



## CITY COUNCIL STAFF REPORT

DATE: October 1, 2014 CONSENT AGENDA  
SUBJECT: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATE FOR  
PALM SPRINGS INTERNATIONAL AIRPORT  
FROM: David H. Ready, City Manager  
BY: AIRPORT

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### SUMMARY

The overall goal for the Palm Springs International Airport Disadvantaged Business Enterprise (DBE) Program for federally assisted projects is established at three-year intervals. The goal period for the three-year interval covered in this report will begin on October 1, 2014 and end on September 30, 2017.

### RECOMMENDATION:

Receive and file the DBE goal for the Palm Springs International Airport at 6.9% for the period of October 1, 2014 through September 30, 2017 for compliance with the airport improvement grant program.

### STAFF ANALYSIS:

The Federal Aviation Administration mandates that all airports produce a plan with a goal for Disadvantaged Business Enterprise (DBE). To comply, Airport Concession Consultants, specializing in this expertise, was hired to conduct the analysis and create a plan using FAA acceptable methodology.

Based on this plan development, the overall DBE goal for the three-year period has been set at 6.9% for federal financial assistance to be expended in Department of Transportation (DOT) assisted contracts during the time period covered. Federal funding for projects are anticipated to be approximately \$22.8 million during the period. The details of the Federal Aviation Administration (FAA) DBE goal methodology are attached.

The overall goal is to be based on demonstrable evidence of the availability of ready, willing and able DBEs to participate on DOT assisted contracts. The Airport goals are based on FAA methodology and the expanded geographic area market for contractors

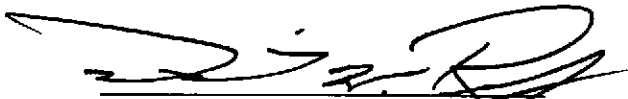
for Palm Springs International Airport projects has been defined as the counties of Riverside, Los Angeles, Orange, San Bernardino and San Diego because more than 80% of the companies performing projects at the airport over the last eight years are based in one of these areas.

FISCAL IMPACT:

The Airport Improvement Program provides grant funding for all eligible projects at 90.66 percent (90.66%). With the DBE requirement associated with federal projects, there is no fiscal impact to the Airport budget.



Thomas Nolan  
Executive Director, Airport



David H. Ready, City Manager

Attachments: DBE Goals and Methodology

**PALM SPRINGS INTERNATIONAL AIRPORT  
PROPOSED DBE OVERALL GOALS  
FY 2015 – FY 2017**

**Airport Sponsor:** Palm Springs International Airport

**Goal Period:**                   **From:**       October 1, 2014  
   **Thru:**       September 30, 2017

**Overall DBE Goal for FAA-Assisted Projects:** 6.3%

**Race-Neutral Goal:**                   6.3%

**Race-Conscious Goal:**               0.0%

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## **DBE GOAL METHODOLOGY**

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Overall goals for the Palm Springs International Airport Disadvantaged Business Enterprise Program for federally assisted projects is established at three-year intervals for a period of three years. The goal period for the three-year interval covered in this report will begin on October 1, 2014 and end on September 30, 2017. The overall DBE goal for the three-year period has been set at 6.9% of the Federal financial assistance to be expended in DOT-assisted contracts during the time period covered. Federal funding for projects is anticipated to be approximately \$22.8 million during the period.

The relevant geographic market for contractors for Palm Springs International Airport projects has been defined as Los Angeles, Orange, Riverside, San Bernardino and San Diego counties because more than 80% of the companies performing projects at the Airport over the last eight years are based in one of these areas.

49 CFR Part 26, Section 26.45(b) states as follows:

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

49 CFR Part 26, Section 26.45 further provides for a two-step process, consisting of:

**Step 1 - Determine a Base Figure representing the Relative Availability of DBEs**

**and**

**Step 2 - Examine data to determine what adjustment, if any, is needed to the Base Figure**

The regulation provides the following examples of potential approaches for accomplishing Step 1, determining the base figure, as follows:

- 1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) database, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes.
- 2) Use a bidders list. Determine the number of DBEs that have bid or quoted on your DOT-assisted prime contracts or subcontracts in the previous year. Determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number for all businesses to derive a base figure for the relative availability of DBEs in your market.
- 3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.
- 4) Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.
- 5) Alternative methods. Subject to the approval of the DOT operating administration, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

We have examined each of the alternatives. We have elected to use the combined approach of DBE directories/Census Bureau data and data from a disparity study. The methodology for establishing the FY 2015 – FY 2017 DBE Goal is described on the following pages.

