

## Glenda Wiles

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**From:** Lance Bowser <lbowser@rpa-hln.com>  
**Sent:** Tuesday, July 25, 2017 8:23 AM  
**To:** Sonia.Cruz@faa.gov  
**Cc:** 'Handl, Megan (mhandl@mt.gov)'; Rick Donaldson; Glenda Wiles; 'Roxanne.Trotta@faa.gov'  
**Subject:** 65S DBE Program / Goal  
**Attachments:** 65S.DBE.programFY2018-2020.pdf

Sonia,

Please find the attached program for your review / concurrence. The program includes a multi-year goal for FY 2018-2020.

The goal setting included a face-to-face meeting, which also allowed for teleconferencing into remotely. There were no members of the public that attended. Three members of MDT – Civil Rights attended. Discussions were held regarding goal setting, and efforts taken to encourage DBE usage, but no comments for recommended changes were received

Following the face-to-face meeting a 30-day comment period was allowed, and the draft goal was posted to Ravalli County's website. No comments were received.

Please let me know if you have any questions / comments / or concerns. The program will be finalized / signed by the Owner upon your preliminary concurrence.

Sincerely,



**Lance D. Bowser, P.E. | Project Manager**

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# DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

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Ravalli County Airport Improvements  
Ravalli County  
Hamilton, Montana



*prepared by*  
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P.O. Box 5653  
Helena, Montana 59604-5653

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July 2017

**RAVALLI COUNTY AIRPORT  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
49 CFR PART 26**

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- Attachment 9 Montana Department of Transportation UCP Agreement
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## RAVALLI COUNTY AIRPORT DBE PROGRAM 49 CFR PART 26

### POLICY STATEMENT

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

**Ravalli County, Montana** owner and sponsor of the **Ravalli County 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. **Ravalli County** has/will receive Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, **Ravalli County** has/will sign an assurance that it will comply with 49 CFR Part 26.

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

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

**Ravalli County Commissioner, Jeff Burrows, 215 S. Fourth, STE. A, Hamilton, MT 59840-2853, 406-375-6500, [iburrows@rc.mt.gov](mailto:iburrows@rc.mt.gov)**, has been designated as the DBE Liaison Officer. In that capacity, the Liaison Officer 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 **Ravalli County** in its financial assistance agreements with the Department of Transportation.

**Ravalli County** will disseminate this policy statement to the **County Commission** and all the components of our organization. We have distributed this statement to

DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

This notification is accomplished through Legal Advertisements and public posting of *draft* DBE programs soliciting comments, direct coordination / consultation with registered DBE participants through the Montana Department of Transportation, and through inclusion of mandatory contract language within all construction contract bid solicitations (legal advertisement for bids).

DRAFT

\_\_\_\_\_  
Jeff Burrows, *Commissioner*  
*Ravalli County Commission*

\_\_\_\_\_  
Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

**Ravalli County** is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, et seq.

### **Section 26.5 Definitions**

**Ravalli County** will use terms in this program have the meanings defined in 49 CFR §26.5.

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

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

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

#### **Reporting to DOT: 26.11**

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

We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form through either the FAA DBE Contractor's Form or on DBE Connect (FAA dbe-Connect). We will begin using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY 2018 reports due December 1, 2018.

DBE Connect: <https://faa.dbesystem.com/>

Bidders List: 26.11(c)

**Ravalli County** will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information in the following ways:

***Attachment 3 – Bidder’s List Collection Form***

**Section 26.13 Federal Financial Assistance Agreement**

**Ravalli County** has/will sign the following assurance, applicable to all DOT-assisted contracts and their administration:

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

***Ravalli County** shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient’s DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to **Ravalli County** of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).*

Contract Assurance: 26.13b – **Ravalli County** will ensure that the following clause is included in each contract we sign with a contractor and require the prime contractor to include the provision with any subcontractor, lower-tier subcontractor or service provider:

***Contract Assurance (§ 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry*

*out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and / or (4) Disqualifying the contractor from future bidding as non-responsible.*

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

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

**Ravalli County** 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. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

### **Section 26.23 Policy Statement**

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

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

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

***Ravalli County Commission***  
***Jeff Burrows, Commissioner***  
***215 S. Fourth, STE. A***  
***Hamilton, MT 59840-2853***  
***406-375-6500***  
***jburrows@rc.mt.gov***

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

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination other appropriate officials. The DBELO's primary resource is the engineering representative, Robert Peccia and Associates of

Helena, Montana. The DBELO also has County employees at their disposal on an as needed basis to assist in the administration of the program.

