
Federal Aviation Administration

Disadvantaged Business Enterprise Program Triennial Plan Update

FFY: 2022-2024

Pinal Airpark



PINAL COUNTY

WIDE OPEN OPPORTUNITY

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**COUNTY OF PINAL, A
PINAL AIRPARK (MZJ)
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 CFR PART 26**

POLICY STATEMENT

Objectives/Policy Statement - Section 26.1, 26.23

Pinal County on behalf of Pinal Airpark (MZJ) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Pinal County has received Federal financial assistance from the DOT, and as a condition of receipt of funding, Pinal County has signed an assurance that it will comply with 49 CFR Part 26.

It is Pinal County on behalf of MZJ's policy to ensure that DBEs as defined in 49 CFR Part 26 have an equal opportunity to receive and participate in U.S. DOT-assisted contracts. Pinal County's policy also includes the following:

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

Mr. Jim Petty, Director of Aviation, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, Mr. Petty is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the County in its financial assistance agreements with the Department of Transportation.

Pinal County has disseminated this policy statement to Pinal County Management and all of the appropriate divisions of the organization. This policy statement is made available to DBE and non-DBE companies that perform work on U.S. DOT-assisted contracts. Distribution channels include trade associations, online publications, and electronic notification via stakeholder distribution lists and the County website.



Mr. Andrew Smith, Director
Pinal County Public Works

3 - 15 - 2023

Date

SUBPART A - GENERAL REQUIREMENTS

Applicability – Section 26.3

As a recipient of funds from the Federal Aviation Administration (FAA), Pinal County on behalf of MZJ has established this DBE Program in accordance with **49 CFR Part 26** and commits to ensuring compliance on all FAA-funded transportation projects through monitoring, reporting, and goal setting. Where DBE goal setting is not necessary or practicable, Pinal County will encourage race-neutral DBE participation.

Federal aviation funds are authorized by Federal Aviation Laws in Title 49, U.S. Code 47101, *et seq.*

Definitions – Section 26.5

Pinal County on behalf of MZJ has adopted and uses the definitions related to the DBE Program found in 49 CFR Part 26.5.

Non-Discrimination Requirements – Section 26.7

Pinal County will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, national origin, age, or disability.

In administering this DBE Program, Pinal County will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, national origin, age, or disability.

Record Keeping Requirements – Section 26.11

Pinal County will report DBE participation to DOT as directed by DOT operating administrations:

Reporting to DOT – Section 26.11(b)

- Pinal County will report DBE participation on the **FAA CIVIL RIGHTS CONNECT WEBSITE** at <https://faa.civilrightsconnect.com/FAA/login.asp> to indicate DBE Awards or Commitments and Payments to the FAA as follows:
- DBE activity will be an accumulation of the entire Federal Fiscal Year (FFY) from October 1st through September 31st and will be submitted by December 1st.
- Pinal County will include DBE Contractor firms contact information on the FAA DBE Contractor's Form or other approved similar format.
- Pinal County will begin using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY 2022 reports due December 1, 2022, and annually thereafter

Bidders Lists: - Section 26.11(c)

- Pinal County will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our FAA-assisted contracts for use in helping to set our Overall Goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms. **Attachment 2** provides a Bidder's List Collection Form.
- Pinal County will collect this information via completed Bidders List Forms and other contract clauses requiring this information. Bidders List Forms shall be received by the Pinal County on behalf of MZJ, Public Works Division at the time of bid opening or cost proposal submission. Bidders List Forms shall be submitted by all bidders. Bidders List Forms will contain name, address, and DBE or non-DBE status. Instructions for completing Bidders List Forms are contained in Pinal County DBE Contract requirements. Age of firm and annual gross receipts data may be collected through a notice at the time of solicitation and/or via a Pinal County directed survey to obtain additional information not obtained at time of bid.

Federal Financial Assistance Agreement – Section 26.13

Pinal County has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance: 26.13(a)

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

Contract Assurance: 26.13(b)

- Pinal County will ensure that the following clause is placed in every DOT-assisted contract and subcontract signed and each subcontract the prime contractor signs with a subcontractor:

“The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, sex, or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Airport deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.”

SUBPART B - ADMINISTRATIVE REQUIREMENTS

DBE Program Updates – Section 26.21

Pinal County on behalf of MZJ is required to have a DBE Program meeting the requirements of this Part as it will receive grants for airport planning or development and will award prime contracts with a cumulative total value that exceeds \$250,000 in FAA funds in a federal fiscal year. Pinal County is not eligible to receive DOT financial assistance unless DOT has approved the DBE Program and the Airport is in compliance with it and this Part. Pinal County will continue to carry out the program until all funds from DOT financial assistance have been expended. Pinal County as the Sponsor does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

DBE Policy Statement – Section 26.23

The Policy Statement is provided on the first page of this Triennial Program Report.

DBE Liaison Officer (DBELO) – Section 26.25

Pinal County has designated the following individual as the DBE Liaison Officer (DBELO):

Mr. Jim Petty, Director
Airport DBE Administrator (DBELO)
Phone: (520) 866-6545
Fax: (520) 866-6325
Email: Jim.Petty@pinalcountyaz.gov

In this capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that Pinal County complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the County Manager concerning DBE Program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 3** to this Program.

The DBELO is responsible for developing, implementing, and monitoring the DBE Program, in coordination with other appropriate officials. The DBELO has assistance from professional and technical staff in the administration of the program. The duties and responsibilities of the DBELO include the following:

DBELO Duties:

- Gathers and reports statistical data and other information as required by U.S. DOT
- Reviews third party contracts and purchase requisitions for compliance with this program
- Works with consultants to set overall annual goals
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner
- Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results

- Analyzes Pinal County progress toward attainment and identifies ways to improve progress
- Participates in pre-bid meetings
- Advises the Public Works Manager/Pinal County on DBE matters and achievement
- Participates with legal, construction and contracts and specifications to determine contractor compliance with Good Faith Efforts
- Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance
- Plans and participates in DBE training seminars
- Acts as liaison to the Uniform Certification Process in the state of Arizona
- Provides outreach to DBEs and community organizations to advise them of opportunities
- Maintains updated directory on certified DBEs (AZ UTRACS)
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner
- Identifies contracts and procurements so that DBE goals are included in solicitations via race- neutral and race-conscious methods
- Coordinates dissemination of bid notices, plans, and requests for proposals to DBEs
- Sponsor will include, in their Small Business Outreach, the use of virtual tools, such as web conferencing, as regulations evolve.

The DBELO is assisted by professional and technical staff. Airport Consultant Engineers and Planning Consultants Assistance as required:

- Gathers and reports statistical data and other information as required by DOT to the Airport
- Reviews third party contracts and purchase requisitions for compliance with DBE Program in concert with the Airport if required
- Monitors project specific goal/commitment attainment and identifies ways to improve progress
- Analyzes Pinal County progress toward Overall Goal attainment and identifies ways to improve progress
- Participates in pre-bid meetings
- Implements DBE contract requirements for airport construction contracts and compliance with DBE provisions
- Enforce sub-recipient DBE compliance for construction and planning projects
- Provides DBE with information and assistance in preparing bids, obtaining bonding and insurance

- Participates in DBE training activities
- Provides outreach to DBEs and community organizations to advise them of contracting opportunities

An Attorney from Pinal County will be available to assist, with implementation of the DBE Program.

