



# OFFICE OF COMPLIANCE AND INCLUSION (OCI)

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# FEDERAL PROGRAM REQUIREMENTS (DBE/SBE/ACDBE)

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## **POINTS OF DISCUSSIONS:**

- 1. Provisions of the Federal Programs**
- 2. Project Specific Goals**
- 3. SBE Verification and Validation**
- 4. Required OCI Forms/Documents**
- 5. Project Compliance Requirements**
- 6. Fraud and Sanctions**



# 1. PROVISIONS OF THE FEDERAL PROGRAMS

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**1a. 49 CFR PART 26 - DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

**1b. 49 CFR PART 23 - AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)**

**1c. EFFECTIVE MARCH 2013:  
SMALL BUSINESS ENTERPRISE (SBE) as an element of  
the DBE Program**



## 2. PROJECT SPECIFIC GOALS

**DBE Project Specific Goal** \_\_\_\_\_%

✓ **Based on willingness, readiness and availability**

✓ Certified DBE/ACDBE website:

<http://www.dot.state.oh.us/dbe/Pages/UCP.aspx>

**Small Business Enterprise (SBE) Project Goal: \_\_\_\_\_%**

## 3. SBE VERIFICATION AND VALIDATION

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### 2 Kinds of SBEs

#### a. Certified DBEs

#### b. Non-certified DBEs Validation

##### Submission requirements:

- b1. Application to OCI
- b2. Most recent three (3) years business tax returns
- b4. Copy of certification from one of the following agencies:
  - b4-1. CSB Certification - Cleveland OEO
  - b4-2. Small Business Certification - Cuyahoga County
  - b4-3. US SBA 8(a) Certification
  - b4-4. NEORSD Certification
  - b4-5. Northern Ohio Supplier Diversity Council Certification

## 4. REQUIRED OCI DOCUMENTS

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### 4a. Certified DBEs:

- 4a1. **B-3** (*DBE/ACDBE Participation Plan*)
- 4a2. **B-2** (*DBE/ACDBE Affidavit*)
- 4a3. **B-4A** (*Letter of Intent to Perform as Subcontractor/Sub-consultant*)

### 4b. Good Faith Effort

### 4c. Non Certified DBEs/SBEs:

- 4c1. **B-6** (*Non DBE/SBE/ACDBE Participation Plan*)
- 4c2. **B-4B** (*Letter of Intent to Perform as Subcontractor/Sub-consultant*)

## 4. REQUIRED OCI DOCUMENTS - *continuation*

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### 4d. Tier Subcontractors (i.e. 2<sup>nd</sup>/3<sup>rd</sup>...)

4d1. **B-8** (*2<sup>nd</sup> Tier/3<sup>rd</sup> Tier Subcontractor/Sub-consultant*)

4d2. **For DBE:** B-2 and B-4A; **For Non DBE:** B-4B

### 4e. Emergency Utilization of Subcontractors

4e1. **B-9** (*Emergency Addition-Conditional Approval of Subcontractor/Sub-consultant*)

- limited to 3 requests only

4E2. Revised DBE/Non-DBE forms whichever is applicable

### 4f. With ongoing projects, submit:

4f1. Revised DBE/Non-DBE forms

4f2. Copies of **ALL** sub contracts, sub-agreements and POs



# 4a1. ENCLOSURE B-3 (DBE Participation Plan)

**ENCLOSURE B-3**  
**CERTIFIED DISADVANTAGED BUSINESS ENTERPRISE/AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE  
 (DBE/ACDBE) PARTICIPATION PLAN**

Name of Prime Contractor			
Name of Project			
Project/Contract No		Total BASE Bid/Proposal Amount	Base Bid\$\$\$\$\$\$\$\$

**\*\*\*All firms must provide FEDERAL TAX ID NUMBER\*\*\* and must complete and sign a B-4A form\*\*\*\*\***

Name of CERTIFIED DBE/ACDBE	Federal Tax ID (must provide)	Address	Contact Person	Scope of Work	Percent Participation	Dollar Value of Work
1. DBE1	xx-XXXXXXX	Address1, City, State Zip	Point of Contact	Solicited work (NAICS Code)	%	\$\$\$
2. DBE2	xx-XXXXXXX	Address1, City, State Zip	Point of Contact	Solicited work (NAICS Code)	%	\$\$\$
3.						
4.						
5.						
6.						
7.						
<b>Total DBE/ACDBE Dollars (%)</b>						

The undersigned will enter into formal agreement with the certified DBEs/ACDBEs listed above for work in this schedule conditioned upon the award of a contract by the Cleveland Airport System.