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 multi-year 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 contract provisions are included in solicitations and monitors results.
6. Analyzes **Ravalli County's** progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Oversees **Ravalli County** on DBE matters and achievements.
9. Determines Contractor compliance with good faith efforts for any race conscious goals.
10. Assists in providing DBE's with information and assistance in preparing bids, obtaining bonding, and insurance. **Ravalli County** relies on MDT to aid in support services for certified DBE's.
11. Participates in DBE training seminars directly or indirectly through consultant services contracted / provided.
12. Acts as liaison to the Uniform Certification Process.
13. Assists in providing outreach to DBE's and community organizations to advise them of opportunities. **Ravalli County** relies on MDT to aid in support services and utilizes MDT's online DBE Quote Request service as part of each project advertisement.
14. Utilizes MDT's updated directory on certified DBE's.

## **Section 26.27 DBE Financial Institutions**

It is the policy of **Ravalli County** 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. The Montana Department of Transportation's database of certified DBE firms was searched, and three DBE business / finance institutions were found to be registered in the State of Montana. Investigation regarding availability for DBE financial institutions will be completed as part of each goal methodology to determine if **Ravalli County** can make use of any registered DBE financial institutions. Prime Contractors will also be encouraged to use DBE owned or controlled financial institutions if they are needed by any Contractor.

## **Section 26.29 Prompt Payment Mechanisms**

**Ravalli County** has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 days from receipt of each payment made to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. We will 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 include a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 days after payment to the prime contractor.

**Ravalli County** will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by **Ravalli County**. When **Ravalli County** 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.

**Ravalli County** will provide appropriate means to enforce the requirements of this section. These means include *delay or postponement of payment among the parties may take place for good cause*.

**Ravalli County** will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than **Seven (7)** days from the receipt of each payment the prime contractor receives from **Ravalli County**. The prime contractor agrees further to return retainage payments to each subcontractor within **Seven (7)** days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of **Ravalli County**. This clause applies to both DBE and non-DBE subcontractors.

In the event of Contractor's noncompliance, **Ravalli County** shall impose such contract sanctions as it and the FAA may determine to be appropriate, including but not limited to:

- Withholding of payment to the Contractor under the contract until the Contractor complies, and/or
- Cancellation, termination, or suspension of the contract in whole or in part.

**Ravalli County** has also established, as part of our DBE program, the following mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. **Ravalli County** may specify the nature of such mechanisms.

(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.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

#### Monitoring Payments to DBEs

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

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

#### **Section 26.31      Directory**

**Ravalli County** uses the State of Montana Department of Transportation (MDT) DBE directory, maintained by the State.

The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists the firm's name, address, telephone number, date of most recent certification, the type of work the firm has been certified to perform as a DBE, and the corresponding NAICS code(s). MDT Civil Rights staff updates the Directory daily.

The Directory may be found at:

[http://www.mdt.mt.gov/other/webdata/external/css/awpr\\_dbe\\_directory.pdf](http://www.mdt.mt.gov/other/webdata/external/css/awpr_dbe_directory.pdf)

**Section 26.33 Over-concentration**

*Ravalli County* has not identified that over-concentration exists in the types of work that DBEs perform.

**Section 26.35 Business Development Programs**

*Ravalli County* has not established a business development program.

**Section 26.37 Monitoring and Enforcement Mechanisms**

*Ravalli County* will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

- 1) We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
- 2) We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. **Attachment 7 – DBE Monitoring and Enforcement Mechanisms** lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our DBE Program.
- 3) We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
- 4) We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by:
  - (1) Certified Statements signed by the subcontractors
  - (2) Competent and qualified personnel performing project administration, engineering supervision, and project inspection services. Daily logs are kept fully documenting contractors/subcontractor performance of work.
  - (3) The Contractor providing complete release of all claims for labor and material arising out of the Contract, including signed release from all Subcontractor and material suppliers.

