

Port of Walla Walla, Washington
Walla Walla Regional Airport



Disadvantaged Business Enterprise (DBE)
Program Plan

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

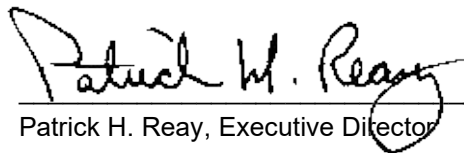
The Port of Walla Walla (Port) oversees the Walla Walla Regional Airport (Airport) and has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Port of Walla Walla has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Port has signed an assurance that it will comply with 49 CFR Part 26. The website for 49 CFR Part 26 is shown in Attachment 1.

It is the policy of the Port of Walla Walla to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also Port of Walla Walla policy to engage in the following actions on a continuing basis:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the marketplace outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Jennifer Skoglund has been designated as the DBE Liaison Officer. In that capacity, Ms. Skoglund 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 Port in its financial assistance agreements with the Department of Transportation.

The Port of Walla Walla has disseminated this policy statement to 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. The distribution was accomplished through advertising mediums. Additionally, this document is made available to anyone who requests to see it during the normal business hours of the Port of Walla Walla office.



Patrick H. Reay, Executive Director
Port of Walla Walla

July 19, 2021

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The Port of Walla Walla is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

The Port of Walla Walla will use terms in this program that have the meaning defined in Part 26, §26.5.

Section 26.7 Non-discrimination Requirements

The Port of Walla Walla 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 Port of Walla Walla 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 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT/FAA as follows:

The Port of Walla Walla will transmit to FAA annually by December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form, as described in Appendix B to Part 26. The Port will similarly report the required information about participating DBE firms. All reporting will be done through the DOT/FAA official reporting system, or another format acceptable to DOT/FAA as instructed thereby.

Bidders List: 26.11(c)

The Port of Walla Walla will create and maintain a bidders list. 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 the Port's DOT-assisted contracts for use in helping to set overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

This information will be collected through the Bidders List, included in this document Attachment 2. The Bidders List will be a mandatory addition to all responsive bid packages for federally funded projects received by the Airport.

Records retention and reporting:

The Port will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, The Port will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with all applicable record retention requirements of the Port's financial assistance agreement.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a) - Each financial assistance agreement the Port of Walla Walla signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The Port of Walla Walla 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 Port of Walla Walla 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 Port of Walla Walla 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 Port of Walla Walla 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: 26.13b – The Port of Walla Walla will ensure that the following clause is included in each DOT-funded contract it 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 the recipient 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-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The Port of Walla Walla 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 Port is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and The Port is in compliance with it and Part 26. The Port will continue to carry out this program until all funds from DOT financial assistance have been expended. The Port does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT 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)

The Port has designated the following individual as our DBE Liaison Officer:

Name	Jennifer Skoglund
Title	Airport Manager
Address	310 A Street Walla Walla, WA 99362
Telephone Number	509-525-3100
E-mail Address	js@portwallawalla.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Port of Walla Walla complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Port of Walla Walla Executive Director and Port Commission concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 3 to this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO may retain a consultant 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.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with all 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 DBE goals are included in solicitations and monitors results.
- Analyzes Port of Walla Walla's progress toward attainment and identifies ways to improve progress.

- Participates in pre-bid meetings.
- Advises the Executive Director/governing body on DBE matters and achievement.
- Determine contractor compliance with good faith efforts.

Section 26.27 DBE Financial Institutions

It is the policy of the Port of Walla Walla 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.

To date, no DBE financial institutions have been identified in the market area for the Walla Walla Regional Airport. The availability of these institutions will be reviewed annually.

Section 26.29 Prompt Payment Mechanisms

The Port of Walla Walla requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the Port of Walla Walla established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the Port of Walla Walla.

The Port of Walla Walla ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the Port of Walla Walla has selected the following method to comply with this requirement:

- Decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

To implement this measure, the Port of Walla Walla includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime construction contract:

90-06 Partial payments. Partial payments will be made to the Contractor at least once each month as the work progresses. Said payments will be based upon estimates, prepared by the RPR, of the value of the work performed and materials complete and in place, in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with paragraph 90-07, *Payment for Materials on Hand*. No partial payment will be made when the amount due to the Contractor since the last estimate amounts to less than five hundred dollars.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the RPR to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in paragraph 90-09, *Acceptance and Final Payment*.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

Section 26.31 Directory

The Port of Walla Walla is a non-certifying member of the Washington Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31. The Port uses the State of Washington 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 State of Washington revises the Directory as additions, deletions and other changes occur. The Directory may be found at: <http://omwbe.wa.gov/directory-of-certified-firms/>

Section 26.33 Over-Concentration

The Port of Walla Walla has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Port of Walla Walla has not established a business development program.

Section 26.37 Monitoring Responsibilities

The Port of Walla Walla implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in the Port's DBE program.

The Port actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

The Port of Walla Walla will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the

Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 4 lists the regulation, provisions, and contract remedies available to us in the event of non-compliance with the DBE regulation by a participant in our DBE Program.
3. We 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. We will implement a monitoring and enforcement mechanism that will include an evaluation to the time of closeout to verify that DBEs performed the work committed at contract award. This will be accomplished by reviewing pay applications submitted by the prime contractors. These pay applications will contain signatory agreement to the requirements set forth regarding payments to subcontractors.
5. We 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 our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

Monitoring Payments to DBEs and Non-DBEs

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

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

Prompt Payment Dispute Resolution

The Port of Walla Walla will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

The Port will facilitate meetings between the prime and subcontractor and include the resident project representative and/or project manager. These meeting will include authorized representatives for all parties involved.

