

SUBJECT: Disadvantaged Business Enterprise Program

REQUESTED BY: Administration

PREPARED BY: Ken Jacobus, City Attorney

DATE: December 8, 1998

FOR AGENDA OF: December 14, 1998

SUMMARY:

The United States, Department of Transportation (USDOT) requires the adoption of a Disadvantaged Business Enterprise (DBE) plan, as a condition of the City of Wasilla receiving funding for the airport project.

The purpose of the plan is to ensure maximum participation by DBE's in those projects receiving USDOT funding.

FISCAL IMPACT: No Yes, amount requested: \$ Fund:

RECOMMENDED ACTION: Adoption of Resolution Serial No. 98-55 to implement the proposed DBE plan.

MAYOR REVIEW/COMMENT:



Reviewed by: SARAH PALIN, Mayor

Attachments: *DBE Policy Statement*

CITY OF WASILLA, ALASKA

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

POLICY STATEMENT

The City of Wasilla, Alaska, (the City) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the requirements of the U.S. Department of Transportation (DOT). As a recipient of funding from the U.S. DOT, the City signed an assurance to comply with the provisions of 49 CFR, Part 23, "Participation by Disadvantaged Business Enterprises in DOT Programs."

It is the policy of the City that DBE's, as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of contracts assisted in whole or in part by funds granted by the U.S. DOT.

The City's policies prohibit discrimination against any person because of race, color, sex, or national origin, in the award or performance of any contract subject to the requirements of 49 CFR Part 23.

The City will require its employees, agents, and contractors to adhere to the provisions of this program.

The City will utilize the State of Alaska's list of approved Disadvantaged Business Enterprises as its primary source for identifying DBE's.

This program will be implemented and interpreted in accord with the applicable provisions of the United States Code and Code of Federal Regulations, guidance provided by the US DOT and FAA, the laws of the State of Alaska and the Ordinances of the City of Wasilla, Alaska.

This Program was approved by Resolution of the City Council of the City of Wasilla, Alaska on December 14, 1998.

Sarah Palin, Mayor
City of Wasilla, Alaska

Designation of DBE Liaison Officer

The Public Works Director is designated as the DBE Liaison Officer. The DBE Liaison Officer reports directly to the Mayor.

The DBE liaison officer has the primary responsibility for implementing and overseeing this DBE program.

DBE Directory

The City will use the DBE Directory of the State of Alaska as its principal source to identify approved DBE's. The City may, but is not required to, maintain its own directory of approved DBE's. Directories of other agencies may also be used when a project requires a search for DBE's beyond the normal recruiting areas.

The directory lists firms that are capable of performing general contracting and particular solicitations. The directory is organized by type of work the contractor desires to perform; i.e., general construction, lighting, marking, engineering, etc.

The directory may include firms who have passed the City's own certification process, those certified by the Small Business Administration (SBA) under the Section 8(a) program, those certified by the State DOT, and some firms that do not have current certification.

The directory will be updated annually. The update will include any additional DBE's certified during that period.

In the event a bidder names other DBE's it desires to use, these firms will be included in the Directory if they can be certified. Other DBE's that desire to be listed will also be included upon request.

The Directory will be made available to bidders and proposers in their efforts to meet the DBE goals and made a part of bid specifications. The Directory is a primary source for locating potential DBE contractors.

Procedures to Ascertain the Eligibility of DBE's and Joint Ventures Involving DBE's

The City will certify the eligibility of DBE's and joint ventures involving DBE's that are named by competitors for DOT and FAA-assisted contracts. Certifications made by other U.S. DOT recipients may also be accepted.

Prime contractors will be required to make good faith efforts to replace a DBE subcontractor that

is unable to perform the contract successfully with another DBE. Substitutions of DBE subcontractors after bid opening and during contract performance must be approved and the eligibility of the substitute firm verified by the City.

