



	Presented
Comment:	
Verified by: <i>J. Humm</i>	3/12/07

WASILLA CITY COUNCIL INFORMATION MEMORANDUM

IM No. 07-06

TITLE: 2007 UPDATE TO THE 2006 DISADVANTAGED BUSINESS ENTERPRISE PLAN FOR FEDERAL AVIATION ADMINISTRATION FUNDED PROJECTS

Agenda of: March 12, 2007
 Originator: Public Works Director

Date: February 28, 2007

Route to:	Department	Signature/Date
	Police Chief Youth Court, Dispatch, Code Compliance	
	Culture and Recreation Services Director Library, Museum, Sports Complex	
X	Public Works & Recreation Facility Maintenance Director	<i>[Signature]</i> 2/28/07
	Finance, Risk Management & MIS Director Purchasing	
X	Deputy Administrator Planning, Economic Development, Human Resources	<i>S. Gaul</i> 03-01-07 <i>[Signature]</i>
X	City Clerk	

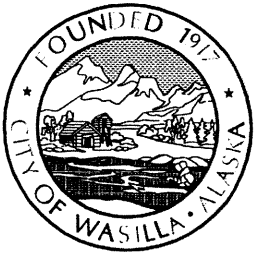
REVIEWED BY MAYOR DIANNE M. KELLER: *Dianne M. Keller*

FISCAL IMPACT: yes or no Funds Available yes no

Account name/number:

Attachments: 2006 DBE Plan; 2007 Attachment 1, and Cover Letter to FAA

SUMMARY STATEMENT: The DBE Plan is required for FAA funded projects and it is intended to support minority owned businesses (MBE) and women owned businesses (WBE). 2007 construction contracts at the airport using FAA funding are required to have a minimum of 4.9 percent participation of MBE and/or WBE firms or show a good faith effort was conducted in the solicitation of MBE and WBE firms. This plan is required to be disseminated to the City Council and no action is required.



CITY OF WASILLA

Public Works Department
290 East Herning Avenue, Wasilla, Alaska 99654-7091
Telephone (907) 373-9010 Fax (907) 373-9011

February 27, 2007

Ms. Christine Whitehead
External Program Manager – FAA
Office of Civil Rights-Northwest Mountain Region
1601 Lind Avenue SW
Renton, WA 98055-4056

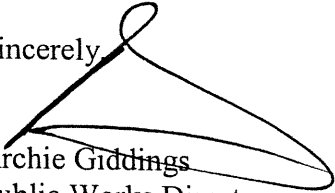
RE: 2007 Update to the 2006 DBE Plan
Wasilla Municipal Airport

Dear Ms. Whitehead,

The City of Wasilla has reviewed the FY 2006 DBE Plan and intends to utilize the 2006 Plan for FY 2007 FAA-assisted contracts, with only minor revisions to Attachment 1 Section 26.45 Overall Goal Calculation (attached). The DBE goal for FY 2007 projects remains 4.9% of the FAA grant funds expended.

If you have any questions or concern, please contact me at (907) 373-9018.

Sincerely,


Archie Giddings
Public Works Director

Attachment: AS

cc: Brad Garland, FAA
David Lundin, HDL

Attachment 1

Section 26.45: Overall Goal Calculation

Amount of Goal

The City of Wasilla has established an overall goal for FY 2007 of expending 4.9% of Federal financial assistance with DBEs on FAA-assisted contracts.

Methodology Used to Calculate Overall Goal

Step 1: Determining a Base Figure

The base figure is 4.9% as utilized as an interim overall goal by the State of Alaska Department of Transportation and Public Facilities (ADOT/PF) for FAA projects. ADOT/PF projects are in a substantially similar market and ADOT/PF has established this overall goal in compliance with Part 26. ADOT/PF is in process of revising their plan and is utilizing this interim goal, based on their previously approved plan goal.

Step 2: Adjusting the Base Figure

In accordance with Part 26, the base figure of the goal from another recipient is to be adjusted for differences in the local market and the recipient's contracting program. The local market and contracting program of the City are substantially similar to the market and contracting program of ADOT/PF such that no adjustment in the base figure is necessary.

The overall goal therefore is 4.9% of FAA funds to be expended in FAA-assisted contracts.

CITY OF WASILLA DBE PROGRAM FY 2006

Objectives /Policy Statement (§§26.1, 26.23)

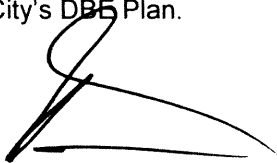
The City of Wasilla has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Wasilla has received Federal financial assistance from the Department of Transportation, and as a condition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

It is the policy of the City of Wasilla to ensure that DBE's, 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 DBE's 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 DBE's;
5. To help remove barriers to the participation of DBE's in DOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Director of Public Works has been delegated as the DBE Liaison Officer. The DBE Liaison Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Wasilla in its financial assistance agreements with the Department of Transportation.