DBE Financial Institutions Section-26.27

It is Pinal County's policy to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

The Arizona Department of Financial Institutions is utilized to identify such institutions. Socially and economically disadvantaged owned and controlled financial institutions have not been identified in Arizona.

Prompt Payment Mechanisms Section-26.29

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

Pinal County will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 days after the subcontractor's work is satisfactorily completed. Pinal County will use the following method to comply with this requirement:

- Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 days after our payment to the prime contractor.

Pinal County will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by Pinal County. When Pinal County has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. Pinal County will provide appropriate means to enforce the requirements of this section. These means include:

- The Arizona Revised Statutes Section 34-221 Paragraph G. requires that prime contractors pay their subcontractors within seven (7) days of receipt of payment by CHD. All prime contractors and consultants are required to pay their subcontractors/consultants within seven days of receipt of payment from Pinal County.

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

- ***“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 7 days from the receipt of each payment the prime contractor receives from Pinal County. The prime contractor agrees further to return retainage payments to each subcontractor within 7 days after the subcontractor's work is satisfactorily completed. Any delay or***

postponement of payment from the above referenced timeframe may occur only for good cause following written approval of Pinal County. This clause applies to both DBE and non-DBE subcontractors.”

Monitoring Payments to DBEs

Pinal County will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Airport or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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

Arizona DBE Directory – Section 26.31

Pinal County uses the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) DBE directory (see **Attachment 4**), maintained by the Arizona Department of Transportation (ADOT). The directory lists each firm’s name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific North American Industry Classification System (NAICS) code available to describe each type of work. The directory is available online at <http://adotdoors.dbesystem.com>. Paper copies of the DBE directory are made available upon request by contacting the ADOT Civil Rights Office at (602) 712-7761 or via email at dbesupportiveservices@azdot.gov.

A link to the DBE Certification Application Form for firms not currently certified but seeking information on certification is provided in **Attachment 5**.

Overconcentration – Section 26.33

Pinal County has not identified that overconcentration exists in the types of work that DBEs perform. However, if Pinal County finds that DBE overconcentration has occurred to such an extent as to unduly burden the opportunity of non-DBE firms to participate in the airport design or construction program, it will develop procedures to address this. The procedures will be submitted to the DOT/FAA for review and approval prior to implementation.

Business Development Program – Section 26.35

Pinal County has not established a business development program.

Monitoring and Enforcement Mechanisms – Section 26.37

Pinal County *implements* and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in the Pinal County DBE program.

The Airport actively monitors participation by maintaining a running tally of actual DBE attainments (*e.g.*, payments actually made to DBE firms), including a means of comparing these attainments to commitments.

Monitoring Payments to DBEs and Non-DBEs

Pinal County undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

- Providing a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished via onsite visits conducted by DBELO and/or construction field personnel and written certification of compliance will be provided for each onsite visit.
- Keeping a running tally of actual payments to DBE firms for work committed to them at the time of contract award. In our reports of DBE participation to U.S. DOT, we will show both commitments and attainments, as required by the U.S. DOT uniform reporting form.

Other affirmative steps to monitor prompt payment and retainage requirements as required.

- Pinal County requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the Pinal County financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of the Pinal County or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.
- Pinal County reviews contract payments to subcontractors including DBEs. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to Pinal County.
- Bringing to the attention of the U.S. DOT/FAA any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
- Consider similar action under our own legal authorities, including responsibility in future contracts.

Prompt Payment Dispute Resolution

Pinal County will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

- Meetings between prime and sub, with resident project representative and/or project manager presence as appropriate. It is recommended that any meeting for the purpose of dispute resolution include individuals authorized to bind each interested party, including recipient representative(s) with authority to take enforcement action.

Pinal County has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage [*examples of mechanisms include the following*]:

Alternative dispute resolution (ADR)

- Pinal County will require a contract clause that requires the prime contractor to submit a detailed alternative dispute resolution plan for your approval prior to the issuance of any notice to proceed.
- A contract clause will also be supplied providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by Pinal County to resolve prompt payment disputes, affected subcontractor may contact the responsible County Manager contact.

FAA Funding Recipients Only

- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

Pinal County will provide appropriate means to enforce the requirements of §26.29, including the following:

- In accordance with the contract, assessing liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor
- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- Pay subcontractors directly and deduct this amount from the retainage owed to the prime
- Issue a stop-work order until payments are released to subcontractors, specifying in the contract that such orders constitute unauthorized delays for the purposes of calculating liquidated damages if milestones are not met

The County will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

Pinal County reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (*e.g.*, as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by the DBELO. Contracting records are reviewed by the DBELO and consultant. Pinal County will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Fostering Small Business Participation Strategies – Section 26.39

Pinal County has not created a specific Small Business element within its contracting structures. It utilizes the ADOT Small Business Concern (SBC) Program to the extent practicable. In addition, Pinal County takes all reasonable steps to eliminate obstacles to small business, participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

Pinal County's small business element is incorporated as **Attachment 6** to this DBE Program. The County will actively implement the program elements to foster small business participation; doing so is a requirement of good faith implementation of the DBE Program.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-Asides or Quotes – Section 26.43

Pinal County does not use quotas in any way in the administration of its DBE Program.

Overall Goals – Section 26.45

Pinal County will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding FAA-funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f), Pinal County will submit its overall three-year DBE Goal to FAA by August 1 of each Triennial year as required by the schedule established by and posted to the FAA website:

https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/Schedule_of_DB_E_and_ACDBE_Reporting_Requirements_Dec_2017_Issue.pdf

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

STEP 1:

The first step is to determine the relative availability of DBEs in the market area, “base figure”. We will use the AZ UTRACS DBE directory, maintained by ADOT and Census Bureau Data, with comparisons to any recent Statewide Disparity Study and/or the goals of other comparable airport DOT recipients in the market area as reasonable methods to determine our base figure. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

Any methodology we choose will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in our market. We understand that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of Section 26.45 (c) and is not an acceptable alternative means of determining the availability of DBEs.

STEP 2:

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

In establishing the Overall Goal, Pinal County will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other

officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Pinal County efforts to establish a level playing field for the participation of DBEs. The consultation will include an interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to Pinal County goal setting process, and it will occur before we submit our goal methodology to the DOT/FAA for review pursuant to Section 26.45(f). We will document in our goal submission the consultation process that we engaged in. Notwithstanding Section 26.45(f), we will not implement our proposed goal until we have complied with this requirement.

In addition, Pinal County will publish a notice announcing our proposed Overall Goal before submission to the DOT/FAA. The notice will be posted on our official internet web site and may be posted in any other sources. If the proposed goal changes following review by the DOT/FAA, the revised goal will be posted on our official internet web site. We will inform the public that the proposed Overall Goal and its rationale are available for inspection during normal business hours at our principal office and that Pinal County and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

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

We will begin using our Overall Goal on October 1 of the reporting period unless we have received other instructions from DOT/FAA. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT/FAA assisted contract for the project.