Any business that desires to participate as a DBE will be required to complete and submit Schedule A (Appendix 1). Any business that desires to participate as a joint venture DBE will, in addition, be required to complete Schedule B (Appendix 2). The schedules must be signed and notarized by the authorized representative of the business.

The required Schedule must accompany the DBE participation information submitted to the City by competitors.

A firm seeking certification as a DBE will not be required to submit Schedule A or B if either of the following applies:

1. The potential DBE contractor states in writing that the same information has been submitted to or has been certified by the City, a state, any U.S. DOT element, or other Federal agency that uses essentially the same definition and ownership and control criteria as the U.S. DOT. In this case, the potential DBE must obtain the information and certification (if made) from the other agency and submit it to the City; or
2. The potential DBE contractor has been determined by the Small Business Administration to be owned and controlled by socially and economically disadvantaged individuals under Section 8(a) of the Small Business Act, as amended.

Uniform Certification Standards

The City will take at least the following steps in determining whether a firm may be certified as a DBE:

1. Perform an on-site visit to the offices of the firm and to any job sites on which the firm is working at the time of the eligibility investigation.
2. Obtain the resumes or work histories of the principal owners of the firm and personally interview these individuals.
3. Analyze the ownership of stock in the firm, if it is a corporation.
4. Analyze the bonding and financial capacity of the firm.
5. Determine the work history of the firm, including contracts it has received and work it has completed.
6. Obtain or compile a list of equipment owned or available to the firm and the licenses of the

firm and its key personnel to perform the work it seeks to do as part of the DBE program.

7. Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program.

On-site Certification Visits

Office and job-site visits may be omitted from the investigation in any of the following situations:

1. When the City, at its discretion, accepts the certification of another U.S. DOT recipient, which included visits conforming to the regulations.
2. When the City obtains the report of a site visit completed by another U.S. DOT recipient, which the City relies on. A firm applying for certification may be required to supply such report or cause the other recipient to supply it. The City will then draw its own conclusions regarding eligibility.
3. When the City recertifies a firm that it previously reviewed on-site and eligibility issues (e.g., change in ownership) have not arisen that make a second visit necessary. In the absence of such issues, an on-site visit need be conducted only once.

Decertification Procedures

Whenever the City comes to believe that a firm with a current certification is no longer eligible, the City will take the following steps:

1. A letter will be sent to the firm, stating that decertification is being contemplated. A brief description of the reasons for the proposed action will be included.
2. The firm will be given an opportunity to respond in person and in writing to present information and arguments. An informal meeting or hearing may be part of the process, but a formal adversary proceeding will not be used.

DBE Definition

To qualify for certification, a firm must meet the definition of a Disadvantaged Business Enterprise (DBE). DBE means a small business concern:

1. Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
2. Whose management and daily business operations are controlled by one or more of the

socially and economically disadvantaged individuals who own it.

Determinations of Business Size

In order to be certified as a Disadvantaged Business Enterprise, the firm must be a "small business concern" as that term is defined in 13 CFR, Part 121, as revised on May 25, 1988. In any event, no firm is considered small if it, including its affiliates, averages annual gross receipts in excess of \$16,600,000 over the previous three fiscal years.

Socially and Economically Disadvantaged Individuals

1. Any person having a current Section 8(a) certification from the Small Business Administration is considered to be socially and economically disadvantaged.
2. A "rebuttable presumption" will be made that individuals in the following groups who are citizens of the United States (or lawfully permanent residents) are socially and economically disadvantaged:
 - a. Women;
 - b. Black Americans, which includes persons having origins in any of the Black racial groups of Africa;
 - c. Hispanic Americans, which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - d. Native Americans, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - e. Asian-Pacific Americans, which includes persons whose origins are from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia (Kampuchea), the Philippines, Samoa, Guam, the U. S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia or the Commonwealth of Northern Marianas Islands, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu or Nauru; and
 - f. Asian-Indian Americans, which includes persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal.

Business owners who fall into one of these groups will generally be assumed to be socially and economically disadvantaged. Their disadvantaged status will not generally be investigated, unless a third-party challenge is made.

