

## Attachment 5

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

**Name of Recipient:** City of Pendleton, Oregon,  
Owner of the Eastern Oregon Regional Airport (PDT)

**Goal Period:** FY 2021-2022-2023 – October 1, 2020 through September 30, 2023

**DOT-assisted contract amounts:**

|         |              |
|---------|--------------|
| FY-2021 | \$ 265,577   |
| FY-2022 | \$ 3,877,810 |
| FY-2023 | \$ 139,500   |
| <hr/>   |              |
| Total   | \$ 4,282,887 |

**Overall Three-Year Goal:** Our three-year overall goal was determined using a weighted, average of the expected projects during the three-year goal period:

| <u>Year</u> | <u>Goal</u> | <u>Overall Goal</u> |
|-------------|-------------|---------------------|
| 2021        | 0.9%        | } 1.5%              |
| 2022        | 2.2%        |                     |
| 2023        | 1.3%        |                     |

**Total dollar amount to be expended on DBE's: \$ 64,243**

**Description of contracts that the City anticipates awarding for airport projects:**

Contracts Fiscal Year 2021:

1. Runway Reconfiguration – Predesign / Environmental - \$265,577

Contracts Fiscal Year 2022:

1. Runway Reconfiguration – Design and Construction - \$3,877,810

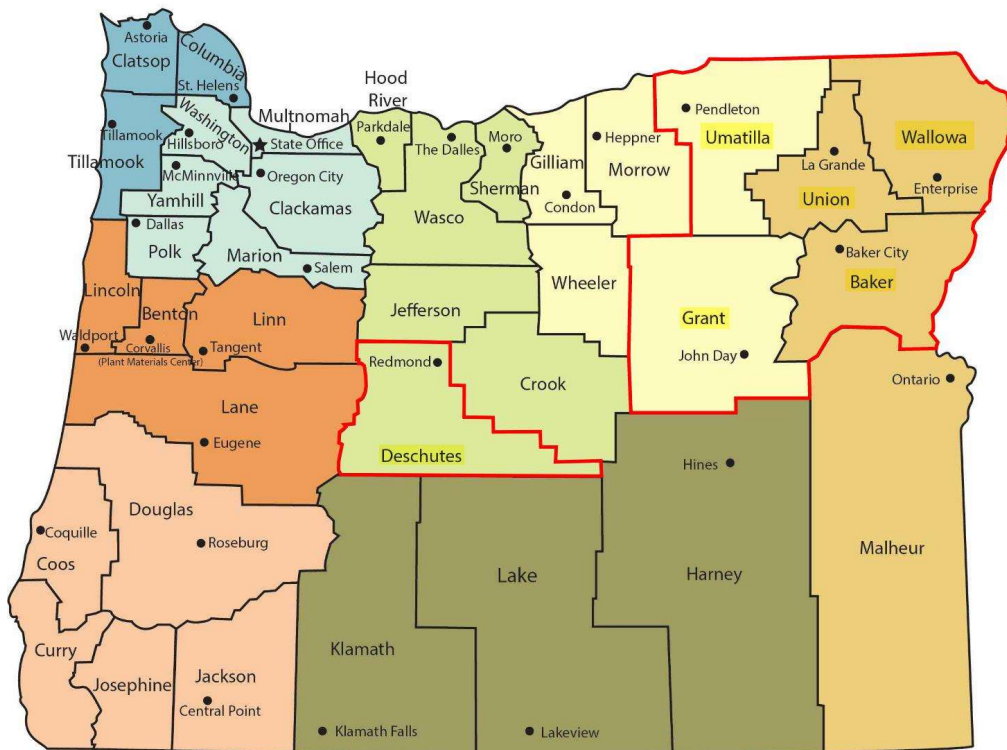
Contracts Fiscal Year 2023:

1. Wildlife Fencing – Environmental and Design - \$139,500

## Market Area

The market was determined by evaluation of proximity, availability of firms, and historical participation. Several Counties in Washington State were investigated but were not selected for the Market due to a lack of firms providing the services offered, as well as a lack of Oregon-certified DBEs. After evaluation, the Market Area includes portions of northeastern and central Oregon, and comprises the following six counties:

- Baker County
- Deschutes County
- Grant County
- Umatilla County
- Union County
- Wallowa 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 of DBEs was calculated as follows:

First, the project work was divided into categories based on the NAICS codes that corresponded with the kind of work expected within the project. The cost of each kind of work was then determined.