Project Goals

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

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

Pinal County understands that we are not required to obtain prior DOT/FAA concurrence with our Overall Goal. However, if the DOT/FAA's review suggests that our Overall Goal has not been correctly calculated or that our method for calculating goals is inadequate, the DOT/FAA may, after consulting with us, adjust our Overall Goal or require that we do so. The adjusted Overall Goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the Overall Goal, the DOT/FAA will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to 49 CFR Part 26.

Attachment 7 of this Report provides the methodology used to calculate the Overall Triennial Goal.

Failure to Meet Overall Goals – Section 26.47

Pinal County will maintain an approved DBE Program on behalf of MZJ, and Overall DBE Goal, if applicable, as well as administer the DBE Program in good faith to be considered to be in compliance with this Part.

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

- (1) Analyze in detail the reasons for the difference between the Overall Goal and our awards and commitments in that fiscal year.
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year.
- (3) Pinal County will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under the above paragraphs to the FAA for approval.
- (4) See Triennial Goals Calculations for 2022-2024, explanation of failure to meet previous three-year program goals.

Breakout of Estimated Race-Neutral & Race-Conscious Participation – Section 26.51(a-c)

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of 49 CFR Part 26.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing).
- (3) Providing technical assistance and other services.
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate).

(5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses.

(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.

(7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low.

(8) Ensuring distribution of our DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

(9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated race-neutral and race-conscious participation can be found in **Attachment 7** to this program.

Contract Goals – Section 26.51(d-g)

Pinal County will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39.

If our approved projection in the previous section Breakout of Estimated Race-Neutral & Race-Conscious Participation (paragraph (c) of Section 26.15) estimates that we can meet our entire Overall Goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order meet our Overall Goal.

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

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

Demonstration of Good Faith Efforts Procedures – Section 26.53(a) & (c)

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26 (see **Attachment 8**).

Pinal County is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

Good Faith Efforts Procedure in Situations where there are Contract Goals – Section 26.53(b)
Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

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

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

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (1) Award of the contract will be conditioned on meeting the requirements of this section.
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract.
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract.
 - (iii) The dollar amount of the participation of each DBE firm participating.
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts **(as elaborated in Appendix A of Part 26)**.

The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and

- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section No later than 5 days after bid opening.

Administrative Reconsideration

Within 5 calendar days of being informed by Pinal County that it is not *responsive* because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration.

Bidder/offeror's should make this request in writing to the following reconsideration official:

Lorina Gillette
Procurement Officer
PO Box 1348
Florence, Arizona 85132
Phone: (520) 866-6262

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

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the U.S. DOT.

Good Faith Efforts when a DBE is replaced on a contract – Section 26.53(f)

Pinal County will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. Pinal County will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed DBE subcontractor fails or refuses to execute a written contract.
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.
6. We have determined that the listed DBE subcontractor is not a responsible contractor.
7. The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal.

8. The listed DBE is ineligible to receive DBE credit for the type of work required.
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
10. Other documented good cause that we have determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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

The prime contractor must give the DBE five (5) days to respond to the prime contractor's notice and advise us and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why we should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (*e.g.*, safety), we may provide a response period shorter than five days.

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

If the contractor fails or refuses to comply in the time specified, our Public Works Office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, Pinal County may issue a termination for default notice.

Sample Bid Specification when a Contract Goal has been established:

"The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of Pinal County to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of percent has been established for this contract (see **Attachment 7**). The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (**Attachment 1**), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) The names and addresses of DBE firms that will participate in the contract; (2) A description of the work that each DBE firm will perform. (3) The dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) If the contract goal is not met, evidence of good faith efforts."

Counting DBE Participation Section 26.55

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not

count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

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

SUBPART D – CERTIFICATION STANDARDS

Certification Process Section 26.61 – 26.73

Pinal County uses the certification standards of Subpart D of Part 26 as determined by AZ UTRACS, maintained by ADOT for the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should register on-line or contact:

Arizona Department of Transportation

Business Engagement and Compliance Office (BECO)
1801 West Jefferson Street, Suite 101
Phoenix, Arizona 85007
(602) 712-8429

The certification application forms, and documentation requirements are the same as the AZ UTRACS and must be obtained from and submitted to ADOT, the City of Phoenix, or the City of Tucson for processing. Information may be obtained at <http://adotdoors.dbesystem.com>. **Attachment 5** to this Program contains helpful links.

SUBPART E – CERTIFICATION PROCEDURES

Unified Certification Programs Section 26.81

Pinal County utilizes the Unified Certification Program (UCP) administered by ADOT. ADOT is the lead agency for maintaining the UPC database now known as AZ UTRACS (Arizona Unified Transportation Registration and Certification System). The Arizona UCP/AZUTRACS meets all of the requirements of 49 CFR Part 26. The UCP is comprised of ADOT, the City of Phoenix, and the City of Tucson. Information regarding the Arizona UCP can be found at <http://adotdoors.dbesystem.com>.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Compliance Procedures Applicable to Pinal County Section 26.101

The County understands that if it fails to comply with any requirement of this part, the County may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122.

Information, Confidentiality, Cooperation Intimidation or Retaliation Section 26.109

We will safeguard from disclosure to third party's information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Such Arizona State Laws as ARS 39-121 et seq. may apply in defining records available to the public.

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

All participants in the Department's DBE Program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

Pinal County on behalf of MZJ, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this Part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Part.

ATTACHMENTS

Attachment 1 Regulations: 49 CFR Part 26 Website link

Attachment 2 Bidder's List Collection Form

Attachment 3 Organizational Chart

Attachment 4 Arizona Unified Transportation Registration and Certification System (AZ UTRACS)
DBE Directory Website link

