



CITY OF SANTA BARBARA
SANTA BARBARA MUNICIPAL AIRPORT
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM
FY 2015-2018

Revised Program Statement

December 2016

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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

Santa Barbara Municipal Airport has established a Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Santa Barbara Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Airport has signed airport grant assurances that it will comply with 49 CFR Part 26.

It is the policy of the Airport to ensure that ACDBEs as defined in Part 26, have an equal opportunity to receive and participate in federally assisted contract opportunities. It is also the Airport's policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs);
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

Deanna Zachrisson, Airport Business Development Manager, has been designated as the DBE Liaison Officer (DBELO). In that capacity, Ms. Zachrisson 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 Airport in its financial assistance agreements with the Department of Transportation.

The Airport has disseminated this policy statement to the City Council and within the organization. The Airport has distributed this statement to DBE and non-DBE business communities that perform work on DOT-assisted contracts.

Santa Barbara Airport – Disadvantaged Business Enterprise Program

The distribution was accomplished by posting to the Santa Barbara Airport website, email notification through the City and County of Santa Barbara’s business licensing offices and by notices provided to the Airports Council International – North America, the Association of American Airport Executives, and the Airport Minorities Advisory Council (AMAC) for further dissemination.

Hazel Johns, Airport Director

Date

Deanna Zachrisson, DBE Liasion Officer

Date

DRAFT

SUBPART A – GENERAL REQUIREMENTS

Section 26.3 – Applicability

Santa Barbara Municipal Airport is a recipient of federal airport funds and therefore 49 CFR Part 26 is applicable to airport projects funded in whole, or in part, with federal funding.

Section 26.5 – Definition of Terms

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

Section 26.7 – Nondiscrimination

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

In administering its DBE program, the Airport will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 – Reporting and Recordkeeping Requirements

Santa Barbara Airport will transmit to the Federal Aviation Administration (FAA) annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form, found in Appendix B to this part. The Airport will also report the DBE contractor firm information either on the FAA DBE Contractor’s Form or other similar format. The Airport will begin using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY 2015 reports due December 1, 2015.

Bidders List: 26.11(c): Santa Barbara Airport will create and maintain a bidders list, consisting of information about all DBE and non-DBE firm that bid or otherwise compete for federally assisted contract work. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on federally-assisted contracts as the Airport sets its overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts. Santa Barbara Airport will require this information to be submitted by all bidders for a federally-assisted contract at the time of bid. The Airport will collect this information by providing a bidders form both in person and online to collect information about bidders.

Section 26.13 – Federal Financial Assistance Agreement

Santa Barbara Airport has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13 (a) - Each financial assistance agreement that Santa Barbara Airport signs with a DOT operating administration (FAA or other primary recipient) will include the following assurance:

Santa Barbara Airport shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. Santa Barbara Airport shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. Santa Barbara Airport'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 Santa Barbara Airport of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR 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: 26.13 (b) – Santa Barbara Airport will ensure that the following clause is included in each contract the Airport signs with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Santa Barbara Airport deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsive.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 – DBE Program Updates

Santa Barbara Airport is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. The Airport is not eligible to receive federal financial assistance unless the Department of Transportation (DOT) has approved its DBE program and remains in compliance with it and this part. Santa Barbara Airport will continue to carry out the program until all funds from DOT financial assistance have been expended. The Airport is not required to submit regular updates to its program, as long as it remains in compliance. However, the Airport will submit significant changes in the program for approval.

Section 26.23 – Policy Statement

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

Section 26.25 – DBE Liaison Officer (DBELO)

Santa Barbara Airport has designated the following individual as the DBE Liaison Officer:

Deanna Zachrisson, Airport Business Development Manager
Santa Barbara Airport
601 Firestone Road
Santa Barbara, CA 93117
805-692-6030
dzachrisson@santabarbaraCA.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Santa Barbara Airport complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Airport Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has one additional full-time equivalent to support the program to assist in the administration of the program. The duties and responsibilities include the following:

- Gathers and reports statistical data and other information as required by DOT.
- Works with departments to set overall annual goals.
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements so that race-neutral DBE goals are included in solicitations and monitors results.
- Analyzes Santa Barbara Airport's progress toward attainment and identifies ways to improve progress.
- Participates in pre-bid meetings.
- Advises the City on DBE matters and achievement.
- Determine contractor compliance with good faith efforts.
- Plans and participates in DBE training seminars.
- Acts as liaison to the Unified Certification Program (UCP) in California.
- Provides outreach to DBEs and community organizations to advise them of opportunities.
- Maintains the agency's updated directory on certified DBEs.

