

## ATTACHMENT A

### REQUIREMENTS CONCERNING EEO & AFFIRMATIVE ACTION

Cleveland Hopkins International Airport's Emerging Business Enterprise Development Office is eager to assist you in fully completing the requirements of this Notice and the Airport's Equal Employment Opportunity Program. If you have any questions, please call the Emerging Business Enterprise Development Office at 216-265-6000. Please read carefully all of the information attached.

Proposers/Bidders are cautioned, however, that oral representations may not be relied upon. Such representations must be confirmed by specific writing issued by the Director of Port Control as an addendum or as a clarification of this solicitation document.

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The Affirmative Action Plan for equal employment opportunity is the Cleveland Hopkins International Airport's (Airport) written commitment to undertake specifically planned action to ensure equality of opportunity in employment practices by firms contracting for goods and services with Airport.

As required by the Instruction, the following information must be submitted with your bid/proposal:

**I. Form EEO-1 - Enclosure A-1**

Equal Employment Data Forms showing the current utilization of minorities and women by job category within your organization.

**II. Non-discrimination - Enclosure A-2**

Affidavit assuring non-discrimination in employment practices.

**III. Employment Practices - Enclosure A-3**

All Proposers/Bidders and their first tier subcontractors or sub consultants proposing a contract hereunder in an amount of \$10,000 or more must complete Enclosure A-3. If the Proposer/Bidder/Qualifier or any of its first tier subcontractors or sub consultants employ more than 50 persons and will be entering into a contract hereunder in an amount of \$50,000 or more, then an Affirmative Action Plan for employment of minorities and women must be submitted when called for by Airport.

**IV. Requirements Concerning the Submission of an Affirmative Action Plan  
Enclosure A-4**

If requested, provide an Affirmative Action Plan(s) in accordance with the guidelines set forth on Enclosure A-4.

**V. Requirements on Prime and Sub-Contractors – Enclosure A-5**

All Contractors and their subcontractors bidding on a contract must complete Enclosure A-5.



**Section D - EMPLOYMENT DATA**

Employment at this establishment - Report all permanent full time or part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

JOB CATEGORIES	NUMBER OF EMPLOYEES										
	Overall Totals Sum Of Col B Thru K	Male					Female				
		White (Not of Hispanic Origin)	Black (Not of Hispanic Origin)	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native	White (Not of Hispanic Origin)	Black (Not of Hispanic Origin)	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native
Officials and Managers	1										
Professionals	2										
Technicians	3										
Sales Workers	4										
Office and Clerical	5										
Craft Workers (Skilled)	6										
Operatives (Semi Skilled)	7										
Laborers (Unskilled)	8										
Service Workers	9										
<b>TOTAL</b>	<b>10</b>										
Total employment reported in previous EE0-1 report	11										
(The trainees below should also be included in the figures for the appropriate occupational categories above)											
Formal on-the-job trainees	White collar	12									
	Production	13									

NOTE: Omit questions 1 and 2 on the Consolidated Report

1. Date(s) of payroll period used: \_\_\_\_\_ 2. Does this establishment employ apprentices?  
 1.  Yes 2.  No

**Section E--ESTABLISHMENT INFORMATION (Omit on the Consolidated Report)**

1. Is this the location of the establishment the same as that reported last year? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> No Report	2. Is the major business activity at this establishment the same as that reported last year? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> No Report	Office Use Only
3. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity.)		

**Section F--REMARKS**

Use this item to give any identification data appearing on last report which differs from that given above explain major changes in composition or reporting units and other pertinent information

**NOTE: The section below must be completed and signed by your company**

**Section G--CERTIFICATION (See Instructions G)**

Check one	1 <input type="checkbox"/> All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)				
	2 <input type="checkbox"/> This report is accurate and was prepared in accordance with the instructions				
Name of Certifying Official	Title	Signature	Date		
Name of person to contact regarding this report (Type or print)		Address (Number and Street)			
Title	City and State	Zip Code	Telephone Area Code	Number	Extension

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII  
**WILLFULLY FALSE STATEMENTS IN THIS REPORT ARE PUNISHABLE BY LAW, U S CODE TITLE 18, SECTION 1001**



government contracts of Federally assisted contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 25, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include a citation to 41 CFR 60-1(b) and (c) and the provisions of Paragraphs (a) through (g) herein, in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by Federal Aviation Administration, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

\_\_\_\_\_  
Company or Partnership

\_\_\_\_\_  
(President or other official title)

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_ Notary Public in and for the County of \_\_\_\_\_

State of \_\_\_\_\_.

