

**Metropolitan Knoxville Airport Authority**  
**Disadvantaged Business Enterprise Program**

# Table of Contents

Objectives and Policy Statement .....	1
Definitions of Terms .....	2
Nondiscrimination .....	2
DBE Program Updates .....	2
DBE Liaison Officer (DBELO).....	2
Federal Financial Assistance Agreement Assurance .....	4
DBE Financial Institutions .....	4
Directory.....	5
Over Concentration.....	5
Business Development Programs .....	5
Required Contract Clauses .....	6
2.1 Contract Assurance .....	6
2.1 Prompt Payment .....	6
Monitoring and Enforcement Mechanisms.....	7
Quotas.....	8
Overall Goals.....	8
2.1 Amount of Goal.....	8
2.1 Method .....	8
2.1 Process.....	10
2.1 Breakout of Estimated Race-Neutral and Race-Conscious Participation .....	11
Contract Goals .....	11
Good Faith Efforts .....	12
2.1 Information To Be Submitted By Bidders and Proposers .....	12
2.1 Demonstration of Good Faith Efforts.....	13
2.1 Administrative Reconsideration of Good Faith Efforts.....	13
2.1 Good Faith Efforts When A DBE Is Replaced On A Contract .....	14
Counting DBE Participation.....	14
Certification.....	15
2.1 Process.....	15
Unified Certification Program .....	16
Certification Appeals.....	16
Decertifications.....	16
Recertifications.....	17
“No Change” Affidavits and Notices of Change .....	18
Personal Net Worth .....	19
Information, Collection and Reporting.....	19
2.1 Bidders List .....	19
2.1 Reporting to DOT.....	20
Confidentiality.....	20
Exhibits.....	20
Exhibit A Code of Federal Regulations 49, Part 26 & 23 .....	21
Exhibit B Organizational Chart.....	22
Exhibit C MKAA Contract Provisions.....	23
Exhibit D Statistical Data .....	24
Exhibit E Certified DBE List .....	25
Exhibit F Public Hearing Notices, Comments and Findings .....	26
Exhibit G Certification Application Packet.....	27

Changes to the original FY2001 document has been revised only to reflect personnel changes. The most recent DBE goal data was also included. These changes are shown in bold print. The original text is displayed in normal print.

**THE  
METROPOLITAN KNOXVILLE AIRPORT AUTHORITY  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
IN COMPLIANCE WITH  
49 CFR PART 26**

**Objectives and Policy Statement**

(26.1, 26.23)

The Metropolitan Knoxville Airport Authority (The Authority) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, Exhibit A. The Metropolitan Knoxville Airport Authority has received Federal financial assistance from the Department of Transportation, and anticipates continuing to receive at least \$250,000 in assistance. As a condition of receiving this assistance, the Metropolitan Knoxville Airport Authority has signed an assurance statement that complies with 49 CFR Part 26.

It is the policy of the Metropolitan Knoxville Airport Authority to ensure that DBEs, as defined in CFR 49 Part 26, have an equal opportunity to receive and participate in DOT- assisted contracts. It is also our policy:

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

Alan Jones, Manager of Administration, has been designated as the DBE Liaison Officer. In that capacity, **Mr. Jones** 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 agreed upon by the Metropolitan Knoxville Airport Authority in its financial assistance agreements with the Department of Transportation.

The Metropolitan Knoxville Airport Authority has disseminated this policy statement to the nine members of the Airport Authority Board of Commissioners, and all the components of our organization. The Authority has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT- assisted contracts. A copy of this policy statement is enclosed in all bid and contract documents for federally assisted projects.

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**Richard W. Kreig, Chair**  
Board of Commissioners

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Date

## **Definitions of Terms**

The terms used in this program are defined in 49 CFR 26.5.

## **Nondiscrimination**

The Authority 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 Authority will not, directly, indirectly 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.

## **DBE Program Updates**

The Authority will continue to execute this program until all funds from DOT financial assistance have been expended. The Authority will provide to DOT updates representing significant changes in the program.

