

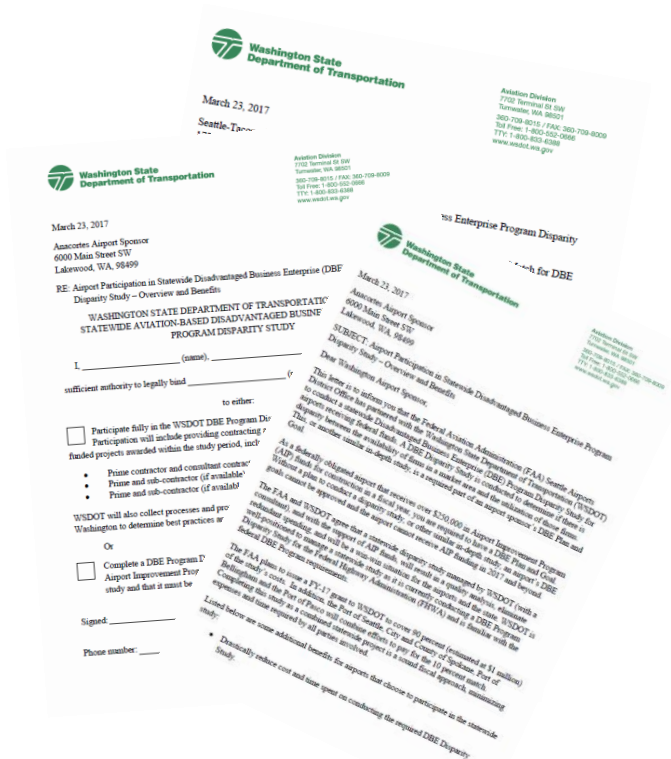
Disadvantaged Business Enterprise (DBE) Program Disparity Study

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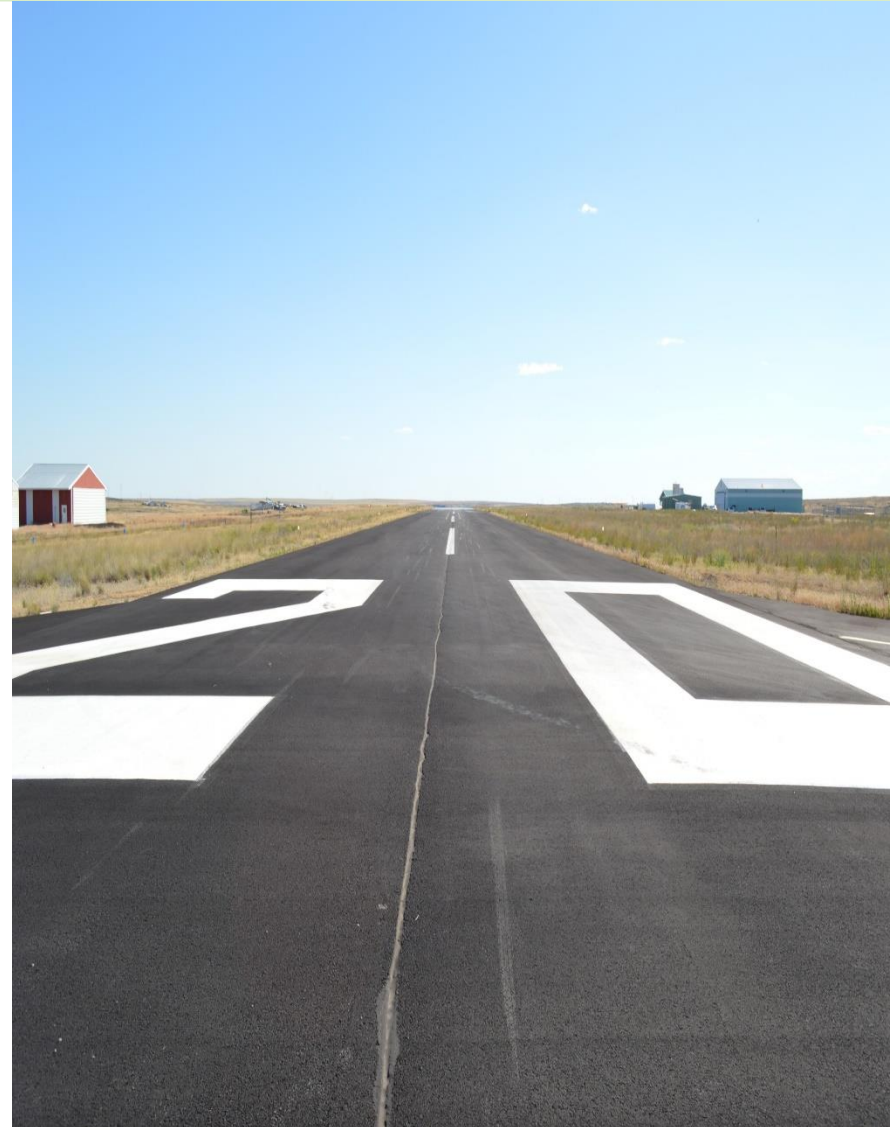
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Agenda