Signature of Prime Contractor Representative	Email:	Telephone	Fax	Date
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## 4b. GOOD FAITH EFFORT (49 CFR Part 26.53)

**All solicitation  
documentations must be  
included with proposals upon  
submissions**

**[49CFR Part 26-Appendix A49 CFR 26.53(a)(2)]**

### ENCLOSURE B-5 GOOD FAITH EFFORTS GUIDELINES

Instructions: In the event a competitor is unable to commit to full attainment of an established AC/DBE contract specific goal, a good faith efforts evaluation must be conducted by the Airport. All competitors must provide documentation demonstrating all of the steps outlined below were taken in attempting to obtain AC/DBE participation. **ALL GOOD FAITH EFFORT DOCUMENTATION MUST BE SUBMITTED AT THE TIME OF BID/PROPOSAL QUALIFICATION.** With the exception of the RFQ process, the Airport is not allowed to contact potential contractors/consultants prior to selection of the successful bidder/proposer regarding information submitted. If good faith efforts are not submitted at the time of bid/proposal the bidder/proposer will be deemed **NON-COMPLIANT**.

1. Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled by the recipient to inform AC/DBEs of contracting and subcontracting opportunities.
2. Whether the contractor advertised in general circulation, trade association, and minority-focus media concerning the subcontracting opportunities.
3. Whether the contractor provided written notice to a reasonable number of specific AC/DBEs, that their interest in the contract was being solicited in sufficient time to allow the AC/DBEs to participate effectively.
4. Whether the contractor followed up initial solicitations of interest by contacting AC/DBEs to determine with certainty whether the AC/DBEs were interested.
5. Whether the contractor selected portions of the work to be performed by AC/DBEs in order to increase the likelihood of meeting the AC/DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate AC/DBE participation).
6. Whether the contractor provided interested AC/DBEs with adequate information about the plans, specifications and requirements of the contract.
7. Whether the contractor negotiated in good faith with interested AC/DBEs, not rejecting AC/DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
8. Whether the contractor made efforts to assist interested AC/DBEs in obtaining bonding, lines of credit or insurance required by the recipient or contractor; and
9. Whether the contractor effectively used the services of available minority community organizations; disadvantaged contractors' groups; local, state and Federal disadvantaged business assistance offices; and other organizations that provide assistance in the recruitment and placement of AC/DBEs.

**\*PLEASE ATTACH ALL SUPPORTING DOCUMENTATION OF THE GOOD FAITH EFFORTS TO THE BID/PROPOSAL QUALIFICATIONS. COMPETITORS WILL BE DETERMINED NON-COMPLIANT WITHOUT THE APPROPRIATE SUPPORTING GOOD FAITH EFFORTS DOCUMENTATION.**



# 4c1. ENCLOSURE B-6 (NON CERTIFIED DBE/SBE PARTICIPATION PLAN)

**ENCLOSURE B-6**

**NON-CERTIFIED DISADVANTAGED BUSINESS ENTERPRISE / AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE SUB-CONTRACTOR/CONSULTANT (NON-CERTIFIED DBE/ACDBE) AND SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION PLAN**

\*\*\*Bidders MUST make a Good Faith Effort to meet the established SBE Goal\*\*\*

Name of Prime Contractor			
Name of Project			
Project/Contract No		Total BASE Bid Amount	

**\*\*\*All firms must provide FEDERAL TAX ID NUMBER AND COMPLETE FORM B-4B\*\*\***

SBE YES NO	Name of NON-CERTIFIED DBE/ACDBE <small>(For SBE - Identify if DBE/ACDBE)</small>	Federal Tax ID <small>(must provide)</small>	Address	Contact Person	Scope of Work	Percent Participation	Dollar Value of Work (Non-Certified DBE/ACDBE)	Dollar Value of Work (SBE)
x	1. Non-DBE 1	xx-xxxxxxx	Street City, State Zip	Point of Contact	Solicited Work	%	\$\$\$\$\$	
	2.							
x	3. SBE 1	xx-xxxxxxx	Street City, State Zip	Point of Contact	Solicited Work	%		\$\$\$\$\$
	4.							
	5.							
	6.							
<b>Total NON-CERTIFIED DBE/ACDBE Dollars (%)</b>								

The undersigned will enter into formal agreement with the subcontractors listed above for work in this schedule conditioned upon the award of a contract by the Cleveland International Airport.