## **DBE Liaison Officer (DBELO)**

The Authority has designated **Alan Jones, Manager of Administration**, as the DBE Liaison Officer (PO Box 15600 Knoxville, TN, 37901, phone (865) 342-3062, fax (865) 342-1690 or e-mail at [alan.jones@tys.org](mailto:alan.jones@tys.org)). In that capacity, **Mr. Jones** is responsible for implementing all aspects of the DBE program and ensuring that the Metropolitan Knoxville Airport Authority complies with all provisions of 49 CFR Part 26. **Mr. Jones** has direct, independent access to the **President, William F. Marrison**, who serves as the chief executive officer of the Metropolitan Knoxville Airport Authority concerning the DBE Program. Within the organizational structure of the Airport Authority the DBELO reports directly to the **Vice**

**President of Finance and Administration, Mike Bachman.** The DBELO has an independent budget for marketing, recruitment, and community outreach of DBE's in the local market as well as state and nationwide if necessary. The DBELO has access to one fulltime administrative assistant for assistance. An organization chart displaying the DBELO's position in the organization is found in Exhibit B to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. 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 lease agreements for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations and monitors results.
6. Analyzes the Metropolitan Knoxville Airport Authority's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee
10. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance for the preparation of bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. **Certifies DBEs according to the criteria set by DOT and participates in the Uniform Certification Process for the state.**
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. In cooperation with the State of Tennessee's Uniform Certification Program, assists with the oversight of the directory for certified DBEs.

## **Federal Financial Assistance Agreement Assurance**

The Metropolitan Knoxville Airport Authority complies with the following assurance, which is applicable to all DOT- assisted contracts and their administration:

The Metropolitan Knoxville Airport Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Authority of its failure to carry out its approved program, the Department may impose sanctions as provided for under CFR 49 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.).

## **DBE Financial Institutions**

It is the policy of the Metropolitan Knoxville Airport Authority to investigate to the fullest extent possible the services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT- assisted contracts to make use of these institutions. The Authority has made the following efforts to identify and use such institutions: The Authority has researched local sources such as the Chamber of Commerce, local area businesses associations, area banks and determined that there are no banks or other financial institutions in the area that are owned and controlled by socially and economically disadvantaged individuals. As the business community grows and changes, our research efforts will continue to locate DBE owned and operated facilities. When such resources become available, the Authority will make diligent effort to utilize them and will encourage contractors to utilize them as well. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

## Directory

The Metropolitan Knoxville Airport Authority maintains a directory prepared by the State of Tennessee's Unified Certification Program that identifies firms eligible to participate as DBEs. The directory lists the firm's name, address, and phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. **The Tennessee Unified Certification Program (TNUCP) revises the Directory monthly, and at other times as information is received that affects companies listed therein.** The Authority makes the Directory available to:

- All Authority department supervisors,
- Bid and proposal specifications;
- Area plan rooms, and the Minority Business Contractors Associations,
- Or the contract engineers or consultants office.

The Directory may be obtained by contacting the DBE Liaison Officer, **Alan Jones** via telephone or email. The directory is available at the McGhee Tyson website, [www.flyknoxville.org](http://www.flyknoxville.org) and **at the state's website, [http://www.tdot.state.tn.us/construction/DBE%20list/dbe\\_list.pdf](http://www.tdot.state.tn.us/construction/DBE%20list/dbe_list.pdf) .**

## Over Concentration

The Authority has not identified any areas of over concentration in the DBE business community.

## Business Development Programs

The Authority does not currently have a business development or a mentor-protégé program.

