



FY 2015

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM
FAA COMPLIANCE REVIEW REPORT**

**ILLINOIS DEPARTMENT OF TRANSPORTATION (IDOT)
BLOCK GRANT**

REPORT ISSUED: July 21, 2015

PREPARED BY THE
FEDERAL AVIATION ADMINISTRATION
OFFICE OF CIVIL RIGHTS

U.S. Department of Transportation Federal Aviation Administration

JURISDICTION AND AUTHORITIES

The Federal Aviation Administration (FAA) Office of Civil Rights is authorized by the Secretary of the U.S. Department of Transportation (DOT) to conduct civil rights compliance reviews. Reviews are undertaken to ensure compliance of applicants, recipients, and sub-recipients with 49 CFR, Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, referenced in this report as Part 26. Also, specific sections of the programs are referenced using the nomenclature (26.xx) in this document. Part 26 requirements apply to recipients of DOT funds under certain programs including airport funds under 49 U.S.C. 47101 et seq. The program is narrowly tailored under the law. It is designed to allow firms that meet certain eligibility standards to compete fairly, to remove barriers to DBE firms seeking to participate in DOT-funded programs, to assist in developing firms that can compete in the marketplace outside of the DBE program, and to provide flexibility to recipients of federal funds in creating opportunities for DBE firms.

OBJECTIVES

The purpose of Part 26 as stated in the regulations are:

- To ensure nondiscrimination in the award and administration of airport concessions and DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs.
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law.
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in airport concessions and DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program.
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

SCOPE OF REVIEW

This review process is a high level examination of the Illinois Department of Transportation (IDOT) compliance with 49 CFR Part 26. Unlike a comprehensive audit where testing and extensive examination of records are normal procedures, this compliance review is designed to maximize available resources in assessing an organization's general understanding and implementation of procedures to meet requirements. Some areas may be more heavily scrutinized than others based on review finding of other recipients, recently released guidance or final rules, or reports that FAA may have received about a specific sponsor's compliance.

To maximize the effectiveness of this review, FAA has identified regulatory requirements prior to the review that have higher priorities in the review process. The review also compared the actual implementation of the Part 26 requirements with the written descriptions found in the

DBE programs and reviewed contract files, internal documents, and information from contractors and subcontractors. Interviews were conducted with sponsor officials. Two focus group sessions were held with prime contractors and DBE subcontractors and other relevant personnel.

REVIEW PROCESS

The review process began with a desk review of the airport's DBE Program. This review focused only on the operations of the IDOT block grant. We sent a letter to IDOT on March 12, 2015, notifying of the planned on-site review. In the notification letter we requested that IDOT send us certain information and respond to questions. On April 8, 2015, we sent an invite letter to seven (7) DBE firms and eight (8) prime contractors to attend Focus Group Meetings.

Documents reviewed to verify compliance of requirements under 49 CFR Part 26:

- A. Airport organization chart, showing DBELO's position.
- B. Records documenting monitoring of contracts with DBE participation.
- C. Sample forms used to monitor monthly DBE participation.
- D. Site visits record.
- E. IDOT's approved DBE Triennial Goal.
- F. Copy of DBE uniform form accomplishment reports for the most recent three years.
- G. List of all active FAA funded projects.
- H. List of active FAA funded projects that have DBE participation, identifying DBE goal and actual contract percentage achieved to date.
- I. Sample of an FAA funded contract.
- J. Sample of a contract that includes a DBE goal requirement.

According to FAA AIP grant history, in the most recent three years, the FAA awarded the IDOT block grant several Airport Improvement Program (AIP) grants for the planning and development of non-primary airports that are included in the NPIAS. This review focused on active FAA funded projects funded by following grants:

2014

Airport	Grant Number	AIP Federal Funds	Entitlement	Discretionary	Brief Description of Work
Illinois State Block Grant Program	116	\$ 4,648,717.00	\$ -	\$ 4,648,717.00	Non primary development projects
Illinois State Block Grant Program	112	\$ 2,000,000.00	\$ -	\$ 2,000,000.00	Non primary development projects
Illinois State Block Grant Program	117	\$ 2,163,705.00	\$ -	\$ 2,163,705.00	Non primary development projects
Illinois State Block Grant Program	111	\$ 16,563,810.00	\$16,563,810.00	\$ -	Non primary development projects
Illinois State Block Grant Program	113	\$ 658,000.00	\$ -	\$ 658,000.00	Non primary development projects
Illinois State Block Grant Program	118	\$ 6,373,417.00	\$ -	\$ 6,373,417.00	Non primary development projects
Illinois State Block Grant Program	119	\$ 1,840,585.00	\$ -	\$ 1,840,585.00	Non primary development projects
Illinois State Block Grant Program	115	\$ 758,766.00	\$ -	\$ 758,766.00	Non primary development projects