Signature of Prime Contractor Representative	Email:	Telephone	Fax	Date
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# 4c2. ENCLOSURE B-4B

## (LETTER OF INTENT TO PERFORM AS A NON-CERTIFIED DBE/ACDBE AND SBE SUBCONTRACTOR/SUB-CONSULTANT)

**ENCLOSURE B-4B**

**LETTER OF INTENT TO PERFORM AS A NON-CERTIFIED DBE/ACDBE and SBE SUBCONTRACTOR/SUBCONSULTANT**

*This form is to be completed by Prime Contractors and Consultants and ALL **NON-CERTIFIED DBE, ACDBE and SBE** Subcontractors and Sub-consultants.*

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

**TO BE COMPLETED BY PRIME CONTRACTOR/CONSULTANT**

Prime Contractor/Consultant: \_\_\_\_\_  
 (Federal Tax ID Number – **MUST PROVIDE** \_\_\_\_\_)

I am the \_\_\_\_\_ and duly authorized representative of the (firm of) \_\_\_\_\_, which intends to perform work for the above project operating as (*strike out conditions that do not apply*) an individual, a Company, a Corporation, organized and existing under the law of the State of \_\_\_\_\_, or a Proprietorship, a Partnership, or Joint Venture consisting of:

**TO BE COMPLETED BY NON-CERTIFIED DBE/ACDBE/SBE SUB-CONTRACTORS/CONSULTANTS**

Sub-Contractor/Consultant: \_\_\_\_\_

I am the \_\_\_\_\_ and duly authorized representative of the (firm of) \_\_\_\_\_, which intends to perform work for the above project operating as (*strike out conditions that do not apply*) an individual, a Company, a Corporation, organized and existing under the law of the State of \_\_\_\_\_, or a Proprietorship, a Partnership, or Joint Venture consisting of:

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows (**Do not leave the chart below blank. Information is to be provided for ALL procurements with the exception of RFQ's (task order) and concessions (revenue generating)**)

projects. If the chart below has not been completed the form will be considered **INCOMPLETE** and will be returned and potentially delay the procurement process):

Type of Work and Items	Work Hours Involved	Projected Commencement Date	Projected Completion Date
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

**REPRESENTATION TO UTILIZE 2<sup>ND</sup>/3<sup>RD</sup> TIER SUB-CONTRACTOR/CONSULTANTS**

I further represent that \_\_\_\_\_ percent (\_\_\_ %) of the dollar value of my subcontract will be performed by 2<sup>nd</sup> / 3<sup>rd</sup> tier subcontractors and/or suppliers, which are: \_\_\_ certified / \_\_\_ not certified by the Airport as an Airport Concession/Disadvantaged Business Enterprise. (*Please provide 2<sup>nd</sup>/3<sup>rd</sup> tier sub information on form B-7*).

NOTE: All sub-contractor/consultant agreements with certified and non-certified sub-contractors/consultants must be provided to the Airport prior to issuance of the DBE/ACDBE/SBE Notice to Proceed (NTP). Delay in receipt of this information can directly impact the project timeline.

**TO BE COMPLETED BY NON-CERTIFIED SUB-CONTRACTOR/CONSULTANTS**

The undersigned sub-contractor/consultant will enter into a formal agreement for the above work with \_\_\_\_\_ (prime contractor/consultant) conditioned upon the execution of a contract with the Airport.

Respectfully submitted, this  
 \_\_\_\_\_ Day \_\_\_\_\_, 20\_\_\_\_

(NON-CERTIFIED DBE/ACDBE/SBE Firm Name) \_\_\_\_\_  
 (Address) \_\_\_\_\_  
 \_\_\_\_\_  
 (Signature) \_\_\_\_\_  
 (Name Typed) \_\_\_\_\_  
 (Title) \_\_\_\_\_

(SEAL IF PROPOSER IS A CORPORATION)



# 4d1. ENCLOSURE B-8

## (ALL TIER SUBCONTRACTORS/SUB-CONSULTANTS)

### ENCLOSURE B-8

#### 2<sup>ND</sup>/3<sup>RD</sup> TIER SUBCONTRACTOR/SUBCONSULTANT FORM

THIS FORM IS TO PROVIDE A LISTING OF ALL 2<sup>ND</sup>/3<sup>RD</sup> TIER SUB-CONTRACTORS AND SUBCONSULTANTS PERFORMING ON THE PROJECT. ALL SUBCONTRACTOR AGREEMENTS MUST BE PROVIDED PRIOR TO RECEIVING A DBE/ACDBE NTP (NOTICE TO PROCEED). DELAY IN RECEIPT OF THIS INFORMATION CAN DIRECTLY IMPACT PROJECT SCHEDULE.