- (4) The contractor providing a certified statement, indicating actual amounts paid to the Disadvantage Business Enterprise (DBE) subcontractors and/or suppliers associated with the project.
- 5) We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

**Section 26.39 Fostering Small Business Participation.**

Ravalli County 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.

Ravalli County’s small business program element is incorporated as **Attachment 10** to this DBE Program. We will actively implement the program elements to foster small business participation; doing so is a requirement of good faith implementation of our DBE program.

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

**Section 26.43 Set-asides or Quotas**

Ravalli County does not use quotas in any way in the administration of this DBE program.

**Section 26.45 Overall Goals**

Ravalli County will establish an overall DBE goal covering a three-year federal fiscal year period, if we anticipate awarding prime contracts exceeding \$250,000 in FAA funds in one or more of the reporting Federal fiscal years within the three year goal period, as specified in 49 CFR Part 26.45. In accordance with Section 26.45(f), Ravalli County will submit its Overall Three-year DBE Goal to FAA by August 1st as required by the established schedule below.

<b>Airport Type</b>	<b>Region</b>	<b>Date Due (Goal Period)</b>	<b>Next Goal Due (Goal Period)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>Northwest Mountain</b>	<b>August 1, 2017 (2018/2019/2020)</b>	<b>August 1, 2020 (2021/2022/2023)</b>

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

(c) Step 1. The first step is to determine the relative availability of DBEs in the market area, "base figure". We will use the data from the *Montana Disparity Study*, as a method to determine our "base figure" percentage.

Any methodology we choose 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 our market. We understand that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section (above), is not an acceptable alternative means of determining the availability of DBEs.

(d) Step 2. Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

26.45 (g) (1) In establishing the overall goal, **Ravalli County** 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 recipient's efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the *recipient's* goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f) (4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, **Ravalli County** will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be advertised within the newspaper of record, distributed through the Montana Department of Transportation, and may be posted in other sources (e.g., minority-

focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be distributed / made available through those same publications / distributions. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours, location(s) for inspection, electronically made available, and that DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. **The public comment period will not extend beyond the August 1<sup>st</sup> deadline.**

The Overall Three-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

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

#### Section 26.45 (e) - Project Goals

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

If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

#### Section 26.45(f) - Prior Operating Administration Concurrent

**Ravalli County** understands that we are not required to obtain prior operating administration concurrence with our overall goal. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate, the operating administration may, after consulting with us, adjust our overall goal or require that we do so. 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 – Overall Goal Calculations** of this program.

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

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

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

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully the goal for the new fiscal year;
- (3) **Ravalli County** 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(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible

to small businesses, by means such as those provided under §26.39 of this part.

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors);

(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 Montana Department of Transportation 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 – Overall Goal Calculations** to this program.

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

**Ravalli County** will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate

participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39.

If our approved projection under paragraph (c) of this section estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order meet our overall goal.

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

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

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

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

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

The DBE Liaison Officer is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsive.

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

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

In our solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, we will require the following:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;

- (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (see **Attachment 6** of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) We will require that the bidder/offeror present the information required by paragraph (b) (2) of this section: *responsive*.

Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures.

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

Administrative reconsideration (26.53(d))

Within seven (7) business days of being informed by **Ravalli County** that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: **Ravalli County Attorney: *Bill Fulbright*, 215 S. Fourth, STE.A, Hamilton, MT 59840-2853, 406-375-6750, [bfulbright@rc.mt.gov](mailto:bfulbright@rc.mt.gov).**

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

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis

for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts procedures in situations when there are contract goals (26.53(f)(g))

We will include in each prime contract a provision stating:

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

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

We will require the contractor that is awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

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

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

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal

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

Before transmitting to us its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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

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

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

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

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

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

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

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

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

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

For information about the certification process or to apply for certification, firms should contact the *DBE Program Specialists (Maghan Strachan and Maggie Metzger)* at the **Montana Department of Transportation Civil Rights office, P.O. Box 201001, Helena, MT 59620-1001, 406-444-0841 or 406-444-6337, respectively.**

<http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml>

The certification application forms and documentation requirements are found in **Attachment 8** to this program.