Other Airport staff support the program in numerous ways, including but not exclusively by:

- Gathering and reporting statistical data and other information as required by FAA or DOT.
- Maintaining the Airport's updated directory on certified DBEs and distinguishes them from ACDBEs.
- Participating in DBE training seminars.
- Assuring that information about minority business associations/groups, media outlets and financial institutions remains current.
- Acting as liaison to the Unified Certification Program (UCP) in California.

Section 26.27 – DBE Financial Institutions

It is the policy of Santa Barbara Airport 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.

Santa Barbara Airport has routinely examined the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, which are outlined in Attachment 2. The Airport will conduct this examination on an annual basis and update the information as needed. This information will remain available to DBE businesses seeking financial support for projects.

Section 26.29 – Prompt Payment Mechanisms

Santa Barbara Airport has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

The Airport will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. The Airport will use one of the following methods to comply with this requirement:

Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

Santa Barbara Airport will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by Santa Barbara Airport. When Santa Barbara Airport has made an incremental acceptance of a

portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Santa Barbara Airport will provide appropriate means to enforce the requirements of this section. Contractors are required to notify the Airport in the event that payment may be withheld from a subcontractor, and must demonstrate evidence of good cause. The Airport must provide its prior written approval with specific stipulations regarding the conditions under which payment will be released.

Santa Barbara Airport will include the following clause in each federally-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Santa Barbara Airport. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of Santa Barbara Airport. This clause applies to both DBE and non-DBE subcontractors.

Santa Barbara Airport has also established, as part of its DBE program, the following mechanism to ensure prompt payment: a contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.

Section 26.31 – Directory

Santa Barbara Airport uses the State of California UCP DBE directory, maintained by the State. The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The California UCP revises the Directory daily. The Airport will make the Directory available in its administrative offices at 601 Firestone Road, Santa Barbara, CA 93110 or can be obtained at www.californiaucp.org

Section 26.33 – Over-Concentration

Santa Barbara Airport has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 – Business Development Programs

Santa Barbara Airport does not independently operate small business programs, rather collaborates with stakeholders and partners who do have such programs. The Goleta Chamber of Commerce in the surrounding city of Goleta where the Airport resides has a Goleta

Entrepreneur Magnet (GEM) program in collaboration with the University of California Santa Barbara and the City of Goleta <http://goletaentrepreneurs.com/>. The City of Santa Barbara also offers a program to assist small businesses that wish to do business in Santa Barbara.

Section 26.37 – Monitoring and Enforcement Mechanisms

Santa Barbara Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. The Airport will implement similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available in the event of non-compliance with the DBE regulation by a participant in the DBE Program.
3. The Airport will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. The Airport will implement a monitoring and enforcement mechanism that will include written certification that the Airport has reviewed contracting records and monitored work sites for this purpose. This will be accomplished by an interim and/or close-out reviews of performance under contract requirements to assure compliance with Part 26 regulations.
5. The Airport will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In the Airport's reports of DBE participation to DOT, the Airport will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 – Fostering Small Business Participation

The Airport works methodically to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or

subcontractors. The Airport will actively pursue the means to foster small business participation; doing so is a requirement of good faith implementation of its DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 – Set-asides or Quotas

Santa Barbara Airport does not use quotas in any way in the administration of this DBE program.

Section 26.45 – Overall Goals

Santa Barbara Airport will establish an overall DBE goal covering a three-year federal fiscal year period if the Airport anticipates awarding federally funded prime contracts with a cumulative total value that exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f) Santa Barbara Airport will submit its overall three-year DBE Goal to FAA by August 1 as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Hub Primary	All regions	August 1, 2015 (2016/2017/2018)	August 1, 2018 (2019/2020/2021)

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If Santa Barbara Airport does not anticipate awarding federally funded prime contracts the cumulative total value of which exceeds \$250,000 during any of the years within the three-year reporting period, the Airport will not develop an overall goal; however, this DBE Program will remain in effect and Santa Barbara Airport will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. The first step is to determine the relative availability of DBEs in the market area, “base figure.” Santa Barbara Airport will use the California Unified Certification Plan DBE directory and/or an Airport bidders list as a method to determine the base figure.

