunity for Public Comment
Exhibit D: Affidavit of Publication

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APPENDIX A: CALCULATION OF DBE GOAL

APPENDIX A

CALCULATION OF DBE GOAL SAN MANUEL AIRPORT (Pinal County) SAN MANUEL, ARIZONA

DRAFT - February 13, 2013

Calculation of a Disadvantaged Business Enterprise (DBE) goal for participation in DOT-assisted projects was undertaken in conformance with 49 CFR Part 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Assistance Programs), hereinafter referred to as the “DBE Rule”. A two-step process is suggested.

Step One:

The first step in determining the overall DBE goal was to derive a base value that fairly represents the ratio of certified DBEs to the total number of contractors within a reasonable geographic area of the San Manuel Airport.

The base value was derived as follows:

- A. Airport improvement projects generally consist of construction of runway, taxiway and aircraft parking and movement area pavements, including grading and drainage improvements, preparation of subgrade, construction of base courses, and asphaltic concrete or Portland Cement Concrete (PCC) paving. Many projects include installation of airfield lighting and electrical systems, including underground duct and cable systems, runway and taxiway edge lighting, lighted guidance signage, visual aids (PAPI, REIL, MALSR, etc.), rotating beacons, apron security lighting and obstruction lighting, as well as installation of electrical control equipment, constant current regulators, radio control units, and emergency generator systems. Federal funding of public use airport buildings is now also eligible for AIP funding participation usually with the limitation that airside and safety improvements must be completed first. Paving projects include paint marking.

Federally funded projects may also include pavement maintenance, including seal coats, crack sealing, concrete slab rehabilitation and joint sealing. Property line fencing and security fencing and some access road construction are also typical elements of an airport improvement project.

A review of the Arizona Department of Transportation’s 2014-2018 Tentative Five-Year Transportation Facilities Construction Plan – Airport Capital Improvement Program (ACIP), indicates that these types of projects are programmed for design and construction at the San Manuel Airport during the time frame of this DBE Program (see **Exhibit A** in **APPENDIX B**). For the purposes of this Program, the entire Five-Year ACIP was considered. This is because programmed projects may be reprioritized and moved into other planning years based on availability of funding and other factors. Within the 2014-2018 (inclusive) planning period, there are seven (7) projects with approximately \$1.68 million programmed for FAA-eligible capital improvements at the Airport. Note that some of the projects are programmed for State/Local funding only. However,

all projects are eligible for federal funding and were, therefore, included in this analysis.

The projects in the ACIP were broken down into four (4) categories, as follows:

1. Design-only Projects (Engineering/Architectural services for future construction)

The ACIP projects in this category include:

- 2014 - Design pavement rehabilitation of existing parking apron \$ 50,000
- 2017 - Design Taxiway A and connector taxiway extension..... \$ 30,000

2. Construction-only Projects (Construction of the Design-only projects)

The ACIP projects in this category include:

- 2015 - Construct pavement rehabilitation of existing parking apron \$ 400,000
- 2018 - Construct Taxiway A and connector taxiway extension..... \$ 300,000

3. Planning Projects (Master Planning; Environmental Assessment)

The ACIP projects in this category include:

- 2014 - Prepare an Airport Master Plan Update \$ 200,000
- 2015 - Prepare Environmental Assessment for land acquisition..... \$ 200,000

4. Land Acquisition

The ACIP projects in this category include:

- 2016 - Land acquisition of airport property (155 acres)..... \$ 500,000

In the calculation methodology that follows, only the estimated cost of professional services associated with Category 4, Land Acquisition was considered in the calculations. Therefore, the total programmed ACIP amount of \$1,680,000 was reduced to \$1,255,000.