Attachment 5 DBE Certification Application Information

Attachment 6 Small Business Element Program

Attachment 7 Triennial Goal Calculations

Attachment 8 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Form 1 & 2

Attachment 9 DBE Monitoring and Enforcement Mechanisms

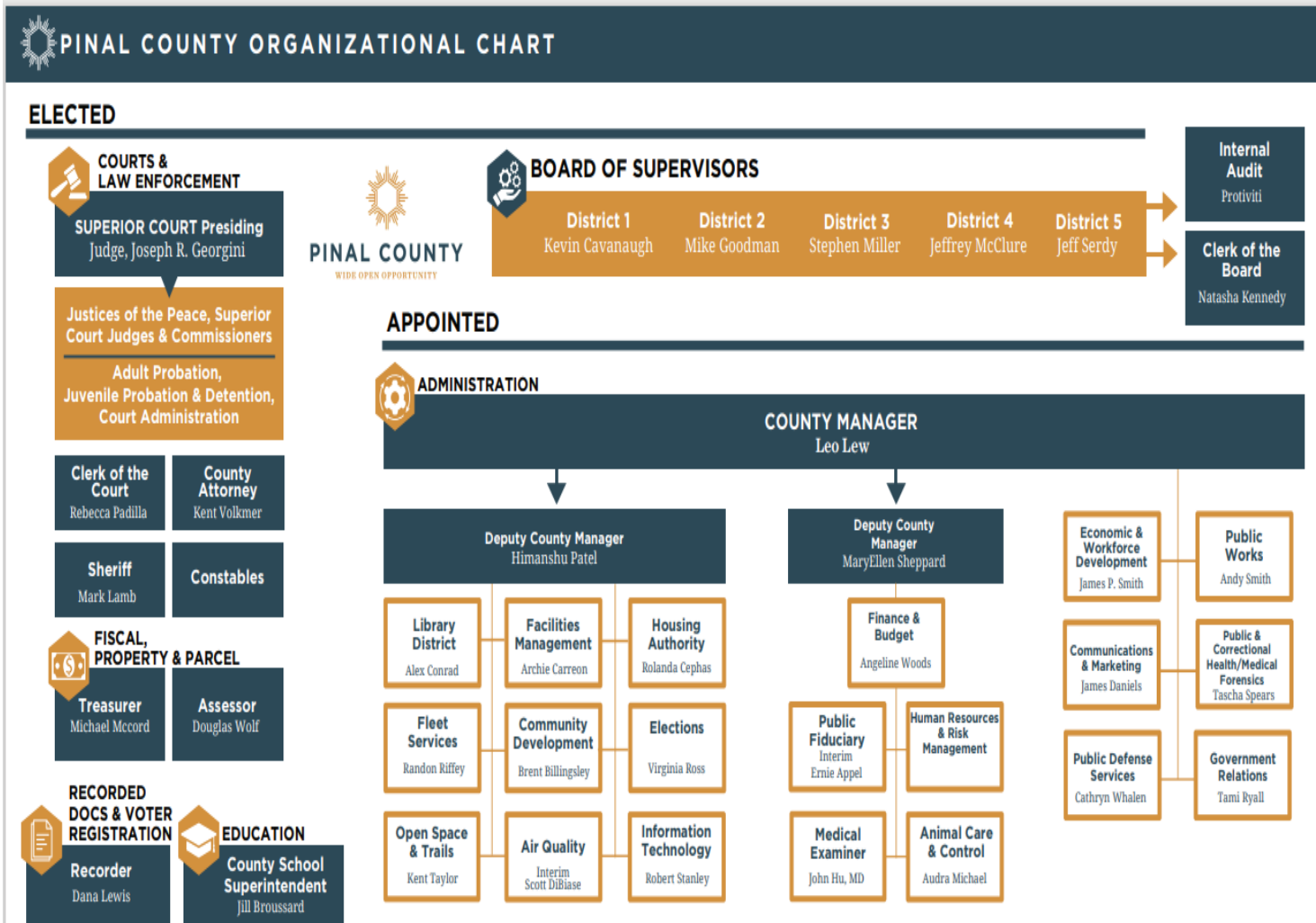
ATTACHMENT 1: REGULATIONS: 49 CFR PART 26 WEBSITE LINK

Regulations: 49 CFR Part 26, at website <https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

ATTACHMENT 2: BIDDER’S LIST COLLECTION FORM

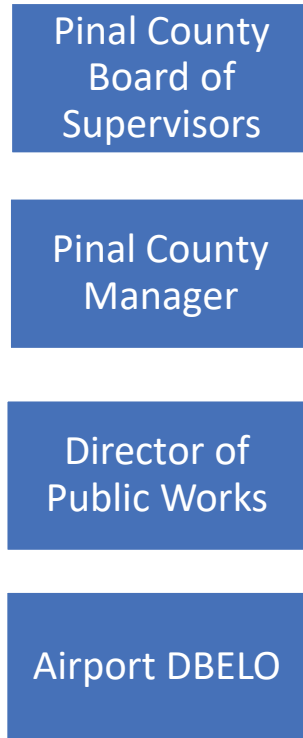
Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State’s UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

ATTACHMENT 3: ORGANIZATIONAL CHART



ATTACHMENT 3: ORGANIZATIONAL CHART

PINAL AIRPARK ORGANIZATIONAL CHART Pinal County, Arizona



ATTACHMENT 4:

ARIZONA UNIFIED TRANSPORTATION REGISTRATION AND CERTIFICATION SYSTEM (AZ UTRACS) DBE DIRECTORY WEBSITE LINK

<https://adot.dbesystem.com>

ATTACHMENT 5: DBE CERTIFICATION APPLICATION INFORMATION

Certification application information and forms may be obtained from the Arizona Department of Transportation @ <http://adotdoors.dbesystem.com>. DBE Certification applications must be submitted to the proper certifying entity (ADOT, City of Phoenix or City of Tucson) based on the firm's primary location/address. Applications submitted to the incorrect certifying entity will not be processed. Firms will have to reapply to the correct certifying entity as indicated below to have their application reviewed and processed.

- Firms located in Maricopa County must submit their certification application to the [City of Phoenix](#).
- Firms located in Pima County (including County of Maricopa) must submit their certification application to the [City of Tucson](#).
- Firms located in any other County in Arizona or out of state must submit their application to ADOT.

Alternatively, the US DOT has available a DBE Certification Application at:

<https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/dbe-uniform-certification-application>

The Federal Unified Certification Program (UCP) allows applicants for the Disadvantaged Business Enterprise (DBE) program to apply only once for a DBE certification that will be honored by all recipients in the state.

ATTACHMENT 6: SMALL BUSINESS ELEMENT PROGRAM

Pinal County does not have a Small Business Element in their DBE Program. Rather they rely on the Small Business Concern (SBC) Registration which is part of the ADOT's Small Business Concern (SBC) component to its Disadvantaged Business Enterprise (DBE) program. This is required by the federal regulations (49 CFR 26.39) governing the state's DBE program.

The SBC part of the DBE program does not require a complex certification process, nor will it add a second layer of SBC goals to projects. Instead, small businesses interested in providing goods and services on federal-aid projects can complete a few additional questions at the end of the AZ UTRACS Registration (required for all firms) to become SBC Registered. This process makes it easy for firms to register as an SBC.

Because the SBC component is a part of the DBE program, ADOT will include registered SBCs in its outreach, education and networking events coordinated by the DBE Supportive Services program. ADOT hosts a variety of free networking events for subcontractors to meet primes, two regional conferences annually, regional training and workshops, and an annual expo. These events help increase the visibility of small and disadvantaged businesses participating in the ADOT DBE program.

The SBC component benefits each stakeholder differently. Here are some examples:

ADOT will be able to identify additional businesses that are able to support and build Arizona's transportation infrastructure. SBCs will become more visible to contractors, prime consultants, local public agencies, and procurement officers with current and upcoming business opportunities throughout the state.

ADOT, the City of Phoenix, the City of Tucson and other local government entities that receive federal funding will include language in their contracts to encourage the use of SBCs on transportation projects. SBCs will be eligible to participate in DBE business development activities, bidding opportunity discussions, networking events, conferences and workshops provided by ADOT.

Certified DBE firms will be able to expand their experience and capabilities to build additional experience toward future areas of certification. Prime contractors/consultants and government agencies will be able to find local, small-business vendors more easily for their projects.

Small businesses can register by indicating their business size, services, and owner contact information, and by indicating that they meet the Small Business Administration size standard average annual income criteria for their primary North American Industry Classification System (NAICS) code. The Small Business Size Standards Table (link is external) is available online.

For more information, contact ADOT Business Engagement and Compliance Office at 602.712.7761.

Small Business Definition

A Small Business for the purposes of this element is a business that meets the Small Business Administration's (SBA's) definition of a "small business" for the company's NAICS code applicable for the project.

SBA's definition and size standards (as it may be amended from time to time):

"... a small business concern is one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume

averaged over a three-year period.”

The complete SBA size standard by NAICS is defined in 13 CFR Part 121.201.