2013

Airport	Grant Number	AIP Federal Funds	Entitlement	Discretionary	Brief Description of Work
Illinois State Block Grant Program	107	\$648,479.00	\$0.00	\$648,479.00	Non primary development projects
Illinois State Block Grant Program	110	\$6,250,000.00	\$0.00	\$6,250,000.00	Non primary development projects
Illinois State Block Grant Program	108	\$1,000,000.00	\$1,000,000.00	\$0.00	Non primary development projects
Illinois State Block Grant Program	109	\$433,794.00	\$0.00	\$433,794.00	Non primary development projects
Illinois State Block Grant Program	106	\$1,144,659.00	\$0.00	\$1,144,659.00	Non primary development projects
Illinois State Block Grant Program	105	\$16,843,615.00	\$16,843,615.00	\$0.00	Non primary development projects

2012

Airport	Grant Number	AIP Federal Funds	Entitlement	Discretionary	Brief Description of Work
Illinois State Block Grant Program	99	\$16,466,639.00	\$16,466,639.00	\$0.00	Non primary development projects
Illinois State Block Grant Program	100	\$1,000,000.00	\$1,000,000.00	\$0.00	Non primary development projects
Illinois State Block Grant Program	101	\$2,818,407.00	\$0.00	\$2,818,407.00	Non primary development projects
Illinois State Block Grant Program	102	\$808,762.00	\$150,000.00	\$658,762.00	Non primary development projects
Illinois State Block Grant Program	103	\$712,879.00	\$0.00	\$712,879.00	Non primary development projects
Illinois State Block Grant Program	104	\$2,679,442.00	\$0.00	\$2,679,442.00	Non primary development projects

A site visit has been conducted, as noted below:

Review Conducted By FAA Staff:	Nancy Cibic and Keturah Pristell, ACR-4	Site Visit Date(s):	May 5-6, 2015
IDOT:	Bruce Harmening, DBE Liaison Officer, Ronald S. Brown, Contract Compliance Section Manager, Dana Goodrum, Policy and Supportive Services Unit; Alan Mlacnik, Section Chief, Aviation Systems and Programs; Prudence Draper, EEO Contract Compliance Coordinator; Tomicia Ellis, EEO Contract Compliance Specialist, Ellen Byron, Assistant Chief Counsel		
FAA Airports Division:	Chad Oliver		
FHWA:	Traci Baker		

DESCRIPTION / HISTORY OF THE ILLINOIS DEPARTMENT OF TRANSPORTATION (IDOT) AND BLOCK GRANT PROGRAM

The roots of IDOT can be traced back over a century. For as long as there have been cars, highways, and air traffic, there has been an Illinois transportation agency. The rich history of IDOT spreads across the entire state. From massive bridges spanning the Mississippi or Illinois Rivers to winding roads eloquently carved into limestone bluffs. And, from two-lane roads tracing through rural corn and soybean fields to dirt and grass landing strips to the steel and concrete jungle of O'Hare International Airport, and on every mile of interstate and railroad that made Illinois what it is today, the mark of an Illinois transportation agency can be seen and felt. During just the past 50 years, Illinois' geographical location near the center of the nation and the diversity of statewide transportation options have made the Illinois multi-modal network a keystone and a vital hub for national and regional travel and freight movement.

Within the IDOT organization is the Division of Aeronautics (AERO). The role of AERO is to regulate and supervise aeronautics within this state, subject to the provisions of the Illinois Aeronautics Act (IAA). AERO is structurally organized into four bureaus: (1) Bureau of Administrative Services, (2) Bureau of Air Operations, (3) Bureau of Airport Engineering, and (4) Bureau of Aviation Safety. AERO regulates and supervises all aeronautical activity within the state. Empowered by the IAA, AERO encourages, fosters and assists in the development and safety of aeronautics throughout the state, and encourages the establishment and preservation of airports and other air navigation facilities. In addition, AERO provides safe, efficient, and reliable air transportation for Illinois constitutional officers and employees of IDOT and other agencies of state government and coordinates and implements programs concerning air safety, airport construction, and other aeronautical activities across Illinois.