### **SUBPART E – CERTIFICATION PROCEDURES**

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

**Ravalli County** is a member of the Montana United Certification Program (UCP) administered by Montana Department of Transportation (MDT). The UCP will meet all of the requirements of this section.

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

#### **Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation**

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

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

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).

**Ravalli County**, 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. If we violate this prohibition, we are in noncompliance with this part.

**ATTACHMENT 1**

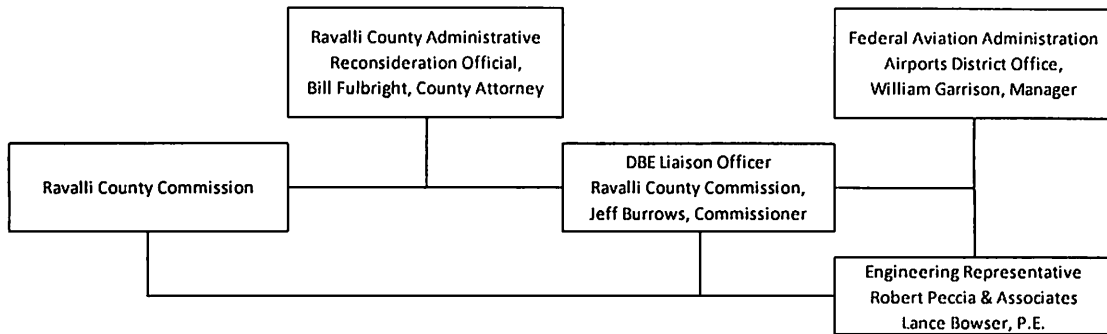
**49 CFR Regulations**

Hereby incorporated by reference:

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

**ATTACHMENT 2**

**Organizational Chart**





**ATTACHMENT 4**

**Montana Department of Transportation DBE Directory**

Hereby incorporated by reference:

<http://www.mdt.mt.gov/business/contracting/civil/dbe-newdir.shtml>

**ATTACHMENT 5**

**Overall Goal Calculations**

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

**Name of Recipient:** Recipient owner of Ravalli County Airport, Ravalli County.

**Goal Period:** FY-2018-2020

October 1, 2017 through September 30, 2020

<b>DOT-assisted contract amount:</b> FY-2018	\$ <u>1,500,000.00</u>
FY-2019	\$ <u>2,300,000.00</u>
FY-2020	\$ <u>350,000.00</u>
<b>Total</b>	\$ <u><b>4,150,000.00</b></u>

**Overall Three-Year Goal:** 5.37%, to be accomplished through 0% Race Conscious and 5.37% Race Neutral.

**Total dollar amount to be expended on DBE's:** \$222,962.28

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

Contracts Fiscal Year 2018

1. Rehabilitate Taxiways / Taxilanes - \$1,500,000.00

Contracts Fiscal Year 2019

2. Rehabilitate / Construct Apron(s) - \$2,000,000.00
3. Land Acquisition Services (land acquisition is exempt and excluded) - \$300,000.00

Contracts Fiscal Year 2020

4. Rehabilitate Runway and Taxiway(s) – Phase I (Design Engineering only) - \$350,000.00

**Market Area:** Ravalli County utilizes the Montana Department of Transportation – Missoula District as the market area, in which the substantial majority of the Contractors and Subcontractors seek to do business with Ravalli County.