The City of Wasilla has disseminated this policy statement to the Wasilla City Council 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 by public advertising of the availability of the City's DBE Plan.



Archie Giddings, Public Works Director

Date: 2/22/06

SUBPART A – GENERAL REQUIREMENTS

Applicability. (§26.3)

The City of Wasilla is the recipient of federal airport funds authorized by 49 U.S.C. 47101, et seq.

Definitions of Terms. (§26.5)

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

Nondiscrimination. (§26.7)

The City of Wasilla will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Wasilla 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)

The City of Wasilla will report DBE participation to DOT as follows:

We will submit annually the Uniform Report of DBE Awards or Commitments and Payment.

Bidders List: 26.11(c)

The City of Wasilla 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 bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information from bid documents submitted to the City. The bidders list will be a required document as part of the bid package from all prime bidders.

Federal Financial Assistance Agreement Assurance (§26.13)

The City of Wasilla has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

The City of Wasilla 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 City of Wasilla 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.).

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

Contract Assurance: 26.13(b)

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.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

DBE Program Updates (§26.21)

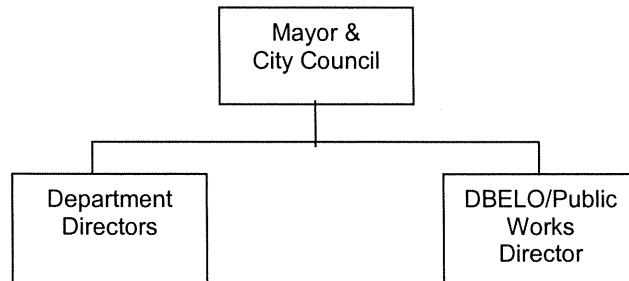
Since the City of Wasilla anticipates a grant of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

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: Director of Public Works, 290 E. Herring Avenue, Wasilla, Alaska 99654, (907) 373-9018, e-mail agiddings@ci.wasilla.ak.us. In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Wasilla complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is below:



The DBELO is responsible for developing, implementing and monitoring the DBE program in coordination with other appropriate officials. The staff of the Engineering Consultant(s) retained by the City of Wasilla for work on DOT-assisted projects supports the DBELO. Additionally, the DBELO has a staff of one to assist in the administration of the program. 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 DBE's 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 and monitors results.
6. Analyzes the City of Wasilla's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Mayor and the City Council on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Program in Alaska.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains the City of Wasilla's updated directory on certified DBEs.

DBE Financial Institutions (§26.27)

It is the policy of the City of Wasilla 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.

The City researched the State DBE directory and no such entities were located.

Prompt Payment Mechanisms (§26.29)

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 seven days from the receipt of each payment the prime contractor receives from the City of Wasilla. The prime contractor agrees further to return retainage payments to each subcontractor within seven 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 City of Wasilla. This clause applies to both DBE and non-DBE subcontractors.

Directory (§26.31)

The City of Wasilla utilizes the directory maintained by the State of Alaska, Department of Transportation and Public Facilities identifying all firms eligible to participate as DBE's. 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. The DBE Directory is available as follows: www.dot.state.ak.us/cvlrts/directory.shtml, Civil Rights Office, Jon Dunham, Manager, (907) 269-0851, e-mail: jon_dunham@dot.state.ak.us.

Overconcentration (§26.33)

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

Business Development Programs (§26.35)

The City of Wasilla has not established a business development program.

Monitoring and Enforcement Mechanisms (§26.37)

The City of Wasilla 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.

The City of Wasilla will monitor DBE participation through a review of the contract submittal documents, as required in, but not limited to, Article 3.5 - General Provisions of the City's Standard Specifications.

The City will also verify that the work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by reviewing the submission of the DBE utilization reports and copies of payments to the contractors. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

The City of Wasilla has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action pursuant to the terms of the contract;
2. Bidder Qualification Criteria pursuant to Article 3.3 of the City's Standard Specifications, including allowing a bidder to be determined non-responsible based on bidder's record for honesty and integrity.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Quotas (§26.43)

The City of Wasilla 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 Attachment 1 to this program. This section of the program will be updated annually.

The City of Wasilla will submit its overall goal to DOT on August 1 of each year.