The Port of Walla Walla has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

- Alternative dispute resolution (ADR)
 - The Port requires that the prime contractor submit a detailed alternative dispute resolution plan for approval prior to issuance of notice to proceed.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- In situations where a subcontractor is not comfortable contracting prime directly regarding payment or is unable to resolve payment discrepancies with prime, the subcontractor should initiate the complaint through direct contact with the DBELO.
- The affected subcontractor may contact the responsible contact with the operating administration if filing a prompt payment complaint with the DBELO does not result in effective action by The Port to resolve the disputes.
- The nature and origin of prompt payment complaints and their resolutions will be reported in an acceptable format to the FAA pursuant to Sec. 157 of the FAA Reauthorization Act of 2018.

Enforcement Actions for Noncompliance of Participants

The Port of Walla Walla will provide appropriate means to enforce the requirements of §26.29. These means include:

- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- Issue a stop-work order until payments are released to subcontractors
- Other penalties for failure to comply, up to and including contract termination

The Port of Walla Walla will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The Port of Walla Walla reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is performed by the DBEs to which the work was committed. Work site monitoring is performed by DBELO. Contracting records are reviewed by DBELO. The Port will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering small business participation.

The Port of Walla Walla has created a Small Business element 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 Port of Walla Walla's Small Business element is incorporated as Attachment 5 to this DBE Program. We will actively implement the program elements to foster small business participation; doing so is a requirement of good faith implementation of our DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The Port of Walla Walla will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period, excluding land acquisition and equipment projects. In accordance with §26.45(f), the Port of Walla Walla will submit its overall Three-year DBE Goal to FAA by August 1st as required by the schedule established by and posted to the website of the FAA:

https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/Schedule_of_DB_E_and_ACDBE_Reporting_Requirements_Dec_2017_Issue.pdf

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Hub Primary	All Regions	August 1, 2021 (2022/2023/2024)	August 1, 2024 (2025/2026/2027)

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Port of Walla Walla does not anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any of the years within the three-year reporting period, we will not develop an overall goal; however, this DBE Program will remain in effect and the Port 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”. We will use DBE Directories and Census Bureau Data as a method to determine our base figure. The Port 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 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, 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. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The Port of Walla Walla will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

If we use a bidders list, we will do the following: Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime

or subcontracts in the same time period. 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 your market. When using this approach, we will establish a mechanism (documented in our goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on our DOT-assisted contracts.

Any methodology selected 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 Port of Walla Walla market. We understand 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 paragraph (c)(2) of this section (above), is not an acceptable alternative means of determining the availability of DBEs.

Step 3. Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

In establishing the overall goal, the Port of Walla Walla 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 Port of Walla Walla'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 Port of Walla Walla's goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, the Port of Walla Walla will publish a notice announcing our proposed overall goal before submission to the operating administration by August 1st. The notice will be posted on our official internet web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be posted on our official internet web site. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the Port of Walla Walla 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 (including 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 Port of Walla Walla's responses.

The Port will begin using our overall goal on October 1 of the relevant period, unless we have received other instructions from DOT.

Project Goals

If permitted or required by the FAA Administrator we will express our 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 your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

The Port of Walla Walla understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the Port for calculating goals is inadequate, FAA may, after consulting with the Port, adjust the overall goal or require that the goal be adjusted by the Port. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. 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 6 to this program.

Section 26.47 Failure to meet overall goals.

The Port of Walla Walla cannot be penalized or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the Port fails to administer its DBE program in good faith.

The Port of Walla Walla understands that to be considered in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The Port of Walla Walla understands that if the awards and commitments shown on the 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 following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

- (1) Analyse 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 to enable the goal for the new fiscal year to be fully met; and

- (3) The Port of Walla Walla 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. We will retain copy of analysis and corrective actions in records for a minimum of three years and will make it available to [operating administration] upon request.

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

(a) The Port of Walla Walla 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 your 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.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 7 to this program.

Section 26.51(d-g) Contract Goals (applicable for race-conscious participation)

The Port of Walla Walla 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 approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals**Demonstration of good faith efforts (pre-award)**

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

The Port of Walla Walla will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

In all solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (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) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

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

Within 5 business days of being informed by Port of Walla Walla 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:

Reconsideration Official

The Port has designated the following individual as our Reconsideration Official:

Name	Jared Hawkins
Title	Port Legal Counsel
Address	2225 E. Isaacs Ave. Walla Walla, WA 99362
Telephone Number	509-529-5175
E-mail Address	jh@portwallawalla.com

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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts procedural requirements (post-solicitation)

We 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 written consent as provided in this paragraph 26.53(f); and

That, unless our 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.

We 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.

We 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 our 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.

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

We will provide such written consent only if we agree, for reasons stated in our 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) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us 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 we have 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.

Before transmitting to the Port of Walla Walla a request 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 Port, 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 Port of Walla Walla and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why we should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), we 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.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of the Port of Walla Walla as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Port of Walla Walla 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 was established for the procurement. The good faith efforts shall be documented by the contractor. If [Recipient] 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. The Port shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Port of Walla Walla 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 ___% (as determined in the goal calculation in Attachment 8) has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (<https://www.law.cornell.edu/cfr/text/49/part-26>), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform. 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; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeree'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; (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has been paid to the DBE.

In the case of post-award substitutions or additions, if a 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 firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and credit on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Port of Walla Walla will rely upon the Washington State Office of Minority and Women Owned Business Enterprises (OMWBE) for certification and to determine the eligibility of firms to participate as DBEs in DOT – assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

For information about the certification process or to apply for certification, firms should contact:

Sarah Erdmann (OMWBE Deputy Director)
1110 Capitol Way South, Suite 150
Olympia, WA 98501
sarahe@omwbe.wa.gov

The Uniform Certification Application form and documentation requirements are found in Attachment 9 to this program. [*The Uniform Certification Form contained in the Final Rule, 49 CFR Part 26, must be used in this attachment; see §26.83(c)(2).*]

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Port of Walla Walla is a member of the state of Washington's Unified Certification Program. The UCP will meet the requirements of this section. I signed copy of the memorandum of understanding between the UCP and the Port of Walla Walla is included in Attachment 10.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to the Port of Walla Walla

The Port of Walla Walla understands that if it fails to comply with any requirement of this part, the Port may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

Information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law will be safeguarded from disclosure to third parties.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information.