The following three (3) Work Classifications were established with reference to the ACIP projects, and adjustments to these classifications were made to the gross project amounts from the ACIP as follows:

a) Professional Services Associated with Projects

The amounts included in this classification for the purposes of this calculation include the following:

- 100% of the programmed budgets for Design-only Projects are included in this Work Classification.
- 10% of the programmed costs for Construction-only Projects are included to account for construction administration, staking, and materials testing.
- 100% of the programmed budgets for Planning Projects are included in this Work Classification.
- 15% of the programmed costs for Land Acquisition are included to account for land appraisals, legal services, and land surveys.

b) Airfield Lighting, Electrical, and Security – Construction

There is one construction project in the ACIP that includes airfield lighting and electrical work. This is the Taxiway A and connector taxiway extension, currently programmed for construction in FY2018. This project also includes paving and grading.

The amounts included in this classification include the following:

- It was estimated that approximately 30% of the cost of the Taxiway A construction project will be subcontracted for Airfield Lighting, Electrical, and Security. Ten percent of that amount was included in the Professional Services classification (a, above). Therefore, \$81,000 was included in this classification for construction of electrical improvements.

c) Paving and Grading – Construction

There are two (2) ACIP construction projects that primarily consist of work in the Paving and Grading classification. As mentioned above, one of these projects also includes work in the Airfield Lighting, Electrical, and Security classifications. It was estimated that the Paving and Grading portion of that project will account for 70% of the cost of the work. The other project, pavement rehabilitation of the existing parking apron, will consist entirely of work in the Paving and Grading classification.

The amounts included in this classification include the following:

- 90% of the programmed budget for the Paving and Grading portions of the Taxiway A and connector taxiway extension (70% of the total construction budget).
- 90% of the programmed budget for the pavement rehabilitation of the existing parking apron project.

The results of these calculations have been broken down in **TABLE 1**:

TABLE 1 SAN MANUEL AIRPORT ACIP 2014-2018 Anticipated Breakdown by Work Classification		
Work Classification and Variable Name (a, b, c)	Programmed Amount	Percentage of Work
a Professional Services Associated with Projects	\$ 625,000	49.80%
b Airfield Lighting, Electrical, and Security - Construction	\$ 81,000	6.45%
c Paving and Grading - Construction	\$ 549,000	43.75%
TOTAL	\$ 1,255,000	100.00%

- B. It is required that all contractors who engage in DOT-assisted contracts be appropriately licensed to perform the classification of work included in the contract. It is common practice to simply use the Census Bureau’s data lists of the number of contractors existing in the state broken down by NAICS or SIC industry codes in order to establish the number of contractors available. This process will not give a true picture of the availability of currently licensed DBE contractors as compared to the total currently licensed contractor population. Therefore in this study deeper analysis was undertaken, utilizing a comparison of the licensed DBE contractors to all licensed contractors included on the Registrar’s database. This methodology is explained in the following steps.

The Arizona Registrar of Contractors maintains a list of all state-licensed contractors, including the type(s) of licenses they hold. DBE contractors are included on this list. In order to qualify as a “ready and willing” DBE contractor, the firm must be both certified as a DBE and be appropriately licensed. The list of Arizona Registrar of Contractors - List of Licensed Contractors, October 17, 2012 is attached as **Exhibit C** on the attached CDROM (**APPENDIX D**).

- C. The various work classifications were broken down by NAICS codes, as a convenient method to arrive at a realistic weighted goal. **TABLE 2** (below) illustrates the general breakdown by license required of the work in each of the Work Classifications that are identified in **TABLE 1**.

NOTE: In the tables, the variables that will be applied to the Step One Base Value calculation are color coded.

TABLE 2			
SAN MANUEL AIRPORT ACIP 2014-2016			
Required Contractor Licensing (Prime and Subcontractors) and NAICS Coding			
Work Classification and Variable Name (a, b, c)	Required License Classes	NAICS Codes	Percentage of Work (PW)
a Professional Services Associated with Projects	Arizona P.E.; Arizona R.L.S.; Appropriate Business Licensing	541330 541370 541380 541310	49.8%
b Airfield Lighting, Electrical, and Security - Construction	A-17, K-11, L-11	237130 238210	6.5%
c Paving and Grading - Construction	A, KA, A-14, K-69, A-5, K-2, A-15, K-66, K-9, L-9	237310 238910 238110 238990	43.7%

D. The Arizona Registrar of Contractors - List of Licensed Contractors, October 17, 2012 database of currently licensed contractors was used to determine the total number of qualified contractors who are appropriately licensed within the State in each of the work categories that may be included in future contracts - see **Exhibit C** on the attached CDROM (**APPENDIX D**). There are currently 39,413 active contractor licenses listed in the database (many contractors hold multiple

license classes). Of this total number, it was estimated that there are 5,049 active licenses that fall into the two selected construction Work Classifications used in this analysis (variables **b** and **c**).

