

DEPARTMENT OF TRANSPORTATION

DBE PROGRAM – 49 CFR PART 26

TOWN OF JACKMAN, MAINE



NEWTON FIELD AIRPORT



DBE PROGRAM FOR FFY 2024, 2025, 2026

ATTACHMENTS

- [Attachment 1](#) Regulations: Link to 49 CFR Part 26
- [Attachment 2](#) Organizational Chart
- [Attachment 3](#) Bidder's List Collection Form
- [Attachment 4](#) State of Maine DBE Directory
- [Attachment 5](#) Overall Goal Calculations
- [Attachment 6](#) Demonstration of Good Faith Efforts – Bid Form
- [Attachment 7](#) DBE Monitoring and Enforcement Mechanisms
- [Attachment 8](#) DBE Certification Application
- [Attachment 9](#) State's UCP Agreement
- [Attachment 10](#) Small Business Element Program

**POLICY STATEMENT**

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

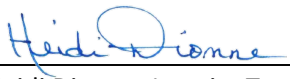
The **Town of Jackman**, owner of **Newton Field Airport**, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The **Town of Jackman / Newton Field Airport** has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the **Town of Jackman / Newton Field Airport** has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as “Part 26”).

It is the policy of the **Town of Jackman / Newton Field Airport** to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also the **Town of Jackman / Newton Field Airport** policy to engage in the following actions on a continuing basis:

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

**Heidi Dionne, Interim Town Manager** has been delegated as the DBE Liaison Officer. In that capacity, **Heidi Dionne, Interim Town Manager** 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 **Town of Jackman / Newton Field Airport** in its financial assistance agreements with the Department of Transportation.

The **Town of Jackman / Newton Field Airport** has disseminated this policy statement to the **Town of Jackman / Newton Field Airport** and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on the **Town of Jackman / Newton Field Airport** DOT-assisted contracts. The distribution was accomplished by including as part of bid packages and contract documents.

  
\_\_\_\_\_  
Heidi Dionne, Interim Town Manager

01/09/2024  
\_\_\_\_\_  
Date

## GENERAL REQUIREMENTS

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

The **Town of Jackman / Newton Field Airport** is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The **Town of Jackman / Newton Field Airport** will use terms in this program that have their meanings defined in Part 26, §26.5.

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

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

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

### **Section 26.11 Record Keeping Requirements**

#### Reporting to DOT

The **Town of Jackman / Newton Field Airport** will provide data about its DBE Program to the Department as directed by DOT operating administrations.

DBE participation will be reported to USDOT/FAA as follows:

The **Town of Jackman / Newton Field Airport** will transmit to the Federal Aviation Administration (FAA) annually, by or before December 1, the information required for the “Uniform Report of DBE Awards or Commitments and Payments”, as described in Appendix B to Part 26. The **Town of Jackman / Newton Field Airport** will similarly report the required information about participating DBE firms. All reporting will be done through the FAA official reporting system, or another format acceptable to the FAA as instructed thereby.

#### Bidders List

The **Town of Jackman / Newton Field Airport** will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on the **Town of Jackman / Newton Field Airport** DOT-assisted

contracts, for use in helping to set overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

This information will be collected in the following way(s): the **Town of Jackman / Newton Field Airport** will collect this information during the process of selling plans and specifications to prospective bidders via a manual process of requesting data from contractors and subcontractors purchasing these bid sets. Additionally, more detailed information is obtained at the time of bid through completion of required documentation in the bid package. See [Attachment 3](#).

Records retention and reporting:

The **Town of Jackman / Newton Field Airport** will maintain records documenting a firm's compliance with the requirements of this part. Other compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

**Section 26.13 Federal Financial Assistance Agreement**

The **Town of Jackman / Newton Field Airport** has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: - Each financial assistance agreement the **Town of Jackman / Newton Field Airport** signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The **Town of Jackman / Newton Field Airport** shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The **Town of Jackman / Newton Field Airport** shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The **Town of Jackman / Newton Field Airport** 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 **Town of Jackman / Newton Field Airport** of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: The **Town of Jackman / Newton Field Airport** will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible.

## ADMINISTRATIVE REQUIREMENTS

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

The **Town of Jackman / Newton Field Airport** is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. The **Town of Jackman / Newton Field Airport** is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the **Town of Jackman / Newton Field Airport** is in compliance with it and Part 26. The **Town of Jackman / Newton Field Airport** will continue to carry out this program until all funds from DOT financial assistance have been expended. The **Town of Jackman / Newton Field Airport** does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

### **Section 26.23 Policy Statement**

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

### **Section 26.25 DBE Liaison Officer (DBELO)**

The following individual has been designated as the DBE Liaison Officer for the **Town of Jackman / Newton Field Airport**:

<b>Name:</b>	<b>Heidi Dionne</b>
<b>Title:</b>	<b>Interim Town Manager</b>
<b>Address:</b>	<b>Town of Jackman 369 Main Street Jackman, Maine 04945</b>
<b>Telephone:</b>	<b>(207) 668-2111</b>
<b>E-mail Address:</b>	<b><a href="mailto:heidi.dionne@jackmanme.net">heidi.dionne@jackmanme.net</a></b>

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the **Town of Jackman / Newton Field Airport** complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the **Town of Jackman / Newton Field Airport** concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is included 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 DBELO has a staff of five (5) to assist in the administration of the program. 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 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 the **Town of Jackman / Newton Field Airport** progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the **Town of Jackman / Newton Field Airport** on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

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

It is the policy of the **Town of Jackman / Newton Field Airport** to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Currently, the Maine Unified Certification Program does not have any certified DBE financial institutions. In addition, at this time, there are no minority-owned banks in the northeastern region of Florida. (Source: U.S. Treasury Department Minority Bank Deposit Program <https://www.fiscal.treasury.gov/mbdp/participants.html>). We will investigate this each time we update this program.

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

The **Town of Jackman / Newton Field Airport** requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

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

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

- The **Town of Jackman / Newton Field Airport** will 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.

Additionally, for Federal Aviation Administration (FAA) Recipients include the following:

To implement this measure, **Town of Jackman / Newton Field Airport** includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime construction contract:

- a. From the total of the amount determined to be payable on a partial payment, 10 percent of such total amount will be deducted and retained by the Owner for protection of the Owner's interests. Unless otherwise instructed by the Owner, the amount retained by the Owner will be in effect until the final payment is made except as follows:
  - 1) Contractor may request release of retainage on work that has been partially accepted by the Owner in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.
  - 2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. 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 Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c. When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

### **Section 26.31 Directory**

The **Town of Jackman / Newton Field Airport** is a *non-certifying* member of the State of Maine Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31. The DBE Directory is available online at:

<https://www.maine.gov/mdot/civilrights/docs/dbe/WeeklyDBEVendorList.pdf>

In addition, the State of Maine Department of Transportation provides support services through their DBE Supportive Service Program. More information can be found at the **EMDC Website**:

<http://www.mainedbe.com/>

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

The **Town of Jackman / Newton Field Airport** has not identified that over-concentration exists in the types of work that DBEs perform.