**Step 1 - Determine a Base Figure representing the Relative Availability of DBEs**

Projects planned for award during FY 2015 - 2017 are as follows:

FY 2015

- Runway Rehabilitation
- Access Control Equipment
- Flight Information Display (FIDS) and Paging System

FY 2016

- Building Projects

FY 2017

- Expand Terminal Building/Baggage Claim

The trade classifications expected to be utilized for these projects are as follows:

<b>Table 1: Trade Breakdown for 2015 - 2017 AIP Projects</b>			
<b>Project</b>	<b>Trade</b>	<b>NAICS</b>	<b>Trade \$</b>
RW Rehabilitation	Highway, Street and Bridge Construction	237310	\$5,787,000
	Demolition, Excavation	238910	\$720,000
	Electrical	238210	\$1,530,000
	Trucking	484220	\$1,080,000
	Fencing	238990	\$225,000
<b>Total Project</b>			<b>\$9,342,000</b>
Securing Access Control Equipment	Electrical	238210	\$1,980,000
	Equipment	423610	\$1,350,000
<b>Total Project</b>			<b>\$3,330,000</b>
FIDS and Paging System	Electrical	238210	\$1,170,000
	Equipment	specialty	\$1,050,000
<b>Total Project</b>			<b>\$2,220,000</b>
<b>Total Projects- 2015</b>			<b>\$14,892,000</b>
Building Projects	Design, Construction Management	541310	\$1,170,000
	Electrical	238210	\$135,000
	Carpenter	238350	\$810,000
	Painting	238320	\$90,000
	Carpet	238330	\$135,000
	Drywall	238310	\$72,000
	Materials	423990	\$828,000

<b>Table 1: Trade Breakdown for 2015 - 2017 AIP Projects</b>			
<b>Project</b>	<b>Trade</b>	<b>NAICS</b>	<b>Trade \$</b>
	Equipment	238290	\$360,000
<b>Total Project</b>			<b>\$3,600,000</b>
<b>Total Projects- 2016</b>			<b>\$3,600,000</b>
Building Projects	Design, Construction Management	541310	\$810,000
	Electrical	238910	\$135,000
	Carpenter	238210	\$630,000
	Painting	238320	\$90,000
	Carpet	238330	\$225,000
	Drywall	238310	\$162,000
	Materials	423990	\$468,000
	Equipment	238290	\$1,080,000
<b>Total Project</b>			<b>\$3,600,000</b>
ARFF Vehicle	Vehicle Purchase	336120	\$720,000
<b>Total Project</b>			<b>\$720,000</b>
<b>Total Projects- 2017</b>			<b>\$4,320,000</b>
<b>Total Projects 2015-2017</b>			<b>\$22,812,000</b>

In August 2012, the California Department of Transportation (Caltrans) Availability and Disparity Study was published. The study developed a base goal of 12.5% for Caltrans projects. The study considers only trades typically utilized in Caltrans projects. Caltrans projects were broken down between construction and engineering. Construction projects account for 97% of the projects undertaken by Caltrans. Trades included in the construction category are: highway and street construction, electrical work, asphalt and concrete supply, rebar and reinforcing steel, fencing, guardrails and signs, land site prep, landscape services, wrecking and demolition, painting and striping, water, sewer and utility lines, excavation and drilling, trucking, flagging services, heavy construction equipment rental, construction sand and gravel, other construction and other construction supplies.

Given the above, we believe that only the Runway Rehabilitation Project is comparable to Caltrans projects. Therefore, we have utilized the Caltrans base goal of 12.5% for the Runway Rehabilitation Project and an alternative methodology for the remaining projects.