Construction projects in the San Manuel area typically attract qualified bidders from around the state of Arizona. The State of Arizona has been identified as the geographic region from which prospective bidders will come, and the certified DBE Directory from the Arizona Department of Transportation was used as a resource to determine the numbers and types of DBE contractors who are available in the area - see **Exhibit B, Arizona Disadvantaged Business Enterprise Program Directory Search – October 17, 2012** on the attached CDROM (**APPENDIX D**). There are a total of 1,002 certified DBEs included on the list. It is estimated that that 224 of these companies fall into the two construction Work Classifications used in this analysis (variables **b** and **c**).

Each of the construction projects will also require the services of qualified engineers, architects, and planners, and may require the services of other professionals. The membership directory of the American Council of Engineering Companies (ACEC) of Arizona was used as a sample to approximate the ratio of total engineering firms to DBE firms who are active in the state. A search of the ACEC database on October 17, 2012 indicates that there are a total of 199 member firms. Of those firms, 15 are listed as DBE, WBE, or MBE businesses. (22 are listed as SBE firms). **TABLE 3** (below) is a summary of the ratio of DBE engineering consultants to total engineering consultants in Arizona.

TABLE 3 ARIZONA ENGINEERING CONSULTANTS Ratio of DBE to Total Number of Consulting Firms		
Type of Firm	Number	Percentage
Non-DBE/MBE/WBE Firms	184	92.5%
Arizona Certified DBE/MBE/WBE Firms	15	7.5%
TOTAL	199	100.0%

Source: American Council of Engineering Companies (ACEC) of Arizona, October 17, 2012

TABLE 4, below, is a summary of the number of Arizona DBE and non-DBE contractors and consultants, grouped by the three general Work Classifications used in this analysis.

TABLE 4 ARIZONA LICENSES BY CLASS Generalized Work Breakdown by Work Classification			
Work Classification	Total	non DBE Firms (nDBE)	DBE Firms (DBE)
a Professional Services Associated with Projects (engineering firms used as surrogate to derive ratio) ²	199	184	15
b Airfield Lighting, Electrical, and Security - Construction ¹	2,462	2,409	53
c Paving and Grading - Construction ¹	2,587	2,416	171
TOTAL	5,048	5,009	239

¹ Arizona Registrar of Contractors - List of Licensed Contractors, October 17, 2012

² American Council of Engineering Companies (ACEC) of Arizona, October 17, 2012

- E. The DBE Rule suggests the following “Step One” equation to be used as a tool to calculate the Base Value for expected DBE participation:

$$\left[PW_a \frac{DBE_a}{nDBE_a} + PW_b \frac{DBE_b}{nDBE_b} + PW_c \frac{DBE_c}{nDBE_c} \right] \times 100 = \text{Base Value}$$

Where: PW_a , PW_b , and PW_c are relative percentages of distribution of DOT-assisted contracts for each of the Work Classification groups (from **TABLE 2**).

DBE_a , DBE_b , and DBE_c are the number of DBE firms in each Work Classification (from **TABLE 4**).

$nDBE_a$, $nDBE_b$, and $nDBE_c$ are the number of non-DBE firms in each Work Classification (from **TABLE 4**).

- F. These values were applied to the “Step One” equation as follows to arrive at the initial unadjusted Base Value:

$$\left[.498 \frac{15}{184} + .065 \frac{53}{2,409} + .437 \frac{171}{2,416} \right] \times 100 = 7.30\%$$

Step Two:

The DBE Rule states that after a base value is derived, the recipient must review available evidence to determine whether an up or down adjustment of the base value is needed.