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

The **Town of Jackman / Newton Field Airport** has not established a business development program, however, the **State of Maine** operates a comprehensive DBE Supportive Services Program aimed at enhancing the growth, development, and self-sufficiency of all DBE firms competing for DOT- assisted contracts and subcontracts. That program is part of the Department's Race-Neutral efforts. The Department also supports a Comprehensive Business Development Program (BDP) that is made available to a limited number of DBE firms that are considered mid-level or established. The firms are selected based on criteria including the firm's commitment to the program and readiness. Both the DBE Supportive Services Program and the BDP are federally-funded.

The DBE Supportive Services Program assists firms through conducting a comprehensive assessment and developing an implementation plan, which:

- Provides an analysis of the participating DBE's market potential, the competitive environment, and other business analysis capable of estimating the prospects for profitable operation during the term of participation in and after graduation from the program.
- Provides an analysis of the firm's strengths and weaknesses, with particular attention to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts for work that historically has not been performed by DBEs.
- Sets specific targets, objectives, and goals for the DBE participant.
- Assistance with creating Marketing and Business Plans.
- Assist with bid and proposal preparation and helps identify contracting opportunities.
- Provides tuition reimbursement for training and/or classes.
- Provides website development.
- Individualized assistance.
- Computer aided drafting & design.

The DBE Business Development program provides services which:

- Fast-tracked 2-year business development plan.
- Assist with bid and proposal preparation and identification of contract opportunities.
- Updating of a Business Plan.
- Technical assistance coaching and, if necessary, identifying other support resources.

- Networking Opportunities.
- Advanced Executive Training.
- Mentoring.

The BDP and the DBE Supportive Services Program are operated by one or more contractor(s) chosen using the Department's approved procurement process. The Department has also developed partnerships with other organizations that provide assistance to small businesses. This allows the Department to provide additional services at little to no cost.

### **Section 26.37 Monitoring Responsibilities**

The **Town of Jackman / Newton Field Airport** implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in the **Town of Jackman / Newton Field Airport's** DBE program.

The **Town of Jackman / Newton Field Airport** actively monitors participation by maintaining a running tally of actual DBE attainments (*e.g.*, payments actually made to DBE firms), including a means of comparing these attainments to commitments.

#### Monitoring Payments to DBEs and Non-DBEs

The **Town of Jackman / Newton Field Airport** undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

- Random on-site visits;
- Prime contractor's sworn statement is included in monthly invoicing.
- There may be interim audits of the contractor's payments to DBE's to ensure the actual amount paid to DBE subcontractors equals the amount reported.

The **Town of Jackman / Newton Field Airport** requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the **Town of Jackman / Newton Field Airport** financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the **Town of Jackman / Newton Field Airport** or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- The **Town of Jackman / Newton Field Airport** proactively reviews contract payments to subcontractors including DBEs monthly and with each application for payment. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the **Town of Jackman / Newton Field Airport** by the prime contractor.

#### Prompt Payment Dispute Resolution

The **Town of Jackman / Newton Field Airport** will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

Upon either parties written request to the DBELO for mediation, the parties shall participate voluntary mediation by selecting a mediator within 10 days of request. Within 30 days of the request, the mediation shall be completed, with or without legal counsel, pursuant to Maine law.

The **Town of Jackman / Newton Field Airport** has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage [*examples of mechanisms include the following*]:

(1) Alternative dispute resolution (ADR)

- If the subcontractor is unable to resolve payment discrepancies with the prime contractor or is uncomfortable contacting the prime contractor directly regarding the discrepancy, the subcontractor should contact the DBELO to initiate complaint.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

Prompt Payment Complaints

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

- If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the **Town of Jackman / Newton Field Airport** to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA contact.
- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

The **Town of Jackman / Newton Field Airport** will provide appropriate means to enforce the requirements of §26.29. These means include:

- Notify the contractor for resolution.

- If not promptly resolved, provide the subcontractor with copy of bond for them to notify the bonding agency.
- Retainage is not released until all lien waivers are received from subs.

The **Town of Jackman / Newton Field Airport** will actively implement the enforcement actions detailed above. Additional monitoring and enforcement mechanisms can be found in [Attachment 7](#).

#### Monitoring Contracts and Work Sites

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

#### **Section 26.39 Fostering Small Business Participation**

The **Town of Jackman / Newton Field Airport** has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The small business element is incorporated as [Attachment 10](#) to this DBE Program. The program elements will be actively implemented to foster small business participation. **Implementation of the small business element is required in order for the Town of Jackman / Newton Field Airport to be considered by DOT as implementing this DBE program in good faith.**

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

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

The **Town of Jackman / Newton Field Airport** does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

The **Town of Jackman / Newton Field Airport** will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), the **Town of Jackman / Newton Field Airport** will submit its Overall Three-year DBE Goal to FAA by August 1<sup>st</sup> of the year in which the goal is due, as required by the schedule established by and posted to the website of FAA.

[https://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/media/Schedule\\_of\\_DBE\\_and\\_ACDBE\\_Reporting\\_Requirements\\_Dec\\_2017\\_Issue.pdf](https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/Schedule_of_DBE_and_ACDBE_Reporting_Requirements_Dec_2017_Issue.pdf)

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the **Town of Jackman / Newton Field Airport** does not anticipate awarding prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any of the years within the three-year reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and the **Town of Jackman / Newton Field Airport** will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The **Town of Jackman / Newton Field Airport** has elected to use the STEP 1 Methodology as produced by the State of Maine Department of Transportation. **Heidi Dionne, Interim Town Manager, and the Town of Jackman / Newton Field Airport DBE Liaison Officer**, understands the commitment of the MaineDOT to comply with federal regulations and is prepared to take the steps necessary to ensure that every effort is made to attain the DBE Goal as identified in the STEP 2 Methodology.

The **Town of Jackman / Newton Field Airport** understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The **Town of Jackman / Newton Field Airport** will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the **Town of Jackman / Newton Field Airport** market.

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

In addition to the consultation described above, the **Town of Jackman / Newton Field Airport** will publish a notice announcing the proposed overall goal before submission to the FAA on August 1st. The notice will be posted on the **Town of Jackman / Newton Field Airport** official internet web site and may be posted in other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by FAA, the revised goal will be posted on the official internet web site.