**Step 1. 26.45(c)** Actual relative availability of DBE's

Determine the base figure for the relative availability of DBEs. The base figure for the relative availability was calculated utilizing data from the MDT Disparity Study: <http://www.mdt.mt.gov/disparitystudy/>

Ravalli County Airport Improvement Projects

FY 2018-2020 - DBE weighted average based on Disparity Study Data - MDT Missoula as Market Area (includes Hamilton)										
Contract Name	NAICS	NAICS Description	Trade Classification	# of DBE Firms	# of Total Firms	DBE Availability (%)	Estimated Dollar Value	% of Total Contract	DBE Availability (%)	DBE (\$)
FY 2018 - Contract #1 - Rehabilitate Taxiways & Taxiways	237310	Highway & Street Construction	Asphalt and concrete paving	6	77	7.79%	\$ 800,000	19.28%	1.50%	\$ 62,337.66
	238910	Site Preparation Contractors	Excavation, site prep, grading, and drainage	7	113	6.19%	\$ 1,720,000	41.45%	2.57%	\$ 106,548.67
FY 2019 - Contract #2 Rehabilitate / Construct Apron(s)	238210	Electrical Contractors and other Wiring Installation Contractors	Electrical work including lighting and signals	0	39	0.00%	\$ 100,000	2.41%	0.00%	\$ -
FY 2019 - Contract #3 Land Acquisition Services (Land Acquisition is exempt and not included)	237310	Highway & Street Construction	Striping or pavement marking	2	27	7.41%	\$ 15,000	0.36%	0.03%	\$ 1,111.11
	237310	Highway & Street Construction	Landscaping and related work including erosion control	6	109	5.50%	\$ 15,000	0.36%	0.02%	\$ 825.69
FY 2020 - Contract #4 Runway / Taxiway Reconstruction / Construction - Phase I (Design Engineering only)	237310	Highway & Street Construction	Pavement milling	3	31	9.68%	\$ 50,000	1.20%	0.12%	\$ 4,838.71
	237310	Highway & Street Construction	Trucking and hauling	5	157	3.18%	\$ 200,000	4.82%	0.15%	\$ 6,369.43
	541370	Surveying and Mapping (except Geophysical) Services	Surveying and mapping	2	67	2.99%	\$ 100,000	2.41%	0.07%	\$ 2,985.07
	541380	Testing Laboratories	Inspection and testing	1	71	1.41%	\$ 175,000	4.22%	0.06%	\$ 2,464.79
	541620	Environmental Consulting Services	Environmental Consulting	1	63	1.59%	\$ 50,000	1.20%	0.02%	\$ 793.65
	541330	Engineering services	Engineering	3	80	3.75%	\$ 925,000	22.29%	0.84%	\$ 34,687.50
<b>Total Estimated Contract Amount</b>				<b>36</b>	<b>834</b>	<b>4.32%</b>	<b>\$ 4,150,000</b>		<b>5.37%</b>	<b>\$ 222,982.28</b>

<http://www.mdt.mt.gov/research/projects/admin/disparity.shtml>

Divide the total number of DBE's by the total number of All Firms = base figure for each contract. Weighting by trade is utilized to establish a more accurate base figure.

Weighted Base Figure = (Trade (\$) / Total Contract (\$)) X DBE (Base Figure)(%)  
 Total Weighted Base Figure = Sum of all Weighted Base Figures in the contract.

FY- 2018-2020 Base figure = 5.37% of all firms ready, willing and able.

FY- 2018-2020 Weighted Base figure = 5.37% of all firms ready, willing and able.

**Step 2. 26.45(d):** Adjustments to Step 1 base figure.

*After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the overall goal. The following Step 2 adjustments were considered:*

- *Current capacity of DBE's to perform work, as measured by the volume of work DBE's have performed in recent years;*
- *Information related to employment, self-employment, education, training and union apprenticeship programs;*
- *Statistical disparities in the ability of DBE's to get financing, bonding and insurance; and*
- *Evidence from disparity studies conducted through MDT, to the extent it is not already accounted for within Step 1.*

Based upon the data included within the MDT Disparity Study, no further evidence is known that would require further adjustment, outside of which was included within the Step 1 base figure. Therefore, no Step 2 adjustment(s) have been made.

**Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender Conscious” (RC) Participation. 26.51(b) (1-9)**

**Ravalli County** will meet the maximum feasible portion of its overall goal by using Race Neutral (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. To include un-bundling of very large and multi-faceted projects into separate bid schedules;
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities, through use of MDT’s DBE Quote Request service;
3. Providing electronic access to the MDT DBE directory; which will be included with each project solicitation / proposal, encouraging firms to seek out and utilize DBE contractors.
4. Advise DBE’s and other small businesses that technical assistance and other support services are available through Montana Department of Transportation.