Step 2. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation and/or information about barriers to entry to past competitiveness of DBEs on Contracts. Once the Airport has calculated a base figure, it will examine all of the evidence available in the jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

In the event that the Airport uses a bidders list, it will: a) Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on federally assisted prime contracts or

subcontracts in the past three years; b) Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period, and c) Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in the market. When using this approach, the Airport will use a bidders' form mechanism to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on the Airport's federally assisted contracts.

Any methodology chosen by Santa Barbara Airport will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the market. The Airport understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of the above section is not an acceptable alternative means of determining the availability of DBEs.

26.45 (g)(1) In establishing the overall goal, Santa Barbara Airport will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Airport's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the Airport's goal setting process, and it will occur before the Airport is required to submit the goal methodology to the operating administration for review pursuant to paragraph (f) of this section. The Airport will document in its goal submission the consultation process that the Airport engaged in. Notwithstanding paragraph (f)(4) of this section, the Airport will not implement the proposed goal unless compliant with this requirement.

In addition, Santa Barbara Airport will publish a notice announcing the proposed overall goal before submission to the operating administration on August 1. The notice will be posted on the City of Santa Barbara's and the Airport's website and publicized with the Santa Barbara, Goleta and Carpinteria (CA) Chambers of Commerce. If the proposed goal changes following review by the operating administration, the revised goal will be publicized in the same fashion. The Airport will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at the principal office and that Santa Barbara Airport and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent and include offices and websites where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

The overall three-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and the Airport's responses.

The Airport will begin using its overall goal on October 1 of the reporting period, unless otherwise instructed by DOT/FAA.

Section 26.45 (e) – Project Goals

If permitted or required by the FAA Administrator, the Airport will express its overall goals as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If the Airport establishes a goal on a project basis, The Airport will begin using the goal by the time of the first solicitation for a federally assisted contract for the project.

Section 26.45(f) – Prior Operating Administration Concurrent

Santa Barbara Airport understands that the Airport is not required to obtain prior operating administration concurrence with its overall goal. However, if the operating administration's review suggests that the overall goal has not been correctly calculated or that the method for calculating goals is inadequate, the operating administration may, after consulting with the Airport, adjust the overall goal or require that the Airport do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

Section 26.47 – Failure to meet overall goals

Santa Barbara Airport will maintain an approved DBE Program and overall DBE goal, if applicable, as well as administer the DBE Program in good faith in order to be considered to be in compliance with this part.

If Santa Barbara Airport awards and commitments shown on its Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the Airport will do the following in order to be regarded by the Department as implementing the DBE Program in good faith:

1. Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems identified in the analysis which will enable the Airport to meet fully the goal for the new fiscal year;
3. Santa Barbara Airport will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The Airport will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to FAA upon request.

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

(a) Santa Barbara Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communications programs 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 bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. 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 eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Section 26.51(d-g) – Contract Goals

Santa Barbara Airport will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39.

If the Airport’s projected participation can be met fully using race-neutral means, the Airport will not set contract goals unless it becomes necessary in order to meet the overall goal. In this event, the Airport will establish contract goals only on those federally assisted contracts that have subcontracting possibilities. The Airport 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). The Airport will express its contract goals as a percentage of the Federal share of a DOT-assisted contract.

Section 26.53 – Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c)) : The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The Airport Business Development Manager 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. The Airport will ensure that all information is complete and accurate and adequately documents the bidder/offeror’s good faith efforts before the Airport commits to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b)): In solicitations for federally assisted contracts for which *a contract goal has been established*, the Airport will require the following:

1. Award of the contract will be conditioned on meeting the requirements of this section;
2. All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each DBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
3. The Airport will require that the bidder/offeror present the information required by paragraph (b)(2) of this section: a) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or b) Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

Administrative reconsideration (26.53(d)): Within seven business days of being informed by Santa Barbara Airport that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Deanna Zachrisson, Airport Business Development Manager, 601 Firestone Road, Santa Barbara, CA 93117, (805)967-7111, dzachrisson@santabarbaraCA.gov. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the Airport's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The Airport 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 procedures in situations when there are contract goals (26.53(f)(g)):The Airport will include in each prime contract a provision stating:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the Airport's written consent as provided in this paragraph 26.53(f); and

That, unless consent is provided under this paragraph 26.53(f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Airport will require the contractor that is awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions. The Airport will require the prime contractor to obtain prior approval in the event of a substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

The Airport will require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without prior written consent. This includes, but not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The Airport will provide such written consent only if it agrees, for reasons stated in a concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. The Airport has determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides the Airport with written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE credit for the type of work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
10. Other documented good cause that the Airport has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Prior to requesting permission to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Airport, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the Airport and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Airport should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Airport may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

The Airport will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that The Airport established for the procurement. The good faith

efforts shall be documented by the contractor. If the Airport requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the Airport shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

The Airport will include in each prime contract the contract clause required by § 26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section that the Airport deems appropriate if the prime contractor fails to comply with the requirements of this section.