**Table 1** below illustrates the breakdown of the work for each project.

Total availability of businesses for each kind of work within the projects (using the appropriate corresponding NAICS code) within the Market Area was determined by using the most recent data available from the US Census Bureau found here: <https://data.census.gov/cedsci>

Availability of DBEs within the Market Area was determined by using the Oregon DBE Directory found here: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp>

Each certified business was evaluated as to their specific business activities, eliminating any whose work did not meet the kind of work available within the project. It was assumed that the DBEs are ready, willing and able to provide the services for which they are certified as DBEs.

The number of DBEs was divided by the total of all firms to arrive at a base figure for each NAICS code of work. Weighting was then applied using the percentage of each kind of work expected within each project. The weighted percentages were totaled for each project to arrive at an overall weighted percentage for the total project and year. **Table 2** below illustrates this process.

**Table 1**

| <b>FY 2021</b>                             |            |                                   |              |
|--|------------|-----------------------------------|--------------|
| Project Title / Description:               |            | RW 29 Reconfiguration - Predesign |              |
| Work Description                           | NAICS Code | Cost (Federal only)               | % of Project |
| Civil Engineering                          | 541330     | \$ 37,800                         | 14.2%        |
| Geophysical Surveying / Mapping            | 541360     | \$ 93,375                         | 35.2%        |
| Design Surveying                           | 541370     | \$ 31,500                         | 11.9%        |
| Geotechnical Testing or Services           | 541380     | \$ 25,074                         | 9.4%         |
| Environmental Consulting-Hydrology/Biology | 541620     | \$ 77,828                         | 29.3%        |
| <b>Total:</b>                              |            | <b>\$ 265,577</b>                 |              |

| <b>FY 2022</b>               |            |   |              |
|------------------------------|------------|---|--------------|
| Project Title / Description: |            | RW 29 Reconfiguration - Design and Construction |              |
| Work Description             | NAICS Code | Cost (Federal only)                             | % of Project |
| Drainage/Storm Sewer         | 237110     | \$ 245,568                                      | 6.4%         |
| Asphalt Paving and Marking   | 237310     | \$ 655,285                                      | 16.9%        |
| Electrical Construction      | 238210     | \$ 672,729                                      | 17.3%        |
| Excavation and Demolition    | 238910     | \$ 1,418,873                                    | 36.6%        |
| Engineering / SDC            | 541330     | \$ 885,355                                      | 22.8%        |
| <b>Total:</b>                |            | <b>\$ 3,877,810</b>                             |              |

| <b>FY 2023</b>               |            |   |              |
|------------------------------|------------|---|--------------|
| Project Title / Description: |            | Wildlife Fencing - Environmental and Design |              |
| Work Description             | NAICS Code | Cost (Federal only)                         | % of Project |
| Civil Engineering / SDC      | 541330     | \$ 94,500                                   | 67.7%        |
| Environmental Engineering    | 541620     | \$ 45,000                                   | 32.3%        |
| <b>Total:</b>                |            | <b>\$ 139,500</b>                           |              |

**Table 2**

**Percent DBE Calculation - Eastern Oregon Regional Airport**

Market Area includes the following Oregon counties: Baker, Grant, Morrow, Umatilla, Union and Wallowa

DBE Businesses in the survey area were calculated using data from the The Oregon Certification Office for Business Inclusion and Diversity available at: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp>  
Data was obtained on 1/21/2021.