The public will also be informed that the proposed overall goal and its rationale are available for inspection during normal business hours at the principal office of **Town of Jackman / Newton Field Airport**. This notice will provide that the **Town of Jackman / Newton Field Airport** and FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and e-mail addresses) where the proposal may be reviewed. **The public comment period will not extend the August 1<sup>st</sup> deadline.**

The Overall Three-Year DBE Goal submission to FAA will include a summary of information and comments received, if any, during this public participation process and **Town of Jackman / Newton Field Airport** responses.

The **Town of Jackman / Newton Field Airport** will begin using the overall goal on October 1 of the relevant period, unless other instructions from FAA have been received.

### Project Goals

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

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

#### Prior Operating Administration Concurrence

The **Town of Jackman / Newton Field Airport** understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the method employed by the **Town of Jackman / Newton Field Airport** for calculating goals is inadequate, FAA may, after consulting with the **Town of Jackman / Newton Field Airport**, adjust the overall goal or require that the goal be adjusted by the **Town of Jackman / Newton Field Airport**. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

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

#### **Section 26.47 Failure to Meet Overall Goals**

The **Town of Jackman / Newton Field Airport** cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the **Town of Jackman / Newton Field Airport** fails to administer its DBE program in good faith.

The **Town of Jackman / Newton Field Airport** understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The **Town of Jackman / Newton Field Airport** understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

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

#### **Section 26.51 Means Recipients Use to Meet Overall Goals**

Breakout of Estimated Race-Neutral & Race-Conscious Participation

The **Town of Jackman / Newton Field Airport** will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- (6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated race-neutral and race-conscious participation can be found in [Attachment 5](#) to this program.

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

## Contract Goals

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

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established 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).

Contract goals will be expressed as a percentage of the Federal share of a DOT-assisted contract.

### **Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals**

#### Demonstration of good faith efforts (pre-award)

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

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

The **Town of Jackman / Newton Field Airport** will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

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

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and

- non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:
  - (4) Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the recipient.

#### Administrative Reconsideration

Within 10 days of being informed by the **Town of Jackman / Newton Field Airport** that it is not responsible because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

<b>Name:</b>	<b>Scott Smith</b>
<b>Title:</b>	<b>Chair, Select Board</b>
<b>Address:</b>	<b>369 Main Street Jackman, Maine 04945</b>
<b>Telephone:</b>	<b>(207) 668-4125</b>

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do so. The bidder/offeror will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

#### Good Faith Efforts Procedural Requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the **Town of Jackman / Newton Field Airport**. This includes, but is not limited to, instances in which a prime

contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if the **Town of Jackman / Newton Field Airport** agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

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

Before transmitting to the **Town of Jackman / Newton Field Airport** a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the **Town of Jackman / Newton Field Airport**, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

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

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

Each prime contract will include a provision stating:

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

The **Town of Jackman / Newton Field Airport** will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If the **Town of Jackman / Newton Field Airport** requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor. The **Town of Jackman / Newton Field Airport** shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

***[Note: The provisions of the foregoing section apply only when a contract goal is established.]***

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

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

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

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

## **SUBPART D – CERTIFICATION STANDARDS**

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

The **Town of Jackman / Newton Field Airport** is a non-certifying member of the Maine Unified Certification Program (UCP). Maine UCP 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. Certifying Maine UCP members make all certification decisions based on the facts as a whole.

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

**Ms. Mary Bryant**  
**Maine Department of Transportation**  
**Office of Civil Rights**  
**16 State House Station**  
**Augusta, ME 04333-0016**  
**Telephone: (207) 624-3056**  
**E-mail: [mary.bryant@maine.gov](mailto:mary.bryant@maine.gov)**

**<https://www.maine.gov/mdot/civilrights/dbe/>**

The Uniform Certification Application form and documentation requirements are found in [Attachment 8](#) to this program.

## SUBPART E – CERTIFICATION PROCEDURES

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

The **Town of Jackman / Newton Field Airport** is the member of a Unified Certification Program (UCP) administered by Maine Department of Transportation. The UCP will meet all of the requirements of this section. A copy of the State’s UCP Agreement can be found in [Attachment 9](#).

#### **Disadvantaged Business Enterprises**

MaineDOT is committed to engaging small disadvantaged, minority and women-owned business enterprises as defined herein in all contracts to the maximum feasible extent, and will continue working to ensure the maximum feasible opportunity for these businesses to participate in contracts financed in whole or in part with federal funds.

As a recipient of federal USDOT funding, MaineDOT is required to develop and administer the DBE Program. MaineDOT administers the DBE Program and certifies all DBEs in Maine in compliance with federal regulations under 49 CFR Part 26. This Program is intended to remedy past and current discrimination against disadvantaged business enterprises, ensure a “level playing field”, and foster equal opportunity in USDOT-assisted contracts; improve the flexibility and efficiency of the DBE Program; and reduce burdens on small businesses.

DBE Certification does not mean the Contractor has the ability to work in the State of Maine - it is up to the Contractor to verify eligibility.

**DBE Information found at:** <https://www.maine.gov/mdot/civilrights/dbe/>

The Maine Department of Transportation is committed to the effective implementation of the Disadvantaged Business Enterprise (DBE) Program as defined in Title 49, Code of Federal (CFR) Part 26 and Part 23 for Airport Concessions. This program will be executed in accordance with the regulations of the United States Department of Transportation (DOT) as a condition of receiving DOT funding.

MaineDOT will not 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 or concession opportunity. MaineDOT 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 and ACDBE Programs or the requirements of 49 CFR Part 26 and 23. MaineDOT shall take all necessary and reasonable steps under 49 CFR Part 26 and 23 to ensure nondiscrimination in the award and administration of DOT-assisted contracts and concession opportunities.

