



CITY OF AUSTIN
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 CFR PART 26
MARCH 2012

Definition of Terms

The terms used in this Program have the meaning defined in 49 CFR Part 26.

Objective/Policy Statement (§§ 23.1, 23.9).

The City of Austin (City) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received federal financial assistance from DOT and as a condition of receiving this assistance, the City has signed an assurance that it will comply with 49 CFR Part 26. The City is the owner and operator of Austin-Bergstrom International Airport.

It is the policy of the City to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.

It is also our policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions at Austin-Bergstrom International Airport;
2. To create a level playing field on which DBEs can compete fairly for opportunities for concessions;
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 opportunities for concessions at Austin-Bergstrom International Airport; and
6. To provide appropriate flexibility at Austin-Bergstrom International Airport in establishing and providing opportunities for DBEs.

The City's Small & Minority Business Resources (SMBR) Department Director has been designated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO 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 City in its financial assistance agreements with DOT.

The City will disseminate this policy statement to the Department of Aviation, the Austin City Council, and other components of our organization. We will distribute this statement to DBE and non-DBE business communities that perform work for us on DOT assisted contracts by posting the Program on the City's website.

SUBPART A – GENERAL REQUIREMENTS

A. Objectives

The objectives are found in the policy statement on the first page of this Program.

B. Applicability Information

The City is the recipient of Federal Airport Funds authorized by 49 U.S.C. 47101, *et seq.*

C. Definitions

1. Affiliates: Business concerns are affiliates of each other when either directly or indirectly, (1) one business concern controls or has the power to control the other, or (2) a third party or parties control or has the power to control both. In determining whether business concerns are affiliated, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships. The provisions of 13 C.F.R. § 124.106 will be used to guide the City in determining whether firms are affiliated.
2. Adverse Decision: An Adverse Decision includes a notice of violation, denial of certification, decertification, sanction or similar action taken from SMBR, a Contract Award Authority, or other City official under the Program with respect to a Firm or Business Enterprise.
3. Bidders: Any business enterprise that submits a bid as defined herein. This includes responses to a Request for Qualifications, Invitation for Bids, and Request for Proposals.
4. Broker/Transaction Arranger: A business that is not a manufacturer or a regular dealer that arranges transactions for the delivery of materials and supplies.
5. Commercially Useful Function:

A DBE is considered to perform a commercially useful function when it:
 - (a) Engages in meaningful work that provides for a performance of a distinct element of the contract where that distinct element of work is worthy of the dollar amount to be awarded to the DBE; or
 - (b) Carries out its responsibilities by actually performing, managing, and/or supervising the work involved.
6. Contract Awarding Authority: The City official or department authorized to enter into contracts on behalf of the City.
7. Contractor: Any person or business enterprise that submits a bid or proposal to provide labor, goods or services to the City by contract for profit; any person who supplies or provides labor, goods or services to the City by contract for profit; any person who is a subcontractor under any such contract.

8. DBE or Disadvantaged Business Enterprise: (as defined in 49 CFR Part 26.67) means a for-profit small business concern:
 - (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
9. SMBR: the City's Small and Minority Business Resources Department.
10. Good Faith Efforts: Efforts to achieve a DBE goal or other requirements of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the Program's requirements.
11. Joint venture: An association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks and profits of the joint venture are commensurate with its ownership interests. All joint venture agreements with DBE partners must be submitted to SMBR for approval to be counted as DBE participation on the project
12. Letters of Intent (LOI): Signed agreements between the bidder and DBE subcontractors in which each expresses their intent to enter into a contract after award of bid for the scope of work and price indicated on Section V of the DBE Goal Compliance Plan. Letters of Intent are required for all levels of subcontracting.
13. Manufacturer: A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies.
14. Regular Dealer: A firm that owns, operates, or maintain a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and the sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.
15. Subcontractor: A person or business enterprise providing goods, labor or services to a contractor if such goods, labor or services are procured or used in fulfillment of the contractors obligations arising from a contract with the City. Subcontractor includes every level of subcontracting required to fulfill a contract with the City. For purposes of this chapter, the term subcontractor includes subconsultants. Subconsultants are persons or business enterprises providing professional services to a prime consultant if such professional services are procured or used in fulfillment of the prime consultant's obligations arising from a contract with the City and includes every level of subconsulting required to fulfill a contract with the City.

D. Non-Discrimination Requirements

The City will never 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, or national origin.

In administering its DBE Program, the City 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, or national origin.

E. Record Keeping Requirements

Reporting to DOT

The City will submit annual Uniform Reports of DBE Awards or Commitments and Payment Form, as modified for use by FAA Recipients.

Maintaining and Reporting Bidders List

The City 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 DOT-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.

F. Federal Financial Assistance Agreement

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

Assurance

The City of Austin 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. The City of Austin shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The City of Austin'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 the City of Austin of its failure to carry out its approved program, the Department may impose sanctions as provided for under 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.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

A. DBE Program Updates

Since the City has received a grant of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program. We will submit an updated goal annually on August 1 if we plan to award contracts exceeding \$250,000 in FAA funds in that Federal fiscal year.