Total established firm data was taken from the U.S. Census Bureau website available at <https://data.census.gov/cedsci/>.  
Data from 2018 was used for the calculations as it is the most recent available.

**FY 2021**

| NAICS Codes from 2018 Census | % of Total Project Work | Project Work Elements            | Baker County |     | Deschutes County |     | Grant County |     | Umatilla County |     | Union County |     | Wallowa County |     | Market Area Totals |      | Base Goal | Weighted Goal |
|------------------------------|-------------------------|----------------------------------|--------------|-----|------------------|-----|--------------|-----|-----------------|-----|--------------|-----|----------------|-----|--------------------|------|-----------|---------------|
|                              |                         |                                  | Total        | DBE | Total            | DBE | Total        | DBE | Total           | DBE | Total        | DBE | Total          | DBE | Total              | DBE  |           |               |
| 541330                       | 14.2%                   | Engineering                      | 0            | 0   | 47               | 1   | 0            | 0   | 0               | 0   | 6            | 0   | 0              | 0   | 53                 | 1    | 1.9%      | 0.3%          |
| 541360                       | 35.2%                   | Geophysical Surveying / Mapping  | 0            | 0   | 0                | 0   | 0            | 0   | 0               | 0   | 0            | 0   | 0              | 0   | 0                  | 0    | 0.0%      | 0.0%          |
| 541370                       | 11.9%                   | Design Surveying                 | 0            | 0   | 14               | 0   | 0            | 0   | 3               | 0   | 0            | 0   | 1              | 1   | 18                 | 1    | 5.6%      | 0.7%          |
| 541380                       | 9.4%                    | Geotechnical Testing or Services | 0            | 0   | 6                | 0   | 0            | 0   | 0               | 0   | 0            | 0   | 0              | 6   | 0                  | 0.0% | 0.0%      |               |
| 541620                       | 29.3%                   | Environmental Consulting         | 3            | 0   | 10               | 1   | 0            | 0   | 0               | 0   | 0            | 0   | 0              | 13  | 1                  | 0.0% | 0.0%      |               |
|                              | 100.0%                  |                                  | 3            | 0   | 77               | 2   | 0            | 0   | 3               | 0   | 6            | 0   | 1              | 1   | 90                 | 3    | 3.3%      | <b>0.9%</b>   |

**FY 2022**

| NAICS Codes from 2018 Census | % of Total Project Work | Project Work Elements      | Baker County |     | Deschutes County |     | Grant County |     | Umatilla County |     | Union County |     | Wallowa County |     | Market Area Totals |     | Base Goal | Weighted Goal |
|------------------------------|-------------------------|----------------------------|--------------|-----|------------------|-----|--------------|-----|-----------------|-----|--------------|-----|----------------|-----|--------------------|-----|-----------|---------------|
|                              |                         |                            | Total        | DBE | Total            | DBE | Total        | DBE | Total           | DBE | Total        | DBE | Total          | DBE | Total              | DBE |           |               |
| 237110                       | 6.4%                    | Drainage/Storm Sewer       | 0            | 0   | 11               | 0   | 0            | 0   | 3               | 1   | 3            | 0   | 0              | 0   | 17                 | 1   | 5.9%      | 0.4%          |
| 237310                       | 16.9%                   | Asphalt Paving and Marking | 0            | 0   | 8                | 0   | 0            | 0   | 3               | 1   | 5            | 0   | 0              | 0   | 16                 | 1   | 6.3%      | 1.1%          |
| 238210                       | 17.3%                   | Electrical Construction    | 9            | 0   | 70               | 0   | 3            | 0   | 13              | 0   | 11           | 0   | 4              | 0   | 110                | 0   | 0.0%      | 0.0%          |
| 238910                       | 36.6%                   | Excavation and Embankment  | 8            | 0   | 67               | 0   | 5            | 0   | 21              | 1   | 10           | 0   | 5              | 0   | 116                | 1   | 0.9%      | 0.3%          |
| 541330                       | 22.8%                   | Engineering                | 0            | 0   | 47               | 1   | 0            | 0   | 0               | 0   | 6            | 0   | 0              | 0   | 53                 | 1   | 1.9%      | 0.4%          |
|                              | 100.0%                  |                            | 17           | 0   | 203              | 1   | 8            | 0   | 40              | 3   | 35           | 0   | 9              | 0   | 312                | 4   | 1.3%      | <b>2.2%</b>   |