For more information about the DBE Program, please contact Ms. Mary Bryant at (207) 624-3056 or by e-mail at [mary.bryant@maine.gov](mailto:mary.bryant@maine.gov)

#### [General Information/DBE Documents](#)

- DBE Supportive Services - [EMDC](#) (Off site)
- [MaineDOT DBE Program](#) (Word)
- [2014 US DOT Interstate Certification Guidance](#) (PDF)

### [D/WBE Directory of Businesses](#)

- **Listing of Businesses** ([Excel](#)) ([PDF](#)) - updated every Friday at 4:00 p.m
- Description of Creditable Services for DBE's ([Word](#))

### [Contractor and Consultant CUF and Utilization Forms](#)

- Contractor DBE Utilization Form ([Word](#)) ([PDF](#))
- Commercially Useful Function Form ([PDF](#))
- Certification of Final DBE payment ([PDF](#))
- Consultant Forms
  - Consultants DBE Utilization Form ([Word](#)) ([PDF](#))
  - Certification of Final DBE Payment ([PDF](#))
  - Certification of Final Subconsultant Payment ([Word](#)) ([PDF](#))

### [Subrecipient DBE Instructions and Reporting Forms](#)

#### **Instructions**

- MaineDOT Subrecipient DBE Program Instructions and Forms ([Word](#)) ([PDF](#))

#### **Forms**

- Subrecipient DBE Utilization Form ([Word](#)) ([PDF](#))
- DBE Quarterly Forms
  - Quarterly Contract Awarded ([Word](#)) ([PDF](#))
  - FAA Payments on Ongoing Contracts ([Word](#)) ([PDF](#))
  - Contract Completed ([Word](#)) ([PDF](#))

### [DBE Application Information](#)

The following is a list of application forms and Instructions for applying as a Disadvantaged Business Enterprise (DBE). These can also be found at <https://www.maine.gov/mdot/civilrights/dbe/>. Please forward completed applications to the following address:

Maine Department of Transportation  
Attn: Mary Bryant, Civil Rights Office  
16 State House Station  
Augusta, ME 04333-0016

Telephone: (207) 624-3056  
E-Mail: [mary.bryant@maine.gov](mailto:mary.bryant@maine.gov)

#### **MaineDOT In-State DBE Documents**

- DBE Application - **Required** ([PDF](#))
- Personal Net Worth Statement ([PDF](#))
- [Personal Financial Statement](#) - Required (PDF)
- [Supporting Documents Checklist](#) - Required (PDF)

#### **MaineDOT Out-Of-State DBE Documents**

As of January 1, 2013, the Maine Department of Transportation (MaineDOT) will require any out-of-state

firm certified in the federal DBE program in its home state to submit the following for consideration for certification in Maine:

- Interstate Certification Request Form - ([Word](#)) ([PDF](#))
- Copy of the Latest Letter of Certification from the DBE's Home State
- [Current Personal Net Worth Statement \(if more than 90 days since the date of the last certification renewal\)](#) (PDF)
- Interstate Affidavit of Disclosure - ([Word](#)) ([PDF](#))

Certification in Maine will be determined by the MaineDOT and the Department reserves the right to ask for further documentation before it renders its decision to certify in the Maine DBE Program.

For more information on the MaineDOT DBE Program, please contact:

**Mary Bryant, DBE Program Administrator**

Tel: (207) 624-3056

E-mail: [mary.bryant@maine.gov](mailto:mary.bryant@maine.gov)

## SUBPART F – COMPLIANCE AND ENFORCEMENT

### **Section 26.101 Compliance Procedures Applicable to the Town of Jackman / Newton Field Airport**

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

### **Section 26.109 Information, Confidentiality, Cooperation and Intimidation or Retaliation**

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

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

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

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

## ATTACHMENTS

<a href="#">Attachment 1</a>	Regulations: Link to 49 CFR Part 26
<a href="#">Attachment 2</a>	Organizational Chart
<a href="#">Attachment 3</a>	Bidder's List Collection Form
<a href="#">Attachment 4</a>	Link to State of Maine DBE Directory
<a href="#">Attachment 5</a>	Overall Goal Calculations
<a href="#">Attachment 6</a>	Demonstration of Good Faith Efforts – Bid Forms
<a href="#">Attachment 7</a>	DBE Monitoring and Enforcement Mechanisms
<a href="#">Attachment 8</a>	DBE Certification Application Form
<a href="#">Attachment 9</a>	State's UCP Agreement
<a href="#">Attachment 10</a>	Small Business Element Program

**ATTACHMENT 1**

Regulations: 49 CFR Part 26

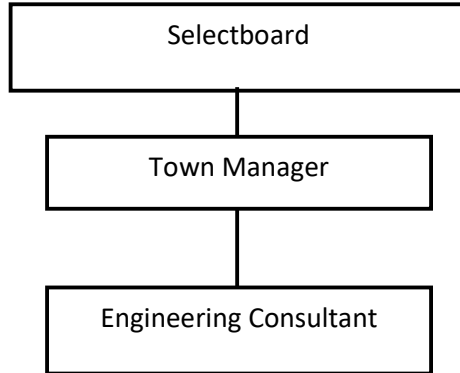
<https://www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1>

**ATTACHMENT 2**

**Organizational Chart**

**Town of Jackman, Maine**

**Newton Field Airport**



**ATTACHMENT 3**

Bidder's List Collection Form

**[Reminder: the information below must be collected from every bidder who submits a quote/bid to the recipient and every potential subcontractor who submitted a quote/bid to each bidder. §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.]**

**PLAN HOLDERS LIST**

PROJECT TITLE:

BID DUE DATE:

PLACE:

PLAN FEE:

PRE-BID MEETING DATE:

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

**ATTACHMENT 4**

**State of Maine DBE Directory**

The State of Maine Department of Transportation DBE Directory is available online at the following website:

<https://www.maine.gov/mdot/civilrights/docs/dbe/WeeklyDBEVendorList.pdf>

**ATTACHMENT 5  
OVERALL GOAL CALCULATIONS**

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

**Name of Recipient:**

**Town of Jackman / Newton Field Airport**

**Goal Period:**

FFY-2024-2025-2026 – October 1, 2023 through September 30, 2026

**Overall Three-Year Goal:**

The **Town of Jackman / Newton Field Airport** will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The **Town of Jackman / Newton Field Airport** follows the State of Maine DBE methodology and the State of Maine aims for 100% race neutral participation.

We estimate that, in meeting our overall goal of **1.28%**, we will obtain 100% from race-neutral participation and 0% through race-conscious measures.

**Total dollar amount anticipated to be expended on DBE's:**

**1.28% of total federal project dollars \$1,035,000 = \$13,248**

**Projects expected over the three-year period covered by this DBE Plan:**

		<b>Total Project</b>	<b>Federal Share</b>
2024	Crack Sealing & Pavement Markings	\$200,000	\$180,000
2025	Electrical Vault with Regulators with PAPI's	\$250,000	\$225,000
2026	Snow Removal Equipment	\$500,000	\$450,000
2026	Crack Sealing & Pavement Markings	\$200,000	\$180,000

**Methodology used to Calculate Overall DBE Goal**

The **Town of Jackman / Newton Field Airport** has established the overall DBE goal in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step determined the "base figure" for the relative availability of DBEs in the market area. The second step considered an adjustment to the "base figure" percentage from Step 1 so that it reflects, as accurately as possible, the DBE participation expected in the absence of discrimination based on past participation and local data.

