



**Federal Aviation
Administration**

Good Faith Efforts: When Goals are Assigned to Contracts

Office Of Civil Rights

*ACHIEVING SAFETY
THROUGH DIVERSITY*

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Topics to be Covered

- Good Faith Efforts (GFE) Basics
- Determining Good Faith Efforts
- Good Faith Efforts: Meeting a DBE/ACDBE Goal
- Good Faith Efforts: When Goals are Not Met
- Good Faith Efforts: When Efforts are Not Sufficient
- Good Faith Efforts: After Award
- Additional Resources
- Questions and Answers



Good Faith Efforts Basics

- Affirmative efforts to obtain enough DBE participation to meet a contract-specific DBE goal
- Described in §26.53
- Detailed in Appendix A to 49 Code of Federal Regulations Part 26



Good Faith Efforts Basics

- To extent necessary to meet contract-specific Disadvantaged Business Enterprise (DBE) goal or concession-specific Airport Concessions Disadvantaged Business Enterprise (ACDBE) goal
- Bidders must demonstrate GFE to be eligible for contract award
- If DBE/ACDBE terminated for good cause, GFE must be made to replace with another DBE/ACDBE



Good Faith Efforts Basics

- Proposed DBEs/ACDBEs must be certified in NAICS code(s) of work to be performed
- Must ONLY award to bidder who made GFE to meet goal
- Goals are targets, NOT quotas; failure to meet goal not automatic disqualifier



Determining Good Faith Efforts

- Responsiveness or Responsibility
 - GFE documentation must be submitted timely
 - All bidders must submit GFE documentation
- GFE Documentation may consist of:
 - Letters of Intent (LOIs) containing all elements required by §26.53(b)(2)
 - Documents and records such as those described in Appendix A
 - Both of the above



Good Faith Efforts: Meeting a DBE/ACDBE Goal

- DBEs/ACDBEs must be certified in your state in correct NAICS code(s)
- Letters of Intent must:
 - Include name and address of DBE/ACDBE
 - Sufficiently describe nature of work
 - Include amount of work to be performed
 - Be signed by DBE/ACDBE and prime bidder



Good Faith Efforts: Meeting a DBE/ACDBE Goal

- Pre-award goal requirements fulfilled if goal met
 - Meeting the goal demonstrates GFE
 - No “extra points” for exceeding goals
 - Do not rank bids based on amount of DBE/ACDBE participation



Good Faith Efforts: When Goals Are Not Met

- GFE documents are required if DBE/ACDBE participation obtained is less than goal
- Appendix A details kinds of documents that should be submitted
 - NOT a checklist
 - Evaluate totality of efforts



Good Faith Efforts: When Goals Are Not Met

- GFE Considerations when goal not met
 - Extent of participation obtained
 - Participation obtained by other bidders
 - Why was a non-DBE selected over DBE
 - Subcontract bids needed for price comparison
 - Were bids solicited for specific scopes
 - Were scopes of a size DBEs could perform
 - Extent of outreach attempts



Good Faith Efforts: When Efforts are Not Sufficient

- Examples of actions not considered GFE
 - Proposing firm(s) not DBE/ACDBE certified in your state prior to bid due date
 - Proposing firm(s) not certified in the applicable program
 - Proposing firm(s) not certified in the NAICS code of the work to be performed
 - Promises to obtain DBE participation after contract award



Good Faith Efforts: When Efforts are Not Sufficient

- FAA does not opine on bidders' GFE
- No GFE = Not eligible for award
- Administrative reconsideration
 - Must allow for apparent successful bidder
 - Process outlined in your DBE program
 - Oral argument or written documentation
 - Not a “second chance” to make GFE
 - Result not appealable to USDOT



Good Faith Efforts: After Award

- No DBE/ACDBE removal without good cause
 - Good cause defined in rule
 - Recipient's prior written consent required
 - Violation makes prime ineligible for payment of the substitute firm's work
- After you approve a DBE/ACDBE removal
 - Prime must make GFE to obtain another DBE/ACDBE
 - GFE documentation to be provided on request



Conclusion

- Good Faith Efforts required if there is a contract goal
- All bidders must submit GFE documentation
- If goal is met, no further GFE documents required
- Evaluate GFE in totality; Appendix A is not a checklist
- If DBE/ACDBE removed, GFE required to extent needed to meet contract goal
- Contact FAA for GFE technical assistance, but not to request GFE determinations



Additional Resources

- [49 CFR Part 26, §26.53](#)
- [USDOT Official Q&A, Part 26](#)
- [DBE Program ACM Handbook](#)
- [FAA Civil Rights Team](#)



Questions & Answers



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Thank you!

We value your feedback, please take a moment to fill out the survey!



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