Before establishing the overall goal each year, the City of Wasilla will consult with the State of Alaska, Department of Transportation and Public Facilities, Civil Rights Office to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Wasilla's efforts to establish a level playing field for the participation of DBEs.

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 the City of Wasilla for 30 days following the date of the notice, and informing the public that the City of Wasilla and DOT will accept comments on the goals for 45 days from the date of the notice. These publications will be made in the local newspaper for the area, the Frontiersman. Normally, we will issue this notice by

June 1 of each year. The notice shall 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.

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

Transit Vehicle Manufacturers (§26.49)

This section not used.

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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 2 to this program. This section of the program will be updated annually when the goal calculation is updated.

Contract Goals (§26.51 (d-g))

In the absence of a disparity study, and as directed by DOT, the City of Wasilla will not utilize contract goals.

Good Faith Efforts Procedures (§26.53)

Contract goals will not be utilized; therefore good faith efforts are not required.

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 City of Wasilla will use the certification program of the Alaska Department of Transportation and Public Facilities, which complies with 49 CFR Part 26. Contact the Alaska DOT Civil Rights Office at: www.dot.state.ak.us/cvlrts/aucp.shtml.

SUBPART E – CERTIFICATION PROCEDURES

Unified Certification Program (§26.81)

The City of Wasilla is the member of a Unified Certification Program (UCP) administered by the State of Alaska. The UCP will meet all of the requirements of this section. A description of the UCP is located at www.dot.state.ak.us/cvlrts/aucp.shtml.

Procedures for Certification Decisions (§26.83)

Re-certifications §26.83(a) & (c)

Re-certification will follow the standards established by the State of Alaska UCP.

"No Change" Affidavits and Notices of Change (§26.83(j))

The "No Change" Affidavits and Notices of Change shall comply with the State of Alaska UCP.

Denials of Initial Requests for Certification §26.85

Denials of Initial Requests for Certification shall be by the State of Alaska UCP.

Removal of a DBE's Eligibility §26.87

Removal of a DBE's Eligibility shall comply with the State of Alaska UCP established procedures located at: www.dot.state.ak.us/cvlrts/aucp.shtml.

Certification Appeals (§26.89)

Any firm or complainant may appeal the decision of the UCP in a certification matter following the procedures established in the UCP, located at www.dot.state.ak.us/cvlrts/aucp.shtml.

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 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.

Monitoring Payments to DBE's

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

We will perform interim audits of contract payments to DBE's. 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.

Attachments:

Attachment 1	Overall Goal Calculation
Attachment 2	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 3	DBE Forms & Bidders List
Attachment 4	Regulations: 49 CFR Part 26

Attachment 1

Section 26.45: Overall Goal Calculation

Amount of Goal

The City of Wasilla has established an overall goal for FY 2006 of expending 4.9% of Federal financial assistance with DBEs on FAA-assisted contracts.

Methodology Used to Calculate Overall Goal

Step 1: Determining a Base Figure

The base figure is 4.9% as requested as an interim overall goal by the State of Alaska Department of Transportation and Public Facilities (ADOT/PF) for FAA projects. ADOT/PF projects are in a substantially similar market and ADOT/PF has established this overall goal in compliance with Part 26. ADOT/PF is in process of revising their plan and has requested this interim goal, based on their previously approved plan goal.

Step 2: Adjusting the Base Figure

In accordance with Part 26, the base figure of the goal from another recipient is to be adjusted for differences in the local market and the recipient's contracting program. The local market and contracting program of the City are substantially similar to the market and contracting program of ADOT/PF such that no adjustment in the base figure is necessary.

The overall goal therefore is 4.9% of FAA funds to be expended in FAA-assisted contracts.

Attachment 2

Section 26.51: Breakout of Estimated Race-Neutral & Race-Conscious Participation

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

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation (e.g. unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing information on contracting procedures and specific contract opportunities (e.g. ensuring the inclusion of DBEs and other small businesses on recipient mailing lists for bidders, ensuring the dissemination to prime bidders lists of potential subcontractors);
3. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects and achieve entual self-sufficiency;
4. Utilizing the state-wide DBE directory and ensuring prime contractors are aware of its location.

A disparity study has not been completed for the City or for the State of Alaska. A disparity study is being planned by ADOT/PF and the members of the UCP and should be completed in 2007. According to direction from DOT, race-conscious contract goals cannot be utilized. We estimate that, in meeting our overall goal of 4.9%, we will obtain 4.9% from race-neutral participation and 0% through race-conscious measures.

We will track and report race-neutral DBE participation. 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.

Attachment 3

Regulations: 49 CFR Part 26