IDOT participates in the FAA State Block Grant Program. The FAA began the block grant program in 1989 and Title 49 United States Code Section 47128 contains program requirements. States that participate in the State Block Grant Program assume responsibility for administering Airport Improvement Program (AIP) grants at airports classified as "other than primary" airports which includes non-primary, commercial service, reliever, and general aviation airports. In Illinois, there are 65 non-primary airports and nine (9) primary airports. Passenger enplanements for calendar year 2014 for all the Illinois airports totaled 44,334,671. Under the block grant, IDOT is responsible for determining which locations will receive funds for ongoing project administration. IDOT's AERO receives the FAA Airport Improvement Program (AIP) grant funding and disperses the funding to all of its airports. IDOT's AERO has a dedicated staff to monitor contracts statewide for all of its airports including the primary airports. AERO's dedicated staff monitors performance including ensuring the DBE firm is performing the work and a commercially useful function (CUF), reviewing and approving DBE substitutions and final modifications, monitoring DBE commitments and payments and ensuring projects goals are met. IDOT's AERO tracks contracting activity for all Illinois airports through its current database named DBE Modal, and submits to the FAA the DBE Program annual uniform forms. Procedurally, IDOT's AERO submits one uniform form covering all of its' non-primary airports and an individual uniform form for each of its' primary airports. The Illinois primary airports submit individual 3-year DBE overall goals to FAA. IDOT's AERO coordinates with the Office of Business and Workforce Diversity Bureau of Small Business Enterprises.

FINDINGS: ILLINOIS DEPARTMENT OF TRANSPORTATION (IDOT) - Title 49 CFR Part 26 – AIRPORT CONSTRUCTION

PART 1 –DBE Program Questions:

Administrative Requirements

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
1	Do you have an FAA approved DBE Program in place? (§ 26.21(b))	YES	IDOTs 2010 DBE Program was approved by the FAA on June 12, 2011. IDOT has prepared an updated DRAFT DBE Program but is waiting for a response from US DOT pertaining to questions on the November 3, 2014 Part 26 final rule.	NO	N/A
2	Did you sign and disseminate your DBE Policy Statement? (§ 26.23)	YES	IDOT's DBE policy statement was disseminated to all the components of the IDOT organization, FAA and to DBE and non-DBE businesses that perform work for IDOT DOT-assisted contracts.	NO	N/A
3	Does your DBE Liaison Officer have independent program implementation authority and independent (direct) access to the Airport Director/CEO? (§ 26.25)	YES	Bruce Harmening serves as the IDOT DBE Liaison Officer for the DBE Program. Mr. Harmening has direct, independent access to the IDOT Chief Executive Officer.	NO	N/A
4	Do you make reasonable efforts to use DBE financial institutions as well as encourage prime contractors on DOT assisted contracts to make use of DBE financial institutions? (§ 26.27)	YES	IDOT has reviewed the availability of DBE financial institutions, as part of the process in updating their DBE Program. IDOT found several financial institutions as listed in its DBE program. Information on the availability of such institutions can be obtained from the Department's Bureau of Small Business Enterprises' Policy and Supportive Services Section Manager.	NO	N/A
5	Do you conduct regular outreach sessions to ensure the inclusion of DBE firms in your DBE program? (§ 26.51)	YES	IDOT conducts numerous outreach sessions reaching 330 plus firms per year. It has nine (9) resource centers. Outreach activities include a 2-day annual conference, and various matchmaking, speed-dating, webinars and other workshops throughout the year.	NO	N/A
6	Has your Small Business element been implemented? (§ 26.39)	YES	IDOT has developed its Small Business Element (SBE) in accordance with 49 CFR Section 26.39. IDOT has obtained minimal DBE participation from the SBE. IDOT stated that a concerted effort will be made over the next three years to unbundle more contracts and identify small businesses with the capacity to perform on IDOTs contracts. IDOT stated that the Small Business Element requirement necessitates a more focused outreach and technical support system to encourage small construction contracting firms to bid on IDOT projects.	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
7	Does your DBE program have a method to address over-concentration? (§ 26.33)	YES	IDOT's DBE program contains a method to address overconcentration. IDOT's review found they do not have any overconcentration.	NO	N/A
8	Do you submit your annual overall goal by August 1, every three years, pursuant to the schedule established by FAA? (§26.45(f))	YES	IDOT submitted its FY 14-16 Overall DBE goal methodology on August 1, 2013 in accordance with FAA's established schedule. It is posted on their website at http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/index .	NO	N/A
9	Has the Airport DBE goal methodology been approved by the FAA? (§ 26.45)	YES	IDOT's FY 14-16 overall DBE goal methodology was approved by the FAA, with comments/recommendations on January 27, 2014.	NO	N/A
10	In the past three years, has the Airport had any complaints filed alleging that it did not comply with the DBE regulations?	NO	IDOT has not received any formal or informal DBE complaints of alleged violation of 49 CFR Part 26.	NO	N/A
11	Does the Airport have an FAA approved business development or mentor-protégé program? (§ 26.35(b))	YES	IDOT has a Business Development Program that was approved by FAA on June 25, 2014. IDOT also has a mentor-protégé program that was approved by FAA on May 12, 2015.	NO	N/A

