

**Tuolumne County, California**  
Columbia Airport/Pine Mountain Lake Airport  
DBE Program  
FFY 2016-2017-2018

**POLICY STATEMENT**

**Section 26.1, 26.23                      Objectives/Policy Statement**

The Columbia Airport and Pine Mountain Lake Airport (Tuolumne County Airports) have established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Tuolumne County Airports have received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Tuolumne County Airports have signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Tuolumne County Airports to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

David Ruby has been delegated as the DBE Liaison Officer. In that capacity, David Ruby 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 Tuolumne County Airports in its financial assistance agreements with the Department of Transportation.

Tuolumne County Airports have disseminated this policy statement to the Tuolumne County Board of Supervisors and all of the components of our organization. We have contacted community and minority organizations. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts via a Public Notice.

  
\_\_\_\_\_  
Tuolumne County Airports Manager

8/25/15  
\_\_\_\_\_  
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 Tuolumne County Airports are the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The Tuolumne County Airports will use terms in this program that have the meaning defined in Section 26.5.

### **Section 26.7 Non-discrimination Requirements**

The Tuolumne County Airports 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 (found in Attachment 1) on the basis of race, color, sex, or national origin.

In administering its DBE program, the Tuolumne County Airports 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) You must continue to provide data about your DBE Program to the Department as directed by DOT operating administrations.

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

We will transmit to FAA annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form. We will also report the DBE Contractor firms contact information either on the FAA DBE Contractor’s Form or other similar format.

*This information may be transmitted electronically via DOORS at <http://osdbu.dot.gov/DOORS/Application/logon.aspx>*

#### **Bidders List: 26.11(c)**

The Tuolumne County Airports 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 our DOT-assisted contracts for use in helping to set

our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information by asking bidders to provide the information as part of their bid proposals.

### **Section 26.13 Federal Financial Assistance Agreement**

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

Assurance: 26.13(a) - Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The *Tuolumne County Airports* 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 *Tuolumne County Airports* 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 *Tuolumne County Airports'* 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 *Tuolumne County Airports* of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.* ).

### Contract Assurance: 26.13b

The *Tuolumne County Airports* will ensure that the following clause is included in each contract we sign 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 *Tuolumne County Airports* deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

The Tuolumne County Airports will receive grant(s) for airport planning or development totaling \$250,000 in a Federal fiscal year. We will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program for approval.

The Tuolumne County Airports are not eligible to receive DOT financial assistance unless DOT has approved our DBE Program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended.

### **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)**

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

*David Ruby*  
*Civil Engineer I, Community Resources Agency*  
*2 South Green Street, Sonoma, CA 95370,*  
*209-533-6629*  
*209-533-5698*  
*DRuby@co.tuolumne.ca.us*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Tuolumne County Airports complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the *Airport Director, Benedict Stuth* concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set appropriate overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes Tuolumne County Airports' progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Airports Director and County of Tuolumne Board of Supervisors on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Provides outreach to DBEs and community organizations to advise them of opportunities.

### **Section 26.27 DBE Financial Institutions**

It is the policy of the Tuolumne County Airports 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.

*Information is regularly shared with the Tuolumne County Economic Development Authority regarding regional DBE outreach and/or training activities as they become available.*

### **Section 26.29 Prompt Payment Mechanisms**

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

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

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

*Tuolumne County Airports will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Tuolumne County Airports. When Tuolumne County Airports have made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.*

*Tuolumne County Airports will provide appropriate means to enforce the requirements of this section. These means include monitoring DBE utilization during the course of construction. The County of Tuolumne will periodically be checking certified payroll and verify with the DBE firm that payment has been made in a timely manner by the Prime Contractor. Verification will be made to verify there are no liens against the project prior to issuing a Notice of Completion and again before release of retention. The County of Tuolumne will issue appropriate penalties for failure to comply as specified in the Contract documents. Any delay or postponement of payment among the parties may take place only for good cause.*

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from Tuolumne County Airports. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Tuolumne County Airports. This clause applies to both DBE and non-DBE subcontractors.