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Seal)

**(TO BE SUBMITTED WITH BID)**

**ENCLOSURE A-3**  
**EMPLOYMENT PRACTICES**  
**(FOR NON-CONSTRUCTION CONTRACTORS & SUBCONTRACTORS ONLY)**

**To Be Prepared By:**

**Non-construction Prime Contractors and first tier subcontractors or suppliers with a contract greater than \$10,000.**

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**Name of Project:** \_\_\_\_\_

**Location of Workforce:** \_\_\_\_\_

**Prime Contractor:** \_\_\_\_\_

**Subcontractor:** \_\_\_\_\_

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In keeping with Airport policy of nondiscrimination in employment practices, the

\_\_\_\_\_ has set as a one year goal for the utilization of  
(Company Name)

minorities and females having requisite skills equal to be number and percentage

that is in relation to their presence in the labor market area used, which is \_\_\_\_\_ % for minorities and

\_\_\_\_\_ % for females. The \_\_\_\_\_, by its \_\_\_\_\_  
(Company Name) (Company Representative)

assures the Airport that good faith efforts will be used to achieve said goals. The good faith efforts

proposed are described in the attached narrative. (If more than 50 employees and a contract of \$50,000

or more is contemplated, an Affirmative Action Plan per Enclosure A-4 is supplied in lieu of this narrative

and is submitted when called for by the Airport.)

\_\_\_\_\_  
Signature and Title of Company Official (Contractor)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and Title of Company Official (Subcontractor)

\_\_\_\_\_  
Date

**ENCLOSURE A-4**  
**REQUIREMENTS CONCERNING THE SUBMISSION OF AN**  
**AFFIRMATIVE ACTION PLAN**  
**(FOR NON-CONSTRUCTION CONTRACTORS)**

**Where the non-construction prime contractor or subcontractor has 50 or more employees and is participating in contracts with the Airport which exceed \$50,000, an Affirmative Action Plan must be submitted to the Airport's Office of Emerging Business Enterprise Development.**

At a minimum, in accordance with the RFQ/RFP/IFB the following information must be provided in your Affirmative Action Plan:

- I. Equal employment policy statement for the employment of minorities and women.
  - A. How and to whom was policy statement circulated?
    1. Internally (within your company)
    2. Externally (all sources used for recruitment).
  - B. Who is or will be responsible for the implementation of these policies?
- II. Goals and Timetables for hiring minorities and women for the next year, or duration of this contract, whichever is greater, including:
  - A. Total employees expected to be employed in each job category (use job categories shown on EEO-1 form).
  - B. Group employees (Blacks, Hispanics, women, etc.) in each job category.
  - C. Labor market availability group information - availability of minorities and women. With the exception of Construction Contractors, use this information to establish the goals required in Item "e" (contact State employment office to get this information).
  - D. Number of expected job opportunities. If not expected, goals as required in Item "e" must still be established to allow for unexpected hiring.
  - E. Goals number and percent of minorities and women to be reached.
  - F. If goals are not reached within the period specified, when called for you must justify the reasons for not meeting the goals by demonstrating the good faith efforts used to meet the goals.
- III. Development and Execution of Program
  - A. Method to be used for recruiting job applicants.
    1. Recruiting efforts should be directed towards schools, colleges, universities, newspapers, radio, state employment offices, churches, social and employment agencies and other sources appropriate for your needs, i.e., labor unions.
    2. These efforts when called for must be substantiated by written documentation.
  - B. Method used for evaluating program.

**ENCLOSURE A-5  
REQUIREMENTS CONCERNING PRIME AND SUB-CONTRACTORS**

Project Name: \_\_\_\_\_

In accordance with Federal Regulations 49 CFR, Part 26.11, the Office of Emerging Business Enterprise Development is required to create and maintain a bidders list on all Prime and Sub-Contractors that seek to participate on Airport Federally assisted contracts. Please complete this information in its entirety.