**Market Area**

The market area is the area in which the substantial majority of the Airport's consultants, contractor's and subcontractor's that seek to do business with the Airport are located, and the area in which the Airport spends most of its federal contracting dollars. Historically, the Local Market Area for the **Town of Jackman / Newton Field Airport** has been the geographical boundaries of the State of Maine. The exception was

the use of specialty subcontractors which reached beyond the State of Maine. Since the projects outlined in the current Capital Improvement Plan do not require specialty subcontractors, and the greater majority that bid and perform on these projects are in-state firms, it is appropriate to use the geographical boundaries of the State of Maine to define the Local Market Area.

The **Town of Jackman / Newton Field Airport** has elected to use the STEP 1 Methodology as produced by the State of Maine Department of Transportation. The following narrative is reprinted from the DOT's Final Goal document. **Heidi Dionne, Interim Town Manager, and the Town of Jackman / Newton Field Airport DBE Liaison Officer**, understands the commitment of the MaineDOT to comply with federal regulations and is prepared to take the steps necessary to ensure that every effort is made to attain the DBE Goal as identified in the STEP 2 Methodology.

#### **MaineDOT's Annual DBE Goal for FFY 2022-2024**

Pursuant to 49 CFR 26 MaineDOT has researched upcoming potential contracts for our agency and Federal Aviation Administration (FAA) subrecipients, analyzed census data, reviewed bidding and DBE attainment history and has determined that the overall annual Disadvantaged Business Enterprise (DBE) attainment on FAA funded projects for FFY 2022-24 (October 1, 2021 through September 30, 2024) is 1.97%

#### **METHOD OF ESTABLISHING GOAL**

##### **Step 1 – Determining a base figure**

49 CFR 45 (b) states "Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market."

MaineDOT will calculate the overall goal using the criteria based in 49 CFR § 26.45(c) "Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs."

The determination will be based on a level of DBE participation relative to all businesses ready, willing and able to participate on FAA-assisted contracts and reflect a level MaineDOT would expect in the absence of discrimination. The overall goal setting procedure is based on the following:

- (1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

##### **Market Area:**

The market area was determined to be Statewide, since the substantial majority of the contractors and subcontractors with which MaineDOT does business are located in Maine, and the entire state is the area in which MaineDOT spends the substantial majority of its contracting dollars.

**Data Sources:**

MaineDOT got information from the 2019 County Business Patterns Database:

<https://www.census.gov/naics/>

And from the Maine DBE Directory: <https://www.maine.gov/mdot/civilrights/dbe/>

To determine the number of certified DBE firms that are ready, willing and able to work on a given FAA-assisted project, we looked at the Maine DBE directory for firms that offer aviation-related services. We also looked for NAICS codes based on anticipated contracts specified by our subrecipients where DBEs are eligible for work. (See Future Participation, P. 5)

Table 1: Projected Contracting Opportunities, NAICS Codes, and Relative Availability of Ready, Willing and Able DBE Firms to All Firms

NAICS Code	Description	Number of Maine Firms Per CBP Database	Number of DBE Firms in Geographic Market Area
212321	Construction sand and gravel mining	6	2
237310*	Highway, street, and bridge construction	77	6
237990	Other heavy and civil engineering construction	45	0
238110*	Poured concrete foundation and structure contractors	157	0
238140	Masonry contractors	133	3
238910*	Site preparation contractors	558	5
238990*	All other specialty trade contractors	185	2
423840	Industrial supplies merchant wholesalers	39	0
484210	Used household and office goods moving	33	0
484220	Specialized freight (except used goods) trucking, local	306	0
488490	Other support activities for road transportation	19	0
541320	Landscape architectural services	25	6
541330*	Engineering services	294	13
541340	Drafting services	22	1
541370*	Surveying and mapping (except geophysical) services	91	1
541380*	Testing laboratories	35	0
541430	Graphic design services	69	4
561110	Office administrative services	97	0
541613	Marketing consulting services	119	1
541620*	Environmental consulting services	80	1
541690	Other scientific and technical consulting services	76	0
541820	Public relations agencies	30	0

561320	Temporary help services	132	1
561720	Janitorial services	366	1
561730	Landscaping services	899	0
	<b>Totals:</b>	<b>4,015</b>	<b>48</b>

\*NAICS codes with FAA component

To determine the relative availability of DBEs, the Department created a ratio wherein the numerator represents the number of ready, willing and able DBE firms and the denominator represents all firms, both DBEs and Non-DBEs, available in each work category.

**For the numerator:**       MaineDOT UCP DBE Database of Certified Firms  
in the geographic market area

**For the denominator:**   2019 U.S. Census Bureau’s County Business  
Pattern Database (CBP)

As noted in Table 1, the Department identified 4,015 ready, willing and able firms in the NAICS codes for the projected federally-assisted contracting opportunities. In the federally prescribed formula below, this number is used as the denominator. The numerator was found by determining the number of ready, willing and able DBE certified firms within the same NAICS sub-sectors. For the purposes of this goal setting methodology, 48 firms currently DBE certified in Maine are considered ready, willing and able to perform work in the areas identified. The 48 ready, willing, and able DBE certified firms, divided by the 4,015 total number of all ready, willing, and able firms (DBEs and non-DBEs), yields a base figure of 1.20%.

$$\frac{\text{Formula} \quad \text{DBE (48)}}{\text{CBP (4,015)}} = 0.01195 \times 100 = 1.20\%$$

Therefore, the denominator would be 4,015 to represent all potential aviation firms and aviation related firms for potential contracts and subcontracts in Maine for the upcoming 3 fiscal years.

The numerator would be 48, the number of DBE’s under these categories available to perform the identified support work in Maine.

Maine chooses not to use weighting in the determination of the base goal because of the similarity in the types of DBEs that participate on FAA projects and because of the limited number of NAICS codes that DBEs work under in the market area.

The base goal based upon the 2019 County Business Patterns (NAICS) and DBE Directory data would be:  
48/4,015 = 1.20%

(2) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.

Maine has not conducted any disparity studies that would apply to the calculation of this goal.

- (3) Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule; you may use that goal as a base figure for your goal.

This method was not used for goal calculation.

- (4) Alternative methods. You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

MaineDOT does not propose any alternative method for base goal calculation.

MaineDOT – Funded DBE BASE GOAL = **1.20%**.

### **PUBLIC PARTICIPATION**

As Maine's only Unified Certification Program entity, MaineDOT has done extensive public outreach to ensure that eligible businesses are aware of the DBE Program. For many years, MaineDOT has hired Eastern Maine Development Corporation (EMDC), a community development and small business development agency, to administer its DBE Supportive Services Program. EMDC's contract with MaineDOT includes a recruitment component that requires the consultant to promote the DBE program to businesses at trade shows, networking and matchmaker events.