B. Policy Statement

The Policy Statement is elaborated on the first page of this program.

C. DBE Liaison Officer (DBELO)

We have designated Veronica Briseño Lara, Director of the Small & Minority Business Resources (SMBR) as our DBE Liaison Officer. Ms. Lara is responsible for implementing all aspects of the DBE and DBE program and ensuring that the City complies with all provisions of 49 CFR Part 26.

Ms. Lara has direct, independent access to the City's Assistant City Manager and City Manager concerning DBE and DBE Program matters. The DBE and DBE Program have a staff of one (1) FTE to assist in managing the City of Austin's DBE Program. We have designated Amelie Gonzalez-Flores, Compliance Division Manager, to administer and manage the day to day operational matters concerning the DBE Program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with ABIA to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBE's in a timely manner.

5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitoring results.
6. Analyzes the City's progress towards goal attainment and identifies ways to improve progress.
7. Participates in pre-bid/proposal meetings.
8. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
9. Plans and participates in DBE training seminars.
10. Acts as liaison to the Texas Unified Certification Program (TUCP).
11. Provides outreach to DBE's and community organizations to advise them of opportunities.

DBELO Contact Information and Designee

DBE Liaison Officer	DBE Program Designee
Veronica Briseño Lara, SMBR Director	Amelie Gonzalez-Flores
(512) 974-1656	(512) 974-7014
(512) 974-7601 Fax	(512) 974-7601 Fax
veronica.lara@ci.austin.tx.us	amelie.gonzalez-flores@ci.austin.tx.us

D. Prompt Payment Mechanism

The City will include the following clauses 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 ten days from the receipt of each payment the prime contractor receives from the City of Austin. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractors work is satisfactorily completed and the Contractor receives payment from the City. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the City of Austin. This clause applies to both DBE and non-DBE subcontractors.

E. DBE Directory

In partnership with the Texas Unified Certification Program, the City has developed a directory of all eligible DBE's to participate on Airport related concession agreements and management contracts at ABIA. The directory can be accessed at www.dot.state.tx.us/business/tucpinfo.htm.

F. Over-concentration

The City of Austin has not identified that over-concentration exists in the types of work that DBEs perform.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

A. Set-asides or Quotas

The City of Austin does not use quotas in any way in the administration of this DBE program.

B. Overall Goals

The City of Austin will annually establish overall goals if we anticipate that we will award contracts exceeding \$250,000 in FAA funds in a Federal fiscal year in accordance with the 2-step process as specified in 49 CFR § 26.45. If the City of Austin does not anticipate awarding more than \$250,000 in FAA funds in contracts within the Federal fiscal year, we will not develop an overall goal; however the existing DBE program will remain in effect and the City of Austin will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

In accordance with Section 26.45(f), the City of Austin will submit its overall goal to DOT on August 1 of each year. In establishing the overall goal each year, the City of Austin will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Austin efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at SMBR, 4201 Ed Bluestein Boulevard, Austin, Texas 78721 and website, www.cityofaustin/snbr for 30 days following the date of the notice, and informing the public that the City of Austin and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority- focus media and trade publications, websites. Normally, we will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. 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-assisted contract for the project.

C. Breakout of Estimated Race-Neutral & Race-Conscious Participation

This section of the program will be updated annually and included in the DBE goal calculation submissions.

D. Contract Goals

The City of Austin will use contract goals to meet any portion of the overall goal that the City of Austin does not project being able to meet using race-neutral 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 our overall goal that is not projected to be met through the use of race-neutral means.

The City of Austin will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The City of Austin 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.)

The City of Austin will express our contract goals as a percentage of the total number of DBE firms available for the scopes of work identified for a specific project divided by the total available firms.

E. Good Faith Efforts Procedures

The obligation of the Bidder/Proposer is to make good faith efforts. The Bidder/Proposer can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Good Faith Effort requirements for DOT-assisted contracts are specified in 49 CFR Part 26, Appendix A. The Bidder/Proposer can meet this requirement by either:

- A) Documenting commitments for participation by DBEs sufficient to meet the goal; or
- B) Documenting good faith efforts to meet the goal. The Bidder/Proposer must show that it took all necessary and reasonable steps to achieve the goal(s), which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain DBE participation, even if they were not fully successful. A bidder or proposer need not actually meet a contract goal (*i.e.*, obtain a specified amount of DBE participation) in order to be awarded a contract if the Bidder/Proposer makes an adequate good faith efforts showing.

SMBR is specifically prohibited from ignoring bona fide good faith efforts. The efforts employed by the Bidder/Proposer must be those that one could reasonably expect a Bidder/Proposer to take if the Bidder/Proposer were actively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract goal.

Bidders/proposers must notify DBEs of subcontracting/subconsulting opportunities at least five business days before submission of the bid/proposal. The City of Austin treats Bidder/Proposer's compliance with good faith efforts requirements as a matter of responsiveness.