If the contractor fails or refuses to comply in the time specified, the Airport 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 Airport may issue a termination for default.

Sample Bid Specification: In the event that the Airport establishes a *contract goal*, it will use the sample bid specification below in order to collect information necessary to determine whether a bidder/offeror has satisfied the program's good faith efforts requirement:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of Santa Barbara Airport 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 [as determined in the goal calculation Attachment ___] 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.

In addition, 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) substantiate that each DBE firm is certified in a NAICS code applicable to the kind of work the firm would perform on the contract; (4) the dollar amount of the participation of each DBE firm participating; (2) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; and (5) written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 – Counting DBE Participation

The Airport will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. The Airport will not count the participation of a DBE subcontract toward a contractor’s final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

If the firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the Airport will not count the firm’s participation toward any DBE goals, except as provided for in 26.87(j).

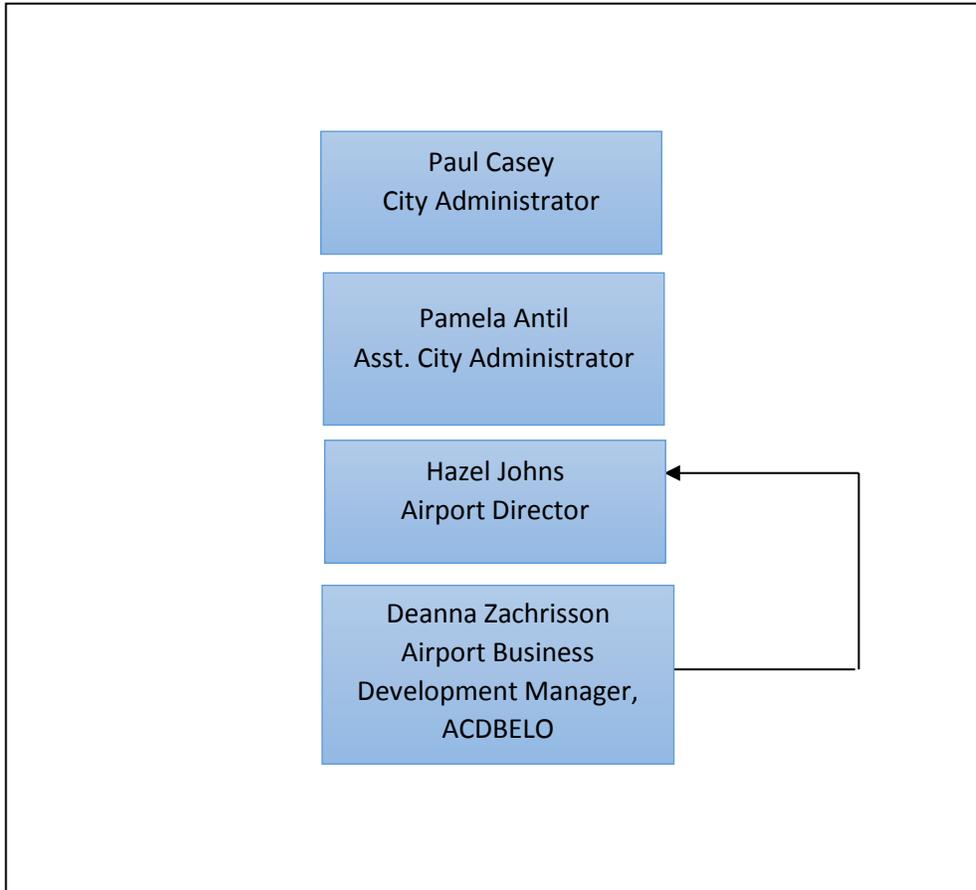
SUBPART D – COMPLIANCE AND ENFORCEMENT

Monitoring Payments to DBEs

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

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

ATTACHMENT 1. Organizational Chart



ATTACHMENT 2. DBE Directory

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ATTACHMENT 3. Monitoring and Enforcement Mechanisms

The Airport has several remedies available 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. Breach of contract action, pursuant to California state statute

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 23 and 2 CFR parts 180 and 1200
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