The recipient estimates that in meeting its overall goal **5.37%**, it will obtain **5.37%** from Race Neutral (RN) participation and **0.0%** through Race Conscious (RC) measures.

***Race and Gender Conscious Goal: 0%***

MDT engaged a consultant to conduct an Availability and Disparity Study, which focused on participation of minority- and women-owned firms in MDT’s contracts from October 2009 through September 2014. The Study was completed in July of 2016. Although this Study did not examine contracts using Federal Aviation Administration (FAA) funds; MDT and other agencies might review information in the report regarding DBE availability as they relate to operating the Program for FAA-funded contracts. Since contractors that participated on MDT contracts during the Study period are in most cases the same contractors that are awarded FAA-funded contracts, DBE availability data from the 2016 Disparity Study was included in this methodology.

The Study found that minority- and women-owned firms were underutilized based on their availability. The Study also noted both quantitative and qualitative information suggesting that there is not a level playing field for minority- and women-owned businesses in the Montana transportation contracting industry. As a result, the Study indicated that race- and possibly gender-conscious means may

need to be implemented for the portion of the overall goal that cannot be met solely through race neutral measures. While race- and possibly gender-conscious methods may be used, **Ravalli County** is proposing to meet its goal solely through race-neutral means. In order to meet the overall DBE goal, **Ravalli County** is committed to working with MDT to implement race neutral measures that encourage small business and DBE participation. To comply with 49 CFR 26.51, where the maximum feasible portion of the overall DBE goal must be met through race- and gender-neutral measures, **Ravalli County** is proposing to meet the overall goal solely through race neutral measures. If the Uniform Report indicates that the Sponsor fell short or will fall short of meeting the overall goal, **Ravalli County** will re-evaluate how much of the overall goal can be met through race neutral means and implement race conscious measures (i.e. project specific goals) to meet the remainder of the goal.

***Race Neutral Goal: 5.37%***

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

**Public Participation**

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

In establishing the overall goal, **Ravalli County** provided for consultation and publication. This 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 **Ravalli County's** efforts to establish a level playing field for the participation of DBEs. The consultation included 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 **Ravalli County's** goal setting process, and it occurred before we were required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section (August 1). **Ravalli County** consulted with the Montana Department of Transportation (MDT), and requested they distribute a request for public participation through their established network. We requested information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination

on opportunities for DBEs, and Ravalli County's efforts to establish a level playing field for the participation of DBEs.

A public meeting was held on **June 15, 2017 at 1:30 p.m.** at the Offices of Robert Peccia and Associates. Parties were also encouraged to submit comments via email or telephone to **Ravalli County's** Engineering Representative, Lance Bowser, and/or MDT Civil Rights.

No members of the public were present or attended the meeting via teleconference. Three members of Montana Department of Transportation – Civil Rights attended.

*Discussion was held regarding goals and steps taken to encourage DBE usage; however, no comments for any recommended changes to the proposed program / goal(s) were received.*

Following the consultation, we published a notice on our official website, of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Office of Robert Peccia and Associates, and made available electronically, for 30 days following the date of the notice, and informing the public that **Ravalli County** and DOT will accept comments on the goals for 30 days from the date of the notice.

#### **PUBLIC NOTICE**

**Ravalli County** hereby announces its fiscal years 2018-2020 (federal) multi-year goal of **5.37%** for Disadvantaged Business Enterprise (DBE) airport construction Contracts. The proposed goals and rationale is available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at Robert Peccia and Associates, 825 Custer Ave, Helena, MT, 59604 and can be made electronically available by request.

Comments on the DBE goal will be accepted until **July 15, 2017** (30 days from the date of the posting of this Public Notice) and can be sent to the following:

**Robert Peccia & Associates**  
**Ravalli County Engineering Representative**  
**Lance Bowser, Project Manager**  
**825 Custer Avenue**  
**P.O. Box 5653**  
**Helena, Montana 59604**  
**Phone: 406-447-5000**  
**E-mail: [lance@rpa-hln.com](mailto:lance@rpa-hln.com)**

No other comments were received during the allowed 30-day comment period.