Form and Documentation Submissions (Pre-Award)

Each solicitation for which a contract goal has been established will require the Bidder/Proposer to submit a DBE Compliance Plan that documents the Bidder/Proposer's participation and commitments to DBE firms and non-DBEs by the deadline specified in the City's solicitation. The DBE Compliance Plan contains 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 will perform;

3. The dollar amounts and/or percentages for each DBE firm participating;
4. The dollar amounts and/or percentages for each non-DBE firm participating; and
5. For professional services solicitations, commitment letters from each DBE listed on the compliance plan.

In the event the Bidder/Proposer is unable to meet the contract goal, the following documentation will need to be submitted along with the DBE Compliance Plan:

At a minimum, the following should be submitted to support Good Faith Effort documentation (documentation is not limited to this list):

- Fax logs/emails and copies of documents sent.
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information).
- Phone logs with responses (*Phone contacts, alone, will not be sufficient.*).
- Lists and copies of letters sent by mail, hand delivered, or e-mailed.

The following additional Good Faith Efforts factors may also be considered

- Advertising in local newspapers.
- Copies of all bids received in response to Bidder contacting other Firms.
- Other communications regarding contacts with trade associations and Chambers of Commerce.

The DBELO is responsible for determining whether a Bidder/Proposer who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. SMBR and the DBELO will ensure that all information is complete, accurate and adequately documents the Bidder/Proposer's good faith efforts before we commit to the performance of the contract by the Bidder/Proposer.

For each solicitation for which a contract goal has been established, the City's Contract Awarding Authority will require the Bidders/Proposer to submit Letters of Intent from the DBEs participating in the contract within three business days of being notified that they are the successful bidders, but before the contract is executed.

Administrative reconsideration

Within the timeframe outlined in the solicitation documents, a Bidder/Proposer that has been notified by the City's Contracting Awarding Authority that it is not responsive because it has not documented sufficient good faith efforts may request administrative reconsideration. The Bidder/Proposer should make this request in writing to the relevant Contract Awarding Authority following the procedures and timeframes set forth in the applicable solicitation. If the relevant Contract Awarding Authority determines that the grounds for the protest are sufficient, a protest hearing will be scheduled with a City appointed Independent Hearing Examiner. If the relevant Contract Awarding Authority determines that the grounds for the protest are insufficient, the Bidder/Proposer will be notified of the decision in writing.

The administrative reconsideration officials will not have played any role in the original determination that the Bidder/Proposer did not make sufficient good faith efforts. As part of this reconsideration, the Bidder/Proposer 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/Proposer will have the opportunity to

meet in person with our reconsideration officials to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Contract Award Authority will send the Bidder/Proposer a written decision on the reconsideration, explaining the basis for finding that the Bidder/Proposer 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 Department of Transportation.

F. Good Faith Efforts When A DBE Is Replaced On A Contract

The City will require a contractor to make good faith efforts to replace a DBE that is terminated for good cause (review Subpart F “Good Cause to Terminate DBE” of the City’s DBE Program) with another DBE, to the extent needed to meet the contract goal. The City will require the prime contractor to notify the DBELO or Post Award Contact immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation. The prime contractor must obtain the approval of the City prior to the substitution and provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, the City will issue an order stopping all or part of payment and/or work until satisfactory action has been taken. If the contractor still fails to comply, the City’s Project Manager/Contract Administrator may initiate a termination for default proceeding. Also, the DBELO will issue a violation notice to the contractor for failure to comply with the City’s DBE Program requirements.

G. Counting DBE Participation

The City will count the following expenditures towards the DBE Goal:

- (A) When a DBE participates in a contract, only the value of the work actually performed by the DBE will be counted towards the goal.
 - 1) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward the DBE goal only if the DBE’s subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE does not count towards the DBE goal.
 - 2) The entire amount of that portion of a construction contract that is performed by the DBE’s own forces shall be counted, including the cost of supplies and materials obtained by the DBE for the work of the contract, and supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
 - 3) The entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, toward the DBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services shall be counted.
- (B) When a DBE performs as a participant in a joint venture, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces shall be counted.

(C) Only expenditures to a DBE that is performing a commercially useful function shall be counted. In determining whether an DBE is performing a commercial useful function, the following considerations shall be taken into account:

- 1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. The determination that a DBE is performing a commercially useful function will be informed by the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.
- 2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.
- 3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it is not performing a commercially useful function.
- 4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (C)(3) of this section, the DBE may present evidence to rebut this presumption. SMBR may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(D) In determining whether a DBE trucking company is performing a commercially useful function, the following criteria shall be considered:

- 1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting the DBE goal.
- 2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- 3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- 4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- 5) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not

count for the total value of the transportation services provided by the lessee toward the goal, since these services are not provided by a DBE.