Below is the complete list of events, and workshops that the DBESS Specialist and/or the DBE Administrator attended and participated in from September, 2021 through May, 2022 for the purpose of networking with small businesses and other resources that work with small businesses in order to promote the DBE Program gather input on how best to promote the program and work with groups to bring prime contractors and providers together with small business groups.

1. 10/27/2021 – Peer Exchange Sessions 1, 2, 3, 4
2. 10/28/2021 – Peer Exchange Sessions 1, 2, 3, 4
3. 10/29/2021 – WrapME Luggage DBE Meeting
4. 2/14/2022 – DBE Training Course
5. 2/15/2022 – DBE Training Course
6. 2/16/2022 – DBE Training Course
7. 2/17/2022 – DBE Training Course
8. 2/22/2022 – DBE EMDC Youth Informational Seminar
9. 3/02/2022 – U.S.DOT DBE Contract Goal Setting Webinar
10. 3/28/2022 – DBESS Quarterly Review Meeting
11. 4/20/2022 – DBE Prompt Payment

## **Public Process**

Pursuant to 49 CFR 26.45 (g)(i), MaineDOT: “must consult with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.”

MaineDOT works closely with our DBESS Consultant and regularly discusses concerns and successes with DBE firms in Maine. The DBESS consultant works directly with DBEs and assists firms addressing their concerns and challenges. The DBESS Consultant is a conduit to MaineDOT for DBEs.

On June 18, 2021, MaineDOT held a public meeting via zoom at 2:00 PM Eastern Time (US and Canada). General contractor associations, DBEs, the DBE Supportive Services consultant, Associated General Contractors of Maine, Inc. (AGC), National Association of Women in Construction (NAWIC), the Maine Better Transportation Association (MBTA), the Maine Women’s Business Center, the National Association for the Advancement of Colored People (NAACP) Maine Chapter, the American Council of Engineering Companies in Maine (ACEC), the Maine Chamber of Commerce, and the Maine Asphalt Pavement Association were sent emails to participate in a discussion of our Goal Methodology, to obtain information relevant to our goal setting process and to express any concerns about MaineDOT’s DBE program. Advance copies of the draft Goal Methodology were provided to invitees prior to the meeting. The draft was available at the Civil Rights Office website:

<https://www.maine.gov/mdot/civilrights/dbe/>

At the meeting, the draft Goal Methodology was presented and representatives of MaineDOT’s Civil Rights Office listened to concerns, received comments and answered questions. A follow-up email was sent to the entities listed above soliciting additional feedback. Other than some minor corrections to the document, there were no comments on the draft methodology.

## PROPOSED FAA DBE GOALS

### MAINEDOT STEP 1 METHODOLOGY

The **Town of Jackman / Newton Field Airport's** Step 1 Base Figure is 1.20%, computed as outlined on the previous pages (32 – 36).

The **Town of Jackman / Newton Field Airport** does not propose any alternative method for base goal calculation.

#### Employment Education / Union Apprenticeship

This considers data on employment, self-employment, education, training and union apprenticeship programs that can be directly related to the opportunities for DBE's to perform in the **Town of Jackman / Newton Field Airport's** DBE Program. The DBE's available for the **Town of Jackman / Newton Field Airport's** projects are the same as the DBE's available for Maine Department of Transportation projects.

#### Breakout of Estimated Race Neutral (RN) and Race Conscious (RC) Participation

The **Town of Jackman / Newton Field Airport** estimates that the DBE goals calculated will be reached entirely through Race Neutral measures and none will be obtained through Race Conscious measures.

#### Consultation

On an annual basis, the **Town of Jackman / Newton Field Airport** may consult with minority, women's and general contractor groups, and other Northern New England community organizations, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and efforts to establish a level playing field for the participation of DBEs.

**Newton Field Airport DBE Step 1 Base Goal = 1.20%**

### Step 2 – Adjustment to Base Figure

Once the base figure is determined, the **Town of Jackman / Newton Field Airport** is required to examine all of the evidence available to determine what adjustment, if any, is necessary. Step 2 requires the **Town of Jackman / Newton Field Airport** to incorporate any available evidence that will improve the accuracy of the Step 1 base line goal calculations in order to determine the level of DBE participation that would occur absent the effects of discrimination. The **Town of Jackman / Newton Field Airport** assessed the impact of specific factors requiring narrow tailoring of the DBE Program. The following factors were considered in making the decision to adjust the overall DBE goal:

#### Past participation.

The volume of work that DBEs have performed in recent years can be useful to increase the accuracy of the DBE goal. Past participation is particularly useful if the contracting opportunities that are projected for the next three years are similar to those of the previous goal period. The **Town of Jackman / Newton Field Airport** analyzed the projected contracting opportunities and determined that the projected

opportunities are substantially similar to those in the prior three years and that therefore adjusting the base figure using past participation was logical. The following table shows the DBE participation obtained during this FFY2020 through FFY2022.

FFY	DBE Goal	DBE Participation
2020	1.70%	1.75%
2021	1.70%	1.36%
2022	1.70%	0.00%

DBE participation during those federal fiscal years was 1.75% for FFY20, 1.36% for FFY21 and 0% for FFY22. To adjust the base figure using past participation, the **Town of Jackman / Newton Field Airport** adds the median participation from the relevant three -year period to the base figure and divides that sum by two. The median participation during this time period was 1.36%.

**Median 1.36% + Base Figure 1.20% = 2.56%**

**Step 1 Base averaged with historical median: 2.56% / 2 = 1.28%**

To arrive at an overall goal, the Step 1 base figure was added to the Step 2 adjustment figure and the total was averaged, arriving at an overall goal of 1.28%. The **Town of Jackman / Newton Field Airport** believes this adjusted goal accurately reflects DBE participation that can be achieved for the type(s) of working being awarded during this three-year period. Accordingly, after adjusting the base figure due to the similarity of federally-assisted procurement opportunities during the previous 3 years, the **Town of Jackman / Newton Field Airport** adjusted DBE Goal is 1.28%.