All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The Port of Walla Walla, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The Port of Walla Walla understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

Attachment 1 Regulations: 49 CFR Part 26 or website link

Attachment 2 Organizational Chart

Attachment 3 Bidder's List Collection Form

Attachment 4 DBE Directory or link to DBE Directory

Attachment 5 Overall Goal Calculations *"To Be Submitted Separately"*

Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2

Attachment 7 DBE Monitoring and Enforcement Mechanisms

Attachment 8 DBE Certification Application Form

Attachment 9 State's UCP Agreement

Attachment 10 Small Business Element Program

ATTACHMENT 1

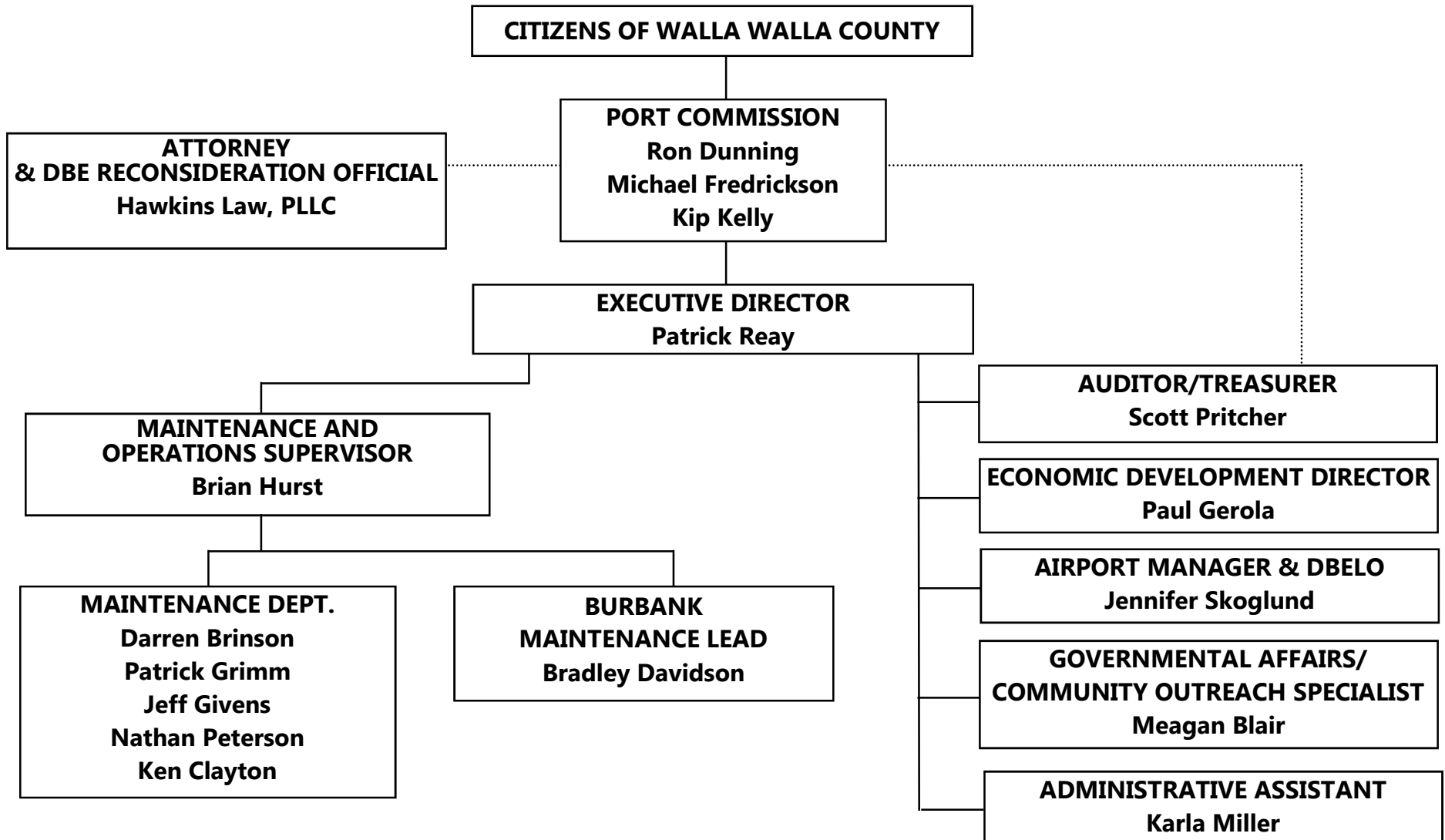
The 49 CFR Part 26 website is:

<http://www.ecfr.gov/cgi-bin/text-idx?SID=a53e961ae3accec24a8640655bbdd783&node=pt49.1.26&rgn=div5>

ATTACHMENT 2

Organizational Chart

PORT OF WALLA WALLA ORGANIZATIONAL CHART



ATTACHMENT 3

BIDDERS LIST

All firms bidding or quoting on subcontracts for this DOT-assisted project are listed below.

Firm Name	Address	Describe Type of Work Firm Performs	Certified DBE (Yes or No)	Age of Firm	GRS*

Note: This form is not necessary if the recipient establishes a bidders list using another methodology (e.g., statistically sound survey of firms, widely disseminated request of firms to report information to the recipient, etc.) as defined in the recipient's DBE plan.

*GRS – Annual Gross Receipts

Enter 1 for less than \$1 million

Enter 2 for more than \$1 million, less than \$5 million

Enter 3 for more than \$5 million, less than \$10 million

Enter 4 for more than \$10 million, less than \$15 million

Enter 5 for more than \$15 million.