- 6) For purposes of this paragraph (D), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(E) Expenditures with DBEs for materials or supplies shall be counted as follows:

- 1) If the materials or supplies are obtained from a DBE manufacturer or regular dealer, 100 percent of the cost of the materials or supplies toward DBE goals shall be counted.
- 2) For purposes of this paragraph (E)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
- 3) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
- 4) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
- 5) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
- 6) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.
- 7) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, shall be counted if the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. No portion of the cost of the materials and supplies themselves shall be counted, however.

(F) If a firm ceases to be a certified DBE during a contract, the dollar value of work performed under a contract with that firm after it has ceased to be certified shall not be counted.

(G) In determining achievement of DBE goal, the participation of a DBE subcontractor shall not be counted until the amount being counted toward the goal has been paid to the DBE.

(H) Where the solicitation requires the Bidder/Proposer to submit a base bid and one or more alternates, the City's decision regarding whether the Compliance Plan demonstrates the bidder's achievement of the goal or sufficient good faith efforts will be determined only on the base bid. However, the Bidder/Proposer is encouraged to use DBEs to complete any additional work added through alternates.

The City will not use quotas or set-asides for DBE participation as part of the DBE Program.

SUBPART D – CERTIFICATION STANDARDS

SMBR, as part of the Texas Unified Certification Program (TUCP), will use the certification standards of Subpart D of Part 26 and the certification procedures of Subpart E of Part 26, to determine the eligibility of firms to participate as DBEs in the City of Austin Procurement Program. To be certified as a DBE, a firm must meet all certification eligibility standards including the Personal Net Worth (PNW) standard. Firms with DBE certification from other DOT recipients and sponsors will be accepted for DBE participation on City of Austin DBE projects.

The certification application and documentation requirements are found in Attachment V to this program.

SUBPART E – CERTIFICATION PROCEDURES

Information, Confidentiality, Cooperation

The City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, the City will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Unified Certification Programs

SMBR is a member of the Texas Unified Certification Program (TUCP). The TUCP meets the requirements of 26.81 (copy of signed agreement attached). For information about the certification process or to apply for certification, firms may contact SMBR at (512) 974-7645 or via email at SMBR@ci.austin.tx.us. Information can also be found online at www.cityofaustin.org/smbr.

Procedures for Certification Decisions

Re-certifications 26.83 (a) & (c)

Certified firms' eligibility will be reviewed every three years. This review will include, but is not limited to, an application, verification of small business size, and an on-site visit. Other documents may be requested on a case-by-case basis to determine continued eligibility.

Annual Update Affidavit 26.83 (j)

Certified DBE owners are required to inform SMBR, in a written affidavit, of any changes in circumstances affecting ability to meet size, disadvantaged status, and ownership or control criteria of 49 CFR Part 26. This information is provided with the TUCP DBE application for certification.

SMBR also requires all certified DBE firms to submit annually, on the anniversary date of certification, an Annual Update Affidavit meeting the requirements of § 26.83(j). The text of the affidavit is the following:

This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section. The affidavit shall specifically affirm that your firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts. If you fail to provide this affidavit in a timely manner, you will be deemed to have failed to cooperate under §26.109(c).

SMBR will notify, in writing, certified DBE owners of their upcoming annual review 60 days prior to the anniversary date. If the Annual Update Affidavit is not received by SMBR, a second written notice will be sent to certified DBE owners 30 days prior to the anniversary date. The Affidavit informs all DBE owners that they must swear or affirm that they meet all regulatory requirements of Part 26, including Personal Net Worth.

Personal Net Worth 26.67 (b)

All disadvantaged owners of applicant firms and certified DBE firms whose eligibility under Part 26 is reviewed are required to submit a Personal Net Worth Statement (PNW). DBE owners' PNW must not exceed \$1,320,000.00, after exclusions, to meet eligibility requirements.

Denials of Initial Request for Certification

As provided in Subpart E 26.856.85, if a firm is denied certification the firm is notified, in writing, of the reason for denial. If a firm is denied certification, the firm may not reapply for certification until twelve (12) months have passed from the denial action.

Removal of a DBE's Eligibility

In the event a DBE's certification is proposed for removal, procedures consistent with 26.87 will be followed. To ensure separation of functions in a decertification, A DBE Committee will serve as the decision maker in decertification proceedings to ensure the decertification appeal is handled by parties not involved in the initial decertification process. If a firm is decertified, the firm may not reapply until twelve (12) months have passed from the decertification action.

Certification Appeals

Challenge to Status

As provided in § 26.87, any third party may present written evidence to SMBR challenging whether a firm's owner, presumed to be socially and economically disadvantaged, is truly disadvantaged.

When SMBR receives a written challenge to the disadvantaged status of a business owner that is certified or seeking certification, SMBR will make a determination of social and economic disadvantage. SMBR itself may initiate an inquiry. The confidentiality of the complainant shall be protected as provided in § 26.109(b).

Whenever a challenge is made, SMBR will apply the procedures in § 26.87. These procedures are informal in that strict rules of evidence do not apply. While a challenge is in progress, the presumption of social and economic disadvantage continues, and if the firm has been certified it will continue to be eligible as a DBE.