DBE availability for trades used in the projects to be undertaken during the three-year goal period, excluding the Runway Rehabilitation Project, have been determined by utilizing the California Unified Certification Program DBE Directory and Census Bureau Data. Census and Directory information was extracted for the relevant trades listed above. The geographic areas represented include Los Angeles, Orange, Riverside, San Bernardino and San Diego counties. In addition, DBE availability from the Caltrans Disparity Study has been included for those trades that are included in the study. The availability calculations are as follows:

TRADE	NAICS Description	NAICS	Census	Directory	DBE %
Electrical	Electrical Contractors	238210	3911	108	2.8%
Equipment	Other Building Equipment Contractors	238290	336	10	3.0%
Drywall	Drywall and Insulation Contractors	238310	936	14	1.5%
Painting	Painting and Wall Covering Contractors	238320	1568	25	1.6%
Carpet	Flooring Contractors	238330	788	12	1.5%
Carpenter	Carpenters (except framing)	238350	1070	20	1.9%
Demolition, Excavation	Site Preparation Contractors	238910	1091	87	8.0%
Fencing	All Other Specialty Trade Contractors	238990	1487	102	6.9%
Baggage Conveying Equipment	Conveyor and Conveying Equipment Manufacturing	333922	26	0	0.0%
Equipment	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	423610	1246	35	2.8%
Materials	Other Miscellaneous Durable Goods Merchant Wholesalers	423990	1191	13	1.1%
Trucking	Trucking	484220	898	187	20.8%
Design, Construction Management	Design, Construction Management	541310	1640	68	4.1%

\* The % was obtained by dividing the DBE directory # of firms by the census # of firms.

The availability calculations from the above chart have been weighted by the anticipated expenditures for each trade classification for all projects excluding the Runway Rehabilitation Project. For the Runway Rehabilitation Project, the Caltrans base goal has been used.



**Table3: Weighted DBE Availability**

Project	Trade	NAICS	Trade \$	DBE %	DBE \$
RW Rehabilitation	Highway, Street and Bridge Const	237310	\$5,787,000	*12.5%	\$723,375
	Demolition, Excavation	238910	\$720,000	*12.5%	\$90,000
	Electrical	238210	\$1,530,000	*12.5%	\$191,250
	Trucking	484220	\$1,080,000	*12.5%	\$135,000
	Fencing	238990	\$225,000	*12.5%	\$28,125
<b>Total Project</b>			<b>\$9,342,000</b>	<b>*12.5%</b>	<b>\$1,167,750</b>
Access Control Equipment	Electrical	238210	\$1,980,000	2.8%	\$55,440
	Equipment	423610	\$1,350,000	2.8%	\$37,800
<b>Total Project</b>			<b>\$3,330,000</b>	<b>2.8%</b>	<b>\$93,240</b>
FIDS and Paging System	Electrical	238210	\$1,170,000	2.8%	\$32,760
	Equipment	specialty	\$1,050,000	0.0%	\$0
<b>Total Project</b>			<b>\$2,220,000</b>	<b>1.5%</b>	<b>\$32,760</b>
<b>Total Projects- 2015</b>			<b>\$14,892,000</b>	<b>8.7%</b>	<b>\$1,293,750</b>
Building Projects	Design, Construction Management	541310	\$1,170,000	4.1%	\$47,970
	Electrical	238210	\$135,000	2.8%	\$3,780
	Carpenter	238350	\$810,000	1.9%	\$15,390
	Painting	238320	\$90,000	1.6%	\$1,440
	Carpet	238330	\$135,000	1.5%	\$2,025
	Drywall	238310	\$72,000	1.5%	\$1,080
	Materials	423990	\$828,000	1.1%	\$9,108
	Equipment	238290	\$360,000	3.0%	\$10,800
<b>Total Project</b>			<b>\$3,600,000</b>	<b>2.5%</b>	<b>\$91,593</b>
<b>Total Projects- 2016</b>			<b>\$3,600,000</b>	<b>2.5%</b>	<b>\$91,593</b>
Terminal Baggage Improvements	Design, Construction Management	541310	\$810,000	4.1%	\$33,210
	Electrical	238910	\$135,000	2.8%	\$3,780
	Carpenter	238210	\$630,000	1.9%	\$11,970
	Painting	238320	\$90,000	1.6%	\$1,440
	Carpet	238330	\$225,000	1.5%	\$3,375
	Drywall	238310	\$162,000	1.5%	\$2,430
	Materials	423990	\$468,000	1.1%	\$5,148
	Equipment	333922	\$1,080,000	0.0%	\$0
<b>Total Project</b>			<b>\$3,600,000</b>	<b>1.7%</b>	<b>\$61,353</b>
ARFF Vehicle	Vehicle Purchase	specialty	\$720,000	0.0%	\$0
<b>Total Project</b>			<b>\$720,000</b>	<b>0.0%</b>	<b>\$0</b>
<b>Total Projects- 2017</b>			<b>\$4,320,000</b>	<b>1.4%</b>	<b>\$61,353</b>
<b>Total Projects 2015-2017</b>			<b>\$22,812,000</b>	<b>6.3%</b>	<b>\$1,446,696</b>