### **Section 26.31 Directory**

The *Tuolumne County Airports* uses the California Unified Certification Program DBE directory, maintained by the State of California. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. 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 California revises the Directory as necessary. The County of Tuolumne makes the Directory available as follows: providing a link on the County of Tuolumne website, sending a link when email requests are received, or providing the website address verbally for phone inquiries. The Directory may be found at <http://www.dot.ca.gov/ucp/GetLicenseForm.do>

### **Section 26.33 Over-concentration**

Tuolumne County Airports have not identified that over-concentration exists in the types of work that DBEs perform.

### **Section 26.35 Business Development Programs**

Tuolumne County Airports have not established a business development program. However, the Tuolumne County Economic Development Authority (TCEDA) promotes the County of Tuolumne as a dynamic business location and provides businesses with essential information that is needed when locating or expanding a business in the Sierra – Mother Lode Region of California.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

The Tuolumne County Airports 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 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.
3. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

### **Section 26.39 Fostering small business participation.**

The *Tuolumne County Airports* will take reasonable steps to eliminate obstacles to Small Business participation. This goal will be achieved primarily by means of unbundling larger contracts which may preclude small business participation into smaller contracts or procurements, which would be more easily accessible for smaller businesses.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

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

### **Section 26.45 Overall Goals**

*The Tuolumne County Airports* will establish an overall DBE goal covering a three-year federal fiscal year period, if FAA funded prime contracts are anticipated to be awarded exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period.

DBE goals will be established for those fiscal years we anticipate awarding DOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Tuolumne County Airports does not anticipate awarding more than \$250,000 in DOT-assisted prime contracts 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 Tuolumne County Airports will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, “base figure”. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

In establishing the overall goal, Tuolumne County Airports will consult with minority, women’s and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Tuolumne County Airports’ efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Columbia Airport, the Pine Mountain Lake Airport and the Tuolumne County administration building for 30 days following the date of the notice, and informing the public that the Tuolumne County Airports and DOT/FAA will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority focus media and trade publications, websites. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our Overall 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 our responses.

We will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 5 to this program.

#### **Section 26.47 Failure to meet overall goals.**

The *Tuolumne County Airports* will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the *Tuolumne County Airports* awards and commitments shown on our 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, we will do the following in order to be regarded by the Department as implementing your DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;
- (3) Tuolumne County Airports will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c) (1) and (2) of this section to the FAA for approval.

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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program. Participation is anticipated to be achieved using race-neutral methods.

#### **Section 26.51(d-g) Contract Goals**

The Tuolumne County Airports 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..

We anticipate that we can meet our entire overall goal through solely race-neutral means.

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

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

#### **Section 26.53 Good Faith Efforts Procedures**

### Demonstration of good faith efforts (26.53(a) & (c))

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

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

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

### Information to be submitted (26.53(b))

Tuolumne County Airports treats bidder/offers' compliance with good faith efforts' requirements as a matter of *responsiveness* – *requiring all bidders submit DBE information at the time of bid.*

**Responsiveness** - Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

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

### Administrative reconsideration (26.53(d))

Within 3 business days of being informed by Tuolumne County Airports 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: County Counsel, County of Tuolumne. 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 when a DBE is replaced on a contract (26.53(f))

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

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

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 us its 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 us, 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 us and the contractor of the reasons, if any, why it 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.

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

#### Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the *Tuolumne County Airports* to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of \_\_\_ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

#### **Section 26.55 Counting DBE Participation**

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

#### **SUBPART D – CERTIFICATION STANDARDS**

##### **Section 26.61 – 26.73            Certification Process**

Tuolumne County Airports will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact the UCP via [www.californiaucp.org](http://www.californiaucp.org).