A final determination by SMBR in a challenge proceeding may be appealed to the US Department of Transportation.

Certification Appeals

As provided in § 26.89, when SMBR denies certifications or completes decertification, the firm will be advised that an appeal may be filed with the office named below:

US Department of Transportation
Departmental Office of Civil Rights
External Civil Rights and Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: 202-366-4070
TTY: 202-366-9696
Fax: 202-366-5575

An appeal must be in writing, dated and signed, and must be filed within 90 days after the action, unless the time frame is extended by DOT. An appeal may be made only after the firm has exhausted all other administrative procedures available from SMBR.

SUBPART F – COMPLIANCE AND ENFORCEMENT

The City of Austin has taken the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

Pre-Award Phase

In all solicitations for which a DBE goal has been established for contracts, the DBELO shall ensure that prospective Bidders/Proposers are well informed about the DBE terms and requirements at the Pre-Award Solicitation Phase and Post Award Contract Execution levels of a contract. Below is a summary of the DBE monitoring process:

Solicitation Documents

For solicitations that include USDOT funding, and for which a DBE goal has been established, the Contract Award Authority shall include in its solicitation and contract documents:

- A) A description of the DBE program;
- B) The DBE goal that has been set for the specific solicitation;
- C) The requirements related to achieving the DBE goal;
- D) The requirements and deadlines to submit a Compliance Plan either (1) to document that the DBE goal is met or (2) to document that the Bidder/Proposer has made good faith efforts as described in Appendix A of the federal regulations 49 CFR Part 26; and
- E) An availability list of DBEs identified for possible subcontracting opportunities for the specific solicitation.

Attending Pre-bid/Proposal Conference

In solicitations for which a DBE goal has been established, the DBELO shall attend a pre-bid/proposal conference to provide a presentation on the following DBE Requirements:

- The DBE goal set for the specific project solicitation.
- The compliance requirements related to achieving the goal.
- The requirement to submit a Compliance Plan with the bid/proposal, including all instruction and forms required to be submitted as part of the compliance plan.
- The criteria for evaluating a Bidder/Proposer's Good Faith Efforts.
- The Good Faith Effort documentation that must be submitted as part of the compliance plan when DBE goal is not achieved.
- Qualifications for counting DBE participation towards the DBE goal.
- DBE availability list to assist prospective bidders/proposers.

Evaluation of Compliance Plans

For bids sent in response to competitively bid solicitations, the City's Contract Awarding Authority shall initially forward the three lowest bidders to the DBELO that are considered responsive. Subsequent compliance plans may be forwarded as needed.

For responses to Requests for Qualifications and Requests for Proposals, the City's Contract Awarding Authority shall forward all compliance plans received to the DBELO that are considered responsive.

The DBELO shall conduct the following pre-award audit activities as part of the reviewing DBE compliance plans:

- Verify if DBE subcontractor(s) is aware that their company is listed on the compliance plan.
- Verify subcontract dollar amounts and percentages.
- Verify the scope of work to be undertaken by the DBE company and that the DBE firm is eligible to perform the work.
- Verify if DBE firm has received a Letter of Intent from the Prime contractor.
- Verify DBE's certification status.
- Verify Good Faith Efforts if a Bidder/Proposer does not achieve the DBE goal.

Within 7 business days of receiving the DBE Compliance Plan and documentation, the DBE Liaison Officer shall notify the Contract Awarding Authority in writing and the reasons for the determinations. If additional time is required to evaluate the DBE Compliance Plans, SMBR shall inform the Contract Awarding Authority of the reason(s) and the anticipated date for completion of the review.

Post Award Phase

The DBELO will assign a Post Award Representative to monitor and track DBE participation throughout the project completion. The Post Award Representative is responsible for providing program requirements once the contract has been executed. The Post Award Representative's duties include attending Pre-Construction/Kick-Off Meetings, facilitating Contractor/Subcontractor issue meetings, conducting site/phone audits, attending project progress meetings, reviewing additions, deletions, substitutions and contract changes of DBE/non-DBE subcontractors, and reviewing DBE Contract Closeouts Forms at the end of the project.

Pre-Construction/Kick-Off Meeting Attendance

Presentations will be provided at Pre-Construction and/or Kick-Off Meeting for all DOT-assisted contracts with a DBE goal. The Post Award Representative will cover the following:

- Review Contractor/Consultant's DBE Participation commitment for the project.
- Review DBE Post Award Requirements and provide forms for:
 - a) the Additions, Deletions, or Substitutions of DBE and non-DBE subcontractors;
 - b) Reporting DBE and non-DBE subcontractor payments;
 - c) Submission of final DBE Participation Closeout Report.
- Review progressive sanctions policy.
- Provide contact information for questions.