Bid Processing and Contract Reviews

1	Do you maintain a bidders list of all firms who bid or quote whether or not the bidders were successful? (§ 26.11(c))	YES	IDOT maintains an electronic Subcontractor Bidding Report (data system) of all projects bidders to included DBE firms that is posted online at http://www.idot.illinois.gov/Assets/uploads/files/Doing-Business/Letting-&-Bidding-Reference/04.24.15/pdf0424.pdf .	NO	N/A
2	Does the bidders list capture information for both successful and unsuccessful subcontractors? (§ 26.11(c))	YES	IDOT's bidders list captures only successful bidders. IDOT is working on implementing a procedure to also capture unsuccessful bidders. IDOT may use its new tracking system I-DBE, which is expected to be deployed on June 1, 2015.	YES	11/1/2015
3	In situations where a DBE contract goal has been established, are bidders required to submit DBE information as required by regulation? (§ 26.53(b))	YES	IDOT uses a "responsive competitive sealed bidding method of procurement that requires bidders/offerors to submit the required information concurrent with the bid. The information includes DBE firm name & address, description of work to be	NO	N/A

			performed by the DBE firm, dollar amount of the DBE firm participation, written documentation of the commitment of the Prime firm to utilize the DBE firm, written documentation of the DBE firm's agreement to participate as indicated, and good faith efforts documentation as needed.		
4	In situations where a DBE contract goal has been established, during the review of Good Faith Efforts (GFE), do you consider the guidance in Appendix A of the DBE program requirements? (§26.53(a))	YES	IDOT considers the guidance in Appendix A of the DBE program requirements and references it in its DBE Program. The following personnel are all responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient GFE: Director and Deputy Director, Office of Business & Workforce Diversity; Bureau Chief, Small Business Enterprises and DBE/EEO/Labor Contract Compliance Section Manager.	NO	N/A
5	In the case of Good Faith Efforts reconsideration, are reconsideration decisions made by an official who did not take part in the original good faith effort determinations? (§ 26.53(d))	YES	IDOT's GFE reconsideration decisions are made by the Director, Office of Communications, who does not take part in the original GFE determinations.	NO	N/A
6	Do you have a process in place to verify there is written confirmation from the DBE firm that it had agreed to participate in the contract as provided in the prime contractor's commitment?	YES	IDOT's uses the DBE Participation Statement Form SBE 2025 to verify that there is written confirmation from the DBE firm that it agreed to participate in the contract as stated in the prime contractor's commitment.	NO	N/A
7	In situations where a DBE contract goal has been established, do you confirm that the DBE firm is certified in the specified NAICS codes prior to awarding the contract? (§ 26.53)	YES	IDOT's EEO Contract Compliance Office has an electronic cross-checking procedure in place to confirm that DBE firm participants are certified in the specified NAICS codes in the State of Illinois prior to awarding contracts. IDOT & other state UCP partners maintain an electronic database of certified firms that is efficiently kept up to date for reference.	NO	N/A
8	Do you have a system to verify and audit that the required assurances are being incorporated in prime contracts and subcontracts? (§ 26.13(a))	YES	IDOT has established a system to verify that all relevant contracts are in compliance with 49 CFR Section 26.13(a). Documentation of this review is included on several forms including Request for Approval of Subcontractor, Contractor DBE Utilization Plan and the Airport Construction Site Visit Log.	NO	N/A
9	Do you have a prompt payment provision in your contracts that requires prime contractors to pay all subcontractors within 30 days of receipt of payment? (§ 26.29(a))	YES	IDOT's provision requires all prime contractors to make payment to all sub-contractors including DBE firms within 15 calendar days of receipt of payment from IDOT.	NO	N/A
10	Do you have a return of retainage provision in your contract that identifies one of three options allowed by the regulation? (§ 26.29(b))	YES	IDOT chose to eliminate retainage entirely as allowed by Option 1.	NO	N/A