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

Tuolumne County Airports is not a certifying agency. As mandated by USDOT in the DBE Program, Final Rule 49 Code of Federal Regulations (CFR), Parts 23 and 26, all public agencies that receive USDOT federal financial assistance must participate in a statewide unified certification program. These public agencies, commonly referred to as “recipients” of USDOT funds, include municipalities, counties, special districts, airports, transit agencies, and the State Department of Transportation (Caltrans).

The California Unified Certification Program (CUCP) went into effect on January 1, 2002. It is a “One-Stop Shopping” certification program that eliminates the need for a DBE or ACDBE firm to obtain certifications from multiple agencies within the State. A business certified as a DBE or ACDBE through the CUCP is automatically accepted by all USDOT recipients in California.

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

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

Notwithstanding any provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, we will must transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual’s firm has applied for certification under § 26.85 of this part.

#### **Monitoring Payments to DBEs**

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Tuolumne County Airports 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.

## **ATTACHMENTS**

- Attachment 1 Regulations: 49 CFR Part 26
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List
- Attachment 4 Link to DBE Directory/California United Certification Program
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Form 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 California UCP Agreement/Declaration of Status letter

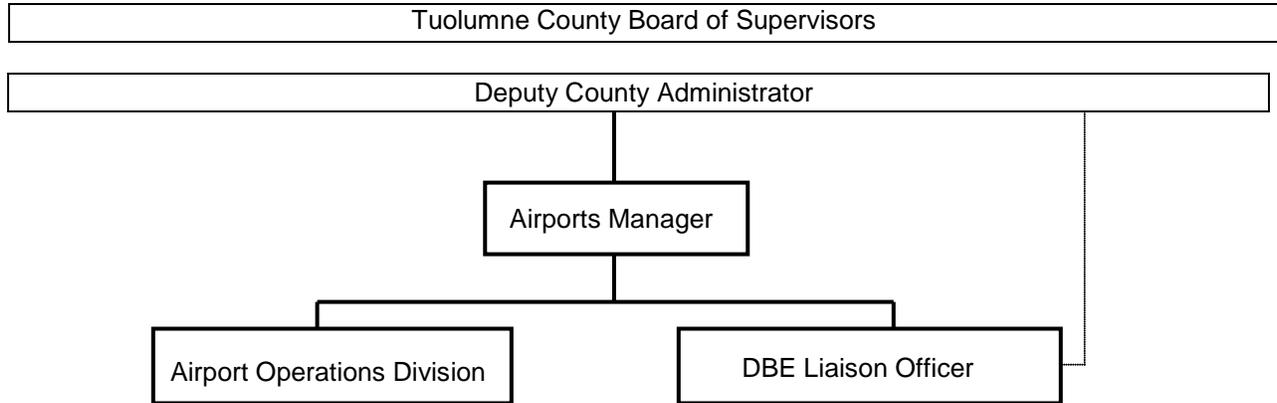
## ATTACHMENT 1

Regulations: 49 CFR Part 26 may be found online at

<http://www.ecfr.gov/cgi-bin/text-idx?SID=1ad0aec243df0e27f7325fdabc1cddf3&mc=true&node=pt49.1.26&rgn=div5>

**ATTACHMENT 2**

**Organizational Chart**



*[The DBELO has direct access to the Airports Manager concerning DBE program matters.]*

### ATTACHMENT 3 Bidder's List

The bidder's list will be compiled from information obtained from Contractors placing bids on Tuolumne County Airports' projects. It will be in the same format as the sample Bidder's List (used by the Tuolumne County Community Resources Agency) below:

Awarde d Contra ct	License	Class	DBE	Status	Year Established	Est Yearly Contracts	Company	Address	City	State	Zip	Phone	Fax	Cell Phone	Email	Bid Project
	736996 A			Active	1997	60	International Surfacing Systems	PO box 3191	Modesto	CA	95353	209-525-9065				1640
X 1640	462443 A			Active	1984	\$89 Million	Intermountain Slurry Seal, Inc.	585 West Beach St.	Watsonville	CA	95076	831-728-7561				1640
X 1644	818693 A			Active	2004	\$2 Million	Sierra Mountain Construction	PO Box 1453	Oakdale	CA	95361	(209) 984-3421	(209) 984-3421			1644
	885550 HAZ A B			Active	2005	8	Sierra Mountain Construction	PO Box 908	Tuolumne	CA	95379	(209) 988-2282	(800) 507-5295			1644
	668184 HAZ A B			Active	1992	\$6 Million	Engineered Soil Repairs, Inc.	1267 Springbrook Rd	Walnut Creek	CA	94597	925.210.2150	925.210.2158		<a href="mailto:tfortunato@csrweb.com">tfortunato@csrweb.com</a>	1644
X 1635	946819 A & B			Active	2009	\$3 Million	Garrett Thompson Construction, Inc.	5151 Pentecost Drive Ste E	Modesto	CA	95356	209-236-0100				1635
	C12 C21															
	211337 C32 A B			Active	1944	40	George Reed, Inc.	PO Box 4760	Modesto	CA	95352	(209) 523-0734	(209) 523-4313			1635
	552432 A	29435		Active	1988	30	Rodgers Construction & Engineering	PO Box 6885	Stockton	CA	95206	(209) 464-6780	(209) 464-5782		<a href="mailto:rsande@pacbell.net">rsande@pacbell.net</a>	1635
	253338 A & B	38488		Active	1968	5	Haskell & Haskell Eng. & Const. Svc	PO Box 880	Knights Ferry	CA	95361	209-881-3500	209-881-0211		<a href="mailto:hhengeon@caltel.com">hhengeon@caltel.com</a>	JLF-1 (not awarded)
	225085 A	20410		Active	1964	20	K.W. Emerson, Inc	PO Box 549	San Andreas	CA	95249	(209) 754-3839	(209) 754-3830			JLF-1 (not awarded)

The Tuolumne County Community Resources Agency has made their contractor's list available to the Tuolumne County Airports for their use in sending Notices to Bidders.

**ATTACHMENT 4**

California DBE Directory:

[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

## ATTACHMENT 5

### Section 26.45: Overall DBE Three-Year Goal Methodology

**Name of Recipient:** Tuolumne County Airports (Columbia Airport and Pine Mountain Lake Airport)

**Goal Period:** FY-2016-2017-2018 – October 1, 2015 through September 30, 2018

<b>DOT-assisted contract amount:</b>	FY-2016: \$678,750.00
	FY-2017: \$540,000.00
	FY-2018: \$5,000,000.00
<b>Total</b>	<b>\$6,218,750.00</b>

**Overall Three-Year Goals:**

*5%, to be accomplished through 0% RC and 5% RN;*

**Total dollar amount to be expended on DBE's: \$297,230.00**

**Describe the Number and Type of Projects that the airport anticipates awarding:**

Projects Fiscal Year #1

1. Columbia Airport Taxiway B Rehabilitation/Reconstruction, Construction: \$500,000
2. Columbia Airport Taxiway C Rehabilitation/Reconstruction, Engineering and Construction: \$178,750

Projects Fiscal Year #2

1. Columbia Airport Parking Apron Rehabilitation, Engineering: \$40,000
2. Columbia Airport, Alleyway Area A, Engineering: \$500,000

Projects Fiscal Year #3

1. Columbia Airport Alleyway Area A, Construction: \$5,000,000

**Market Area:** *Narrowly tailored area: Tuolumne County  
Local Market Area-209 Area Code*

### **Counties**

Eight Counties are served by this area code:

Alpine, Amador, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus,  
Tuolumne

**Step 1. Analysis:** Actual relative availability of DBE's

Method: Use:

California DBE Directory: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

and Census Bureau Data <http://www.census.gov/econ/cbp/index.html>

FY	PROJECT NAME	NAICS		BUSINESSES IN (209)		DBE %
		DESCRIPTION	NAICS	TOTAL	DBE	
2016	Taxiway C Rehabilitation/Reconstruction	Engineering Services	541330	121	4	3%
2016	Taxiway B Rehabilitation/Reconstruction and Culvert	Highway, Street and Bridge Construction	237310	41	3	7%
2016	Taxiway C Rehabilitation/Reconstruction	Highway, Street and Bridge Construction	237310	41	3	7%
2017	Parking Apron Rehabilitation	Engineering Services	541330	121	4	3%
2017	Alleyway Area A	Engineering Services	541330	121	4	3%
2018	Alleyway Area A	Highway, Street and Bridge Construction	237310	41	3	7%

**Step 2. Analysis:** Adjustments to Step 1 base figure for possible subcontracting

FY	PROJECT NAME	UCP		NAICS		TRADE \$	BUSINESSES			DBE \$	3-YEAR DBE %
		DESCRIPTION	WORK CODES	DESCRIPTION	NAICS		TOTAL	DBE	DBE %		
2016	Taxiway C Rehabilitation/ Reconstruction	Design, Engineering, Engineering Consultant, Civil Engineering	C8705, C8710, C8715, C8720	Engineering Services	541330	\$ 25,000.00	121	4	3%	\$ 826.45	
2016	Taxiway B Rehabilitation/ Reconstruction and Culvert	Recycle, Reclaim Asphalt Concrete	C3990	Highway, Street and Bridge Construction	237310	\$ 250,000.00	41	0	0%	\$ -	
		Paving Asphalt	C3910	Highway, Street and Bridge Construction	237310	\$ 200,000.00	41	3	7%	\$ 14,634.15	
		Alternative Pipe Culvert	C6200	Water & Sewer Line & Related Structures Construction	237110	\$ 50,000.00	48	1	2%	\$ 1,041.67	
2016	Taxiway C Rehabilitation/ Reconstruction	Paving Asphalt	C3910	Highway, Street and Bridge Construction	237310	\$ 153,750.00	41	3	7%	\$ 11,250.00	
2017	Parking Apron Rehabilitation	Design, Engineering, Engineering Consultant, Civil Engineering	C8705, C8710, C8715, C8720	Engineering Services	541330	\$ 40,000.00	121	4	3%	\$ 1,322.31	
2017	Alleyway Area A	Design, Engineering, Engineering Consultant, Civil Engineering	C8705, C8710, C8715, C8720	Engineering Services	541330	\$ 500,000.00	121	4	3%	\$ 16,528.93	
2018	Alleyway Area A	Roadway Excavation	C1901	Site Preparation Contractors	238910	\$ 500,000.00	131	12	9%	\$ 45,801.53	
		Grading	C1910	Highway, Street and Bridge Construction	237310	\$ 500,000.00	41	6	15%	\$ 73,170.73	
		Aggregate Base	C2602	Site Preparation Contractors	238910	\$ 500,000.00	131	2	2%	\$ 7,633.59	
		Paving Asphalt	C3910	Highway, Street and Bridge Construction	237310	\$ 1,500,000.00	41	3	7%	\$ 109,756.10	
		Portland Cement & Concrete Pavement	C4010	Site Preparation Contractors	238910	\$ 2,000,000.00	131	1	1%	\$ 15,267.18	
<b>3-YEAR TOTAL:</b>						<b>\$ 6,218,750.00</b>				<b>\$ 297,232.62</b>	<b>5%</b>

**See Appendix A for Census and DBE Search documentation**

**Past History Participation**

*There is no historical DBE data to reference to make an adjustment to the Step 1 base figure. Therefore, the Tuolumne County Airports is adopting its Step 1 base figure as its overall goal for this three-year goal period.*

**Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender Conscious” (RC) Participation.**

26.51(b) (1-9)

1. The recipient will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation through working with other County of Tuolumne agencies, including the Tuolumne County Economic Development Authority and other area business groups.
2. Inclusion of DBE contractors listed on the UCP that are physically located within Tuolumne County in the Notice to Bidders mailing list for each Federally funded project.