Project Site/Phone Audits:

On-site reviews will be conducted to include interviews, visits to project locations, and inspection of documents and/or information not available at desk audit that pertains to the contractor's compliance requirements. Verifying actual DBE Company participation for those scopes of work as reflected on the compliance plan shall be a critical component of the field audit. The Post Award Representative shall conduct periodic desk audits to review all materials and information concerning the contractor's compliance. Records capturing progress payments made by prime contractors shall be required on a monthly basis to ensure that DBE firms are being paid on time. DBE companies will be contacted periodically to verify payments as reported by prime contractors. DBE companies will also receive a monthly contract notification from SMBR on respective City of Austin DBE projects (sample notification is attached). The notifications will be emailed to DBE companies listed to participate on DBE projects.

Compliance Review and Contract Close-Out

The Post Award Representative shall ensure a project's goal attainment before closing a contract. Procedures for ensuring compliance may include, but are not limited to the following:

- Phone audits to verify DBE Subcontractor participation on the project
- Review and verification of payments to subcontractors as documented in the monthly Expenditure Report submitted to the DBELO
- Addition of all invoices and other payments to ensure that Prime has met all payment obligations as agreed to with DBE subcontractors.

Monitoring Payments to DBEs

The City requires that contractors submit a monthly subcontract awards and expenditures (Expenditure Report) report to the City's Project Manager and SMBR no later than the tenth day of each month. Attachment III includes a sample format of the required report that is submitted monthly.

SMBR performs interim audits of contract payments to DBEs. The audit reviews payments made to DBE subcontractors to ensure that the actual amounts paid to DBEs equals or exceeds the dollar amounts stated in the expenditure report.

Request for Changes to the DBE Compliance Plan

The Contractor or Consultant must seek in writing and obtain prior approval of changes to the original DBE Compliance Plan (or any subsequent amendments to the DBE Compliance Plan by way of approved Request for Change Forms) by using the Request for Change Form provided by SMBR (See Attachment III). The DBE Liaison Officer or designee, has the authority to approve or deny changes to the DBE Compliance Plan. If any requested change consists of reducing or eliminating the work of a listed DBE (by deletion, substitution, or decreasing of contract amount), the change will only be approved if the DBE Liaison Officer or designee concludes that the prime contractor has demonstrated good cause. Good cause includes those reasons provided at 49 CFR § 26.53 (as discussed below).

- Additions – Adding new DBE and/or Non-DBE subcontractors that were not listed on approved DBE Compliance Plan. This includes all levels of subcontracting.
- Deletions-Deleting DBE and/or Non-DBE subcontractors approved on the original DBE Compliance Plan or approved Request for Change Form.
- Substitutions-Substituting DBE and/or Non-DBE subcontractors that were approved on the original DBE Compliance Plan or approved Request for Change Form.
- Contract Changes-Increasing/Decreasing original contract amounts (reported on the original DBE Compliance Plan) or approved Request for Change Form) for DBE and/or Non-DBE subcontractors.

Unauthorized changes or substitutions shall be a violation of the City’s DBE Procurement Program, and may constitute grounds for rejection of Bids/Proposals, termination of the executed contract for breach, and/or subject the Bidder/Proposer to Contract penalties or other sanctions.

Good Cause to Terminate a DBE Firm

49 CFR § 26.53 of the Federal Regulations has provided that good cause for “terminating” (which includes any reduction or elimination of a DBE’s work as listed on the DBE Compliance Plan) a DBE firm includes the following reasons:

- (i) The listed DBE subcontractor fails or refuses to execute a written contract;
- (ii) 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;
- (iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
- (iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (vi) You have determined that the listed DBE subcontractor is not a responsible contractor;
- (vii) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
- (viii) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (ix) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (x) Other documented good cause that the City of Austin determines 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.

Prior to submitting a request for the deletion or substitution of a subcontractor, the contractor must send a letter via certified mail to the subcontractor with a copy to SMBR informing the subcontractor of the basis for the requested change and providing an opportunity for the subcontractor to resolve the problem. The contractor must immediately request a meeting with the subcontractor in a good faith attempt to resolve any outstanding issues. If requested by either party, the City shall facilitate such a meeting and monitor the process. The contractor must verify in a sworn statement that a meeting with the subcontractor has taken place. The sworn statement must be submitted to SMBR at the same time that a Request for Change is submitted.

The contractor may submit a request for change to SMBR upon a showing that the certified letter has been sent as required and after the meeting with the subcontractor referenced above has occurred. However, notwithstanding the above, if the subcontractor has not responded to the contractor's letter or the contractor's request for a meeting by the eighth day after the letter was sent by certified mail, the contractor shall be allowed to submit a request for change for consideration by SMBR.

The written request must state specific reasons for the proposed addition, deletion or substitution of a subcontractor. The facts supporting the request must not have been known nor reasonably should have been known by the contractor and proposed subcontractor prior to the submission of the Compliance Plan. The contractor must submit documentation to substantiate its request for a change in the Compliance Plan. Such documentation may include, but is not limited to the materials listed in Subsections A-D below:

- A) Documentation from the project manager or contract manager, City inspector or other appropriate City staff assigned to oversee the project.
- B) Correspondence between the contractor and the subcontractor.
- C) Field notes, laboratory reports, photographic evidence or other materials.
- D) A copy of the letter from the contractor to the subcontractor as required by this section.