Program Elements

As the Procurement Code does not allow small business set asides, other methods must be used to promote small business participation in federally assisted projects.

Pinal County will take all reasonable steps to eliminate obstacles to small business participation, within the above limitations. These include unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

When not a violation of the Procurement Code and as approved by the DOT funding agency, large projects will be considered for multiple prime contract awards based on discernible items of work (unbundling of contract into complete and usable project elements that can be legally bid as a separate construction contract.) The unbundling must be complete and usable items of work which can stand independent of the other prime contract. We feel that by unbundling contracts, small businesses may have a better chance of obtaining prime contracts.

Pinal County will work with ADOT and will utilize to the extent possible, their approved certification and supportive services for small business participation. Small business contractors who may be DBE eligible will be encouraged to apply for DBE certification.

The City will include, in their Small Business Outreach, the use of virtual tools, such as web conferencing, as regulations evolve.

The award of contracts will be based on the procurement code and, for competitive sealed bids, will not contain a prohibition on award based on the volume of work the contractor has with Pinal County on behalf of MZJ.

Verification Process

As available, we will include in the bidding requirements information for the prime contractor and their proposed subcontractors to self-report small business status and annual revenues. This will be used to track small business opportunities and awards.

Businesses that are certified by the Small Business Administration (SBA) via the System for Award Management (SAM), HUBZone, 8(a) Program; ADOT Small Business Concerns (SBC); City of Phoenix Small Business Enterprises (SBE) and other programs are considered verified as small businesses. We may ask for copies of SBA/SBC/SBE certifications.

Other databases available to Pinal County will be used to audit businesses for small business size.

Record Keeping & Monitoring

We will report Race Neutral (RN) DBE participation by small businesses as stated in the approved Disadvantaged Business Enterprise Program.

Assurances

As required by the Program, we have reviewed these assurances listed in 49 CFR Part 26.45 along with the response of which may be addressed under the Arizona State Procurement Code.

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

ATTACHMENT 7: TRIENNIAL GOAL CALCULATIONS

Triennial Goal Calculations 2022-2024 Goals and Methodology Report

Pinal Airpark



PINAL COUNTY
WIDE OPEN OPPORTUNITY

Pinal County Federal Fiscal Year 2022-24 Goals and Methodology Report

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

Pinal County has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Pinal County has received Federal financial assistance from the DOT, and as a condition of receipt of funding, Pinal County has signed an assurance that it will comply with 49 CFR Part 26.

It is Pinal County's policy to ensure that DBEs as defined in 49 CFR Part 26 have an equal opportunity to receive and participate in U.S. DOT-assisted contracts. Pinal County's policy also includes the following:

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

Mr. Jim Petty, Director of Aviation, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, Mr. Petty is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the County in its financial assistance agreements with the Department of Transportation.

Pinal County has disseminated this policy statement to the Public Works Department and all of the appropriate divisions of our organization. This policy statement is made available to DBE and non-DBE companies that perform work on U.S. DOT-assisted contracts. Distribution channels include trade associations, online publications, and electronic notification via stakeholder distribution lists and the County Airport web site.

Mr. Andrew Smith, Director
Pinal County Public Works

Date

Section 26.45: Overall DBE Three-Year Goal Calculation

SUMMARY OF FINDINGS - AIRPORT IMPROVEMENTS FFY 2022-24 [OVERALL GOALS (\$26.45)]

Pinal County recommended overall goal for period of Federal Fiscal Years (FFYs) 2022-2024 (October 1, 2021, to September 30, 2023) is the following: **10.12 %** of the Federal financial assistance the Pinal County on behalf of MZJ, based on their ACIP, will expend on DOT-assisted contracts with DBE contractors.

DOT-assisted contract amount:

FFY 2022	\$1,600,000.00
FFY 2023	\$ 450,000.00
<u>FFY 2024</u>	<u>\$ 9,000,000.00</u>
Total	\$11,050,000.00

Overall Three-Year Goal:

To be accomplished through 0% Race/Gender Conscious (RC) and **10.12%** Race/Gender Neutral (RN).

Total dollar amount to be expended on DBEs: Given the dollar amount of DOT-assisted contracts Pinal County expects to let during the next three fiscal years, Pinal County has set a goal of expending \$1,118,260.00 with DBEs during these fiscal years. However, the actual dollar amount spent may be +/- depending on the successful bid(s) submitted and the actual DBE goal achieved at project closeout.

Number and Type of Projects that Pinal County anticipate:

Projects FFY 2022

1. Land Swap - Runway 30 End and Frontage Road (Acquire: 73.46 Acres,) - \$1,600,000.00

Projects FFY 2023

1. Master Plan Update w/AGIS - \$450,000.00

Projects FFY 2024

1. Rehabilitate/Reconstruct Taxiways 'A', 'A1', & 'B'/'A2', including Drainage Improvements (Construction Only) - \$5,800,000.00
2. Design & Construct End of Runway Safety Area (ERSA) Improvements including Blast Pad Construction (ERSA grading along with fence and frontage road relocation to move them out of the RSA) - \$3,200,000.00

Total Projects FFY 2022 – FFY 2024 - \$11,050,000.00

Methodology Used to Calculate Overall Goal

Step 1 – Determination of Base Figure

This section describes the calculation of the overall DBE participation goal in DOT-assisted projects that are to be undertaken by Pinal County during the FFYs 2022-2024. According to 49 CFR Part 26, there are two steps to determine a DBE participation goal. Step one is the determination of a base figure of participation. Step two is the further adjustment of the base figure in order to determine a reasonable and realistic goal given the geographic availability of DBE firms and the workload capacity. These two steps are outlined below.

1.0 Base Figure

The base figure for the Pinal County on behalf of MZJ’s DBE goal attainment considers several factors, such as the number of available DBE firms in the market, the total number of firms in the market, the anticipated DOT-assisted project values, and types of professional services that will be required with those projects.

1.1 Anticipated FFY 2022-2024 Federal Aviation Administration (FAA) Projects

A review of the Airport's Capital Improvement Program (ACIP) reveals that during FFY - 2022, the Airport has one federally funded project for a Runway 30 end land swap and reimbursement. In FFY 2023, the Airport anticipates another single FAA grant for an Airport Master Plan Update with AGIS. In FFY 2024, the Airport anticipates two FAA grants for the design and construction of a Runway Safety Area (RSA) project, and the Rehabilitation of Taxiways A, A-1, A-2, and B, including drainage improvements. These projects and their estimated budgets are summarized in Table 1.

Table 1			
FY 2022-2024 Anticipated Federal Projects			
Fiscal Year	Project Name	Project Type	Estimated Budget
2022	Land Swap - Runway 30 End and Frontage Road (Acquire: 73.46 Acres, Released Land)	Planning	\$1,600,000.00
2023	Master Plan Update w/AGIS	Planning	\$450,000.00
2024	Design & Construct End of Runway Safety Area (ERSA) Improvements and Blast Pad Construction (ERSA grading along with fence and frontage road relocation to move them out of the RSA)	Design/Construction	\$3,200,000.00
2024	Rehabilitate/Reconstruct Taxiways 'A', 'A1', & 'B'/'A2', including Drainage Improvements (Construction Only)	Construction	\$5,800,000.00
		Total	\$11,050,000.00

Source: Pinal County 2022-2024 Final Airport Capital Improvement Program

1.2 Market Area and Local Availability of DBE Firms

Pinal County is located in Southern Arizona. After careful research of the historical bidding practices and locality of respondents in the competitive bidding environment, Pinal County has determined that its market area is made up of all counties in Arizona. Therefore, a statewide market area was considered in the calculation of the Airports' operating location.