11	Does the Airport have written certification that contracting records are being reviewed? (§ 26.37)	YES	IDOT reviews contracting records as required. Documentation of this review is included on several forms including Request for Approval of Subcontractor, Contractor DBE Utilization Plan and the Airport Construction Site Visit Log.	NO	N/A
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Monitoring Post Contract Award

1	Do you have monitoring mechanisms in place to ensure that work committed to DBEs at contract award or subsequently is actually awarded to DBEs to whom the work was committed? (§ 26.37(b))	YES	IDOT uses a DBE Participation Statement and DBE Payment Agreement to ensure that work committed to DBEs at contract award or subsequently is actually awarded to DBEs to whom the work was committed	NO	N/A
2	Do you have monitoring mechanisms in place to verify that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to whom the work was committed and that those DBEs are managing their work and utilizing their own work forces, equipment, and materials? (§ 26.37)	YES	IDOT uses the DBE Contact Inspection Form to document its monitoring of all worksites. During the monitoring, IDOT verifies that work committed to DBE firms is actually being performed by the named DBE firms.	NO	N/A
3	In the case of post-award terminations, pre-award deletions or substitutions of DBE firms, do you have mechanisms in place to allow you to verify that the DBE has been notified AND given time to respond before approving the termination/ substitution as well as verify the documented good cause that compels the termination before approving a termination/substitution? (§ 26.53(f))	YES	IDOT has a mechanism in place to ensure that prime contractors not terminate a DBE subcontractor without prior written consent and for good cause. The prime contractor must notify the DBE Liaison Officer at the time they notify the DBE firm, and the prime must give the DBE five days to respond to the prime contractor's notice. The DBE Liaison Officer coordinates and processes the request for termination approval.	NO	N/A
4	In situations where a DBE contract goal has been established and a DBE subcontractor is terminated or fails to complete its work on the contract, do you require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE to perform at least the same amount of work or to the extent needed to meet the established contract goal?(§ 26.37)	YES	IDOT has a mechanism in place to require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE to perform at least the same amount of work or to the extent needed to meet the established contract goal.	NO	N/A
5	Do you conduct regular site visits to verify that business names on equipment and vehicles are not covered with paint or magnetic signs as well as verify who employs	YES	IDOT monitors all work sites and verifies the ownership of all equipment and vehicles on worksites and the names of the present employees. IDOT AERO uses the DBE Contact Inspection Form, the Weekly DBE Trucking Report and the	NO	N/A

	the workers on-site. Do you have written certification of this process? (§ 26.37)		Airport Construction Site Visit Log to document work-site inspections. Each site is visited at least twice; the initial visit is performed when the project/contract work begins and is primarily to engage the prime contractor and ensure the prime is aware of all the DBE contracting requirements and responsibilities. During follow up visit(s), the DBE firm's physical work, work equipment, and workforce (including wage information) are all observed and documented in detail using the above mentioned forms. One program specialist is responsible for inspections at each DBE worksite state-wide to ensure consistency in the monitoring process		
6	Do you have monitoring mechanisms in place that provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments? (§ 26.37)	YES	IDOT uses its electronic DBE Modal system to track contract participation. IDOT receives monthly accounts payable records and vouchers from the prime contractors to ensure that all subcontractors including DBE firms are being paid. IDOT does not currently have a running tally of actual DBE attainments but plans to include a mechanism in their new system, I-DBE, which is expected to be implemented in June 2015.	YES	11/1/2015
7	Do you randomly verify who orders and pays for the necessary supplies being used by the DBE subcontractor? (§ 26.37)	YES	IDOT performs random checks to verify who orders and pays for the necessary supplies being used by DBE firms.	NO	N/A
8	Do you have prompt payment mechanisms in place to ensure retainage is returned to all subcontractors upon substantial completion of their work on the project? (§ 26.29)	YES	IDOT has a prompt payment mechanism. IDOT does not hold retainage.	NO	N/A
9	Do you have a monitoring mechanism in place to verify that prime contractors pay all subcontractors within 30 days of receipt of payment? (49 CFR 26.29 (a))	YES	IDOT has a monitoring mechanism in place to verify that prime contractors pay all subcontractors within 15 calendar days in compliance with 26.29 and also Illinois State Law 30 ILCS 540/7.	NO	N/A
10	Do you conduct compliance reviews, audits and/or assessments of all program participants (e.g., contractors, subcontractors, suppliers)? (§ 26.37(a))	YES	IDOT conducts monthly reviews including random reviews of contractors, subcontractors and suppliers and to ensure DBE participation on federally assisted contracts.	NO	N/A