If a contractor/consultant proposes to add a DBE to the Compliance Plan after the contract has been awarded, a signed letter of intent must be submitted with the request.

Within 7 business days of receiving the Request for Change of Compliance Plan and documentation, the DBE Liaison Officer shall notify in writing all parties whether the request was approved or denied and, if denied, the basis for the denial. If additional time is required to evaluate the request for change, SMBR shall notify all parties in writing the reason(s) and the anticipated date for completion of the review.

Good Faith Efforts on Substitutions, Additions or Deletions of Subcontractors

If a contractor/consultant proposes to substitute, add or delete a subcontractor/subconsultant and either (1) the DBE goal was not met prior to this action;

or (2) the DBE goal may not be met because of this action, the contractor must make good faith efforts to meet the goal.

Documentation demonstrating good faith efforts, as described in Good Faith Effort Procedures under this program, must be submitted with a request for substitution, addition or deletion if the DBE goal is not otherwise met. The DBE Liaison Officer will determine whether good faith efforts have been satisfactorily met to approve the request for change to compliance plan. If good faith efforts to substitute or add a DBE have been made to the satisfaction of the DBE Liaison Officer, then the contractor may substitute or add a non-certified firm.

Enforcement

Violations to the DBE Program

Below are the sanctions/remedies the City of Austin will enforce in the event of noncompliance with the DBE regulations by a participant in procurement activities.

- A.** The following violations are unlawful and may result in sanctions:
- 1) Providing false or misleading information to the City in connection with an application for or challenge to certification, recertification or decertification as a DBE.
 - 2) Providing false or misleading information to the City in connection with submission of a bid, response to Request for Qualifications or proposals, Good Faith Efforts documentation, post-award compliance, or other Program operations;
 - 3) Substituting DBE subcontractors without first receiving approval for such substitutions; or
 - 4) Committing any other violations of the provisions of the DBE and DBE Program.
- B.** A bidder, proposer, contractor, subcontractor or applicant for certification is subject to being barred, suspended, or deemed non-responsive in future City solicitations and contracts for a period up to five (5) years, if it is found to have:
- 1) Provided false or misleading information in connection with an application for DBE certification or recertification;
 - 2) Provided false or misleading information in connection with the submission of a bid or proposal or documentation of Good Faith Efforts, post-award compliance, or other Program operations;
 - 3) Failed to fulfill contractual goals and thereby materially breached the contract; or
 - 4) Repeatedly failed to comply in good faith with substantive provisions of the Program.
- C.** When the Director, the Contract Awarding Authority, or any other City official identifies a violation, such violation must be referred to the Purchasing Office for evaluation of proper sanctions. Such evaluation shall include consultation with the Law Department prior to any recommendation for sanctions.

- D. Department procedures shall be promulgated and conducted by the Purchasing Office of the Finance and Administrative Services Department.
- E. A DBE that repeatedly and knowingly refuses to honor bid or proposal prices is subject to being decertified by the Director, after notice and hearing.
- F. Nothing in this section shall be deemed to prevent the City Attorney from seeking criminal sanctions at municipal court or referring the matter to other appropriate law enforcement authorities, as authorized by this section.
- G. Where appropriate and lawful, the City may by Contract impose a fixed sum as a penalty to be paid by the Bidder/Proposer for an unexcused failure to meet the DBE goal or to otherwise comply with the Program.
- H. In addition to other sanctions available to the City, the violation of any provision to this chapter may be included as an incident of breach in each contract.
- I. For federally funded contracts administered pursuant to federal regulations, sanctions may be imposed as provided therein.

The City of Austin will bring to the attention of the Department of Transportation 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.

Sanctions for Non-Compliance at Post Award

Failure to obtain prior authorization for additions, deletions, substitutions, or contract changes of DBE subcontractors as provided for in this Section is a violation. SMBR may recommend to the City's Purchasing Department that the City enforce the following sanctions for each violation within a rolling twenty-four month period:

1st Violation: Probation for a period of up to 6 months

2nd Violation: Suspension for a period of up to 24 months

3rd Violation: Debarment for a period of up to 5 years

If the contractor engages in more than one of the above actions (i.e., unauthorized substitutions, additions, and deletions) at any given time, the DBE Liaison Officer has the discretion to determine whether such actions should be counted as multiple violations of the of the DBE Program.

In order to dispute a finding of a violation, the Contractor must submit a written request for an appeal to the DBE Liaison Officer within 7 days of receipt of written notice of the violation. The DBE Liaison Officer will determine whether the grounds for an appeal are sufficient, and, if the Director so determines, shall set a date for an appeal hearing, usually within five calendar days. The appeal hearing is an informal meeting and is not an adversarial proceeding. The DBE Liaison Officer will determine on the basis of the information provided at the appeal hearing whether to maintain or deny the Adverse

Decision. Such decision by the DBE Liaison Officer shall be a final decision, subject to protest, and shall be communicated to the Contractor in writing within 10 calendar days of the hearing.