No evidence was found that indicates that an adjustment of the calculated base value is required.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The DBE Rule specifies that DBE goals must be met by implementation of race-neutral means as much as possible. The County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The County will use the following race-neutral means to increase DBE participation:

It is estimated that approximately 50.2% of the overall goal will be obtained from race-neutral participation: Since all construction contracts are let on a strict low bid basis, which does not consider the DBE status of the prime contractor, all construction services will be selected through race-neutral means. This will account for approximately 50.2% of project dollar values (see **TABLE 1**, above). Professional and technical service contracts are anticipated to account for 49.8% of future project expenses. These are awarded on a qualifications and experience basis, with stated DBE goals (or a requirement to include DBE participation) included in the evaluation process. This is not a race-neutral process. Therefore, the race-neutral and race-conscious goals were calculated as follows in **TABLE 5**:

TABLE 5 CALCULATION OF RACE-NEUTRAL and RACE-CONSCIOUS GOALS SAN MANUEL AIRPORT ACIP 2014-2016		
	Percent of Goal	Goal
Engineering and Technical Service Contracts (Race-Conscious)	49.8%	3.64%
Construction Contracts (Race-Neutral)	50.2%	3.66%
TOTAL	100.0%	7.30%

Small Business Participation (§26.39)

DBEs are small businesses. Therefore it is logical the program provisions that help small businesses can help DBEs. By facilitating participation for small businesses, recipients can make possible more DBE participation, and subsequent participation by additional DBE firms. The DOT believes that “a program element that pulls together the various ways that a recipient reaches out to small businesses and makes it easier for them to compete for DOT-assisted contracts will foster the objectives of the DBE program.”¹

The DBE Rule states that the “...DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation...”. DBE Program elements must be actively implemented to foster small business participation.²

In order to facilitate opportunities for race-neutral DBE participation, the County will include certified small business enterprise firms in its DBE requirements for all contracts. All references to requirements for prospective contractors and service providers to meet DBE goals will include certified small business enterprises (SBE/SBA) as qualifying classifications for meeting those goals, regardless of those firms’ DBE status.

¹ Federal Register Volume 76, Number 19 (Friday, January 28, 2011)

² 49 CFR Part 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Assistance Programs)

Small businesses that are recognized under federal, state, or local certification programs (i.e. Federal Small Business Administration; City of Phoenix Small Business Enterprise program, etc.) will be considered as eligible for inclusion.

Contract Goals (§26.51)

The County will use contract goals to meet any portion of the overall goal that we do 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.

The County will establish contract goals for the Airport only on those DOT-assisted contracts that have subcontracting possibilities. The County 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, etc.).

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

**Federal Aviation Administration and Arizona Department of Transportation
2014 Five-Year Capital Improvement Program
Project Request Data Sheet**

Airport Name: San Manuel Airport	Sponsor Signature: _____ (Required)	Date: <u>10/23/2012 7:55:43AM</u>
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Fiscal Year	Project Map Identifier	Project Category	Project Total Amount	Project Component
2014	2014-1	Federal, State, and Local	\$200,000	Planning:<Conduct/Update> <Airport Master Plan Study {ALP, EA, etc.}>
			Description: Perform an Airport Master Plan Update. Justification: Airport Master Plan Update needed to address current and future needs of the Airport. The prior Master Plan is approaching 10 years old.	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N Environmental Review Status? N/A
2014	2014-2	State and Local	\$50,000	Apron, Rehabilitate
			Description: Design rehab of exst parking ramp to include possible milling, crack seal, seal coat, and localized reconstruction(approx. 20,500 sy). Justification: Main aircraft parking apron is in need of major maintenance to address pavement cracks and weathered surface, and reduce the potential for FOD.	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N Environmental Review Status? CatEx
2015	2015-1	State and Local	\$200,000	Land For Protection (Safety Areas), Acquire
			Description: EA for Land Acquisition (approx. 155 acres; Parcel No. 307-05-014-B). Justification: Airport property is currently leased to Pinal County. The County would like to acquire the Airport property to be strictly in line with FAA and ADOT requirements for funding.	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N Environmental Review Status? EA
2015	2015-2	Federal, State, and Local	\$400,000	Apron:Rehabilitate Apron - Reconstruction
			Description: Constr. of apron rehab. (20,500 sy) to include milling, crack sealing, seal coating, re-striping, and localized reconstruction as needed. Justification: Main aircraft parking apron is in need of major rehab to address cracking in asphalt and weathered surface, and will reduce the potential for FOD.	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N Environmental Review Status? CatEx