**PRIME CONTRACTOR**

(This information must be provided on the Prime bidder on this Project)

Name of Firm: \_\_\_\_\_

Federal Tax ID No: \_\_\_\_\_ **(\*\*\*must provide\*\*\*)**

- Certified ACDBE     Certified DBE     Non-DBE

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

City/State/Zip Code: \_\_\_\_\_

Contact: \_\_\_\_\_ Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Date Business Established (Month, Day and Year): \_\_\_\_\_

- Gross Sales in Dollars Last FY:       Less than \$500,000       \$500,000 - \$1 million  
 \$1 million - \$2 million       \$2 million - \$5 million  
 Over \$5 million

**SUB-CONTRACTOR(S)**

(This information must be provided for all sub-contractor(s) proposed to work on this Project)

**\*\*\*Please attach additional papers if you need more space\*\*\***

Name of Firm	Certified DBE/ACDBE		Year Firm Established	Approximate Annual Gross Sales
	Yes	No		

I certify the above information contained in this document is true and accurate as of the stated date. I understand FALSE or misleading statements may disqualify the firm from participation on Airport Federally assisted contracts.

\_\_\_\_\_  
Title of Person Authorized to Sign

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## ATTACHMENT B

### DISADVANTAGED BUSINESS ENTERPRISE/AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (DBE/ACDBE) UTILIZATION

#### DEPARTMENT OF TRANSPORTATION POLICY

It is the policy of the Department of Transportation that socially and economically Disadvantaged Business Enterprise/Airport Concessions Disadvantaged Business Enterprise (DBE/ACDBEs), as defined at Title 49 Code of Federal Regulations, Part 23 and 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE/ACDBE requirements of 49 CFR, Part 23 and 26, shall apply to any agreement resulting from this procurement.

Participants in this procurement agree to ensure that DBE/ACDBEs, as defined at 49 CFR, Part 23 and 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. In this regard, the Proposers/Bidders/Qualifiers shall take all necessary and reasonable steps in accordance with 49 CFR, Part 23 and 26, and the Airport's DBE/ACDBE Program to ensure that DBE/ACDBEs have the maximum opportunity to compete for the performance of contracts. Neither the Proposers/Bidders/Qualifiers nor the selected contractor shall discriminate on the basis of race, color, national origin or sex in the performance of a resulting DOT-assisted contract.

#### I. OVERALL GOALS

The term "**disadvantaged business**" means a small business concern, which is at least 51 percent owned by one or more socially and economically disadvantaged persons or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals and whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"**Socially and economically disadvantaged individuals**" means a citizen of the United States (or lawfully admitted permanent resident) who meets the criteria set forth in 49 C.F.R. Section 26.5. The Airport annually sets an overall DBE/ACDBE goal and triennially sets an DBE/ACDBE goal for work to be performed under Airport contracts, including construction activity procurement of common goods and services, personal service contracts, concessions and rental car contracts. While the expected percentage of certified DBE/ACDBE utilization may vary from contract to contract due to the availability of DBE/ACDBEs in any given line of work, the Airport believes that overall goals to be realistically obtainable over time with the assistance of the federal government, the business community, and DBE/ACDBE organizations.

In order to meet Federal requirements and to provide for maximum participation of certified DBE/ACDBEs, the Airport specifies a percentage of participation goals in contracts with subcontracting opportunities (the percentage may be zero).

#### II. CONTRACT GOALS

**The Airport has specified a contract specific DBE/ACDBE goal for the work to be performed under this contract.**

- A. When a DBE/ACDBE participates in a contract, you count only the value of the work actually performed by the DBE/ACDBE toward the DBE/ACDBE goals.
  1. Count the entire amount of that portion of a contract (or other contract not covered by Paragraph (A) (2) of this section) that is performed by DBE/ACDBEs own forces. Include the cost of supplies and materials obtained by the DBE/ACDBEs for the work of the contract, including supplies purchased or equipment leased by the DBE/ACDBEs (except supplies and equipment the DBE/ACDBEs subcontractor purchases or leases from the prime contractor or its affiliate).