**Town of Jackman / Newton Field Airport**

AIP Year	Project	Value	DBE	%
2020	Obstruction Removal – Phase I – Acquire 1 Easement for Runway 31 Approach	\$36,808.32	\$0.00	0.00%
2020	Remove Obstructions – Phase III Physical Removal for Runway 13 Approach	\$167,700.00	\$0.00	0.00%
2020	Rehabilitate Runway 13-31	\$1,505,751.00	\$26,333.33	1.75%
2021	Extend Runway – Phase II Construct Runway Extension			
2021	Extend Runway – Phase III Obstruction Removal for Runway 31 Approach	\$3,559,315.00	\$48,391.54	1.36%
2022	Reconstruct Portion of Main Apron; Rehabilitate Taxiway A Pavement; & Extend Runway 13-31 – Phase IV – Reimbursable Agreement for Flight Check of PAPI, REILs & MIRLs	\$455,523.00	\$0.00	0.00%
2022	Reconstruct a Portion of the Terminal Apron – Phase II	\$105,480.00	\$0.00	0.00%
<b>Total DBE Participation</b>		<b>\$5,793,769.00</b>	<b>\$74,724.87</b>	<b>1.29%</b>

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

The **Town of Jackman / Newton Field Airport’s** DBE Program goal of **1.28%** for FFYs 2024-2025-2026 will

meet the maximum feasible portion of the overall goal by using RN means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Refer DBEs and small businesses to [www.sba.gov](http://www.sba.gov) for assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
5. Refer DBEs and small business to Maine Department of Transportation, <https://www.mainedbe.com/>, for supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Refer DBEs and small business to Maine Department of Transportation, <https://www.mainedbe.com/>, for services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Refer DBEs and small business to Maine Department of Transportation, <https://www.mainedbe.com/>, program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
9. Refer DBEs and small business to Maine Department of Transportation, <https://www.mainedbe.com/>, to develop their capability to utilize emerging technology and conduct business through electronic media; and
10. Provide instructions and clarification on bid specifications, general bidding requirements, and procurement policies and procedures; and
11. Discuss the DBE goal and DBE requirements at Pre-bid meetings to encourage prime contractors to solicit DBE firms in subcontracting opportunities.
12. Consider unbundling larger contracts to provide more opportunities to DBEs and small businesses.

The **Town of Jackman / Newton Field Airport** estimates that in meeting the established overall goal of 1.28%, it will obtain 100% from RN participation and 0.00% through RC measures.

Finally, as stated previously, there has been no evidence of discrimination on the part of contractors and we continue to have evidence of continuing good faith effort.

The **Town of Jackman / Newton Field Airport** will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation [see §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:

In establishing the overall goal, the **Town of Jackman / Newton Field Airport** provided for consultation and publication. This process included consultation with minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the **Town of Jackman / Newton Field Airport** efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows.

The consultation engaged in was a video conference, which was held at 8:45 a.m. on September 21, 2023.

The following comments were received during the course of the consultation:  
No comments were received.

A notice of the proposed goal was published on the **Town of Jackman / Newton Field Airport** official website before the methodology was submitted to the FAA.

Following the consultation, a notice was published on the **Town of Jackman / Newton Field Airport** website regarding the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the **Town of Jackman / Newton Field Airport** offices for 30 days following the date of the notice, and informing the public that the **Town of Jackman / Newton Field Airport** will accept comments on the goals for 30 days from the date of the notice.

If the proposed goal changes following review by FAA, the revised goal will be posted on the **Town of Jackman / Newton Field Airport** official website.

Notwithstanding paragraph (f)(4) of §26.45, the **Town of Jackman / Newton Field Airport** proposed goals will not be implemented until this requirement has been met.

## PUBLIC NOTICE

The **Town of Jackman / Newton Field Airport** hereby announces its proposed Disadvantaged Business Enterprise (DBE) goal of **1.28%** for Federal Aviation Administration funded contracts/agreements. The proposed goal pertains to federal fiscal years 2024 through 2026. A virtual meeting will be held on **September 21, 2023 at 8:45 a.m.** for the purpose of consulting with stakeholders to obtain information relevant to the goal-setting process. You can access the meeting here:

### Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 261 068 048 495

Passcode: f3E63F

[Download Teams](#) | [Join on the web](#)

### Join with a video conferencing device

123940270@teams.bjn.vc

Video Conference ID: 119 704 051 3

[Alternate VTC instructions](#)

### Or call in (audio only)

[+1 603-326-7480,,589035538#](tel:+16033267480,589035538#) United States, Manchester

Phone Conference ID: 589 035 538#

[Find a local number](#) | [Reset PIN](#)

The proposed goals and rationale is available for inspection during normal business hours at the **Town Manager's Office, Town of Jackman, 369 Main Street, Jackman, Maine 04945** for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 30 days from the date of this publication and can be sent to the following:

Heidi Dionne, Interim Town Manager  
Town of Jackman  
369 Main Street  
Jackman, Maine 04945  
(207) 668-2111  
[heidi.dionne@jackmanme.net](mailto:heidi.dionne@jackmanme.net)

or

Alexander Horton  
DBE/ACDBE Program Compliance  
- New England Region -  
FAA Office of Civil Rights, ACR-4a  
[alexander.horton@faa.gov](mailto:alexander.horton@faa.gov)  
Phone: (754) 226-4134  
Physical Location: 2895 SW 145<sup>th</sup> Avenue, Suite #291, Miramar, FL 33027

ATTACHMENT 6

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

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner:

- Bidder/offeror has met the DBE contract goal  
The bidder/offeror is committed to a minimum of \_\_\_\_ % DBE utilization on this contract.
  
- Bidder/offeror has not met the DBE contract goal  
The bidder/offeror is committed to a minimum of \_\_\_\_% DBE utilization on this contract and has submitted [or "will submit," if recipient made compliance a matter of responsibility] documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm: \_\_\_\_\_

Bidder/Offeror Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**Demonstration of Good Faith Efforts**

The DBE goal for this project is **1.28** percent.

All Bidders must submit an Assurance stating the percentages of minority business and women-owned businesses they intend to employ on this project.

Within 4 days of the opening of Bids and before the award of a contract, the apparent successful competitor shall submit the following:

1. Name(s) of DBE subcontractor(s).
2. Description of work each is to perform.
3. Dollar value of each proposed minority business subcontract(s).

If Bidders wish, they may submit the above information, in a separate, sealed envelope marked "D.B.E. Participation Information" with their Bid.

**REQUIRED ASSURANCE TO BE INCLUDED IN ALL PROPOSALS**

This firm assures that it will utilize no less than \_\_\_\_% DBE participation.

CERTIFICATION OF BIDDER for the above:

BIDDER'S NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

EIN NUMBER \_\_\_\_\_

If the apparent successful competitor does not meet the goal, it shall submit a statement showing that a good faith effort was made by the competitor to meet the goal.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**LISTING OF PROJECT SUBCONTRACTORS**

The Bidder advises herein that the following Subcontractors are proposed for the item of work listed. Subcontractors are subject to review and approval per the requirements of the Contract Documents and the technical requirements specified. List only firms that will supply labor at the site.