ATTACHMENT 4

The State of Washington DBE Directory is found at:

<https://omwbe.diversitycompliance.com/>

ATTACHMENT 5

Walla Walla Regional Airport DBE Overall Goals

(To be submitted separately)

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

[Forms 1 and 2 should be provided as part of the solicitation 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 and should submit documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

LETTER OF INTENT FOR DBE PARTICIPATION

Name of Bidder's Firm: _____

Address: _____ Port: _____ State: _____ Zip: _____

Phone Number: _____

Name of DBE Firm: _____

Address: _____ Port: _____ State: _____ Zip: _____

Phone Number: _____

State Certification Number: _____

Description of work to be performed by DBE firm:

Bidder intends to utilize the above-named Disadvantaged firm for the work described above. The estimated amount of work is valued at \$_____. If the above-named bidder is not determined to be the successful bidder, the Letter of Intent shall be null and void.

Name of DBE Firm: _____

Address: _____ Port: _____ State: _____ Zip: _____

Phone Number: _____

State Certification Number: _____

Description of work to be performed by DBE firm:

Bidder intends to utilize the above-named Disadvantaged firm for the work described above. The estimated amount of work is valued at \$_____. If the above-named bidder is not determined to be the successful bidder, the Letter of Intent shall be null and void.

NOTE: Use additional sheets if needed.

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

The Port of Walla Walla 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. Breach of contract action, pursuant to the terms of RCW 39.19.090

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 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 8

DBE Certification Application Form

Application for State Certification

Thank you for applying for state certification. Before filling out your application, please take a moment to read these instructions.

Why apply for state certification?

Government agencies and some private companies have goals for inclusion of minority and women owned businesses. Becoming certified allows these entities to identify your firm as a certified business and keep track of how they're doing toward their purchasing goals.

Becoming certified also makes you eligible to apply for the [Linked Deposit Program](#), which can decrease interest rates on small business loans up to 2%.

How do I know if I qualify for certification?

The business must be:

- For profit.
- Licensed to do business in Washington State.
- Able to perform the core services necessary to fulfill a contract in the eligible owner(s) area of specialty or expertise.
- A small business based on both of the following size standards:
 - Your business may not exceed \$23.98 million in gross receipts over a three-year average.
 - Size standards according to your businesses' [North American Industry Classification System \(NAICS\) codes](#). OMWBE will assign your business NAICS codes according to the goods and services your business provides. Each NAICS code has a size standard listed in the [SBA's size standard tables](#).

The eligible owner(s) must:

- Be a minority or a woman. For certification purposes, "minority" is defined as Black/African American, Asian, Pacific Islander, Native Hawaiian, Hispanic/Latino, Native American, or Alaska Native. Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis, please call our office for more information. Definitions are listed in state rule, [WAC 326-02-030](#).
- Own at least 51% of the business and show contribution of capital and expertise.
- Control the managerial and day-to-day operations **and** possess the power to direct the management and policies of the business.
- Be a U.S. citizen or permanent U.S. resident.

How long will the application process take?



It takes about 45 to 60 days to process your state certification application, depending on the complexity and completeness of your application. Here's what you can expect:

1. Within a week of receiving your application, we will email you to let you know we have assigned your application to a certification analyst.
2. An analyst will review your application and documents, and call you in about two weeks with questions and any needed additional information.
3. After your analyst receives this additional information, it takes about 2 to 4 weeks to analyze your file.
4. Your application then goes through final review, which takes about 1 to 2 weeks.
5. We will email you a letter once we have made a final decision on your certification.

Application tips

1. Submit a complete application and all required documents listed in the application checklist.
2. Do not leave any area of the application blank.
3. Be responsive to additional information requests. Check your email for correspondence.
4. Be specific when writing your proposed business description. Procurement officials and prime contractors search our online directory for key words related to the goods and services they want to purchase. You can look at OMWBE's online directory for examples: <http://omwbe.wa.gov/directory-of-certified-firms>
5. We recommend you keep a copy of your application packet and supporting documentation for your records.
6. If in doubt, call us. The most common delays occur because of an incomplete application or response to an additional information request. We are here to help you!

Is this the right form?

- Applying for state certification only? Use this application.
- Applying for both state and federal certification?  Use this form for federal certification: <http://omwbe.wa.gov/certification>, and this short form for state certification: <http://omwbe.wa.gov/short>
- Already federally certified by OMWBE and want to add state certification?  Use this short form: <http://omwbe.wa.gov/short>

If you have any questions please call us at 360-664-9750 or 1-800-208-1064
or email us at receptionist@omwbe.wa.gov

You can also visit our office for assistance:
1110 Capitol Way South, Suite 150
Olympia, WA 98501

We are open Monday through Friday from 8:00 a.m. to 5:00 p.m.

Section 1: Business Information

This business is applying for certification as a (choose one of the certification types below):

- ☐ **MBE** Minority Business Enterprise (owned and controlled by at least one minority individual)
 - ☐ **WBE** Women's Business Enterprise (owned and controlled by at least one non-minority woman)
 - ☐ **MWBE** Minority Women's Business Enterprise (owned and controlled by at least one minority woman)
 - ☐ **CBE** Combination Business Enterprise (50% owned and controlled by one or more minority men and 50% owned and controlled by one or more non-minority women)
 - ☐ **SEDBE** Socially and Economically Disadvantaged Business Enterprise (owned and controlled by a non-minority male, determined to be socially and economically disadvantaged on a case-by-case basis). In addition to this application, fill out this addendum. <http://omwbe.wa.gov/wp-content/uploads/2017/04/sedbe-application-addendum.pdf>.
-

1. Legal business name _____

2. Trade name (DBA), if different than legal name: _____

3. Has this business, or its owner, previously applied for certification? ☐ YES ☐ NO

If yes, under what business name? _____

4. Is this business organized for profit? ☐ YES ☐ NO  *If you answer No, your business cannot be certified.*

5. Employer ID Number (EIN) or owner Social Security Number: _____

Please make sure the EIN or Social Security number is the same number on your businesses' W-9 tax form.