The Airport will implement various mechanisms to monitor program participants to ensure they comply with Part 26, including, but not limited to the following:

1. The Airport will insert the following provisions into concessions agreements and management contracts:
 - A. Contracts clearly state that they are subject to the requirements of the DBE program 49 CFR Part 26.
2. The Airport will implement the compliance and monitoring procedures as follows:
 - A. The Airport will confirm on an annual basis, in conjunction with participation reporting, the DBE participants remain certified in the State of California.
 - B. The Airport staff will monitor ongoing design and construction projects in such a fashion as to be able to confirm actual participation by DBE subcontractor firms.
 - C. The Airport will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract.
 - D. The Airport will perform unscheduled 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.
3. The Airport will implement the following additional monitoring and compliance procedures:
 - A. Failure to comply with the provisions and requirements of 49 CFR Part 26 is considered to be a material default of a contract.

ATTACHMENT 4.

Section 26.45: Overall Goal Calculation

The Airport has determined Santa Barbara, San Luis Obispo and Ventura counties to be the market area for purposes of establishing a DBE goal. The market area is the geographical area in which the substantial majority of firms which seek to compete for contracts at the Airport are located and the geographical area in which the firms receive a substantial majority of construction contract revenues are located.

The overall goal calculation is the result of an analysis conducted by the Airport using information about the average or typical annual spending on DOT-assisted contracts, the types of work typically performed by contractors for the Airport, the availability of DBEs for this work, and the typical dollar amounts and percentages awarded to DBE-certified firms.

Methodology Used to Calculate Overall Goal

Step 1 26.45(c): Base Figure

As a means of determining a base figure, the Airport identified the relative availability of services provided by DBE-certified contractors for each type of work both historically awarded, and anticipated to be awarded in the goal period. Both non-DBE and DBE firms provide many different types of services, therefore, this is not an illustration of the number of firms, but rather the availability of the service by non-DBE vs. DBE firms.

NAICS	Work Description	All firms	DBE firms	%
115112	Soil Preparation, Planting and Cultivating	21	1	5%
237110	Water and Sewer Line and Related Structures Construction	59	7	12%
237130	Power and Communication Line and Related Construction	21	2	10%
237310	Highway, Bridge and Street Construction	39	9	23%
237990	Other Heavy and Civil Engineering Construction	20	5	25%
238110	Poured Concrete Foundation and Structure	126	5	4%
238120	Structural Steel Contractors	26	3	11%
238210	Electrical Contractors	406	0	0
238910	Site Preparation Contractors	177	8	4%
238990	All Other Specialty Trade Contractors	168	4	2%

Santa Barbara Airport – Disadvantaged Business Enterprise Program

423690	Electronic Parts and Equipment Merchant Wholesalers	83	0	0
531320	Real Estate Appraisal Services	57	0	0%
541310	Architectural Design Services	155	4	3%
541320	Landscape Architectural Services	48	6	12%
541330	Engineering Services	479	10	2%
541340	Drafting Services	8	4	50%
541370	Surveying and Mapping	40	2	5%
541611	General Management Consulting	343	8	2%
541618	Other Management Consulting Services	25	5	20%
54151	Computer Systems Design and Related Services	293	7	2%
541620	Environmental Consulting Services	97	10	10%
541690	Other Scientific and Technical Consulting Services	305	9	3%
561730	Landscaping Services	651	3	>1%
562910	Remediation Services	24	2	8%
811213	Communication Equipment Repair and Maintenance	5	1	20%
Total Non-DBE vs. DBE-certified Provision of Services		3676	115	3%

The base figure for the relative availability of DBEs was researched as illustrated above.

Ready, willing, and able DBEs: = 115

All firms ready, willing and able = 3,676

The data source or demonstrable evidence used to derive the **numerator** was the Federal Aviation Administration dbE-Connect system list of certified ACDBEs in California, as well as the Census Bureau’s County Pattern Database, factfinder.census.gov

The data source or demonstrable evidence used to derive the **denominator** was the United States Census Bureau, <http://www.census.gov/eos/www/naics/> and <http://www.census.gov/econ/cbp/index.html>

When the Airport divided the numerator by the denominator the Airport arrived at the Step 1 base figure for the overall goal for DBE participation of: 3%

Step 2: 26.45(d) Adjustment to Base Figure

After calculating a base figure of the relative availability of DBEs, the Airport examined evidence to determine what adjustment was needed to the Step 1 base figure in order to arrive at a defensible overall goal. Data considered in evaluation of the adjustment to the base figure included the median of historical DBE participation. The median participation over the previous five year period was 2.5%.