\* Based on Caltrans Base goal

Note: The dollars to be spent for each trade (Table 1) have been multiplied by the DBE calculated Caltrans availability if available, the Directory/Census availability if Caltrans is not available (Table 2). The total is the dollar amount of DBE participation expected to be awarded to DBE firms given the availability of DBE firms and dollar amount to be expended on each trade.

**The result of the above calculations yields a base goal of 6.3%.**

## **Step 2 - Examine data to determine what adjustment, if any, is needed to the Base Figure.**

Section 26.45(d) provides many examples of the types of data to examine in order to adjust the base figure. The Caltrans Availability and Disparity Study determined that there are various reasons for both upward and downward adjustments that tend to cancel each other out. Therefore, we have elected not to make a Step 2 Adjustment based on the Caltrans Study.

In addition to considering the information provided in the Caltrans Study, we have examined past history of DBE participation at Palm Springs International Airport. Because DBE goals have been race neutral for the past 5 years, DBE goals have not been met. We do not believe that this is indicative of availability, therefore we have elected not to adjust the goal for past history.

**Given the above, we propose a DBE goal of 6.3% for the three-year period beginning October 1, 2014 and ending September 30, 2017.**

## **Race-Neutral Vs Race-Conscious Goal**

In light of the Ninth Circuit Court of Appeals decision regarding *Western States Paving v. Washington State Department of Transportation* and the fact that the Caltrans Availability and Disparity Study does not include specific contracting practices for Palm Springs International Airport, the DBE goal for Palm Springs International Airport will be set as race neutral. We do not have sufficient evidence of discrimination or its effects to support a race-conscious goal at this time. It should be noted that the City has developed a Small Business Enterprise program that provides a means to set goals for small business utilization in federally-funded projects. The program will be implemented during this goal period and it is projected that the program will assist the airport in meeting its DBE goals.

The following methods will be employed to implement race-neutral goals:

- 1) Provide information on the Palm Springs International Airport organization, functions and its full range of contractual needs.

- 2) Offer instructions and clarification on bid specifications, procurement policy, procedures, and general bidding requirements.
- 3) Maintain a file of successful bid documents from past procurement and permit potential participants to review and evaluate such documents.
- 4) Conduct debriefing sessions on each awarded contract to explain why certain bids were unsuccessful.
- 5) Routinely issue projected procurement information.
- 6) Provide instructions and clarification on job performance requirements.
- 7) Provide information and assistance on certification procedures, sub-contracting practices, bonding requirements.
- 8) Provide assistance in obtaining bonding and financing and provide technical assistance.
- 9) Arrange solicitations, time for presentation of bids, quantities, specifications and delivery schedules to facilitate the participation of DBE's.
- 10) Implement small business goals where practicable.

The recruiting area for the projects will consist of San Bernardino, San Diego, Riverside, Orange, and Los Angeles counties.

A published notice announcing our proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the our principal office for 30 days following the date of the notice, and informing the public that we will accept comments on the goals for 45 days from the date of the notice will be published in The Desert Sun.

Notices will also be sent to the following organizations:

- Association of General Contractors – Riverside/San Bernardino District
- Black Chamber of Commerce of Orange County
- Coachella Valley Mexican American Chamber of Commerce
- National Association of Minority Contractors – Mid California
- National Association of Women in Construction – NAWC #111
- Palm Springs Chamber of Commerce

Copies of the notice and responses will be forwarded to the FAA Regional Civil Rights Office.