6. Washington UBI number: _____ - _____ - _____

7. Date business started: _____

8. Is this business located at a residence? ☐ YES ☐ NO

9. Physical location:

Street Address

Apt/Unit/Suite

City

State

Zip Code

10. Mailing address, if different from above:

Address

City

State

Zip Code

11. Primary phone: _____ Secondary phone: _____

12. Fax: _____

13. Email _____

14. Website _____

15. OMWBE will post a description of your business on our online directory once you are certified. Please provide a concise description of your business' primary activities and the product(s) or service(s) it provides. If your business offers more than one product or service, list the primary product or service first.

This description should include only the products or services your business self-performs and are in the eligible owner(s) area of specialty or expertise. Please use additional paper if necessary.

16. Has this business operated under another name? ☐ YES ☐ NO

If yes, business name: _____

State business operated in: _____ If in Washington, UBI: _____

Is this business currently active? ☐ YES ☐ NO

17. Does the business have a bank account(s)? ☐ YES ☐ NO

If yes, list every person who has signatory authority for account(s):

18. What was your businesses' average number of employees over the last 12 months, including part-time, seasonal, temporary employees, and the owner(s)?

19. Is your business co-located with any other business? ☐ YES ☐ NO

20. Does your business share any of the following with any other business: Owners, employees, space, storage, equipment, inventory, financing, UBI number? ☐ YES ☐ NO

If "yes" to Question 19 or 20, please explain below:

Section 2: Owner Information Instructions

Section 2 must be completed by **each person who has an” ownership interest” in this business.**

What is considered ownership interest?

- Any of the following persons, whether or not they are actively involved in the business:

Type of ownership	Persons
Sole proprietorship	Sole proprietor
General partnership	All partners
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> All general partners All limited partners
Limited liability company	<ul style="list-style-type: none"> All LLC members All managers
Privately held corporation	<ul style="list-style-type: none"> All stockholders
Publicly held corporation	<ul style="list-style-type: none"> All stockholders
Multi-level ownership structures	OMWBE will review each entity to determine which individuals must qualify for certification.

- Any person who receives, or has the right to receive, more than ten percent of either the gross or net sales from the business during any year. These persons are considered to have an ownership interest, whether or not they are actively involved in the business.
 - "Gross sales" includes the entire gross receipts from all sales and services.
 - "Net sales" means gross sales minus cost of goods sold.
- Did any of the above persons use assets to acquire the business that were held jointly or as community property by a spouse or domestic partner? If yes, OMWBE will consider the spouse or domestic partner to have an ownership interest, unless the person:
 - does not participate in the management of the business, and
 - signs the "Non-Participation Statement" (Section 4).

Section 2: Owner Information

Please make enough copies of this Owner Information section for each owner to complete.

1. Owner first name: _____ Last name: _____

2. Gender: ☐ Male ☐ Female

3. Owner is a: ☐ U.S. citizen ☐ Permanent resident of the U.S.

4. Owner's percentage of interest: _____ %

5a. I am a member of one of the following presumptively disadvantaged groups:

- ☐ Black / African American ☐ Hispanic / Latino ☐ Asian / Pacific Islander
☐ Native American / Alaska Native ☐ Native Hawaiian ☐ Female

5b. I am not a member of one of the above presumptively disadvantaged groups, and am applying as a Socially and Economically Disadvantaged Enterprise (SEDBE). ☐

Please fill out the SEDBE addendum at: <http://omwbe.wa.gov/wp-content/uploads/2017/04/sedbe-application-addendum.pdf>.

6. Owner's professional and specialty licenses, if applicable:

<i>License Type</i>	<i>License Number</i>	<i>Expiration Date</i>

7. How did you acquire this business?

- ☐ Started this business myself ☐ I inherited it from: _____
☐ Divorce settlement ☐ It was a gift from: _____
☐ Separate property agreement ☐ I bought it from: _____
☐ Other: _____

8. Initial investment to acquire ownership. Check all that apply and attach appropriate documentation. If you started your business more than three years ago and do not have these documents, please call us.

<i>If you...</i>	<i>Then provide...</i>	<i>Amount or value</i>
<input type="checkbox"/> Used personal funds to start your company	Applicable documents to show investment, such as: <ul style="list-style-type: none"> • Copies of cancelled checks. • Credit card statements. • Copies of bank statements from your personal account showing withdrawal AND statements from company account showing same amount deposited. • 401K, IRA, or other retirement account documents. 	\$
<input type="checkbox"/> Used financing to start your company	Copies of the loan or agreement document that shows you as a personal guarantor. Examples: <ul style="list-style-type: none"> • Purchase agreement • Loan • Promissory note • Line of credit 	\$
<input type="checkbox"/> Provided your business equipment	Receipts if available.	\$
<input type="checkbox"/> Other		\$

9. Do you work for any other person or entity besides this business (this includes any time spent at other businesses you own)? ☐ YES ☐ NO

If yes, name of the business(es): _____

Job title(s): _____

Hours worked per week: _____

10. Which of the following apply to this owner?

<input type="checkbox"/> Unmarried	<input type="checkbox"/> Married	<input type="checkbox"/> Registered domestic partnership	<input type="checkbox"/> Separated	<input type="checkbox"/> Divorced
	Date:	Date:	Date:	Date:

11. Spouse or registered domestic partner:

First name: _____ Last name: _____

12. Fill out the following if your spouse or domestic partner has an ownership interest in the business. Do **not** fill out this section of your spouse or registered domestic partner: 1) does not participate in the management of the business, and 2) signs the "Non-Participation Statement" (Section 4).

Spouse or registered domestic partner is a: ☐ U.S. Citizen ☐ Permanent resident of the U.S.