3. Other individuals may be found to be socially and economically disadvantaged on a case-by-

case basis. These individuals must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Challenge Procedures

Anyone may present evidence challenging whether a firm's owners who are presumed to be socially and economically disadvantaged are truly disadvantaged. Individuals certified as Section 8(a), however, are not subject to these challenges.

When a written challenge to the disadvantaged status of a business owner that is certified or seeking certification is received, a determination of social and economic disadvantage will be made. The City itself may also initiate an inquiry.

The guidelines in 49 CFR 23.69 and Appendix C will be used for these actions. The procedures are informal; strict rules of evidence do not apply.

While a challenge is in progress, the presumption of social and economic disadvantage continues; and if the firm has been certified, it will continue to be eligible as a DBE.

Eligibility Standards

The City will use the following standards to determine whether a firm is owned and controlled by one or more socially and economically disadvantaged individuals:

1. Bona fide membership in a group of socially and economically disadvantaged individuals must be established on the basis of the applicant's claim that he or she is a member of such group and is so regarded by that particular disadvantaged community. However, a claim is not required to be accepted if it is determined to be invalid.

Proof of ancestry alone is not conclusive evidence of membership in a group of socially and economically disadvantaged individuals. The fact that a person's grandfather or other relative belonged to one of these groups does not necessarily qualify the applicant as a member for purposes of DBE certification.

If the individual has not held himself or herself out to be a member of the community of disadvantaged individuals, has not acted as a member of that community, and would not be identified by persons in the population at large as a member of the group, the individual is not considered as belonging to that disadvantaged group for purposes of DBE certification.

2. An eligible DBE must be an independent business. The ownership and control by disadvantaged persons must be real, substantial, and continuing and must go beyond the pro forma ownership of the firm as reflected in its ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership and must share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form

of arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as a DBE. In determining whether a potential DBE is an independent business, all relevant factors will be considered, including the date the business was established, the adequacy of its resources for the work of the contract, and the degree to which financial, equipment leasing, and other relationships with non-DBE firms vary from industry practice.

3. The disadvantaged owners must also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy, and operations. The firm must not be subject to any formal or informal restrictions which limit the customary discretion of the disadvantaged owners. There must not be restrictions through, for example, bylaw provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevent the disadvantaged owners, without the cooperation or vote of any owner who is not socially and economically disadvantaged, from making a business decision of the firm.

4. If the owners of the firm who are not socially and economically disadvantaged individuals are disproportionately responsible for the operation of the firm, then the firm is not controlled by socially and economically disadvantaged individuals and is not eligible. Where the actual management of the firm is contracted out to individuals other than the owner, the persons having the ultimate power to hire and fire the managers are considered as controlling the business.

5. All securities which constitute ownership and/or control of a corporation for purposes of establishing it as a DBE must be held directly by socially and economically disadvantaged individuals. No securities held in trust, or by any guardian for a minor, shall be considered as held by socially and economically disadvantaged individuals in determining the ownership or control of a corporation.

6. The contributions of capital or expertise by the socially and economically disadvantaged individuals to acquire their interests in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not socially and economically disadvantaged, or the mere participation as an employee, rather than as a manager.

7. In addition to the above standards, special consideration is given to the following circumstances:

a. Newly formed firms and firms whose ownership and/or control has changed since the date of the advertisement of the U.S. DOT-assisted contract are closely scrutinized to determine the reasons for the timing of the formation or change in the firm.

b. A previous and/or continuing employer-employee relationship between or among present owners is carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities, as referenced above.

c. Any relationship between a DBE and a non-DBE which has an interest in the DBE is carefully reviewed to determine if the interest of the non-DBE conflicts with the requirements for ownership and control.

8. A joint venture will be certified if the DBE partner of the joint venture meets the eligibility standards, is responsible for a clearly defined portion of the work to be performed, and shares in the ownership, control, management responsibilities, risks, and profits of the joint venture.