The recipient estimates that in meeting its overall three-year goal of 5%, it will obtain 5% from RN participation and 0% through RC measures.

The Tuolumne County Airports will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation (see Section 26.51(f)) and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal and DBE participation through a subcontract from a prime contractor that did not consider a firm’s DBE status in making the award.

## PUBLIC PARTICIPATION

**Consultation:** Section 26.45(g)(1).

*The Tuolumne County Airports submits its overall DBE three-year goal to the FAA.*

*The Tuolumne County Airports consulted with Tuolumne County's Chamber of Commerce, Tuolumne County's Community Resources Agency, and Tuolumne County Economic Development Agency, Tuolumne Economic Development Authority, Inc. (Tuolumne Band of MeWuk Indians), without limiting consultation to these persons or groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Tuolumne County Airports' efforts to establish a level playing field for the participation of DBEs.*

*Following the consultation, we published a notice on the County of Tuolumne website ([www.tuolumnecounty.ca.gov](http://www.tuolumnecounty.ca.gov)), and in the **Union Democrat** (the sole newspaper of general circulation located in Tuolumne County) of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport administration building for 30 days following the date of the notice, and informing the public that the Tuolumne County Airports and DOT will accept comments on the goals for 45 days from the date of the notice. We also sent a copy of the public notice to the trade journals specified by the California Uniform Construction Cost Accounting Commission:*

*Construction Bidboard  
McGraw Hill Construction Dodge  
Placer County Contractor's Association  
Valley Builders Exchange*

*Our overall goal submission to DOT includes a summary of information and comments received during this public participation process and our responses, if any, are noted as follows:*

*The following comments were received:*

*OR*

*No comments have been received.*

## PUBLIC NOTICE

The Tuolumne County Airports hereby announces its fiscal year 2016 through 2018 goal of 5% for Disadvantaged Business Enterprise (DBE) airport construction projects. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at Columbia Airport, Columbia, CA, Pine Mountain Lake Airport, Groveland, CA and the Tuolumne County Administration Building, Board Clerk's office, 2 South Green Street, Sonora, CA for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 45 days from the date of this publication and can be sent to the following:

David Ruby, DBELO  
Civil Engineer I  
Community Resources Agency  
2 South Green Street  
Sonora, CA 95370  
[DRuby@co.tuolumne.ca.us](mailto:DRuby@co.tuolumne.ca.us)

or

Patricia A. Wright, AWP-9  
DBE & ACDBE Program Compliance Specialist  
FAA Office of Civil Rights  
Mailing Address: P.O. Box 92007  
Los Angeles, CA 90009-2007  
Physical Address: 15000 Aviation Blvd.  
Lawndale, CA 90261

### **Contract Goals**

The *Tuolumne County Airports* will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the recipient's overall goal that is not projected to be met through the use of RN means.

The *Tuolumne County Airports* will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. It need not establish a contract goal on every such contract, and the size of the contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work and availability of DBE's 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*.

**ATTACHMENT 6**

**Demonstration of Good Faith Efforts - Forms 1, 1 A & 2**

*[The attached forms should be provided as part of the solicitation documents.]*

Demonstration of Good Faith Efforts-Forms 1, 1A and 2

**FORM 1-DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**  
*(to be included as part of bid solicitation documents)*

Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The Tuolumne County Airports established a Disadvantaged Business Enterprise (DBE) goal of \_\_\_\_\_% for this project.

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.

ALL bidders/offerors must submit Form 1A, even if the proposal form indicates that the bidder/offeror has met the DBE goal. This will protect the bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening or the bidder made a mathematical error.

FORM 1A (to be included as part of bid solicitation documents)

Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The Tuolumne County Airports established a Disadvantaged Business Enterprise (DBE) goal of \_\_\_\_\_% for this project. The information provided herein shows that a good faith effort was made.

All bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the proposal form indicates that the bidder has met the DBE goal. This will protect the bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the DBE Utilization form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

Indicate the following:

- A. The names and dates of each publication in which a request for DBE publication for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Date of Advertisement

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBES were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.)

Names of DBEs solicited	Date of initial solicitation	Follow up methods & dates

- C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Items of work	Bidder normally performs item	Breakdown of items	\$ Amount	% of Contract

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBES and the reasons for the bidder's rejection of the DBEs

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Names, addresses and phone numbers selected for the work above:

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- E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs.

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- F. The names of agencies, organizations or groups contacted to provide assistance in contracting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received).

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- G. Any additional data to demonstrate good faith efforts

(to be included as part of bid solicitation documents)

FORM 2 LETTER OF INTENT

(if the bidder/offeror does not receive award of the prime contract, any and all representations of this Letter of Intent & Affirmation shall be null and void)

The Tuolumne County Airports established a Disadvantaged Business Enterprise (DBE) goal of \_\_\_\_\_% for this project.

Name of Bidder/Offeror's firm:\_\_\_\_\_

Address:\_\_\_\_\_

City:\_\_\_\_\_ State:\_\_\_\_\_ Zip:\_\_\_\_\_

Year Bidder/Offeror's firm was established\_\_\_\_\_

Average \$ amount of contracts awarded to Bidder/Offeror per year\_\_\_\_\_

Name of DBE firm:

Address:\_\_\_\_\_

City:\_\_\_\_\_ State:\_\_\_\_\_ Zip:\_\_\_\_\_

Telephone:\_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_

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

This work represents \_\_\_\_\_% of the total bid amount.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and that the firm is DBE certified to perform the specific trades.

By:\_\_\_\_\_  
Signature of representative of DBE firm

Date:\_\_\_\_\_

\_\_\_\_\_  
Title

**Submit this page for each DBE contractor**

## **ATTACHMENT 7**

### **DBE Monitoring and Enforcement Mechanisms**

The Tuolumne County Airports have available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to breach of contract action, pursuant to the terms of the contract.

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, 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

CUCP AGREEMENT/DECLARATION OF STATUS LETTER

TO: CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

FROM: TUOLUMNE COUNTY AIRPORTS, (Recipient)

Address: 2 South Green Street, Sonora, CA 95370

Recipient hereby acknowledges and agrees that:

- (1) As a recipient of Federal Financial Assistance from the U.S. Department of Transportation (DOT), Recipient has an established Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26.
(2) By this Letter, Recipient officially becomes a signatory to the Memorandum of Agreement (MOA) for the establishment of a Unified Certification Program among all U.S. DOT recipients in California, as approved by the Secretary of Transportation on March 13, 2002, and amended on March 24, 2003.
(3) In accordance with said MOA, Recipient hereby makes a declaration to become either a Certifying CUCP Member or a Non-Certifying CUCP Member.
(a) A Certifying CUCP Member maintains DBE certification processes including reviewing DBE applications, conducting site visits and making decisions on DBE status; processing annual updates; maintaining DBE certification files; and conducting appeal and third party challenge hearings. A Certifying CUCP Member is responsible for providing certification information and updates for inclusion in the DBE Database.
(b) A Non-Certifying CUCP Member does not process DBE certifications for inclusion in the DBE Database.
(4) CUCP Members may be requested to contribute funds to support the CUCP.
(5) All CUCP Members will accept the DBE status of firms included in the DBE Database for use in their contracting activities.

Based on the foregoing, Recipient hereby declares its status as:

A CERTIFYING CUCP MEMBER
X A NON-CERTIFYING CUCP MEMBER

Recipient may change its status upon submission of a new Declaration Letter to the Chair of the CUCP.

DATE: 8/25/15

(Signature of Recipient Agency Official)
Name and Title: BRANDY SMITH, AIRPORTS MGR.

Participation in CUCP acknowledged:

Signature of Secretary: [Signature] Date 8/25/15
Signature of Chair: [Signature] Date 8/25/15