Spouse or registered domestic partner's gender: ☐ Male ☐ Female

Spouse or registered domestic partner's race:

☐ Black / African American ☐ Hispanic / Latino ☐ Asian / Pacific Islander

☐ Native American / Alaska Native ☐ Native Hawaiian ☐ Caucasian

13. Do you or your spouse or registered domestic partner have an ownership interest in any other business? ☐ YES ☐ NO

If yes:

Name of the business(es): _____

Who has ownership interest: _____

Percentage of ownership: _____

14. Attach current resume for each person who has an ownership interest, all spouses or registered domestic partners, and all key personnel (key personnel are persons who assist the owner(s) in the management and operations of the business). The resume must include:

- Dates, places, titles and duties of former and current employment.
- Past and present ownership in any businesses.
- Types, dates and places of education and training.

Section 3: Duties of Owners, Officers, Directors, Managers and Key Personnel

Complete for **all** management personal who control any of the below functions. Please make enough copies of this form to provide information on each applicable person.

1. Check the frequency of each person's involvement. Please do not leave any questions blank.

	A = Always F = Frequently S = Seldom N = Never	Name: _____ Title: _____ Percent Owned: % Salary: \$ Other benefit: \$	Name: _____ Title: _____ Percent Owned: % Salary: \$ Other benefit: \$
Sets company policy (direction/scope/financial policies)	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Bidding or estimating	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Makes major purchasing decisions	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Makes marketing and sales decisions	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
If business has field operations, supervises field staff	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Manages the office	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Makes management hiring decisions	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Obligates business by contract (for example, credit, bonding or insurance)	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Decides how are profits spent or invested	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N
Signs business checks	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N	<input type="checkbox"/> A <input type="checkbox"/> F <input type="checkbox"/> S <input type="checkbox"/> N



2. Do any of the persons listed in Question 1 perform a management or supervisory function for any other business? ☐ YES ☐ NO
3. Do any of the persons listed in Question 1 own or work for any other business(es) that has a relationship with this business (e.g. ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? ☐ YES ☐ NO

If "yes" to question 2 or 3, please provide the following information:

Name of person	Name of business	Person's title or role	Brief description of business

Section 4: Spouse or Domestic Partner Non-Participation Statement

Complete this form if:

1. You used assets to acquire your business that were held jointly or as community property by a spouse or domestic partner, and
2. You do not wish to have your spouse or domestic partner considered an owner.

In order for OMWBE to not consider your spouse or domestic partner to be an owner, he or she may not participate in the management of the businesses. This means the person may not perform duties or functions required to operate or control the business. Below are examples, please call us if you have any questions.

- Is a director, officer or LLC member.
- Makes management hiring decisions
- Decides how profits are spent or invested.
- Sets company policy (direction, scope, or financial policies).
- Obligates the business by contract (for example, credit, bonding or insurance).
- Sets company policy (direction/scope/financial policies).
- Has discretion over bidding and estimating.
- Has discretion of major purchasing decisions.
- If business has field operations, supervises field staff.

I hereby swear or affirm that

- The applicant's spouse/registered domestic partner does **not** participate in the management of this business.
- The applicant's spouse/registered domestic partner relinquishes control over his or her community interest in this business.

Applicant's printed name

Applicant's signature

Date

*Spouse's/registered domestic partner's
printed name*

*Spouse's/registered domestic partner's
signature*

Date

Section 5: Affidavit

Please make enough copies of this section for all owners to complete including spouse/registered domestic partner if ownership is based on community or joint property.

Section 1 – Affidavit for all Owners

This section applies to every owner, whether or not they are actively involved in the business.

I hereby swear or affirm the following:

- All application statements I have provided to the Office of Minority and Women's Business Enterprises (OMWBE) are true and correct.
- The OMWBE is authorized to contact any companies or individuals in order to verify my application information and accompanying documents.
- Other government agencies are authorized to furnish documents, verify information and provide additional information to OMWBE concerning my application.
- I understand that false statements, omissions or material misrepresentations will be grounds for denial as provided by applicable state law or rule.
- I agree that this completed application and all supporting documentation become the property of the OMWBE when submitted.
- I will provide additional requested information to the OMWBE to determine my eligibility or continued eligibility for certification.
- I agree to provide written notice to the OMWBE of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.). Failure to provide such notice in a timely manner may lead to decertification.
- I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

Section 2 - Socially and Economically Disadvantaged Affidavit

This section applies to the owner(s) who is applying for certification because of his or her socially and economically disadvantaged status (female, minority or other socially and economically disadvantaged individual).

1. ☐ This section does not apply to me.
2. ☐ This section applies to me, and I hereby swear or affirm the following:



I am a socially and economically disadvantaged individual who is an owner of the firm named in this application seeking certification as a minority-owned, woman-owned, or socially and economically disadvantaged business enterprise. In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s). Check all that apply:

☐ Black / African American ☐ Hispanic / Latino ☐ Asian American / Pacific Islander

☐ Native American / Alaska Native ☐ Native Hawaiian ☐ Female

☐ Other: _____

Section 3 – Notarized Signature

I certify and declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Printed name

Signature

NOTARY CERTIFICATE

State of _____ County of _____

Subscribed and sworn to before me this _____ day of _____, 20____ by _____

Signature of Notary Public

Title

Date appointment expires

Document Checklist

Unless otherwise noted, copies of the documents listed below must be included in the application packet. If you have any questions, please call our office before submitting your application.