DBE Participation Reporting

1	Do you count the DBE firm's value of work toward contract goals only if the DBE performs a Commercially Useful Function (CUF)? (§ 26.55(c))	YES	IDOT only counts the work performed by the DBE firms that perform a Commercially Useful Function (CUF) on federally assisted projects. IDOT conducts on-site reviews to verify CUF and documents the review on the DBE Contract Inspection Form.	NO	N/A
2	Do you allow a DBE firm's participation to count toward the DBE goal if the firm was not certified at the time it executed the contract with the Prime contractor? (§ 26.55(f))	NO	IDOT confirms a firm's DBE status prior to the execution of a written DBE contract with the prime contractor. DBE participation is counted only when the DBE has been documented as certified at the time of contract execution.	NO	N/A
3	Do you ensure that the contractor has actually paid its DBEs and is in compliance with all program requirements before determining whether a contractor met its DBE goal? (§ 26.55(h))	YES	IDOT requires all prime contractors to make payment to all sub-contractors to include DBE firms within 15 calendar days of receipt of payment from IDOT. IDOT receives monthly accounts payable records and vouchers from the prime contractors to ensure that all subcontractors including DBE firms are being paid.	NO	N/A
4	If a DBE firm's certification eligibility is removed during performance of a subcontract, do you deduct that subcontract amount from the Airport's overall goal? (§ 26.55(g))	NO	IDOT only counts the amount of work performed by the DBE firm prior to the removal of the certification. IDOT does not deduct the subcontract amount from the overall goal calculations when a DBE's eligibility is removed during the performance of a contract and continues to work at achieving DBE participation commensurate with the overall DBE goal by other means in other contracts.	NO	N/A
5	In the case where 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 goal, do you count the DBE participation as Race-neutral? (§ 26.55(a))	YES	IDOT counts DBE prime contracts as race-neutral participation.	NO	N/A
6	Were you required to submit a Uniform Report of DBE Awards/Commitment and Payments for Federal FY 2014? (§ 26.11)	YES	IDOT submitted its annual Uniform Report of DBE Awards/Commitment and Payments for federal FY 2014 via the FAA dbE-Connect system, on January 13, 2015. The report covers the State and all Illinois non-primary airports. The FAA reviewed and approved IDOT's report on January 13, 2015. IDOT also submitted an individual DBE Uniform Form report for each Illinois primary airport that was required to submit a report for 2014 except for O'Hare and Midway Airports, who submit their own reports. Some of the primary airports also submitted an individual DBE uniform form; however, the data submitted by the primary airports did not match the data submitted by IDOT. Also, the data as entered by IDOT on the uniform form for the individual primary airport reports was not	YES	8/1/2015

		<p>correct. The FAA approved the individual uniform form reports submitted by the primary airports except for Quad City Airport which needs clarification pertaining to the 11% overall goal submitted by the airport and the 0% DBE participation reported on the uniform form report. IDOT stated that the inaccurate data reported on the uniform form for the individual primary airports will be corrected with the implementation of its new information technology system, I-DBE, in June 2015.</p> <p><i>Recommendation: Currently both the Illinois primary airports and IDOT are submitting the DBE uniform form for the primary airports, however, the primary airports are submitting individual DBE 3-year overall goals when due (according to the goal schedule). Most of the primary airports appropriately use the surrounding counties as the market area of their goal. IDOT is not aware of the 3-year DBE overall goals being set by each primary airport and therefore, cannot accurately track if the primary airport met its goal and cannot accurately complete the goal section of the DBE uniform form. In a meeting at the AGL FAA office in January 2014, IDOT requested that it continue to submit the annual uniform form for each primary airports as well as one compilation report for the state block grant which includes all the non-primary airports,. For consistency and accuracy, FAA recommends that either IDOT also prepare and submit the individual 3-year DBE goals for each primary airport (except for O'Hare and Midway) or that the primary airports coordinate their 3-year goals with IDOT prior to submitting to FAA. This new process should begin 8/1/2015. Updated 3-year DBE goals for non-hub primary airports are due 8/1/2015 covering 2016-2017-2018.</i></p> <p><i>Note: §26.45 states the following: How do recipients set overall goals? (a)(1) Except as provided in paragraph (a) (2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts. (2) If you are an FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. U.S. DOT has stated and OIG has requested that all U.S. primary airports submit an individual 3-year overall goal and annual uniform form report.</i></p>		
7	Have you achieved your annual goal each year in the past three years? (§ 26.47(c))	<p>NO</p> <p>IDOT has not achieved its overall FAA DBE goal in the last several years. IDOT makes significant efforts to encourage small businesses to consider bidding on airport contracts. IDOT conduct a great deal of outreach/race neutral measures to increase small business and DBE participation.</p> <p><i>Recommendation: The FAA recommends that the FAA DBE overall goal be more narrowly tailored to accurately represent the market of DBE firms ready, willing</i></p>	NO	N/A