A Contractor that is subject to an Adverse Decision after appeal may protest the Adverse Decision to the Contract Awarding Authority and request a hearing with an Independent Hearing Officer appointed by the City. The Contractor shall submit the protest within five calendar days within receipt of the DBE Liaison Officer's decision.

Small Business Program Element

It is important to provide equal opportunities to all businesses interested in doing business with the City of Austin. The City shall review, develop and use measures to facilitate the participation of small businesses in City contracting opportunities with respect to USDOT funded projects. Examples of such measures are described below.

Over the course of several years, the City of Austin worked diligently to create a set aside program for small businesses that would be effective and yet compliant with governing laws. The governing laws do not permit a small business set aside for construction contracts over \$50,000 or for construction-related professional services contracts.

Construction contracts over \$50,000 are subject to Texas competitive bidding laws (Tex. Loc. Gov't Code § 252.021). The law provides that such procurements must generally either be awarded to the lowest responsible bidder or awarded pursuant to methods based on best value criteria. None of these methods permit the City to set aside contracts for small businesses. For construction-related professional services, the City must comply with the Professional Services Act (the "Act") regardless of contract size. The Act requires the City to solicit certain professional services solely "on the basis of demonstrated competence and qualifications to perform the services...." (Tex. Gov't Code § 2254.003(a)(1)). Thus, the City cannot award a construction-related professional services contract to a firm on the basis of its size.

Consistent with state law, the City of Austin started the Small Business Construction Program (SBCP) on June 1, 2011. Under SBCP, the City only solicits certified small businesses for construction projects \$50,000 and under. Projects are re-solicited if no qualified small business bids are received. Procurements under SBCP are competitively bid by small businesses that meet established criteria and are certified as a Small Business Enterprise (SBE). Under this program, a "small business" is defined as a business that has earned less than \$14 million in average gross receipts for the past three years. As this is a race- and gender-neutral measure, projects facilitated through SBCP will not have goals.

Since the inception of SBCP less than a year ago, one project was awarded to an SBE at the Austin Bergstrom International Airport (ABIA). While this project was not funded through USDOT funds, the City will utilize SBCP on qualified projects funded by USDOT.

Aside from using the existing SBCP, the City will also be looking at implementing the following to assist in fostering small business participation:

- Understanding the importance of providing small businesses opportunities on larger scale projects, the City will carefully review USDOT funded projects to determine whether it is appropriate to utilize the Design Build or Construction

Manager at Risk alternative delivery methods, which are conducive to unbundling contracts and providing greater subcontracting opportunities on a smaller scale-- thus providing more opportunities for small businesses.

- Projected Timeline: The City of Austin will commit as soon as April of 2012 to a method that allows for the unbundling of a larger scale project. On April 23, 2012, ABIA will be soliciting and using the Design Build project delivery method to receive Request for Qualifications (RFQ) for the Terminal Infill Project. The project is an addition to the existing airport terminal building of approximately 50,000 square feet. The project will provide for another Security Checkpoint area as well as additional space for all functions at the airport other than gates for airplanes. These include baggage handling, loading dock, storage & service areas, concession, bar & restaurant space and support areas as required. Existing functions in adjacent areas will need to be renovated as needed to accommodate the addition. All existing mechanical, electrical, IT, fire, security, baggage handling, etc. systems will need to be integrated and/or expanded as required. Using the Design Build project delivery method will offer opportunities for small businesses to compete on numerous aspects of this project.

- The City intends to promote the use of joint ventures on federal projects by educating vendors on the benefits of forming partnerships with smaller businesses.
 - Projected Timeline: The City of Austin intends to hold its first workshops to educate prime contracts in November/December of 2012.

- The City will develop and provide trainings to small businesses interested in working on projects through ABIA. City staff would provide knowledge of Airport Department requirements including project certifications, qualifications, security clearances, and City contacts/resources available to assist with future procurement interests. This will assist small businesses with the necessary tools and the confidence to compete against larger firms on City procurements at ABIA.
 - Projected Timeline: Training workshops will begin in December 2012/January 2013.

- The City will either hire a third party construction company, seek volunteers or utilize ABIA staff in training small businesses interested in providing general construction trade services. The purpose of these trainings will be to broaden small businesses' skill-sets so these businesses can compete for more projects. Trainings may consist of the following: installation of security doors, pouring concrete slabs, and installing sheetrock.
 - Projected Timeline: The City will implement these trainings by January 2012/February 2013.

Committed to providing opportunities to small businesses, the City of Austin will continue to evaluate opportunities to assist in fostering small business participation. In April/May 2012, the City intends to conduct outreach networking events to obtain public input on each of the ideas listed above as well as other ideas for fostering small business participation.