9. A business applying for certification as a DBE or as a joint venture DBE must cooperate in supplying any additional information which may be requested in order to make a determination. For example, the applicant may be required to provide income tax statements.

10. Safeguards will be taken to prevent disclosure to unauthorized persons about information that reasonably may be regarded as confidential business information, consistent with Federal, state, and local law.

11. Once certified, a DBE will be required to update its submission annually by submitting a new Schedule A or certifying that the Schedule A on file is still accurate. Firms are notified upon certification that a new Schedule A must be submitted whenever there is a change in the firm's ownership or control.

12. The denial of certification is final for the particular contract and any other contracts being let at the time of the denial (except when the U.S. DOT reverses the denial, following an appeal). Firms denied certification may correct deficiencies in their ownership and control and reapply for certification only for future contracts.

Percentage Goals for the Dollar Value of the Work to be Awarded to DBE's

Establishing the Overall Goal

A single overall goal will be set for the use of DBE's in Airport Improvement Program (AIP)-funded contracting, together with a description of the methodology employed in establishing it.

The following guidelines apply when establishing the overall goal:

1. Make a projection of the work to be accomplished during the goal period on all AIP-funded contracts (excluding purchases of land) and estimate the cost of the work items in each.

Whenever possible, an engineer's estimate of the costs will be provided.

The overall goal may cover a one-year period or may be set for a particular grant, project, or group of grants and/or projects. Whichever method is used, the goal shall be updated annually.

The overall goal and the base from which the goal is calculated shall reflect both construction and nonconstruction contracts funded by the AIP. Eligible nonconstruction includes funding for architectural, engineering, planning consultants, and other professional services; purchase of vehicles and equipment; and supplies.

While contracts to purchase land are excluded from the goal-setting process, all other contracts let under land acquisition projects, such as for real estate survey and appraisal, shall be included.

Funds received under the AIP for work that is accomplished by the City's own employees or the employees of another public agency ("force account") shall be excluded from consideration. Other costs that are not contracted (e.g., for administration and advertising) will also be excluded.

2. Select the geographical area(s) to be used in seeking DBE's for the work to be accomplished

The City and contractors shall, as a minimum, seek DBE's in the same geographical area in which they seek contractors or subcontractors generally for a given solicitation. The relevant geographical area may vary depending on the contract. If a larger area is used, such as statewide, to advertise for professional services, the DBE goal for these contracts shall be based on its search on a statewide basis.

3. Consult the Directory and other sources to determine the availability of DBE's in the relevant geographical areas.

In addition to the Alaska and City DBE directories, the directories or lists of State and local agencies, other U.S. DOT recipients, the Chamber of Commerce, the Small Business Administration, the Minority Business Development Agency of the DOC, and other listings may be used. These sources should provide a basis for determining the availability of DBE's in the relevant areas capable of performing the work of the contracts.

4. Identify potential for DBE participation

Based on a review of the directories and prior accomplishments, a determination will be made of the potential for DBE participation as prime or subcontractors on the AIP-funded projects during the goal period. The following factors should be considered:

- a. The number and types of contracts to be awarded and the number and types of DBE's likely to be available to compete for those contracts; and
- b. The past results of efforts to contract with DBE's and the reasons for the high or low level of those results.

The above approach provides for practical goals that are related to the known availability of qualified DBE's.

5. Calculate the Overall Goal

The overall goal will be determined by dividing the Federal share of potential awards to DBE's (dollar value) by the Federal share of all prime contract awards (dollar value) forecast for the goal period.

$$\text{Overall DBE Goal} = \frac{\text{Federal Share of Potential DBE Awards (\$)}}{\text{Federal Share of All Prime Contract Awards (\$)}}$$

If the overall goal does not represent an increase over the previous year's accomplishments, an explanation shall be provided why an increase cannot reasonably be achieved.

Information will also be submitted for any additional AIP-funded work to be undertaken during the goal period for which estimates are not available at the time of program submission. Potential for DBE participation will be identified for these projects. A revised overall DBE goal will be submitted to the FAA for approval. Approval will be obtained from the FAA prior to soliciting bids for these projects.