#### DEFINITIONS

*2<sup>ND</sup> TIER SUB-CONTRACTORS/CONSULTANTS – CONTRACTORS THAT CONTRACT DIRECTLY WITH THE 1<sup>ST</sup> TIER SUB-CONTRACTORS/CONSULTANTS.*

*3<sup>RD</sup> TIER SUB-CONTRACTOR/CONSULTANTS – CONTRACTORS THAT CONTRACT DIRECTLY WITH THE 2<sup>ND</sup> TIER SUB-CONTRACTORS/CONSULTANTS.*

Name of Prime Contractor								
Name of Project					Total BASE Bid Amount			
*** All firms must provide FEDERAL TAX ID NUMBER AND COPIES OF AGREEMENTS ***								
2 <sup>nd</sup> /3 <sup>rd</sup> Tier Sub-Contractor/Consultant Name	1 <sup>st</sup> TIER Sub-Contractor/Consultant w/ Agreement w/ 2 <sup>nd</sup> /3 <sup>rd</sup> Tier	Identify 2 <sup>nd</sup> Tier 3 <sup>rd</sup> Tier	CERTIFIED DBE/ACDBE (YES / NO)	Federal Tax ID (must provide)	Address	Contact Person	Scope of Work	Total Dollar Amount
1. Firm 1	Sub to Sub	1st	Yes	xx-xxxxxxx	Street City, State Zip	Point of Contact	Solicited Work (NAICS)	\$\$\$\$\$
2. Firm 2	Sub to sub to sub	2nd	No	xx-xxxxxxx	Street City, State Zip	Point of Contact	Solicited Work	\$\$\$\$\$
3. Firm 3	Sub to sub to sub to sub	3rd	No	xx-xxxxxxx	Street City, State Zip	Point of Contact		\$\$\$\$\$
4.								
5.								
6.								
7.								
							<b>TOTAL DOLLARS</b>	

The undersigned will enter into formal agreement with the subcontractors listed above for work in this schedule conditioned upon the award of a contract by the Cleveland International Airport.

Signature of Prime Contractor Representative	Email:	Telephone	Fax	Date
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# 4e1. ENCLOSURE B-9 (EMERGENCY FORM)

## Emergency Form Requirements:

1. **Acquire prior approval before utilization of sub/s**
2. **Submit revised documents to add/exclude a sub**
  - ✓ For DBE – B-3, B-2, B-4A
  - ✓ Non DBE – B6, B-4B
  - ✓ For Tier – use forms accordingly
3. **Limited to 3 requests only**

ENCLOSURE B-9  
EMERGENCY ADDITION-CONDITIONAL APPROVAL OF SUB-CONTRACTOR/CONSULTANT FORM  
THIS FORM IS TO BE USED ONLY WHEN SUBCONTRACTORS/CONSULTANTS ARE TO BE ADDED  
ON AN EMERGENCY BASIS

APPROVAL WILL BE GRANTED WITHIN 24 HOURS OF THE FORMAL REQUEST

PROJECT: \_\_\_\_\_

CONTRACT AMOUNT: \_\_\_\_\_

EST. WORK START DATE: \_\_\_\_\_

EST. COMPLETION DATE: \_\_\_\_\_

SUPPLIER ONLY: \_\_\_\_\_ YES/NO \_\_\_\_\_

TO THE DIRECTOR OF THE CLEVELAND AIRPORT SYSTEM,  
I RESPECTFULLY REQUEST YOUR CONSENT TO SUBLET THE FOLLOWING WORK TO:  
SUBCONTRACTOR/CONSULTANT TO PERFORM:

FEDERAL TAX ID: \_\_\_\_\_

WORK TO BE PERFORMED (ADD NAICS CODES): \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS AND PHONE NUMBER: \_\_\_\_\_

SUB-SUB (ONLY FOR SUBS OF SUBS – PLEASE LIST ORIGINAL SUBS NAME): \_\_\_\_\_

TIER: 1, 2 OR 3	DBE CERTIFIED & CERTIFICATION DATE (YES/NO)	EST. START & COMPLETION DATE	PERCENTAGE (%)	TOTAL CONTRACT AMOUNT (\$)