EXHIBIT A

**Federal Aviation Administration and Arizona Department of Transportation
2014 Five-Year Capital Improvement Program
Project Request Data Sheet**

Airport Name: San Manuel Airport	Sponsor Signature: _____ (Required)	Date: <u>10/23/2012 7:55:43AM</u>
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<u>Fiscal Year</u>	<u>Project Map Identifier</u>	<u>Project Category</u>	<u>Project Total Amount</u>	<u>Project Component</u>	
2016	2016-1	Federal, State, and Local	\$500,000	Land:Acquire <Land/Easement> For Development/Relocation	
			Description:	Land Acquisition of Airport Property (approx. 155 acres; Parcel No. 307-05-014-B).	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N
			Justification:	Airport property is currently leased to Pinal County. The County would like to acquire the Airport property to be strictly in line with FAA and ADOT requirements for funding.	Environmental Review Status? EA
2017	2017-1	Federal, State, and Local	\$30,000	Taxiways:<Extend/Widen/Strengthen> Taxiway - Standards	
			Description:	Design Taxiway "A" and connector taxiway extension (approx. 900"x35") to Runway 29.	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N
			Justification:	Project is needed to connect the parallel Taxiway "A" to Runway 29 to avoid back-taxiing on the runway.	Environmental Review Status? CatEx
2018	2018-1	Federal, State, and Local	\$300,000	Taxiways:<Extend/Widen/Strengthen> Taxiway - Standards	
			Description:	Constr. Taxiway "A" extension and connector taxiway to Runway 29 (approx. 900"x35").	Project shown on approved ALP? Y Phase Project? N FSL Pavement Maintenance Prj.? N
			Justification:	Project is needed to connect the parallel Taxiway "A" to Runway 29 to avoid back-taxiing on the runway.	Environmental Review Status? CatEx

APPENDIX B: ATTACHMENTS TO THE DBE POLICY STATEMENT

**Attachment 1 -
Organizational Chart**

**Attachment 2 -
Form 1 & 2 for Demonstration of Good Faith Efforts**

ATTACHMENT 1

Organization Chart

**SAN MANUEL AIRPORT (Pinal County)
San Manuel, Arizona**

DRAFT - February 13, 2013



ATTACHMENT 2

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

APPENDIX C: PUBLIC COMMENT

Opportunity for Public Comment

**Exhibit D -
Affidavit of Publication**

APPENDIX C
PUBLIC COMMENT

DBE PROGRAM
SAN MANUEL AIRPORT (Pinal County)
SAN MANUEL, ARIZONA

DRAFT - February 13, 2013

Opportunity for Public Comment

THIS SECTION WILL BE ADDED AS PART OF THE FINAL DOCUMENT

APPENDIX D: CDROM *

**Exhibit B -
Arizona Disadvantaged Business Enterprise Program
Directory Search – October 17, 2012
(Microsoft Excel file included on CDROM)**

**Exhibit C -
Arizona Registrar of Contractors - List of Licensed
Contractors, October 17, 2012
(Microsoft Excel file included on CDROM)**

**Attachment 3 -
Regulations: 49 CFR Part 26
(PDF file included on CDROM)**

** NOTE: The Arizona DBE database, Registrar of Contractors database, and copy of 49 CFR Part 26 will be attached to the Final DBE Program document on a CDROM. This information is available for public review upon request.*