- What is a DBE Program?
- Background
- Overview
- Roles & Responsibilities
- Timeline



What is a DBE Program?

The Disadvantaged Business Enterprise (DBE) Program was created to provide a level playing field for small, minority- and women-owned companies wanting to do business with WSDOT and other agencies receiving federal funds from the U.S. Department of Transportation.

- Designed to remedy ongoing discrimination and the continuing effects of past discrimination in federally-assisted transportation contracting markets nationwide.

A DBE Plan is required when airport sponsors award prime contracts of more than \$250,000 in Federal AIP funds (49 CFR Part 26)

Race-Neutral vs. Race-Conscious

Race-Conscious

Race-conscious measures, such as the use of individual contract goals, are those measures and programs that focus on specifically assisting DBEs only.

Race-Neutral

Activities or programs that benefit and assist all small business equally, including DBEs.

Background



Adarand v. Peña 515 U.S 200 (1995), Western States Paving decision in 2005 & USDOT/FAA Guidance

- 49 CFR Part 26 and the authorizing statute for the DBE Program in TEA-21 is constitutional
- Compelling need for DBE Program and Part 26 is narrowly tailored
- A public entity implementing race- and gender-conscious measures must have evidence of discrimination in its transportation contracting industry
- USDOT recommended that agencies implementing the Federal DBE Program should consider conducting availability and disparity studies to satisfy the requirements of strict scrutiny.

Background

- USDOT issued guidance but proposed no additional regulatory requirement
- FAA Civil Rights Office took the position that airports within 9th Circuit should base race/sex-conscious goals on evidence from rigorous analysis
- Seattle ADO recommended a state-wide disparity study for Washington (and Oregon)



WSDOT Managed DBE Disparity Study



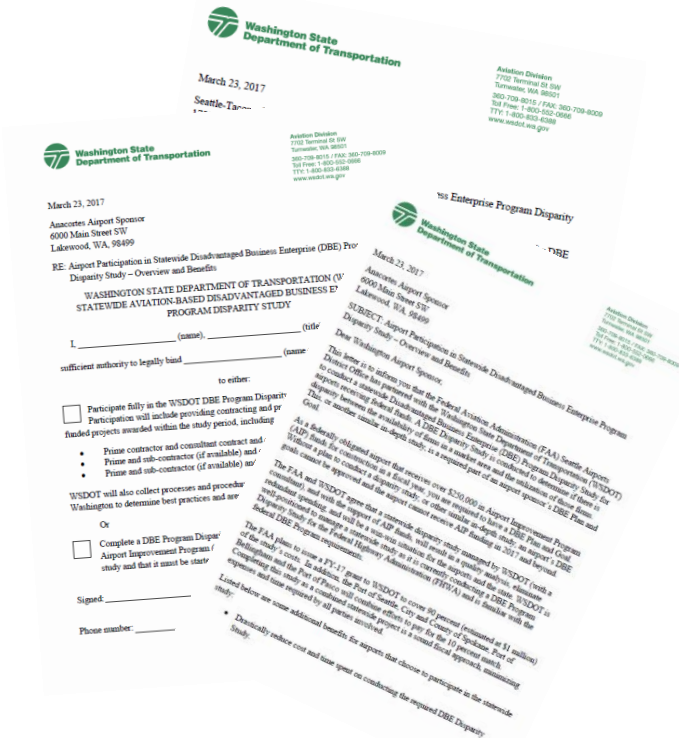
- All NPIAS airports are required to participate in this study
 - 1. Increases the sample for the study
 - 2. Provides security for airports to be able to receive federal funding in 2017 and the years to come
- If a NPIAS airport does not participate, the airport will need to show a plan for a disparity study or other in-depth study of their airport's DBE participation in order to receive federal funding. AIP funds will not be available for independent studies.