<b>SUBCONTRACTOR</b>	<b>DBE? (Y/N)</b>	<b>Work Item to be performed</b>	<b>Dollar Value</b>
1. _____			
2. _____			
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			
8. _____			
9. _____			
10. _____			
11. _____			
12. _____			

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
(Contractor)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

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

(use additional sheets if necessary and number 1 of 1, 1 of 2, etc.)

**REPORT OF CERTIFIED DBE CONTRACTORS USED ON FAA**

Name of Airport \_\_\_\_\_  
 Name of Project \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Contractor's \_\_\_\_\_ AIP \_\_\_\_\_ Total \_\_\_\_\_  
 \_\_\_\_\_  
 DBE Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/ZIP: \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 Type of work Performed: NAICS (list all that apply): \_\_\_\_\_  
 \_\_\_\_\_

Website to search for NAICS codes by type of work performed: <https://www.naics.com/search/>

	Disadvantaged Group (dollars)	
	WOMEN	MEN
Black American		
Hispanic American		
Native American		
Asian-Pacific American		
Subcontinent Asian American		
Non-Minority		
TOTAL THIS PAY REQUEST	\$ -	\$ -
TOTAL PREVIOUSLY REPORTED	\$ -	\$ -
TOTAL WORK TO DATE	\$ -	\$ -

*I certify that the above information is correct:*

\_\_\_\_\_  
Signature of

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of General Contractor or Consultant

\_\_\_\_\_  
Date

## ATTACHMENT 7

### DBE Monitoring and Enforcement Mechanisms

Each Contractor will be required to submit documentation of DBE participation as the work progresses. A monthly compliance report/DBE participation affidavit and EEO/DBE monthly activities report will be required to be submitted monthly with the Contractor's Application for Payment or by the last day of the month if the Contractor is not submitting an Application for Payment. Trade Contractor's Application for Payment will not be processed if any of the DBE monthly report is delinquent.

The **Town of Jackman / Newton Field Airport** has a breach of contract action, pursuant to the terms of the contract, option available to enforce the DBE requirements contained in its contracts.

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**  
DBE Certification Application Form

For forms required to initiate the DBE Certification process, visit the State of Maine website:

<https://www.maine.gov/mdot/civilrights/dbe/>

**MaineDOT In-State DBE Documents**

- Affidavit - **Required** ([Word](#)) ([PDF](#))
- [DBE Application - Required \(PDF\)](#)
- Instructions - ([PDF](#))
- [Personal Net Worth Statement - Required \(PDF\)](#)
- Personal Financial Statement - **Required** ([Word](#)) ([PDF](#))
- Supporting Documents Checklist - **Required** ([PDF](#))

**MaineDOT Out-Of-State DBE Documents**

As of January 1, 2013, the Maine Department of Transportation (MaineDOT) will require any out-of-state firm certified in the federal DBE program in its home state to submit the following for consideration for certification in Maine:

- Interstate Certification Request Form - ([Word](#)) ([PDF](#))
- Copy of the Latest Letter of Certification from the DBE's Home State
- [Current Personal Net Worth Statement \(if more than 90 days since the date of the last certification renewal\)](#) (PDF)
- Interstate Affidavit of Disclosure - ([Word](#)) ([PDF](#))

Certification in Maine will be determined by the MaineDOT and the Department reserves the right to ask for further documentation before it renders its decision to certify in the Maine DBE Program.

**ATTACHMENT 9**  
State's UCP Agreement

**AGREEMENT**  
**Between the**  
**MAINE DEPARTMENT OF TRANSPORTATION**  
**OFFICE OF HUMAN RESOURCES**  
**And**  
Town of Jackman

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**This Agreement** is made this 11th day of April, 2002, by and between the **State of Maine**, through its **Department of Transportation (MDOT)**, with an address of 16 State House Station, Augusta, Maine, and Town of Jackman -Newton Field, with an address of 365 Main Street PO BOX 269, Jackman, Maine.

**I. AGREEMENT**

**MDOT and the named party hereby agrees as follows:**

1. The named party agrees that as a recipient of USDOT financial assistance it will cooperate fully with the Maine Department of Transportation in the certification of Disadvantaged Business Enterprises.
2. The named party agrees it shall utilize the MDOT Disadvantaged Business Enterprise Certification program.
3. The named party agrees to refer potential applicants for DBE Certification to MDOT.
4. The named party agrees to honor the decisions made by MDOT with respect to certification decisions made in accordance with 49 CFR Parts 23 and 26 Subpart E Certification Procedures.
5. MDOT will accept, review, and make determinations about DBE Certification for those entities referred to it by the named party.

**II TERMS**

This Agreement remains in place indefinitely.

**SEEN AND AGREED TO BY:** Town of Jackman

**MAINE DEPARTMENT OF TRANSPORTATION**

*Penny Plourde*

**By: Penny Plourde Manager, Small Business Programs**

Kathleen MacKenzie                      Town Manager

---

By: *Kathleen MacKenzie*                      Title *Town Manager*

**ATTACHMENT 10**  
Small Business Element

**SMALL BUSINESS PARTICIPATION**

**A. Objective (49 CFR Part 26.39)**

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the **Town of Jackman / Newton Field Airport** will implement a small business element into its DBE policy in accordance with applicable law. The **Town of Jackman / Newton Field Airport** is including this element to facilitate competition by and expand opportunities for small businesses. The **Town of Jackman / Newton Field Airport** is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The **Town of Jackman / Newton Field Airport** will meet its objectives using a combination of the following methods and strategies:

1. Set asides:

Where feasible, the **Town of Jackman / Newton Field Airport** will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the **Town of Jackman / Newton Field Airport** and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and small business officer will document why a small business set-aside is inappropriate.

2. Unbundling:

The **Town of Jackman / Newton Field Airport**, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The **Town of Jackman / Newton Field Airport** will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. Similarly, the **Town of Jackman / Newton Field Airport** will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

## B. Definitions

### 1. Small Business:

A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

### 2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the State Department of Transportation (MaineDOT) in accordance with 49 CFR 26.

For the purposes of the small business element of the **Town of Jackman / Newton Field Airport's** DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

## C. Certification and Verification Procedures

The **Town of Jackman / Newton Field Airport** will accept the following certifications for participation in the small business element of their DBE Program with applicable stipulations:

1. State DOT DBE Certification – DBE Certification by the State DOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the State DOT.
2. State DOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the State DOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

**D. Implementation Schedule**

The **Town of Jackman / Newton Field Airport** will implement this small business element within nine months of the FAA's approval of this document describing the element.

**E. Assurances**

The **Town of Jackman / Newton Field Airport** makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.