	<p><i>and able to participate in FAA AIP funded contracts. 26.45(b) states: Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts.</i></p> <p><i>IDOT's overall DBE goals and uniform form reports submitted to FAA show the following:</i></p> <p><i>2010 – FAA DBE goal 22.80% – participation 8.82% - shortfall 13.98%</i> <i>2011 – FAA DBE goal 22.50% – participation 9.51% - shortfall 12.99%</i> <i>2012 – FAA DBE goal 22.50% – participation 9.83% - shortfall 12.67%</i> <i>2013 – FAA DBE goal 22.77% – participation 7.44% - shortfall 15.33%</i> <i>2014 – FAA DBE goal 22.77% – participation 7.96% - shortfall 14.81%</i></p> <p><i>The median of IDOT's DBE participation as reported to the FAA for the past 5 years is 8.82%; the average is 8.7%. IDOT's median FAA DBE goal shortfall is 13.98%; the average is 13.38%. In the recent 2014-2016 three year goal setting Step 1 determination, IDOT stated that the market area of DBEs divided by all market area businesses equals 8.2%. IDOT also performed a weighting calculation based on NAICS codes for contracts awarded from July 1, 2011 to June 30, 2012. IDOT stated they could not weight based on anticipated contracts because the contracts are identified on a contract by contract basis after the federal funding is received. The weighted calculation came to 26.07% for DBE participation based on NAICS. There is no information in the goal document indicating whether IDOT did a survey or other type of analysis to determine if the DBEs considered in the NAICS weighting calculation were ready, willing and able to participate on the airport's federally assisted contracts. Even when applying IDOT's Step One base figure of 26.07%, considering the past participation median of 8.82%, adding those two and averaging them equals 17.4%, 5.37% lower than the submitted goal of 22.77%. We understand IDOT's rationale regarding the regulation requiring that a recipient must attempt to set a goal that will best reflect the possibility for maximum DBE participation to remediate past discrimination with a realistic expectation for achievement. However, past participation over a number of consecutive years suggests that a 22.77% goal may not be a realistic expectation for achievement.</i></p> <p><i>26.45 (d) states: Step 2. Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. (i) The current capacity of DBEs to perform work in your DOT-assisted contracting</i></p>		
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			<p><i>program, as measured by the volume of work DBEs have performed in recent years.</i></p> <p><i>US. DOT's Tips for Goal Setting (Tips) states the following: III. Step Two. Step Two of the goal setting calculation process is intended to adjust your Step One Base Figure to make it as precise as possible. In addition, the Tips state the following: 7. Yes, you must consider the advisability of making adjustments based on past participation regardless of whether or not the adjustment would result in increasing or decreasing the base figure derived in Step One.</i></p>		
8	In any years that you did not meet the DBE goal, did you analyze the reasons why the goal was not achieved and established specific steps to correct the problem? (§ 26.47(c))	YES	IDOT has analyzed the reasons for not meeting its goals. Its steps to correct the problem include race-neutral initiatives, extensive outreach and other steps to improve opportunities and services for DBEs. IDOT stated the following: While IDOT was unable to demonstrate its overall aspirational statewide goal was met, such a level of participation is not mandated so long as the DBE Program is implemented in good faith. IDOT stated that it functions within the limits of the regulations to meet the DBE program objectives described in 49 C.F.R. § 26.1 by refining race neutral efforts, and continues to take steps to improve opportunities and services for DBEs as defined in the Summary below.	NO	N/A

REVIEW SUMMARY

The Federal Aviation Administration (FAA) Office of Civil Rights would like to thank you for your participation in this FY 2015 DBE Program Compliance Review. We appreciate the substantial effort taken by the Illinois Department of Transportation (IDOT) in providing numerous documents and meeting with the FAA team during this on-site visit. Your timely response and active participation was an essential element in the successful completion of this important initiative. The collective assessments made during the review have been incorporated into this report.

The FAA Office of Civil Rights periodically conducts discretionary reviews of grant recipients and sub-recipients in order to provide technical assistance, note best practices, identify areas for improvement, and ensure program compliance. This review has examined the Airport's compliance with the DBE Program. Observations and comments have been registered in each area that was examined.