2. Count the entire amount of fees or commissions charged by an DBE/ACDBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE/ACDBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When a DBE/ACDBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE/ACDBE goals only if the DBE/ACDBE subcontractor is itself a DBE/ACDBE. Work that a DBE/ACDBE subcontracts to a non-DBE/ACDBE firm does not count toward DBE/ACDBE goals.
  - a) When a DBE/ACDBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE/ACDBE performs with its own forces toward DBE/ACDBE goals.
  - b) Count expenditures to a DBE/ACDBE contractor toward DBE/ACDBE goals only if the DBE/ACDBE is performing a commercially useful function on that contract.
4. A DBE/ACDBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE/ACDBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (when applicable) and paying for the material itself. To determine whether a DBE/ACDBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE/ACDBE credit claimed for its performance of the work, and of the relevant factors DBE/ACDBE does not perform a commercially if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to:

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) FIRMS ONLY**

- a) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
- b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business; if the person both owns and operates distribution equipment for long-term lease agreement and not on an ad hoc or contract by contract basis.
- c) Packagers, brokers, manufacturers', representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.
- d) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals.

**Sixty percent** of the total dollar value will be counted in the case of a DBE/ACDBE supplier that is not a manufacturer, provided that the DBE/ACDBE supplier performs a commercially useful function in the supply process to include brokers etc in accordance with 49 CFR 26.55 Paragraph 2b.

#### **AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION ONLY**

ACDBE firms can only be counted if they are performing a commercially useful function as outlined above. Count revenues generated to an ACDBE concessionaire only if the ACDBE is performing a commercially useful function on that contract.

#### **DBE/ACDBE MANUFACTURER/REAL DEALER PARTICIPATION**

The entire amount of fees or commissions charged by an ACDBE firm for a bona fide service will be counted provided that the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services. Such services may include, but are not limited to, professional, technical, consultant, legal, security systems, advertising, building cleaning and maintenance, computer programming, or managerial.

One hundred percent (100%) of the cost of goods obtained from a DBE/ACDBE manufacturer will be counted. The term manufacturer has the same meaning as in Part 26, Section 26.55(e) (1) (ii). One hundred percent (100%) of the cost of goods purchased or leased from a DBE/ACDBE regular dealer will be counted. The term "regular dealer" has the same meaning as in Part 26, Section 26.55(e) (2) (ii). Credit will be counted toward DBE/ACDBE goals for goods purchased from a DBE/ACDBE which is neither a manufacturer nor a regular dealer as follows:

Count the entire amount of fees or commissions charged for assistance in the procurement of the goods, provided that this amount is reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the goods themselves.

Count the entire amount of fees or transportation charges for the delivery of goods required for a concession, provided that this amount is reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of goods themselves.

If a firm has not been certified as a DBE/ACDBE in accordance with the standards in this part, do not count the firm's participation toward DBE/ACDBE goals.

### **III. BIDDING REQUIREMENTS, TERMS AND CONDITIONS**

- A. In addition to any other requirements contained in this Invitation to Bid or Request for Proposal or Qualifications, the following DBE/ACDBE Program requirements must be satisfied, bid/proposals must include a representation that:
1. The Proposer/Bidder/Qualifier has met the goal established by the Airport for this procurement, or
  2. The Proposer/Bidder/Qualifier has made a good faith effort to attain the level of DBE/ACDBE participation sought by the Airport for this procurement

Each Proposer/Bidder/Qualifier must include a statement in **Attachment B-1** (Declaration of Proposed DBE/ACDBE Utilization) of the level of DBE/ACDBE participation attained through such effort. This submittal is regarded as a matter of bid responsiveness. Failure to make these submittals will serve to disqualify the bid as non-responsive to this Invitation to Bid.