**FY 2023**

| NAICS Codes from 2018 Census | % of Total Project Work | Project Work Elements    | Baker County |     | Deschutes County |     | Grant County |     | Umatilla County |     | Union County |     | Wallowa County |     | Market Area Totals |     | Base Goal | Weighted Goal |
|------------------------------|-------------------------|--------------------------|--------------|-----|------------------|-----|--------------|-----|-----------------|-----|--------------|-----|----------------|-----|--------------------|-----|-----------|---------------|
|                              |                         |                          | Total        | DBE | Total            | DBE | Total        | DBE | Total           | DBE | Total        | DBE | Total          | DBE | Total              | DBE |           |               |
| 541330                       | 67.7%                   | Engineering              | 0            | 0   | 47               | 1   | 0            | 0   | 0               | 0   | 6            | 0   | 0              | 0   | 53                 | 1   | 1.9%      | 1.3%          |
| 541620                       | 32.3%                   | Environmental Consulting | 3            | 0   | 10               | 1   | 0            | 0   | 0               | 0   | 0            | 0   | 0              | 0   | 13                 | 1   | 0.0%      | 0.0%          |
|                              | 100.0%                  |                          | 3            | 0   | 57               | 2   | 0            | 0   | 0               | 0   | 6            | 0   | 0              | 0   | 66                 | 2   | 3.0%      | <b>1.3%</b>   |

The annual weighted project goals were used to determine an average for the three-year reporting period. See **Table 3** below.

**Table 3**

**Basic Calculation**

Total DBE's/All Firms

| <u>Fiscal Year</u> | <u>Overall DBEs Available</u> |
|--------------------|-------------------------------|
| 2021               | 3 / 90 = 3.3%                 |
| 2022               | 4 / 312 = 1.3%                |
| 2023               | 2 / 66 = 3.0%                 |
| <b>Total:</b>      | <b>9 / 468 = 1.9%</b>         |

**Weighted Calculation**

[ %work(DBE/All Firms) + %work(DBE/All Firms) ] X 100

| <u>Fiscal Year</u> | <u>Annual Weighted Calculation</u> |
|--------------------|------------------------------------|
| 2021               | <b>0.9%</b>                        |
| 2022               | <b>2.2%</b>                        |
| 2023               | <b>1.3%</b>                        |

**Average Weighted Calculation**

$(0.9\%+2.2\%+1.3\%)/3 =$  **1.5%**

**Step 1 resulted in the following three-year overall goal: 1.5%**

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

After calculating a weighted base figure of the relative availability of DBEs, evidence was examined to determine what adjustment (if any) was needed to arrive at the overall goal.

- a. Past Participation – In 2012 the airport had a project that involved a DBE company as the prime contractor; however, that particular company is no longer a DBE. There have been no other recent projects of similar character at the airport that had DBE participation. Based on past participation there is no data to support an adjustment to the weighted base figure.
- b. Disparity Study – In 2019 a disparity study was completed for Oregon state. The study included data for women-owned and minority-owned businesses. The study was not limited to DBEs, and therefore is limited in its use for the purpose of the City’s DBE goal. After review of the study, the City found recommendations of ways to increase participation for women- and minority-owned businesses, some of which the City will evaluate for incorporation into its efforts to meet its DBE goal. No data was found to support an adjustment of the DBE goal. The City will continue to evaluate the results of the disparity study for future goal adjustments, anticipating that more small businesses may choose to become registered DBEs in future years.
- c. Work Item Analysis – Several NAICS codes were overly broad, given the scope of the work anticipated. The DBEs in the market area were reviewed to determine their capability to perform the work items included in these projects. The quantity of “able” DBEs was adjusted accordingly and the cost estimates for this work were used to calculate a percentage of the total work and is reflected in the DBE goal set in Step 1.
- d. Other factors – The City has contacted multiple local business advocacy agencies and DBE-certified businesses within the market area with requests for input regarding their Disadvantaged Business Enterprise program and overall goal. See “Consultation: Section 26.45 (g) (1)” below for details.