To supplement this review, we conducted two focus group meetings; one with prime contractor and another with DBE firms. The primary objective during these meetings was to evaluate the administration of the DBE Program from the participants' perspective. We found that participants are happy to be doing business with IDOT and all of the Illinois airports. They appreciate the support that IDOT offers to all businesses as well as the spirit of customer service it promotes. However, participants also noted that DBE contract goals sometimes appear to be over-elevated making them difficult to achieve. One firm presented an analysis of the universe of DBE firms in Illinois which apparently resulted in minimal ready, willing and able DBE firms available for the airport project work. In addition, a suggestion was made by another firm that aeronautics-specific technical assistance be provided to firms that generally perform on highway projects since aeronautics and highway project work specifications are very different. The firm also offered to assist with technical assistance mentoring. Another firm mentioned that IDOT does not pay for design work until the project is bid which is often two years later resulting in loss to the firm.

There were three areas of non-compliance identified, 1) IDOT is not capturing unsuccessful bidders on its bidders list and 2) IDOT does not have a running tally of actual DBE attainments; and IDOT is submitting incorrect DBE uniform form reports for the Illinois primary airports. IDOT indicated they are working to correct these areas. FAA made recommendations and/or provided due dates as noted above.

We commend IDOT on its outstanding and consistent race-neutral initiatives and outreach efforts. IDOT has nine (9) resource centers reaching approximately 330 plus firms per year. IDOT's outreach initiatives include the following: hosting matchmaking meetings, hosting speed-dating and other outreach workshops, conducting numerous informational outreach webinars, implementing a DBE *Needs Assessment* process which is required to receive Supportive Services assistance;

In efforts to maintain a robust DBE program, IDOT also has done the following:

- Implemented a Business Development Program offering a three-tiered program to provide targeted assistance specific to a firm's challenges and barriers
- Continues to provide management and technical assistance at airports on a statewide basis in both workshop and one-on-one training formats
- Increased minority representation on the Department's Engineering Selection Committee
- Implemented a mentor protégé program for consultant engineering services which provides a wide range of new consulting opportunities for DBE consulting firms
- Developed an availability study conducted by Mason Tilman and Associates during FY 2012 in accordance with 26.45
- Continued communication with Agency Division Office personnel and interested stakeholders to explore other means to provide/foster increased opportunities for the small business and DBE communities
- Implemented the publicly enacted DBE Revolving Loan Program on September 27, 2013 providing access to financing for the State of Illinois' UCP certified firms;
- Implemented Department website

revisions to create a portal to facilitate access to all diversity programs, including DBE available at <http://www.diversity.dot.illinois.gov>; • Conducts an annual DBE conference called Today's Challenge, Tomorrow's Reward (TCTR) for firms to provide timely construction industry information and networking forums to assist small and disadvantaged businesses; and • Collaborated with all modes, e.g., FAA, FTA and FHWA to assess, evaluate and enhance opportunities for DBE participation and inclusion of minorities and women in the workforce on large projects.

We also commend IDOT on its dedicated contract monitoring and enforcement staff. IDOT's written monitoring and enforcement process and forms are superb including the Workforce Contact Inspection Report Form AER 750, DBE Contact Inspection CUF Report AER 751 for construction projects, Projects Schedule Report AER 255, DBE Final Documentation Report AER 1958, Request for Approval of Subcontractor Report AER 260A, Weekly DBE Trucking Report AER 723, DBE Participation Report SBE 2025, DBE Participation Statement Report SBE 2025, DBE Payment Agreement Report SBE 2115 and the EEO Workforce Analysis Report SBE 956. In addition, we commend IDOT on maintaining and posting of its bidders list online: <http://www.idot.illinois.gov/Assets/uploads/files/Doing-Business/Letting-&-Bidding-Reference/04.24.15/pdf0424.pdf>.

The FAA Office of Civil Rights looks forward to continuing to work with you in ensuring compliance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprise in Department of Transportation Financial Assistance Programs.

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Recommended Resources:

FAA website, http://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/fed_reg/

FAA dbE-Connect System, <https://faa.dbesystem.com/Default.asp>

U.S. Department of Transportation Office of Small and Disadvantaged Business Utilization

<http://www.osdbu.dot.gov/DBEProgram/GuidanceforDBEProgramAdministrators/index.cfm>

DOT Departmental Office of Civil Rights <https://www.civilrights.dot.gov/disadvantaged-business-enterprise>