BY SIGNING THIS FORM, THE CONTRACTOR LISTED BELOW HAS MADE ASSURANCES THAT ALL SUBCONTRACTORS LISTED ABOVE WHO ARE UTILIZED TOWARDS THE FULFILLMENT OF A DBE GOAL WILL BE PERFORMING A COMMERCIALY USEFUL FUNCTION AS OUTLINED IN 49 CFR PART 26. IF IT IS DISCOVERED THAT THE DBE IS NOT PERFORMING OR HAS NOT PERFORMED A COMMERCIALY 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 WITHIN 5 DAYS OF SIGNATURE. THIS ADDITION MUST BE APPROVED BY THE AIRPORT DIRECTOR AND CITY OF CLEVELAND BOARD OF CONTROL. THIS CONTRACT IS SUBJECT TO STATE OF OHIO PREVAILING WAGE OR FEDERAL DAVIS BACON (WAGE & HOUR) REQUIREMENTS. PLEASE CONTACT 216-265-3353 FOR ADDITIONAL INFORMATION. IF THE WAGE & HOUR STANDARDS ARE NOT COMPLIED, PAYMENT TO THE CONTRACTOR CAN BE STOPPED OR THE PROJECT CAN BE STOPPED ENTIRELY.

CONTRACTOR SIGNATURE: \_\_\_\_\_

REQUESTED SUB-CONTRACTOR SIGNATURE: \_\_\_\_\_

EBED SIGNATURE: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DENIED: \_\_\_\_\_

REASON FOR DENIAL: \_\_\_\_\_

## 5. PROJECT COMPLIANCE REQUIREMENTS

### 5a. Contract Clause: Assurance Language Inclusion

#### **Title 49/Subtitle A/Part 26/Subpart A/ § 26.13**

*"The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate, which may include, but not limited to withholding monthly progress payments, assessing sanctions, liquidated damages, disqualifying the contractor from future bidding as non-responsible."*

**Applied to ALL!**

(Prime Contractor, ALL Tier subcontracts/sub-agreements either certified and non certified DBE or SBE)

### 5b. B2GNow Payments Compliance Reporting

#### A. What to do?

1. Go to [Website: https://Cleveland.diversitycompliance.com/Default.asp](https://Cleveland.diversitycompliance.com/Default.asp)
2. Monthly Audit
3. Subs Payment verifications
4. Upload or e-mail supporting documents (*i.e. invoices and cancelled checks*)

#### B. Not sure what to do?

Training! Training! Training!



## 5-d: ADDITIONS/SUBSTITUTIONS/EXCLUSIONS OF SUBCONTRACTORS

### ✓ 49 CFR Part 26.53:

1. Require **PRIOR APPROVAL**
  - Letter of justification from Prime
  - Letter of approval from OCI
2. Good Faith Effort applied

**AND...**

Submit:

1. Revised corresponding forms
2. Sub-agreements

### ✓ **City of Cleveland**

#### **SUB-CONTRACTOR ADDITION & SUBSTITUTION POLICY**

**EFFECTIVE November 1, 2011**

The Policy and Procedure for sub-contractor Addition and Substitution will be enforced throughout The City of Cleveland.

All sub-contractor Addition and/or Substitution request must be approved by the Board of Control **prior** to commencement of work and or services.

**Note:** The City assumes no obligation to pay , and **will not** pay a contractor for any work and or services performed by a sub-contractor on the contract prior to Board of Control approval of that sub-contractor.

Questions: Contact your Project Manager, the Division of Purchasing & Supplies or the Office of Equal Opportunity.

Division of Purchasing Supplies: 216-664-2620

Department of OEO: 216-664-4152

The complete **Subcontractor Addition and Substitution Policy** is available on-line at <http://www.city.cleveland.oh.us>

Click on **Doing Business with the City** under the **BUSINESS** drop-down menu.

## 6. SANCTIONS FOR NON- COMPLIANCE

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### Regulation

<http://www.dol.gov/whd/regs/compliance/whdfs66.pdf>

1. Contract payments withheld under CWHSSA
2. Grounds for contract termination
3. Contractor liability for any resulting costs to the government
4. Debarment from future contracts for a period up to three years

OCI is providing ALL the information as a public service. This information and related materials are presented to give the public access to information on Department of Transportation and Department of Labor programs.

# OCI Requirements

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**Written questions - send to designated  
Procurement Officer**