In order to set the overall goal, the Airport first considered the contract opportunities anticipated for projects under consideration for FFY 2022-2024. These include:

- Excavation hauling
- Clearing and grubbing
- Drainage and utilities relocation
- Paving and pavement marking
- Electrical testing
- Surveying
- Planning and Technical Services (All Disciplines)
- Engineering (All Disciplines)
- Concrete
- Trucking
- Construction material supplier
- Airport Planning and Professional Services

Additionally, based on familiarity with construction and professional services procurement and practices within the operating jurisdiction, information contained in bidders/proposers' lists, and pre-bid conference attendance history, the Airport determined that the contractors, both DBE and non-DBE, qualified to perform the services required for FFY 2022-2024 have traditionally come from within the State of Arizona. For the projects being offered, the Airport found no reason to research business patterns beyond the State of Arizona for the purpose of setting the overall goals. Therefore, Pinal County established its market area as *the State of Arizona*.

It should be noted that while State of Arizona has been deemed the market area in the goal setting process, DBEs from outside the area will be given the same bid opportunities provided they are appropriately certified by the State of Arizona Unified Certification Program and its data base available on the internet as the Arizona Unified Transportation Registration and Certification System (AZ UTRACS).

1.3 Anticipated Industries by NAICS Code

Using the US Census Bureau's North American Industry Classification System (NAICS) updated 2013, the shares of various industry components of the anticipated upcoming projects were estimated. The codes used reflect anticipated industries that generally participate in airport construction and design projects, as well as historical project bids for similar projects. The following codes identified in *Table 2* were used in the project estimates:

Table 2	
NAICS CODES	
NAICS Code	Description
21231	Other crushed and broken stone mining and quarrying
21232	Construction Sand and Gravel Mining
23711	Water and sewer line and related structures construction
23731	Highway, Street and Bridge Construction
23799	Other Heavy and Civil Engineering Construction
23821	Electrical Contractors
23891	Site Preparation Contractors
48422	Specialized Freight (Except Used Goods) Trucking
54133	Engineering Services
54137	Surveying and Mapping Services
54138	Testing Laboratories
54162	Environmental Consulting Services
541310	Planning and Technical Services

Source: North American Industry Classification System (2019)

The above NAICS codes were further organized into work categories based on general categories of work associated the projects in Pinal County ACIP. *Table 3* lists the categories and estimated percentages of work by NAICS code:

Table 3		
WORK CATEGORIES		
Description	NAICS Codes	Percentage
Construction Services	21231, 21232, 23711, 23731, 23799, 23821, 23891, 48422	75.66 %
Engineering, Planning, Technical Services	54133, 54137, 54138 541310	24.34%
Total		100.00%

Sources: North American Industry Classification System (2019), The Genesis Consulting Group, LLC analysis

1.4 Number of DBE Firms

Pinal County researched the AZ UTRACS DBE and Small Business Concern (SBC) Database and chose to use it as the data source for the goal calculation, which represents the number of ready, willing, and able DBE/SBC firms within the market area. The AZ UTRACS database includes DBE firms that are certified by the Arizona Department of Transportation (ADOT), the City of Phoenix, and the City of Tucson. In addition, data from the US Census Bureau’s City Business Patterns Database (CBP) was selected to determine the total number of firms within the same NAICS codes and the statewide market area. *Table 4* lists the total number of Arizona firms and the specific number of DBE/SBC firms by service type.

Table 4		
STATEWIDE ARIZONA DBE FIRMS AVAILABILITY		
Description	Total Statewide Firms	Statewide DBE Firms
Construction Services	2808	299
Engineering Planning & Technical Services	2149	183
Total	4,957	482

Source: Arizona Department of Transportation DBE Directory and US Census Bureau’s City Business Patterns Database (CBP), accessed 10/27/2022

The following methodology was utilized to calculate the base figure:

For each work category, the number of DBE firms was divided by the total number of statewide firms and multiplied by the percentage of work ratio. For each work category, the resulting values were summed, and the result multiplied by 100 to obtain a whole number percentage.

$$(0.7566 \times 299/2808) + (0.2434 \times 183/2149) = .1012$$

$$.1012 \times 100 = 10.12\% \text{ Base Figure for DBE participation}$$

Based upon the calculations above, the step 1 base figure for FFY 2022-2024 is 10.12%. This became the base figure of Step 1 utilized in proceeding to Step 2.

Step 2 – Determination of Base Figure

2.0 Step 2: Adjustments to Step 1 Base Figure

After calculating a base figure representing the relative availability of DBEs, evidence was examined to determine what adjustment to the base figure should be made to reflect, as accurately as possible, the DBE participation one would expect in the absence of discrimination. The factors considered by Pinal County included disparity studies and past DBE historical participation.

2.1 Disparity Studies

The market area was researched for any disparity studies that may have been conducted in the last 5 years, and Pinal County is currently aware of an ADOT 2020 Disparity Study that has been conducted for the Grand Canyon National Park Airport, Arizona. ADOT receives funds from the Federal Aviation Administration for administration and distribution for approved airport contracts, and its current 8.5% overall DBE goal for these contracts extends through September 30, 2021. In addition, the 2019 ADOT Disparity Survey, revealed that the share of firms that are minority and women owned increased approximately 5% since 2015. As a result, proposed overall DBE goals have increased. The 2020 Disparity Study results indicate that an overall DBE goal of 10.69% would be supportable for three years beginning October 1, 2021 with ADOT attempting to meet all of it through DBE outreach, small business programs, and other race neutral means.

2.2 Past Pinal County DBE Historical Participation

Table 5 illustrates historical reporting periods in which projects containing similar major work items as those anticipated for FFY 2022-24 were conducted at the Airport.

Table 5 PAST DBE GOALS AND ACCOMPLISHMENTS (Federal Projects over \$250,000 in any FFY)							
FFY	DBE Goals			Accomplishments			Type of work
	RC	RN	Total	RC	RN	Total	
FFY 17	0%	0%	0%	0%	0%	0%	No Report Required
FFY 18	0%	0%	0%	0%	0%	0%	No Report Required
FFY 19	0%	0%	0%	0%	0%	0%	No Report Required
FFY 20	0%	0%	0%	0%	0%	0%	Pending Submission
FFY 21	0%	0%	0%	0%	0%	0%	Pending Submission

Source: United States Department of Transportation FAA DBE-Connect and Pinal County Records. Accessed 01/04/2023

In order to further determine the need for an adjustment to the Step 1 Base Figure, the Airport would normally calculate the potential base figure adjustment by finding the average past DBE participation percentage from FFY 2017 through 2021 from Table 5. However, there is currently no data available for those periods as eligible federal projects were either too low to require an annual report or were pending submission. Referencing Table 5, several scheduled projects from the last two years (FFY 20/21) have been rescheduled to later years to accommodate available funding, priorities; resulting in the lack of information for FFY 2020 and 2021. Therefore, average accomplished DBE participation for the last five years is indicated as zero. As such this indicated that insufficient information was available to justify any adjustment to the base number and was not be necessary at this time. However, before considering any adjustment, the Airport felt it necessary to also examine historical over or under-utilization issues (if any).