- B. Each Proposer/Bidder/Qualifier should also prepare a complete DBE/ACDBE Participation Plan that sets forth the extent of DBE/ACDBE involvement in this procurement, these materials are to be provided upon request, and will be considered in determining Proposer/Bidder/Qualifier responsibility.
- C. DBE/ACDBE participation plans shall include the following minimum information:
1. DBE/ACDBE Participation Schedule, (**Attachment B-3**) which includes:
    - a) Names, addresses and contact persons of the DBE/ACDBE entities that will participate in the contract;
    - b) A description of the work each named DBE/ACDBE will perform;
    - c) The dollar amount (projected revenue) of the participation of each named DBE/ACDBE
    - d) Federal Tax Identification Number

All proposed certified DBE/ACDBE firms must complete **Attachment B-2** (DBE/ACDBE AFFIDAVIT) and **Attachment B-4A** (Letter of Intent-Certified DBE/ACDBE), and copies of sub agreements must be submitted for **each DBE/ACDBE firm whose participation is proposed for the performance of this contract as a subcontractor/consultant or joint venture.**

2. If the DBE/ACDBE goal is not met, the Proposer/Bidder/Qualifier must document in **Attachment B-5** (Good Faith Efforts Guidelines) the good faith efforts it made to include DBE/ACDBE participation in the contract. The documentation of the effort is discussed in greater in paragraph (E) of this Section.
3. Non-Certified DBE/ACDBE Participation Schedule (**Attachment B-6**), which includes:
  - e) Names, addresses and contact persons of the DBE/ACDBE entities that will participate in the contract;
  - f) A description of the work each named DBE/ACDBE will perform;
  - g) The dollar amount (projected revenue) of the participation of each named DBE/ACDBE
  - h) Federal Tax Identification Number
  - i)

All proposed **non-certified** DBE/ACDBE must complete **Attachment B-4B** (Letter of Intent-Non-Certified DBE/ACDBE) and copies of sub agreements must be submitted for **each non-certified DBE/ACDBE firm whose participation is proposed for the performance of this contract as a sub-contractor/consultant or joint venture.**

4. Second/Third Tier Sub-contractor/consultant Participation Schedule (**Attachment B-8**), which includes:
  - j) Name of 2<sup>nd</sup>/3<sup>rd</sup> tier sub-contractor/consultant
  - k) First tier sub-contractor/consultant with agreement with the 2<sup>nd</sup>/3<sup>rd</sup> tier sub;
  - l) Identification whether 2<sup>nd</sup>/3<sup>rd</sup> tier is certified or non-certified DBE/ACDBE
  - m) Federal Tax Identification Number
  - n) Address and contact person
  - o) Description of the work each named for each 2<sup>nd</sup>/3<sup>rd</sup> tier sub-contractor/consultant will perform;
  - p) The dollar amount (projected revenue) of the participation of each named DBE/ACDBE

All sub agreements must be submitted for each of the 2<sup>nd</sup>/3<sup>rd</sup> tier subcontractor/consultant **whose participation is proposed for the performance of this contract as a 2<sup>nd</sup>/3<sup>rd</sup> sub-contractor/consultant.**

5. Request for **emergency** addition-conditional approval to utilize a subcontractor/consultant can be submitted by completing **Attachment B-9** (Emergency Addition-Conditional Approval of Subcontractor/consultant). The

Contractor shall make assurances that all subcontractors listed in Attachment B-8 who are utilized towards the fulfillment of a DBE/ACDBE goal will be performing a commercially useful function as outlined in 49 CFR PART 26 and 23. If it is discovered that the DBE/ACDBE is not performing or has not performed a commercially useful function, the Prime Contractor will immediately notify the EBED Office of its findings. **THE APPROVAL OF THIS FORM IS CONDITIONAL.** FINAL APPROVAL WILL NOT BE GRANTED until all EBED A & B FORMS are completed & contractual agreements are signed and provided to the EBED OFFICE WITH IN 5 DAYS OF SIGNATURE. This addition MUST BE APPROVED BY THE AIRPORT DIRECTOR AND CITY OF CLEVELAND BOARD OF CONTROL. If this contract is subject to STATE OF OHIO PREVAILING WAGE OR FEDERAL DAVIS BACON (WAGE & HOUR) requirements the Contractor and sub-contractor are required to follow all contractual obligations related to Wage & Hour on all Department of Port Control/City of Cleveland contracts. If the wage & hour information is not submitted payment to the Contractor can be stopped or the project can be stopped entirely. All other provisions regarding additions of sub-contractors/consultants must be followed and applied herein.