## **Required Contract Clauses**

### **2.1 Contract Assurance**

The Authority will ensure that the following clause is placed in every DOT- assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

### **2.1 Prompt Payment**

The Authority 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 15 days from the receipt of each payment the prime contractor receives from the Metropolitan Knoxville Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within fifteen (15) days after the subcontractor's work is satisfactorily completed, and payment for such has been made from Metropolitan Knoxville Airport Authority. Any delay or postponement of payment from the above referenced time frame may occur only

for good cause, following written approval of the Metropolitan Knoxville Airport Authority. This clause applies to both DBE and non-DBE subcontractors. Failure to comply with the prompt payment guidelines may result in actions ranging from a delay of payment to the prime contractor, or other remedies as deemed appropriate by the Authority. If the prime contractor has delayed payment to a subcontractor due to allegations of non-compliance with contractual obligations, incomplete or inferior work, the manager for that respective department employed by the Authority will review the issue. All decisions of the assigned manager may be appealed to the appropriate Vice President. If the dispute continues to be unresolved it will be reviewed by the President. The Senior Vice President of Operations' decision is the final internal decision. If the President's decision is not acceptable to either party, then their external options may be explored.

### **Monitoring and Enforcement Mechanisms**

The Authority 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 49 CFR 26.109. The Authority also will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

All contracts are monitored by the DBELO for compliance with CFR 49 Part 26. Contract documents, bid and proposal specifications, bid and proposal tabulations, as well as other pertinent documentation for each contract that receives federal assistance are kept on file in the office of Engineering and Planning. The DBELO is responsible for contract monitoring. Contractors are responsible for complying with the DBE provisions of the contract. Efforts must be maintained throughout the life of the contract to fulfill DBE obligations. Failure to do so may deem the contractor in violation of the contract and therefore subject to the non-compliance

provisions of the contract.

Attachment C lists the regulations, provisions, and contract remedies available to the Authority in the event of non-compliance with the DBE regulation by a participant in our procurement activities.

## **Quotas**

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

## **Overall Goals**

### **2.1 Amount of Goal**

**MKAA's overall annual DBE goal for FY2008 is 14% of funds expended on DOT federally assisted projects. It is projected that the overall goal of 14% will be accomplished through 14% race conscious means and 0% race neutral efforts. See Exhibit D.**

**Based on the receipt of AIP Grants in the amount of \$5,557,500.00 in federally assisted contracts, the Authority anticipates meeting the DBE goal with expenditures to DBE firms in the amount of \$778,050.00.**

### **2.1 Method**

**Expenditures during the 12 month period ending June 1, 2007, occurred in three different Tennessee counties – Knox, Sevier and Henry. The majority or 60% of payments made to prime and sub contractors occurred in Knox County. Firms in Sevier and Henry counties experienced 20% each. Bidders during the same period were from five (5) different counties, four were in Tennessee and the fifth firm was located in Georgia (Fulton). Seventy-one percent (71%) of the firms that received payments were from Knox County.**

Payments to the remaining counties ranged from 10% to 5%. The data for the expenditures and the bids reflects that both types of activity occurred in seven (7) different counties. Knox County experienced the majority (69%) of both the expenditure and bid activity. The other six (6) counties experienced shares varying from 8% to 4%. Firms from Knox County were participants in the majority of the expenditures, and as bidders. Knox County firms submitted 71% of the bids and received 60% of the payments. Therefore, since Knox County received the overwhelming majority of the payments and were the substantial majority bidders, Knox County was identified as the market area.

The statistical data provided by the 2004 U. S. Census - County Business Patterns was utilized to determine the comparable relevant data for the types of businesses utilized by the Airport Authority and which are covered by CFR 49 Part 26. The DBE statistical data was obtained from the list of Metropolitan Knoxville Airport Authority Certified DBEs, and the DBEs certified by the Tennessee Department of Transportation, Civil Rights Division . The information from those lists reflected a duplication of the data already contained on the list produced by the Airport Authority.

Codes from the North American Industry Classification System (NAICS) were used to identify those types of business categories covered by the regulating provisions and the type of business activity generated by the Airport Authority. Six digit NAICS numbers within the applicable business categories were used to define with greater specificity the types of eligible businesses. The number of businesses in Knox County, along with the number of corresponding businesses currently certified on the Airport Authority DBE List and Tennessee Department of Transportation, Civil Rights Certified Disadvantaged Business Enterprise List were identified for comparison.