Also of note is the lack of DBEs in the counties closest in proximity to the airport. These counties are very rural and the size of most airport projects does not attract companies from more urban, highly populated counties where more DBEs might be available. This situation makes DBE participation rare, which is apparent in the lack of DBEs participating in past projects at the airport.

**No evidence was found that would support any adjustment to the Step 1 goal; therefore, the City is adopting its Step 1 average weighted figure as its overall goal for this three-year goal period: 1.5%**

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

The City will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation. These means include:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small businesses participation;
- Encouraging prime contractors to subcontract portions of work they might otherwise perform with their own forces;
- Endeavor to include DBEs and other small businesses on recipient mailing lists for bidders;
- Advising prime contractors of the State of Oregon online DBE directory and website;
- Providing assistance in overcoming limitations such as inability to obtain bonding or financing;

The City estimates that in meeting its annual goals, it will obtain 100% from RN participation.

The City of Pendleton has a limited history of DBE participation and expects to obtain its DBE participation through the use of overall goals and communication of opportunities for DBEs. Consistent with key court rulings<sup>1</sup> and USDOT official guidance, we are applying the entire goal to race-neutral participation.

The City will track and report RN DBE participation. 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, the City 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 the City’s efforts to establish a level playing field for the participation of DBEs.

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<sup>1</sup> *Western States Paving Co. v. Washington State DOT*, 407 F.3d 983,997-98 (9<sup>th</sup> Cir. 2005), cert. denied, 546 U.S. 1170 (2006)

The City contacted the agencies noted above within the market area with an invitation to participate in consultation. Some participants selected to respond with feedback by email. A teleconference was held on 3/29/2021. Participants included representatives from the City, the airport, and the City's consulting engineering firm.

Topics and responses included, but were not limited to, the following items:

- Review of the Program document and its parts
- Review of the goals and the methodology used to determine them
- Past participation of Disadvantaged Business Enterprises
- Availability of DBE businesses for utilization in projects
- Discussion of the email responses received
- Ways to increase DBE participation and remove barriers to participation
- Updating information about prompt payment requirements

Following the consultation, the City published a notice on their 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 Eastern Oregon Regional Airport Administration Office for 30 days following the date of the notice, and informing the public that the City and FAA will accept comments on the goals for 30 days from the date of the notice.

Any comments received will be summarized and submitted to the FAA Office of Civil Rights.

## Public Notice

### Public Notice Language:

The City hereby announces its fiscal years 2021 through 2023 goal of 1.5% for Disadvantaged Business Enterprise (DBE) airport construction contracts. The proposed goal and its rationale are available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday, at Eastern Oregon Regional Airport Administration Office, 2016 Airport Road, Pendleton, Oregon, for 30 days from the date of this publication.

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

Erica Stewart  
Airport Admin Specialist/DBELO  
City of Pendleton  
2016 Airport Road  
Pendleton, OR 97801  
Phone: (541) 276-7754  
E-mail: [erica.stewart@ci.pendleton.or.us](mailto:erica.stewart@ci.pendleton.or.us)

Federal Aviation Administration  
Office of Civil Rights  
Attn: Sonia Cruz  
PO Box 92007  
Los Angeles, CA 90009

## Contract Goals

The City will not use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Please refer to § 26.51 in this program document for additional information.