6. The following standards shall be applied in assessing the responsibility of the DBE/ACDBE plan submitted:
  - a) Whether the participation plan contains capable currently certified DBE/ACDBE firms.
  - b) Whether the firms listed in the plan are performing a commercially useful function
  - c) Whether the listed firms are sharing monetary benefit in proportion to their share of the work of the project.
  - d) Whether the plan exhibits a likelihood of goal attainment.
  - q) Whether the prime/sub relationships are firm, i.e., whether conditional subcontractors have been entered.

- D. The contractor must receive the approval of the Airport's Emerging Business Enterprise Development Office **before** termination, addition and or making substitution for any subcontractors listed in its DBE/ACDBE and Non-DBE/ACDBE plans.

Airport certified DBE/ACDBE entities are eligible for inclusion in a plan. Consult the DBE/ACDBE Directory at [www.ohioucp.org](http://www.ohioucp.org). Also, the Airport Office of Emerging Business Enterprise Development is available for assistance in ascertaining certification status of DBE/ACDBEs. Applications for certification may be obtained at [www.ohioucp.org](http://www.ohioucp.org). All applications must be made through the Ohio Unified Certification Program (UCP) Application. **For all bids, firms seeking to be counted toward participation at the time of contract award must be certified prior to the bid/proposal submission date. For all proposals and statements of qualifications, all firms to be counted toward participation at the time of the contract award must be certified by the time of final contract negotiations.**

- 1) The Airport will attempt to certify proposed DBE/ACDBE entities prior to bid; however it will not consider certification not completed prior to submittal of bids.
- 2) DBE/ACDBEs seeking to perform on RFP/Q's must complete the B forms at the time of proposal/qualification submission. **All B forms for RFP/Q's must be finalized and ALL DBE/ACDBES MUST BE CERTIFIED BY FINAL NEGOTIATIONS.**
- 3) Proposer/Bidder/Qualifier should not rely upon the approval of the certification applications submitted for this bid/proposal by its proposed DBE/ACDBEs due to the time it takes to review and approve an application.
- 4) However, substitution of DBE/ACDBE entities appearing in a plan may be permitted where the Disadvantaged Business Enterprise Liaison Officer (DBELO) determines that such substitution will not result in an abuse of the DBE/ACDBE Program. The burden of demonstrating the propriety of such substitution lies with the Proposer/Bidder/Qualifier seeking such substitution. Denial of certification is final for the pending contract. Any person denied certification may appeal such

decision in accordance with the provisions of 49 CFR, Part 26 Section 28.89, which is reproduced as part of the Joint Certification Application.

- E. The Proposer's/Bidder's/Qualifier's commitment to a specific goal for DBE/ACDBE utilization as detailed in its DBE/ACDBE Plan shall constitute a presumption that good faith efforts to meet the DBE/ACDBE goal by subcontracting to or undertaking to joint venture with DBE/ACDBE firms have been made. If the Proposer/Bidder/Qualifier fails to meet the goal, it will carry the burden of furnishing sufficient documentation, demonstrating its good faith efforts, by utilization.

The standard by which the Airport will determine whether the efforts made by a Proposer/Bidder/Qualifier were good faith efforts is whether such efforts could be reasonably be expected to produce sufficient DBE/ACDBE participation to meet the goals set for this procurement in reaching this decision, the Airport may consider all efforts advanced by the Proposer/Bidder/Qualifier as well as the following:

1. Did the contractor attend any scheduled pre-solicitation or pre-bid meetings to inform DBE/ACDBEs of contracting and subcontracting opportunities?
2. Did the contractor advertise in general circulation, trade association and minority-focus media concerning the subcontracting opportunities?
3. Did the contractor provide written notice to a reasonable number of specific DBE/ACDBE that their interest in the contract was being solicited, in sufficient time to allow the DBE/ACDBEs to participate effectively?
4. Did the contractor/supplier follow up with the DBE/ACDBE firms interested in participating?
5. Did the contractor/supplier select portions of work to be done by DBE/ACDBEs (including dividing contracts into economically feasible units to facilitate participation)?
6. Did the contractor provide adequate information about plans, specifications, and/or contracting requirements?
7. Did the contractor negotiate in good faith with interested DBE/ACDBEs, not rejecting DBE/ACDBEs as unqualified without sound reasons?
8. Did the contractor make efforts to provide assistance to obtain bonding, lines of credit, or insurance?
9. Did the contractor effectively use the services of available minority and female organizations, contractors' groups, state and local offices, etc., that have knowledge of available DBE/ACDBE firms or the names or organizations to locate such firms?