2.3 Disparity Ratio

A disparity ratio calculation speaks to the historical under-/over-utilization of DBEs. Based on the disparity ratio methodology developed and utilized in disparity studies, past discrimination and/or historical under-utilization can be used to adjust the Step 1 Base Figure. The use of a disparity ratio to adjust current DBE and non-DBE availability represents a “but for” adjustment that addresses the lasting effects of past discrimination and historical under-utilization. This calculation can also address the anecdotal evidence presented by business owners related to continuing difficulties in obtaining capital and bonding in the local market. The disparity ratio process is as follows:

Step A – Consider the historic participation of DBE primes and subcontractors on FAA projects. The Airport reviewed payments made on FAA-assisted contracts completed during the period of FFY 2017 through 2021. As reflected in *Table 6* below, the median past participation was calculated by comparing the total contract dollars paid to prime contractors in comparison to the dollars paid to DBE prime contractors and subcontractors. However, since no eligible projects were recorded the net result was zero.

Table 6						
HISTORICAL ANNUAL DBE PARTICIPATION						
CONTRACTS SUBSTANTIALLY COMPLETED FFY 2017 THROUGH 2021						
FFY	DBE		NON-DBE		TOTAL	
	Dollars	%	Dollars	%	Dollars	%
2017	\$0	0%	\$0	0%	\$0	0%
2018	\$0	0%	\$0	0%	\$0	0%
2019	\$0	0%	\$0	0%	\$0	0%
2020	\$0	0%	\$0	0%	\$0	0%
2021	\$0	0%	\$0	0%	\$0	0%

Source: United States Department of Transportation FAA DBE-Connect and Pinal County Records

Step B – A comparison of historical past DBE and non-DBE participation to current availability yields a comparative result of participation to availability. A ratio result of greater than 1.0 indicates over-utilization and a result of less than 1.0 indicates under-utilization. A disparity ratio of less than 0.8 represents substantial under-utilization and can provide substantiation for adjusting the relative base availability. *Table 7* presents the disparity ratio calculation for Pinal County on behalf of MZJ.

Table 7				
DISPARITY RATIO CALCULATION BASED ON MEDIAN 5-YEAR HISTORICAL UTILIZATION				
Class	Historical Utilization	Current Base Availability		Disparity Ratio
		# Of Firms	% Of Total	
DBE	0%	0	0 %	(0/ 0) = 0
Non-DBE	0 %	0	0 %	(0/ 0) = 0
Totals	0%	0	0 %	

Source: United States Department of Transportation DBE-Connect, Pinal County Records and The Genesis Consulting Group, LLC analysis

Consistent with the methodology for application of a disparity index, when substantial over-utilization is present (zero ratio does not exceed the parity ratio of 1.0), Pinal County recommends that no adjustments to the Base figure may be made.

2.4 Resultant Goal Adjustment and Conclusion

Therefore, to arrive at an overall goal, the base goal calculated in the Step 1 base figure (10.12%) was added with the Step 2 median past accomplishment adjustment figure (Zero %) and then divided by 2 to arrive at the averaged total overall goal of Zero % with adjustments. However, since the historical information reflected no eligible projects during the previous five years, it is recommended that the base figure not be adjusted at this time. The calculated base figure for Pinal County maintains a reasonable parity with the approved State level of DBE participation (10.69%) deemed to be supportable for the next three-year period.

The Airport feels this goal figure accurately reflects DBE participation that can be achieved for the type of project work anticipated to be awarded during this three-year period. These calculations are also supported and within the range of the current goals established by the City of Phoenix, Tucson International Airport, Yuma Airport, Prescott Airport, and several other Arizona airports recently approved overall goals.

3.0 Breakout of Estimated Race/Gender Neutral & Race/Gender Conscious Participation

Pinal County will meet the maximum feasibility portion of its overall goal by using race neutral means of facilitating DBE participation. The Airport will use the following race neutral means to increase DBE and other small business participation:

- Arrange solicitations or requests for proposals, time for presenting bids or proposals, quantities, specifications, and delivery schedules in an effort to facilitate DBE and small business participation
- Make available information and communications on contracting procedures and specific contracting opportunities by means of providing lists to bidders and dissemination of potential subcontractor information to bidders on prime contracts
- Maintain a file of successful bid documents from past procurements and permit DBEs and other small businesses to review and evaluate these documents
- Hold pre-bid/pre-proposal conferences to provide firms with an opportunity to inquire about the DBE requirements

These procedures shall be applied to FAA-assisted contracts such as those including professional, technical, consultant, or managerial services; construction; and the procurement of materials, supplies, personnel, facilities, and equipment, depending on the Airports' Capital Improvement Plans. In all instances, efforts will be made to facilitate DBE and small business participation in prime and subcontract opportunities.

The Airport estimate that in meeting their overall DBE goal of 10.12% that they will obtain 10.12 % from Race/Gender Neutral (RN) participation and 0% from Race/Gender Conscious (RC) measures.

3.1 Calculation of Race Neutral and Race Conscious Goals

Since the beginning of Pinal County implementation of the DBE Program in 2008, it has been administering a race and gender-neutral DBE Program for all FAA-assisted construction- related contracts. The Airports' administration of the Federal DBE Program with race and gender-neutral measures should provide the factual information and foundation that DBE firms continue to be competitive in the local marketplace and justify the continuation of no race or gender conscious goal-based measures.

Pinal County also utilized available information regarding the degree to which prime contractors proposed and utilized DBE firms on projects where no DBE goals were established or required. The review of race and gender-neutral attainment included DBE prime contractor participation as well as DBE subcontractor participation that occurred on the projects.

In *Western States Paving*, the Ninth Circuit Court noted "while Washington DOT was not required to produce a separate factual predicate for a DBE program, it was still required to produce a factual predicate to justify race-conscious elements in the local implementation of its DBE program." In an update to the 2009

Arizona Department of Transportation (ADOT) Disadvantaged Business Enterprise Disparity Study, their 2015 Disparity Study determined there was a compelling interest to justify a race and gender conscious (RC) DBE program for ADOT.

The consultant, Keen Independent Research, found that minority, women, and disadvantaged business enterprises (M/W/DBEs) were substantially underutilized as prime contractors in construction and construction-related professional services. While all groups were under-utilized in Architecture and Engineering, Hispanic American, Native American, and woman-owned firms were not under-utilized as construction subcontractors. (See Keen Independent Research 2015 ADOT Disparity Study, Chapter 6.)

In addition, the 2019 ADOT Disparity Survey, revealed that the share of firms that are minority and women owned increased approximately 5% since 2015. As a result, proposed overall DBE goals have increased. The current 2020 Disparity Study results indicate that an overall DBE goal of 10.69% would be supportable for three years beginning October 1, 2021 with ADOT attempting to meet all of it through DBE outreach, small business programs, and other race neutral means.