The methodology used is consistent with the guidance provided by CFR 26.45. Past performance or accomplishments of DBE participation for Metropolitan Knoxville Airport Authority was considered in making the adjustment (step two) to the calculations performed in step one of the analysis.

## 2.1 Process

The Metropolitan Knoxville Airport Authority will submit its overall goal in accordance with DOT requirements. The goals are reviewed annually with adjustments made as necessary.

Before establishing the overall goal each year, and subsequent project goals the Metropolitan Knoxville Airport Authority will consult with staff and consultants to assist in determining the appropriate goal. Staff will review the scope of the project, the availability of DBEs that could possibly be utilized for the project, and race neutral means that can be utilized to meet the project goals.

Prior to the implementation of the DBE Program under the revised regulation 49 CFR Part 26 participation in program design, including the formulation of goals were solicited from: area prime contractors: minority, women and disadvantaged businesses; community organizations; minority and small business resource centers. In addition to the previously mentioned groups, the Tennessee Department of Transportation was contacted to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, and the effects of discrimination on opportunities for DBEs, as a component of Metropolitan Knoxville Airport Authority's efforts to establish a level playing field for the participation of DBEs. In accordance with the regulation, a public notice was published and a hearing was held to solicit comments and in-put on the proposed program.

The Public Hearing was held on October 11, 1999 in the Alcoa High School auditorium. A total of five area contractors attended or sent representatives to the hearing. General questions pertaining to the availability of DBE firms were addressed. Attendees were given a copy of CFR 49 Part 26 and a copy of the DBE Resource Directory. See Exhibit F, Notice of Public Hearing.

Following this consultation and in the future, The Authority will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Authority's principal office for 30 days following the date of the notice, and informing the public that the Authority and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will be published in the Knoxville News Sentinel and the Maryville Times, and on the Metropolitan Knoxville Airport Authority website. Normally, The Authority will issue this notice by June 1 of each year. The notice must

include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The Authority will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT, or if the goal is established on a project basis, by the time of the first solicitation for a DOT- assisted contract for the project.

## **2.1 Breakout of Estimated Race-Neutral and Race-Conscious Participation**

The Metropolitan Knoxville Airport Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Authority further understands that race neutral goals will be approved by DOT.

**MKAA estimates that in meeting its overall goal of the 14% DBE goal, it will obtain 0% from race neutral participation and 14% through race conscious measures. The variances between the DBE Goal and the accomplishment amount for the most recent 3 year period were reviewed to determine the median, an underachievement of -2.35% of the goal.**

The Authority adjusted the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see CFR 49 Part 26.51 (f)). The Authority will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.

## **Contract Goals**

The Metropolitan Knoxville Airport Authority will use contract goals to meet any portion of the

overall goal the Authority does not project being able to meet using race-neutral 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 our overall goal that is not projected to be met through the use of race-neutral means.

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

The Authority will express our contract goals as a percentage of the Federal share of a DOT- assisted contract. The Authority will hold DBE specific meetings in an effort to familiarize potential DBEs with upcoming bid opportunities, and to provide them an opportunity to interact with the potential General Contractor's during the pre-bid and throughout the bid and award process.

## **Good Faith Efforts**

### **2.1 Information To Be Submitted By Bidders and Proposers**

The Authority treats matters of compliance with good faith efforts as a matter of responsiveness on all contracts let by the Authority.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information with their bid packages as a matter of responsive bidding.

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 contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

## **2.1 Demonstration of Good Faith Efforts**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to CFR 49 Part 26.

The following personnel are 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: Alan Jones, DBELO, will determine whether the bidder/offeror has demonstrated good faith efforts to meet contract goals.