Overall DBE Goal of Less than 10 Percent

If an overall DBE goal is submitted that is less than 10 percent, the following steps will be taken in addition to those described in the previous pages.

1. A justification will be submitted which provides information on the following points:
 - a. Efforts to locate DBE's;
 - b. Efforts to make DBE's aware of contracting opportunities;
 - c. Initiatives to encourage and develop DBE's;
 - d. Legal or other barriers impeding the participation of DBE's at a level of at least 10 percent on FAA-assisted contracts and efforts to overcome or mitigate the affects of these barriers;
 - e. The availability of DBE's to work on FAA-assisted contracts;
 - f. The size and other characteristics of the minority population of the sponsor's jurisdiction and the relevance of these factors to the availability or potential availability of the DBE's to work on FAA-assisted contracts; and
 - g. A summary of the views and information concerning the availability of DBE's and the adequacy of the City's efforts to increase DBE participation, as provided by persons and

organizations consulted by the City.

2. The request for the overall goal will be signed or concurred in by the mayor or other responsible official.

3. Consultation shall be made with minority and general contractors' associations, community organizations, and other officials or organizations that could be expected to have information concerning the availability of DBE's and the adequacy of the City's efforts to increase DBE participation.

Notice Publishing the Overall Goal

When the overall goal is submitted to the FAA, a notice will be published announcing that the proposed goal and methodology are available for inspection for a 30-day period at the Wasilla City Hall. The notice shall state that comments will be accepted by the City or the U.S. DOT for 45 days following publication. The notice will include addresses where comments may be sent and will state that the comments are for informational purposes only. The notice will be published in general circulation media and in any media of the disadvantaged community and trade associations.

Past Year Accomplishments

When counting DBE participation toward the goals, contracts for land, funds for force account, and other noncontractual work shall be excluded (as these same items are excluded when establishing the goals). Only the Federal share of AIP-funded contract awards shall be applied toward the overall goal. These amounts are reported to the FAA on approved forms.

Achievement toward the overall goal is determined by dividing the Federal share of actual awards to DBE's (dollar value) by the Federal share of all prime contract awards (dollar value) made during the goal period. Achievements shall reflect contract amendments, as well as awards.

Updated Goal

The overall goal shall be reviewed at least annually. The review shall include an analysis of projected versus actual DBE participation.

An updated overall goal and methodology shall be submitted to the FAA 30 days prior to the end of the goal period or when requested by the Regional Civil Rights Manager. Unless otherwise requested, only this information, not the entire DBE program, will be submitted. An update is required even when FAA-assisted contracts are not expected to be awarded during the following 12-month period.

If the overall DBE goal has expired and a new goal has not been approved, further solicitations for AIP-funded contracts shall not be issued, including Invitations for Bids (IFB's) or Requests for Proposals (RFP's), unless the FAA has approved the specific contract goal or a new overall goal.

Explanation for Failing to Meet Overall DBE Goal

If the overall DBE goal is not achieved, an explanation will be submitted to the FAA stating the reasons for failing to meet the goal.

Contract Goals

A contract goal shall be established for each prime contract funded by the AIP that has subcontracting possibilities. The requirement applies to both construction and nonconstruction (i.e., architectural, engineering, other professional services, equipment, etc.).

A single goal for DBE's shall also be used for the contract goal. The appropriate goal will be included in the contract solicitation.

Contract goals will be set to achieve the overall goal. Individual contract goals may vary from the overall goal.

The contract goal is determined by dividing the total dollar value of potential subcontract awards to DBE's by the total estimated dollar value of the prime contract. Unlike the overall goal, which is based on the Federal share only, contract goals are based on the total contract amount - the Federal share plus the state and local matching funds.

$$\begin{array}{l} \text{Specific Contract} \\ \text{DBE Percentage Goal} \end{array} = \frac{\text{Potential DBE Contracts (Dollars)}}{\text{Total Estimated Cost of Prime Contract (Dollars)}}$$

Although contract goals are not required to be submitted, a description of the methodology to be used in establishing them will be included. The FAA Regional Office may require approval of contract goals prior to solicitation.