### Contract Goals

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

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

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

**ATTACHMENT 6**

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

*Forms 1 and 2 will be provided as part of the solicitation documents when establishing a Race Conscious goal requirement.*

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

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the DBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract and should submit documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

**FORM 2: LETTER OF INTENT**

**TO USE A DBE FIRM FOR SUBCONTRACTING OPPORTUNITY**

(Complete this section if you are using any DBE firms, otherwise acknowledge by writing "NONE")

Name of Bidder's Firm: \_\_\_\_\_  
Bidder's Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone (including area code): \_\_\_\_\_  
Description of work to be performed by DBE Firm:

\_\_\_\_\_  
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Bidder intends to utilize the above-named DBE firm for the work described above.

The estimated amount of work is valued at \$ \_\_\_\_\_.

**If the above-named bidder is not determined to be the successful bidder, the Letter of Intent shall be null and void.**

(Please use a copy of this page for each DBE subcontractor. Staple additional pages into this booklet)

## **Attachment 7**

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

**Ravalli County** has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to MCA 27-1-311

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms, 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**

Hereby incorporated by reference:

<http://www.mdt.mt.gov/other/webdata/external/civilrights/forms/DOT-DBE-Certification-Application.pdf>

**ATTACHMENT 9**

**Montana Department of Transportation UCP Agreement**

Hereby incorporated by reference:

<http://www.mdt.mt.gov/other/webdata/external/civilrights/dbe/ucp-approval.pdf>

## ATTACHMENT 10

### Small Business Element

#### 1. Objective/Strategies

As part of this program element **Ravalli County** will include, but are not limited to, the following strategies:

- 1) On prime contracts not having DBE contract goals, encourage the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved. This effort will include inclusion of all DBE contract provisions regardless of size of contract, letters of intent with proposals, monitoring DBE usage for all contracts (regardless of size), and utilization of MDT on-line quote request submission for all contracts to expand visibility of all sized projects by DBE's and small businesses.
- (2) Identifying alternative acquisition strategies and structuring procurements to help ensure the ability of small businesses, including DBEs, to compete for and perform prime contracts. This may include items such as arranging solicitations, times for the presentation of bids, quantities, and delivery schedules in ways that facilitates DBE, and other small business participation. This will include efforts to un-bundle very large and multi-faceted projects into separate bid schedules.
- (3) To meet the portion of the overall goal projected to be met through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

#### 2. Definition

- DBE firms are eligible as part of this Small Business element, as **Ravalli County** does not have a micro-Small Business Program element in place.
- Size standard should be consistent with 49 CFR 26.5 and must be no larger than the Small Business Administration's size standards. DBE firms and small firms eligible for the program should be similarly sized to reduce competitive conflict between DBE and non-DBE firms.
- Personal Net Worth standards– should be consistent with 49 CFR Part 26 thresholds.

#### 3. Verification

**Ravalli County** will diligently attempt to minimize fraud and abuse in the Small Business element of its DBE program by verifying program eligibility of firms. **Ravalli County** will rely on MDT and Contractor / Subcontractor certifications for verification purposes of the Small Business element. MDT has recently (01/2017) implemented a more formal Small Business Enterprise application project. However, at this time, a SBE directory is not available.

#### **4. Monitoring/Record Keeping**

Ravalli County will monitor the Small Business Element through DBE Reporting, Bidders Lists, and Letter(s) of Intent.

#### **5. Implementation Timeline**

Ravalli County will implement the Small Business Element as part of all DOT assisted contract proposals, bidding opportunity's, and contract agreements, following The FAA's approval of this program and multi-year goal.

#### **6. Assurance**

Ravalli County assures the following:

- (1) the program is authorized under state law;
- (2) certified DBEs that meet the size criteria established under the Montana Department of Transportation program are presumptively eligible to participate in the program;
- (3) there are no geographic preferences or limitations imposed on any federally assisted procurement included in the program;
- (4) there are no limits on the number of contracts awarded to firms participating in the program but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
- (5) steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified; and
- (6) the program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference).

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