1. ☐ Copy of a government-issued identification document for all persons who are applying for certification because of his or her socially and economically disadvantaged status. Examples include a driver's license or state issued ID card.
2. ☐ Copy of documentation that shows citizenship or permanent residence in the U.S. for all persons who are applying for certification because of his or her socially and economically disadvantaged status, if different from above.
3. ☐ Initial investment documents as requested in Section 2, Question 7.
4. ☐ Current resumes as requested in Section 2, Question 12.
5. ☐ List of equipment owned, rented or leased in order to perform work. Equipment includes specialized software, computers, printers, vehicles necessary to perform work such as trucks, etc.
 - If the business tax returns submitted with this application contain an equipment depreciation schedule, you do not have to submit a separate equipment list.
 - If equipment is leased or rented, provide copy of signed lease or rental agreements.
6. ☐ Copy of signed rental or lease agreements for office, buildings and land.
7. ☐ Copy of contracts, bids and/or invoices to demonstrate the scope of you indicate your business performs. Include work performed for the past 12 months, up to six total documents.
8. ☐ Copies of insurance policy declaration page (e.g. commercial liability, errors and omissions, etc.), if applicable.
9. ☐ Copy of bonding documents, if applicable.
10. ☐ Business federal tax returns. Last three years of filed and signed IRS tax returns, including all pages, statements and schedules.

If business was started less than one year ago, please provide a Profit & Loss Statement.
11. ☐ Copies of the following documentation about your business structure:

Partnerships	<input type="checkbox"/> Partnership agreement and any amendments <input type="checkbox"/> Last three years of meeting minutes, if available.
Limited Liability Companies	<input type="checkbox"/> Articles of Organization <input type="checkbox"/> Last three years of meeting minutes, if available. <input type="checkbox"/> If more than one LLC member: LLC Operating Agreement and any amendments.
Corporations	<input type="checkbox"/> Articles of Incorporation <input type="checkbox"/> Corporate bylaws and any amendments. <input type="checkbox"/> Stock certificates and ledger if stocks have been issued. <input type="checkbox"/> Last three years of meeting minutes, if available.
Trucking Companies	<input type="checkbox"/> Insurance declaration page for each truck owned or operated by business.

12. ☐ Application Fee: Please select the business's structure below and enclose a check or money order with your application. Make checks payable to OMWBE.

- ☐ Sole Proprietorship (\$50)
- ☐ Partnership (\$75)
- ☐ Corporation (\$100)
- ☐ Limited Liability Company (\$100)

Please include the non-refundable application fee and supporting documentation with your completed application and mail to:

OMWBE
P.O. Box 41160
Olympia WA 98504-1160

If you have any questions please call us at 360-664-9750 or 1-800-208-1064
or email us at receptionist@omwbe.wa.gov

ATTACHMENT 9

State's UCP Agreement

Memorandum of Understanding

Between

**THE WASHINGTON STATE
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
and
PORT OF WALLA WALLA
and
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
for the
STATE OF WASHINGTON
UNIFIED CERTIFICATION PROGRAM**

This Memorandum of Understanding for participation in the State of Washington Unified Certification Program (UCP) is between the **Port of Walla Walla** and the State of Washington, through its Office of Minority and Women's Business Enterprises (OMWBE) and ITS Department of Transportation (WSDOT) and is effective as of the date of the last signatory hereto.

WITNESSETH:

WHEREAS, the Undersigned are recipients of funding and assistance programs administered by the U.S. Department of Transportation (USDOT) and its operational modal, the Federal Aviation Administration (FAA), in the state of Washington;

WHEREAS, Washington State Office of Minority and Women's Business Enterprises (OMWBE) performs certification following the regulations in 49 Code of Federal Regulations (CFR) Part 26;

WHEREAS, 49 CFR 26.81 requires all USDOT recipients in each state to participate in a Unified Certification Program (UCP);

WHEREAS, Chapter 39.19.120 Revised Code of Washington (RCW) designates OMWBE as the exclusive authority for certification of minority, women, and socially and economically disadvantaged business enterprises for all programs administered by the state of Washington, any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington; and

In Consideration of the foregoing recitals, the Undersigned agree as follows:

1. Representation of Accountability

The Washington State Department of Transportation (WSDOT) and OMWBE represent that WSDOT is ultimately accountable and responsible to USDOT for Disadvantaged Business Enterprise (DBE) Certification in the state of Washington and is therefore a necessary signatory to this agreement.

2. Acknowledgement and Acceptance of Unified Certification Program

The Port of Walla Walla agrees to participate in a UCP, as required by 49 CFR Part 26.

3. Designation of Exclusive Certifying Authority; Binding Effect

The Port of Walla Walla agrees as follows:

3.1 OMWBE is now, and shall continue to be the sole and exclusive certification authority for participation in the USDOT DBE Program in the state of Washington in accordance with 49 CFR Part 26 and Chapter 39.19 RCW.

3.2 Final certification determinations made by OMWBE shall be binding and have the full force and effect of law as may be provided by 49 CFR Part 26.

3.3 Only final certification determinations issued by OMWBE prior to the due date for bids or offers on a contract which a firm seeks to participate as a DBE shall be recognized for purposes of award.

4. Notification Responsibilities of the Parties

Each party to this agreement agrees to notify the other parties of all regulatory changes, interpretations and other communications affecting the operation, duties, and/or responsibilities of each party under this agreement.

5. Duties and Responsibilities of OMWBE

In its capacity as the sole and exclusive certification authority in the state of Washington, it is acknowledged that OMWBE shall perform the following duties and have the following responsibilities:

5.1 Comply with and follow all certification standards and nondiscrimination requirements of 49 CFR Part 26, as may be approved from time to time, including without limitation, implementation of all USDOT directives and guidance concerning certification matters.

5.2 Only process applications for certification from firms with principal places of business outside the state of Washington if such firms have received certification determinations from the designated UCPs of the states in which the firms maintain principal places of business.

5.3 Issue administratively final determinations to certify, recertify or remove a firm based upon applications submitted to it for certification and recertification, appeals, third party challenges, ineligibility complaints, recipient-initiated proceedings, and USDOT directives.

5.4 Share information and documents concerning firms certified in the state of Washington with other state UCPs that are considering applications of certification from such firms.