WSDOT Managed DBE Disparity Study



Benefits:

- Drastically reduce cost and time spent on conducting the required DBE Disparity Study.
- Gain assurance that your airport's DBE Program Disparity Study will meet federal requirements.
- Provide your airport with the legal foundation to evaluate data as required by federal law under 49 CFR Part 26.45, and properly implement the DBE Program.
- Thoroughly analyze airport contracting activities, processes and procedures in order to develop specific areas for improvement and best practices for each airport.



Participation



By agreeing to participate in the WSDOT Managed Airport Disparity Study, airports agree to:

- Provide contracting and procurement information for all FAA funded projects awarded within the study period, including, but not limited to:
 - Prime contractor and consultant contract and contact information
 - Prime and sub-contractor (if available) and consultant contract award amount
 - Prime and sub-contractor (if available) and consultant payment information
- WSDOT will also collect processes and procedural information used by the airport to determine best practices and areas for improvement

Disparity Study vs. DBE Program



- **Participation does not require a DBE Program to follow.** Only airports meeting 49 CFR Part 26 need DBE Plans/Programs.
- **The study will not set airport goals.**
 - The disparity study will help provide information that will help adjust an airports goal or determine race-neutral/race-conscious amounts

Roles and Responsibilities



FAA Civil Rights Office: Contact for current DBE Program methodology, goals, reporting

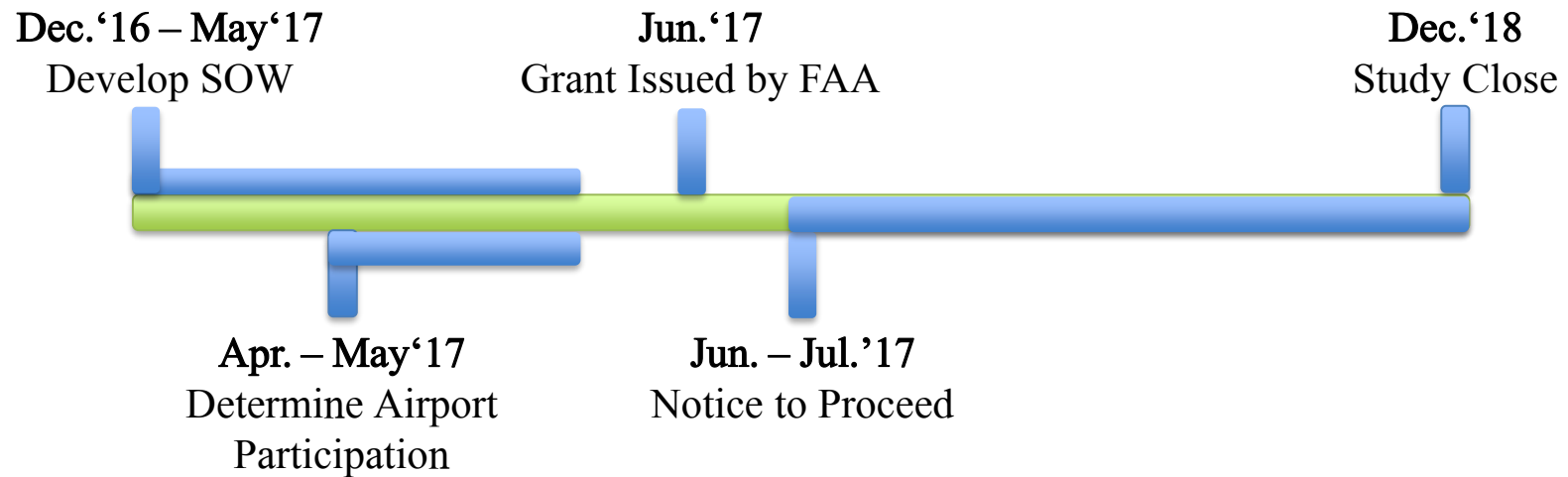
FAA Seattle Airports District Office: Providing 90% match in AIP funding for the study

WSDOT Aviation: Supporting Project Manager; liaison between FAA, OEO and participating airports

WSDOT Office of Equal Opportunity (OEO): Lead Project manager, liaison between Collette Holt and Associates and WSDOT/FAA

Collette Holt and Associates: Consultant conducting the DBE Disparity Study (conducted the recent FHWA DBE Program Disparity Study)

Timeline



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