Pinal County and MZJ are unable to rely on the results of ADOT's 2020 Disparity Study in determining the race and gender conscious split due to two main factors:

- Relevant Market Area: ADOT's study which reviewed FAA projects was limited to the state-owned Grand Canyon National Park Airport, with no other airports evaluated.
- Scopes of Work/Trade Areas: The majority of ADOT's projects are heavy civil and highway work, while contracting opportunities at Pinal County are primarily Navaid's, Environmental, and runway, taxiway, apron design and construction.

Without more factual information to justify the application of race and gender conscious goals and since DBE participation has surpassed parity, Pinal County are proposing that the **10.36 %** three- year overall DBE goal be achieved through race and gender-neutral measures.

3.2 Contract Goals.

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

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

The Airport will express our contract goals as a percentage of the Federal share of a USDOT- or FAA-assisted contract.

4.0 Public Participation

In an effort to determine the availability of disadvantaged and non-disadvantaged businesses, to consider the effects of discrimination in opportunities for DBEs, and to further its efforts to establish a level playing field for participation of the same, the Pinal County on behalf of MZJ, with the assistance of an outside consultant, took the following measures to garner public participation in its goal setting process:

4.1 Availability

Before establishing the overall goal, Pinal County conducted research on the following organizations, without limiting consultation to these persons or groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Airports' efforts to establish a level playing field for the participation of DBEs.

- Arizona Department of Transportation (ADOT)

The Arizona Department of Transportation (ADOT) submitted its draft three-year overall Disadvantaged Business Enterprise (DBE) goal for federal fiscal years (FFYs) 2025 through 2027 to the Federal Aviation Administration (FAA) pursuant to 49 CFR Part 26, Section 26.45. ADOT uses FAA funds for contracts at Grand Canyon National Park Airport and other purposes such as system-wide planning; therefore, the overall DBE goal pertains to those activities. Based on the results of the 2022 Availability Study and the 2020 Disparity Study provided to FAA, ADOT proposes a 9.72% DBE goal for FFYs 2025 through 2027 for FAA-funded contracts. ADOT projects that it can accomplish this goal solely through race-neutral means.

In addition, the following airports have posted their Airport DBE Plans and Goals online. A sample search revealed the following:

- Buckeye Municipal Airport – RN DBE goal for its FY 2020-2022 of 10.33%
- Chandler Municipal Airport - RN DBE goal for its FY 2022-2024 of 11.51%
- Marana Regional Airport – RN DBE goal for its FYY 2022-204 of 10.36%

The information collected during this consultation phase will be helpful during the bidding process. The Airport will hold a pre-bid meeting to discuss these identified issues along with offering assistance in obtaining quotes and providing the contractors with contact information.

Additional consultation shall also be made available at any pre-bid/pre-proposal meetings the Airport conducts throughout the fiscal year, which shall be open to all interested parties, both DBE and non-DBE.

4.2 Public Participation Notification Language

As a matter of practice, should public commentary be made resulting in a revision to the goal's calculation or rationale, Pinal County shall notify the FAA immediately. Additionally, if the FAA determines that the methodology in setting the goal is inadequate or the goal has not been calculated correctly, a revised goal may be established by the FAA after consulting with the Airports.

Pinal County will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Contract goals are established so that, over the period to which the

overall goal applies, they will cumulatively result in meeting any portion of the recipient's overall goal that is not projected to be met through the use of RN means.

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

4.3 Pinal County Public Notice



PUBLIC NOTICE

**Pinal County
Disadvantaged Business Enterprise (DBE) Program
Triennial Plan Update
for
Federal Fiscal Year 2022-2024**

Pinal County hereby announces its Airport Disadvantaged Business Enterprise (DBE) program goals & methodology for Pinal County on behalf of Pinal Airpark. The proposed Disadvantaged Business Enterprise Report is available for 30-day review beginning, **February 1, 2023**, at:

Pinal County Airports Website
www.pinalcountyz.gov/airport

and

Pinal County Airports Administration
31 N. Pinal St
Building A
Florence, AZ 85132

PINAL COUNTY- SUMMARY OF FINDINGS - AIRPORT IMPROVEMENTS FFY 2022-24 [OVERALL GOALS (\$26.45)]

Pinal County on behalf of MZJ' overall goal for period of Federal Fiscal Years (FFYs) 2022-2024 (October 1, 2022, to September 30, 2024) is the following: **10.12%** of the Federal financial assistance Pinal County will expend on DOT-assisted contracts with DBE contractors.

DOT-assisted contract amount:

FFY 2022	\$1,600,000.00
FFY 2023	\$ 450,000.00
<u>FFY 2024</u>	<u>\$ 9,000,000.00</u>
Total	\$11,050,000.00

Overall Three-Year Goal:

To be accomplished through 0% Race/Gender Conscious (RC) and [10.12%](#) Race/Gender Neutral (RN).

The Airport will accept comments on the DBE goals and methodology for 30 days from the date of this publication. Comments can be sent to:

Mr. Jim Petty, Director
Pinal County Airports
31 N Pinal Street
Building A
Florence, AZ 85132

Office: 520.866.6545

Fax: 520.866.6661

Email: Jim.Petty@pinalcountyz.gov

and/or

Shaun A. Bouy, Equal Opportunity Compliance Specialist, Western Pacific Region
DBE/ACDBE Compliance Specialist, Office of Civil Rights – ACR 4
Federal Aviation Administration
U.S. Department of Transportation
Phone: (267) 702 5190
Email: Shaun.A.Bouy@faa.gov

Note:

As of March 14, 2023, no comments were received from the offices of Pinal County and the Federal Aviation Administration, Office of Civil Rights – DBE/ACDBE Compliance.

ATTACHMENT 8: DEMONSTRATION OF GOOD FAITH EFFORTS OR GOOD FAITH EFFORT PLAN (FORM 1 & 2)

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____

(Signature)

Title

ATTACHMENT 8: DEMONSTRATION OF GOOD FAITH EFFORTS OR GOOD FAITH EFFORT PLAN (FORM 1 & 2)

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

County: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

County: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and that the firm is DBE certified to perform the specific trades.

By _____ Date: _____

(Signature)

(Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

Submit this page for each DBE subcontractor

ATTACHMENT 9: DBE MONITORING AND ENFORCEMENT MECHANISMS

Pinal County Standard Contract Provision

It is expressly understood and agreed that in case of failure on the part of the Contractor, for any reason, except with the written consent of the Owner's Engineer, to complete the work to the satisfaction of the Owner's Engineer and within the aforesaid time limits, the Owner may deduct from any money due, or which may become due the Contractor, as liquidated damages, an amount as fixed by the following schedule:

Work Item	Liquidated Damages
All work not completed within time	Per MAB Specifications the above specified

If no money shall be due the Contractor, the Owner shall have a cause of action to recover against the Contractor in a court of competent jurisdiction, liquidated damages as fixed by the above schedule; said deduction to be made, or said sum to be recovered, not as a penalty, but as liquidated damages; provided, however, that upon receipt of written notice from the Contractor, of the existence of causes, as herein provided, over which said Contractor has no control and which must delay the completion of the said work or any delay occasioned by the Owner, the Owner's Engineer may extend the period hereinafter specified for the completion of said work in accordance with the specifications and in such case, the Contractor shall become liable for said liquidated damages for delays commencing from date said extension period shall expire.

Contracts will be monitored by the DBE Airport Grant Administrator.

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001