A Means to Ensure that Competitors Make Good Faith Efforts to Meet the DBE Goal

Whenever the City issues a solicitation for an FAA-assisted contract that has subcontracting possibilities, the solicitation will contain the DBE contract goal. This procedure will be followed for nonconstruction as well as construction projects. Thus, the appropriate goal will be included in Invitations for Bid (IFB) for construction work and in Requests for Proposals (RFP) for architectural, engineering, and other professional services.

The solicitation will include a statement that the apparent successful competitor will be required to submit DBE participation information and that as a condition of receiving the contract, the competitor must meet the DBE goal or demonstrate to the City that good faith efforts were made.

The actual clause to be used is:

The bidder/proposer shall make good faith efforts, as defined in Appendix A of 49 CFR, Part 23, Regulations of the Office of the Secretary of Transportation, to subcontract ___ percent of the dollar value of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBE). In the event that the bidder for this solicitation qualifies as a DBE, the contract goal shall be deemed to have been met. Individuals who are rebuttably presumed to be socially and economically disadvantaged include women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. The apparent successful competitor will be required to submit information concerning the DBE's that will participate in the contract. The information will include: (1) the name and address of each DBE; (2) a description of the work to be performed by each named firm; and (3) the dollar value of the work of the contract. If the bidder fails to achieve the contract goal stated herein, the bidder will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so. A bid that fails to meet these requirements will be considered nonresponsive.

The DBE participation information will be required prior to committing the City to award the contract to the apparent successful competitor.

If a contract goal has been established, a bidder may not meet the requirements of the bid specification by stating that all work will be accomplished by using the bidder's own employees. The bidder, first, must demonstrate to the sponsor's satisfaction that good faith efforts were made to meet the goal, and, despite those efforts, the bidder was unable to subcontract any of the work to DBE's.

If the contract goal specified in the solicitation is not met, the apparent successful competitor will be required to submit documentation of the efforts that were made. The City will then determine whether these were "good faith efforts." The following criteria will be used:

1. Whether the contractor attended any presolicitation or prebid meetings that were scheduled by the recipient to inform DBE's of contracting and subcontracting opportunities;
2. Whether the contractor advertised in general circulation, trade association, and minority-focus media concerning the subcontracting opportunities;
3. Whether the contractor provided written notice to a reasonable number of specific DBE's that their interest in the contract was being solicited, in sufficient time to allow the DBE's to participate effectively;
4. Whether the contractor followed up initial solicitations of interest by contracting DBE's to determine with certainty whether the DBE's were interested;

8. Whether the contractor made efforts to assist interested DBE's in obtaining bonding, lines of credit, or insurance required by the City or contractor; and

9. Whether the contractor effectively used the services of available minority community organizations; minority contractors groups; local, state, and Federal minority business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBE's.

The following points apply to good faith effort determinations:

1. Good faith efforts are those that could reasonably be expected to result in goal attainment by a bidder who aggressively and actively seeks to obtain DBE participation.

2. The above list of nine efforts are recommended by the U.S. DOT as ones that bidders/proposers may make to obtain DBE participation. It does not represent a mandatory checklist of required actions; no one or combination is required in all cases.

3. The list above is not intended to be exhaustive; other factors or efforts may be relevant in appropriate instances.

4. The quantity and intensity of the efforts will be examined as well as the type of actions taken. Efforts that are merely pro forma are not sufficient, even though they may be sincerely motivated.

Alternative Requirements

If other requirements of equal or greater effectiveness are desired in lieu of good faith efforts, the FAA will be notified by letter of the content of those requirements prior to contract award.

In the event that FAA does not approve of the alternative requirements, the good faith efforts may be required as described above.

***** END *****