5.5 Maintain a unified *DBE Directory* of firms certified by OMWBE pursuant to this UCP that shall contain all of the information required by 49 CFR 26.31 and be available to the public electronically, on the Internet, and in print.

5.6 Cooperate fully with all oversight, review and monitoring activities of USDOT and the other parties, as it relates to the implementation and ongoing activities of the UCP.

5.7 Cooperate fully with and participate in any audits or certification performance reviews and/or respond to and reply to other requests for information as may be directed to the UCP by USDOT and/or the Federal Transit Administration and/or the **Port of Walla Walla**.

6. Duties and Responsibilities of the **Port of Walla Walla**

The Port of Walla Walla shall perform the following duties and have the following responsibilities:

6.1 Pay a reasonable fee or other appropriate charge that has been established by rule in accordance with RCW 39.19.210 and WAC 326-02-034(3)(a).

6.2 Provide OMWBE and WSDOT with a copy of the **Port of Walla Walla** Disadvantaged Business Enterprise Program Plan, and a copy of the **Port of Walla Walla** Annual DBE Agency Goal Submittal as provided to the Federal Transit Administration.

6.3 Comply with and follow all certification standards and nondiscrimination requirements of 49 CFR Part 26, as may be approved from time to time, including without limitation, implementation of all USDOT directives and guidance to grantees and recipients concerning certification matters.

6.4 Cooperate fully with all oversight, review and monitoring activities of USDOT and/or the Federal Transit Administration, as it relates to the implementation and ongoing activities of the UCP.

6.5 Cooperate fully with and participate in any audits or certification performance reviews and/or respond to and reply to other requests for information as may be directed to the **Port of Walla Walla** by USDOT and/or the Federal Transit Administration and/or OMWBE.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective as of the last date of all the signatories appearing here below.

ACCEPTED:

Washington State Office of Minority and Women's Business Enterprises

BY: Teresa Berntsen
Teresa Berntsen
Director

Date: 9-18-17

Approved as to Form:

Adrian E. Hall
Assistant Attorney General
State of Washington

PORT OF WALLA WALLA

BY: Patrick H. Reay
Patrick H. Reay
Executive Director

Date: August 1, 2017

Approved as to Form (if required):

N/A
Legal Counsel

Washington State Department of Transportation

BY: Roger Millar
Roger Millar
Secretary of Transportation

Date: 10/2/17

Approved as to Form:

Bruce Brown
Assistant Attorney General
State of Washington

ATTACHMENT 10**Small Business Element****The Requirement:**

On February 28, 2011, the U.S. Department of Transportation (DOT) issued a final rule amending Title 49 Code of Federal Regulations (CFR) Part 26 to include a new requirement concerning the fostering of small business opportunities. By this rule, recipients of DOT funds would be required to include a Small Business Element as a portion of their Disadvantaged Business Enterprise (DBE) Program.

Definition of a Small Business:

- 1) DBE firms are eligible to be identified as a Small Business;
- 2) Size standard shall be consistent with 49 CFR 26.5 and will be no larger than the Small Business Administration's size standards.

Suggested Action:

The amendment to Part 26 did not require specific actions to garner small businesses. Instead, several suggestions were identified. Suggestions included, but were not limited to:

- 3) Establishing a small business set-aside program for small contracts,
- 4) Requiring that bidders on large and multi-year design-build contracts specify elements of the contract or specific subcontracts that will be sized for small business participation,
- 5) Requiring contractors to provide subcontracting opportunities, rather than self-performing all work, on contracts without DBE goals,
- 6) Identifying alternative acquisition strategies that promote consortia and joint ventures consisting of small businesses,
- 7) Sizing a portion of all prime contracts for small businesses. That portion was suggested to be large enough that the race-neutral DBE goal could be met if the small businesses happened to be DBE's.

Our Response:

The Port of Walla Walla is dedicated to the creation of a contracting environment that is welcoming to small businesses, including DBE's. Small businesses have long seen subcontracting opportunities on construction jobs at the Walla Walla Regional Airport. The structure of the local economy is such that for many trades, only small businesses are available to perform this work.

Because of our past success in the promotion of small business, our plan for a small business element of the DBE Program is to continue with the contracting practices in place at this airport.

Our Plan:

Prime contracts and subcontracts are available to small businesses as a result of the Airport Improvement Program. The Port of Walla Walla believes that it is currently meeting the objectives of its construction contracting activities by ensuring that a reasonable number of prime contracts and subcontracts are of a size that small businesses, including DBEs, can reasonably perform. Quantities, specifications, and

delivery schedules are arranged to facilitate small business participation. All contracts are divided into multiple bid schedules and bid items to make it easier to define portions of the work to subcontract. The Port of Walla Walla will put into place monitoring of consultant-design projects for possible small business participation and encouraging use of small businesses in projects. The Port of Walla Walla seeks ways to include all available contractors in its contracts; this may include bundling or unbundling jobs or limiting the size of its contracts so that smaller businesses may be awarded contracts. In some cases, jobs usually performed by subcontractors can be performed as an unbundled contract as a prime contract, especially if the outcome of the overall project will not be effected by the unbundled contracting opportunity.

We propose, as an added requirement for this small business element, to impose upon ourselves the burden of collecting evidence that small businesses are performing work on FAA-funded construction projects.

Information on small businesses will be tracked much in the same way that DBE's are currently tracked. For FAA-funded projects, construction contract language would be modified to require subcontractors meeting the small business thresholds set by the Small Business Administration (SBA) to provide notification of their small business status. The Port would collect and maintain records showing what percentage of each project, in terms of dollars, was completed by small businesses.

Assurances:

The Port of Walla Walla will provide the following assurances for this program:

- The program is authorized under state law;
- Certified DBE's that meet the size criteria established under the program are presumptively eligible to participate in the program;
- No geographic preferences or limitations will be imposed on any federally assisted procurement included in the program;
- There are no limits on the number of contracts awarded to firms participating in the program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untired businesses; and
- Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.