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

## **2.1 Administrative Reconsideration of Good Faith Efforts**

Within 48 hours of being informed by the Authority 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:

William F. Marrison, Sr.  
President  
Metropolitan Knoxville Airport Authority  
2055 Alcoa Highway  
P. O. Box 15600  
Knoxville, TN 37901  
(865) 342-3062  
(865) 342-1690 FAX

The reconsideration official will not have played any role in the original evaluation or determination that the bidder/offeror did not make 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. 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. The Authority 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. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

## **2.1 Good Faith Efforts When A DBE Is Replaced On A Contract**

The Authority 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. The Authority 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, The Authority will require the prime contractor to obtain our prior approval of the replacement DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. 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.

## **Counting DBE Participation**

The Authority counts DBE participation for overall and contract goals as provided in 49 CFR Part 26.55.

## **Certification**

The Metropolitan Knoxville Airport Authority will use the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E 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. The Authority will make our certification decisions based on the facts as a whole.

### **2.1 Process**

Our certification application form and documentation requirements are found in Exhibit G to this program. For information about the certification process or to apply for certification, firms should contact:

*Alan Jones, DBELO*

*Metropolitan Knoxville Airport Authority*

*PO Box 15600*

*Knoxville, TN 37901-5600*

*(865) 342-3062 phone*

*(865) 342-1690 fax*

#### ***Physical Address***

*Metropolitan Knoxville Airport Authority*

*2055 Alcoa Highway*

*Alcoa, TN 37701*

*[alan.jones@tys.org](mailto:alan.jones@tys.org) e-mail*

In the event the Authority proposes to remove a DBE's certification, we will follow procedures consistent with 26.87. Exhibit A to this program sets forth these procedures in detail. Any firm participating in illegal or unethical activities will be decertified.

If the Authority denies a firm's application or decertifies the firm, the firm may not reapply until 12 months have passed from the date of the denial letter.

### **Unified Certification Program**

**The Authority is an active member of the Tennessee Unified Certification Program (TNUCP). The TNUCP is responsible for DBE certification within the state of Tennessee. The Authority assists with certification within its region and serves on the TNUCP committee.**

### **Certification Appeals**

Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

Department of Transportation  
Office of Civil Rights  
Certification Appeals Branch  
400 7th St., SW, Room 2104  
Washington, DC 20590

The Authority will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT- assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

### **Decertifications**

**Decertifications will be referred to the TNUCP for processing. The Authority will cooperate in the review process if required.** Following a firms suspension, the owner will be required to provide a notarized affidavit stating that all irregularities have been resolved and provide written documentation of steps taken to resolve said irregularities. The same criteria for certification will apply and the firm must cooperate fully with all requests for documentation and

site visits in order to regain certification. Any firm that remains in a suspended status in excess of ninety days will be decertified, and the appropriate DOT agency notified.

A firm whose ownership is no longer held by any of the groups of persons identified in CFR 49.26.67 will be immediately decertified, and the appropriate DOT notified.

If an applicant firm's owner(s) can no longer demonstrate evidence of social or economic disadvantage the firm(s) owned and operated by said individual(s) will be decertified. For example, if an owner's PNW is above the financial cap of \$750,000, the presumption of economic disadvantage is rebutted and the firm is decertified.

Any firm whose owner(s) knowingly participate in pass through or sham activities during contact negotiations, bidding or actual job performance will be decertified for a period of not less than one year, and the appropriate DOT notified.

Any firm participating in illegal or unethical activities will be decertified.

### **Recertifications**

The **TNUCP** will review the eligibility of DBEs certified under former CFR 49 Part 23, to make sure that they meet the standards of Subpart D of CFR 49 Part 26. The **TNUCP** will complete this review no later than three years from the most recent certification date of each firm. Beginning Jan. 2008, the **TNUCP** will begin to review the eligibility of all DBE's certified under Part 23 for compliance with Subpart D of Part 26. Reviews will be made alphabetically, until complete, the exception being if a firm is listed as a potential DBE prime or subcontractor on an upcoming project.

For firms that have been certified or reviewed and found eligible under CFR 49 Part 26, The **TNUCP** will again review their eligibility every three years, unless there has been a documented change in ownership and/or control of the firm. These reviews will include submittal of a new Schedule A, and all documentation listed on Exhibit E.