- F. In the event a contract is awarded as a result of this procurement, the DBE/ACDBE Participation Plan submitted by the successful Proposer/Bidder/Qualifier and the terms, conditions and requirements contained in this notice shall become an integral part of the contract, binding said Proposer/Bidder/Qualifier to full and faithful performance in accordance with said plan.
- G. Any award resulting from the procurement shall be and is conditioned upon the attainment of the aforesaid goals or the satisfactory showing of good faith efforts to attain said goals.
- H. All successful Proposers/Bidders/Qualifiers must submit all the required documents to project managers prior to EBED final written approval to proceed (i.e. fully executed contract, that includes Purchase Order, Certification Request, Signature page of the contract between successful Proposers/Bidders/Qualifiers with the City of Cleveland, City Ordinance, Board Control Resolution (*all proposed DBE/ACDBEs and Non DBE/ACDBEs should be listed*), all Sub-contractual/consultant Agreements, Post Project Summary and Project Contract Summary). Affirmative Action and/or EEO-1 forms are to be submitted to the EBED Office bi-annually.

- I. During the performance of any resulting contract and for a period of up to three (3) years following completion of the contract work, the Airport may initiate reviews for compliance with the requirements of the Airport's DBE/ACDBE Program and the successful Proposer's/Bidder's/Qualifier's (hereinafter "*Contractor*") DBE/ACDBE Participation Plan; such reviews will require the submissions of a payment or revenue reports (**Enclosure B-7A** Monthly Payment Compliance Report) and weekly Prevailing Wage reports to the EBED Office or project manager and/or review of monthly statements, invoices, canceled checks, desk audits and/or onsite reviews. Where a Contractor is found by the Airport to have failed to comply with the requirements of the DBE/ACDBE Program or the Contractor's DBE/ACDBE Participation Plan, the Contractor will be required to take corrective action. If corrective action is not promptly taken by the offending Contractor, the following sanctions may be imposed (singly, in any combination and in addition to any other remedies provided by law or equity):
1. The Airport may withhold all further payments under the contract.
  2. The Contractor may be ordered to stop work
  3. The contract may be terminated for breach.
  4. Suspension or debarment proceedings may be commenced in accordance with 49 CFR, Part 29.
  5. The Director of Purchasing and Supplies may find the defaulting contractor non-responsible in respect to other solicitations for a stated period of time.
  6. The relevant performance bond(s) may be enforced.
  7. The contract payments may be reduced by an amount equal to that designated in the DBE/ACDBE plan for DBE/ACDBE participation.

Reviews for non-federally funded projects (i.e. construction project, professional services projects, requirement projects) will require the submissions of a payment or revenue reports (**Enclosure B-7B** Monthly Payment Compliance Report) and weekly Prevailing Wage reports to the EBED Office or project manager.

- J. Upon completion of the project (or portion of the project for partial releases of retainage) or completion of any subcontractor/subconsultant/subconcessionaire portion of the project, and upon receipt of all required documentation and deliverables, the Airport will approve release of retainage or portions thereof directly to the Contractor/Consultant. The Contractor/Consultant shall release retainage due to each subcontractor/subconsultant or material supplier within ten (10) days following Owner's payment to the Contractor/Consultant for work completed or material supplied.
- K. Agreements between a supplier/contractor and DBE/ACDBE in which the latter promises not to provide subcontracting quotations to other suppliers/contractors are prohibited.
- L. The Contractor will keep records and documents for three (3) years following performance of this contract to indicate compliance with this notice. Such records and, or copies thereof, will be made available at reasonable times and places for inspection by any authorized representative of the Airport and will be submitted to Airport upon request with any other compliance information which such representative may require.
- M. If at any time, the Department of Transportation or the Airport has reason to believe that any person or firm has willfully or knowingly provided incorrect information or made a false statement, it may refer the matter to the General Counsel of the Department of Transportation. They may initiate debarment proceedings in accordance with 41 CFR 1-1.604 and 12-1.602 and/or refer the matter to the Department of Justice under 18 U.S.C. 1001, as they deem appropriate.
- N. Proposers and Contractors agree to be bound by all the requirements, terms and conditions of this notice.
- O. Nothing in this notice shall be interpreted to diminish the present contract compliance review.