Federal Fiscal Year	2012	2013	2014	2015	2016	Total	Average
Total ACIP Expenditures	\$3,275,444	\$4,114,529	\$2,921,665	\$2,888,603	\$3,120,915	\$16,321,157	\$3,264,231
Federal Share ACIP Funds	\$3,106,932	\$3,770,813	\$2,656,188	\$2,619,562	\$2,830,790	\$14,984,285	\$2,996,857
Total DBE Expenditures	\$45,207	\$60,746	\$73,747	\$2,147	\$1,752,472	\$1,934,319	\$386,864
Federal Share DBE Expenditures	\$42,946	\$56,340	\$66,972	\$1,947	\$1,588,791	\$1,756,996	\$351,399
Average %	1.4%	1.5%	2.5%	<1%	56%	12%	

The 2016 participation of over half of all expenditures was due to a DBE award of a prime electrical lighting contract. This award should be considered an anomaly. In an effort to determine a realistic goal, the Airport calculation eliminated both the lowest year and the highest year of participation, and determined an average based on those years. As a result, and in order to reflect as accurately as possible the DBE participation the Airport would expect in the absence of discrimination, the Airport has adjusted the base figure to 2%.

Amount of Goal

Santa Barbara Airport's overall goal for the following time period 2016-2019 is the following: 2% of the Federal financial assistance that the Airport will expend in DOT-assisted contracts.

Public Participation

Consultation: Section 26.43.

Santa Barbara Airport initiated a public consultation process in order to receive feedback prior to submittal of its proposed goal.

On November 16, 2016, the Airport’s DBELO presented information about the DBE program and the proposed goal setting process to the City of Santa Barbara Airport Commission. This meeting was duly advertised to the public and also video recorded for later public viewing.

ATTACHMENT 5. – RACE NEUTRAL AND RACE CONSCIOUS PARTICIPATION

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

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

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport uses the following race-neutral measures. The Airport understands that it will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying DBEs and other small businesses who may be interested in participating under 49 CFR Part 26;
2. Notifying DBEs of contracting opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring projects so as to encourage and facilitate the participation of DBEs;
4. Ensuring that competitors for opportunities are informed during pre-solicitation meetings about the sponsor's DBE program;
5. Providing information concerning the availability of DBE firms to contractors to assist them in obtaining DBE participation.

The Airport estimates that, in meeting the overall goal of 2%, it will obtain 100 percent from race-neutral participation and zero percent through race-conscious measures. The supporting basis for this determination is that the Airport's participation has at times reached significantly higher levels, balanced by other years of participation near 1-2%. A goal of 2% appears to be a goal achievable in an environment absent discrimination.

In the unlikely event that the Airport anticipates that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use the following race-conscious measures to meet the overall goal:

The Airport will establish contract-specific goals for particular contracting opportunities.

1. The Airport will negotiate with potential contractors to include DBE participation.

In order to ensure that the DBE program will be narrowly tailored to overcome the effects of discrimination, if the Airport uses contract goals, it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and the Airport will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.

The Airport will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

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ATTACHMENT 6.

FORMS 1 & 2 DEMONSTRATION OF GOOD FAITH EFFORTS

FORM 3 BIDDERS INFORMATION FORM

All documents will be provided as separate documents as attached to bid documents.

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 a submits 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.)

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ATTACHMENT 7. FINANCIAL INSTITUTIONS

The Airport identified no financial institutions with state or federal certifications as a minority or woman owned disadvantaged firms (<http://www.dot.ca.gov/ucp/GetLicenseForm.doc>). Further, the Airport searched under minority-owned depository institutions, <http://www.federalreserve.gov/releases/mob/> and identified one qualified banking institution:

Royal Business Bank
366 W. Esplanade Dr.,
Oxnard, CA 93036
(805) 604-7600 Phone
(805) 604-4447 Fax

Headquarters office:
Royal Business Bank
660 S. Figueroa St.,
Suite 1888
Los Angeles, CA 90017
(213) 627-9888 Phone
(888) 616-8188 Toll Free

<https://www.royalbusinessbankusa.com/>

This is a Chinese-American business oriented bank, has headquarters located in Los Angeles, and has 10 branches with a working capital of \$137 million.

ATTACHMENT 8: CERTIFICATION APPLICATION FORMS

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ATTACHMENT 9: REGULATIONS – 49 CFR PART 26

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