## **“No Change” Affidavits and Notices of Change**

The **TNUCP** will require all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with their application for certification.

The **TNUCP** also requires all owners of all DBEs that are certified to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of CFR 49.26.83(j). The text of this affidavit is the following:

I /we swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with [name of DBE]’s application for certification, except for any changes about which you have provided written notice to the Metropolitan Knoxville Airport Authority under 49 CFR 26.83(i). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm’s previous three fiscal years do not exceed \$16.6 million, or any subsequently established amount.

The **TNUCP** requires DBEs to submit with this affidavit documentation of the firm’s size and gross receipts.

The**TNUCP** will notify all currently certified DBE firms of these obligations via US mail prior to their anniversary date. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g., personal net worth), the obligation to submit a notice of change applies.

## **Personal Net Worth**

The **TNUCP** will require all disadvantaged owners of applicant firms and of currently certified DBEs who are eligible under Part 26 to submit a statement of personal net worth. The personal net worth statement is due in the DBELO's office on the date as requested in writing by the DBELO.

Exhibit G sets forth our personal net worth form.

## **Information, Collection and Reporting**

### **2.1 Bidders List**

The Metropolitan Knoxville Airport Authority will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT- assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, firm's age, and annual gross receipts of firms.

The Authority will collect this information in the following ways: [1] Tennessee Department of Transportation's Certified DBE Listing; [2] Use of the Tennessee Minority Supplier and Development Council, list of participants; [3] Maintaining a listing of all DBE's listed as potential prime or subcontractors on bid documents; [4] Maintaining a listing of all applicants certified by the TNUCP as DBE firms; and [5] Information collected at the time of bid on MKAA projects.

### **Monitoring Payments to DBEs**

The Authority 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 Metropolitan Knoxville Airport Authority or DOT. This reporting requirement also extends to any certified

DBE subcontractor.

The Authority will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

The Authority 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.

## **2.1 Reporting to DOT**

The Authority will report DBE participation to DOT as required.

The Authority will submit annually DOT Form 4630, as modified for use by FAA recipients.

## **Confidentiality**

The Authority will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, The Authority will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

## **Exhibits**

Exhibits to supplement the information herein or to serve as referenced documents are provided. Pages within the exhibits are not numbered. Only the lead pages to those exhibits are numbered.

**Exhibit A Code of Federal Regulations 49, Part 26 & 23**

The Code of Federal Regulations 49, Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

**Exhibit B      Organizational Chart**

Organizational Chart – Metropolitan Knoxville Airport Authority

**Exhibit C MKAA Contract Provisions**

**MKAA Contract Provisions**

Contract provisions shall be required in accordance with 49 CFR Part 26.13 and 26.29.

**Exhibit D     Statistical Data**

Calculation of the DBE goal: Contact DBELO for current goal data.

**Exhibit E      Certified DBE List**

- A. Tennessee Department of Transportation, Office of Civil Rights, Certified Disadvantaged Business Enterprise

**Exhibit F      Public Hearing Notices, Comments and Findings  
Metropolitan Knoxville Airport Authority DBE Program**

**MKAA Public Hearing Comments and Findings**

**Summary of Public Hearing for DBE Program Plan**

A Public Hearing was held on October 11, 2000 at 6:00 pm, in the Alcoa High School Auditorium. In attendance were Michelle Tatom, Metropolitan Knoxville Airport Authority DBE Liaison Officer, Tom Lindquist, Metropolitan Knoxville Airport Authority VP of Engineering, Marsha Vandanlin, Court Reporter, two representatives of minority owned firms, one representative from a woman owned firm and two representatives from non-disadvantaged construction firms who contract frequently on Airport projects. Each participant was given a copy of the proposed DBE Program and a copy of CFR 49 Part 26.

The requirement for the DBE Program was discussed with participants and a question and answer session provided for attendees.

The meeting adjourned at 7:30 pm.

**Exhibit G      Certification Application Packet**

Certification Application, including the Statement of Social and Economic Disadvantaged Status  
and the  
PNW Statement