## ENCLOSURE B-1

### DECLARATION OF PROPOSED DISADVANTAGED BUSINESS ENTERPRISE/AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (DBE/ACDBE) UTILIZATION

*THIS PAGE MUST BE COMPLETED BY PRIME PROPOSER/BIDDER/QUALIFIER TO INDICATE THE AMOUNT  
(PERCENTAGE) OF DBE/ACDBE PARTICIPATION.*

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The undersigned, as a representative of the entity, \_\_\_\_\_, is submitting a bid/proposal for the \_\_\_\_\_ project, hereby acknowledges that the DBE/ACDBE goal established for this project is \_\_\_\_\_%.

Note: Proposer/Bidder/Qualifier shall make one of the two certifications noted below:

1.  The Proposer/Bidder/Qualifier further represents that the proposed level of DBE/ACDBE participation as set forth in the enclosed Schedule of DBE/ACDBE participation for this project is \_\_\_\_\_% and represents attainment of the DBE/ACDBE participation goal Letters of Intent confirming the proposed participation of the DBE/ACDBEs set forth on the Schedule of DBE/ACDBE Participation are attached.
  
2.  The Proposer/Bidder/Qualifier further represents that the proposed level of DBE/ACDBE participation as set forth in the enclosed Schedule of DBE/ACDBE participation for this project is \_\_\_\_\_%. However, this level of DBE/ACDBE participation is less than the goal established for this project. The Proposer/Bidder/Qualifier has attached:
  - a. the Schedule of DBE/ACDBE participation showing the level of DBE/ACDBE participation the Proposer/Bidder/Qualifier has been able to obtain, supplemented with Letters of Intent confirming the proposed participation of the DBE/ACDBEs set forth on the Schedule of DBE/ACDBE Participation; and,
  - b. documentation of the Proposer's/Bidder's/Qualifier's good faith efforts to achieve the goal established for this project. This documentation shall include Certificates of DBE/ACDBE Unavailability for each contacted by the prime Proposer/Bidder/Qualifier which will not be participating in performance of the contract). The documentation of the efforts is discussed in greater detail in the Good Faith Efforts section.

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Date

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Representative of  
Proposer/Bidder/Qualifier

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Title

(TO BE SUBMITTED WITH BID/PROPOSAL)

**ENCLOSURE B-2**  
**DBE/ACDBE AFFIDAVIT**

**THIS PAGE IS TO BE COMPLETED BY ALL DISADVANTAGED BUSINESS ENTERPRISE/AIRPORT  
CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (DBE/ACDBE) PROPOSED TO  
PARTICIPATE ON THIS PROJECT.**

I hereby declare and affirm that I am (company representative) \_\_\_\_\_ and  
duly authorized representative of the \_\_\_\_\_  
\_\_\_\_\_ (name of corporation or joint venture) whose  
address is \_\_\_\_\_  
\_\_\_\_\_.

I HEREBY DECLARE AND AFFIRM THAT I AM A DISADVANTAGED BUSINESS  
ENTERPRISE/AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (DBE/ACDBE)  
AS DEFINED BY 49 CFR Part(s) 23 or 26. I WILL PROVIDE INFORMATION AND/OR THE  
CERTIFICATION TO DOCUMENT THIS FACT **(attach copy of certification)**.

I DO SOLEMNLY SWEAR OR DECLARE AND AFFIRM THAT THE CONTENTS OF THE FOREGOING  
STATEMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE  
ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

\_\_\_\_\_  
(Affiant) (Date)

State of \_\_\_\_\_ )  
\_\_\_\_\_ )  
City and County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned  
officer personally appeared.

\_\_\_\_\_, known to me to be the person described in the  
abovementioned Affidavit, and acknowledged that he/she executed the same in the capacity therein  
stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

(SEAL)