City of Long Beach

Disadvantaged Business Enterprise Program

September 1, 2013
# TABLE OF CONTENTS

Policy Statement........................................................................................................... 1

**Subpart A: General Requirements**................................................................................. 2

Section 26.1 Objectives........................................................................................................ 2
Section 26.3 Applicability..................................................................................................... 2
Section 26.5 Definitions....................................................................................................... 2
Section 26.7 Non-discrimination Requirements................................................................. 2
Section 26.11 Record Keeping Requirements...................................................................... 2
Section 26.13 Federal Financial Assistance Agreement.................................................... 2

**Subpart B: Administrative Requirements**..................................................................... 4

Section 26.21 DBE Program Updates................................................................................... 4
Section 26.23 Policy Statement............................................................................................ 4
Section 26.25 DBE Liaison Officer (DBELO)....................................................................... 4
Section 26.27 DBE Financial Institutions............................................................................ 5
Section 26.29 Prompt Payment Mechanisms...................................................................... 5
Section 26.31 Directory....................................................................................................... 5
Section 26.33 Over Concentration....................................................................................... 6
Section 26.35 Business Development Programs............................................................... 6
Section 26.37 Monitoring and Enforcement Mechanisms................................................ 6
Section 26.107 DBE Program Enforcement Mechanisms.................................................. 6

**Subpart C: Goals, Good Faith Efforts, and Counting**.................................................... 8

Section 26.43 Set-asides or Quotas...................................................................................... 8
Section 26.45 Overall Goals................................................................................................. 8
Section 26.51(d-g) Contract Goals....................................................................................... 8
Section 26.53 Good Faith Efforts Procedures..................................................................... 8
Section 26.55 Counting DBE Participation......................................................................... 10

**Subpart D: Certification Standards**................................................................................ 11

Section 26.61-26.73 Certification Process............................................................................. 11

**Subpart E: Certification Procedures**.............................................................................. 12

Section 26.81 Unified Certification Programs...................................................................... 12
POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statements

The City of Long Beach has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City has signed an assurance that it will comply with 49 CFR Part 26.

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. Our policy objectives are:

1. To ensure nondiscrimination in the award and administration of DOT–assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Mr. Erik Sund, Business Relations Manager/City Purchasing Agent, has been designated as the DBE Liaison Officer. In that capacity, Mr. Sund 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 of Long Beach (City) in its financial assistance agreements with the Department of Transportation.

The City has disseminated this policy statement to the Long Beach City Council, the Mayor, City Manager, City Engineer, and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

_________________________  ________________________
Patrick H. West                  Date
City Manager
SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The City of Long Beach is the recipient of federal highway funds through Caltrans, and follows the guidelines established in Caltrans’ Local Assistance Program Manual (LAPM).

Section 26.5 Definitions

The City will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 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.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

The City will submit the Uniform Report of DBE Commitments/Awards and Payments Form on June 1st and December 1st of each year to the District 7 Local Assistance Engineer (Attachment11).

Bidders List: 26.11(c)

The City will create and maintain a bidders list consistent with Exhibit 12-G of the LAPM. 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.

We will collect this information in the following ways:

- Bidders are requested to complete the City Bidder’s Information Collection form at the time of Bid submittal through Planet Bids.
- Bidders are required to submit the information with their bid as directed in the Bid documents.
- The City’s Purchasing Agent will collect the data from each bidder via survey.

Attachment 3 – Bidder’s Information Collection Form

Section 26.13 Federal Financial Assistance Agreement

The City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:
**Assurance: 26.13(a)**

The City 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 recipient 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’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 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: 26.13b**

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

> The contractor, sub-recipient, 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

Section 26.21 DBE Program Updates

Since the City is a recipient of federal highway funds, we will continue to carry out this program until all funds from Caltrans/DOT financial assistance have been expended.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Mr. Erik Sund, Business Relations Manager/City Purchasing Agent
Business Relations Bureau
Dept. of Financial Management
333 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802
(562) 570-6663
Erik.Sund@longbeach.gov

In that capacity, Mr. Sund is responsible for implementing all aspects of the DBE program and ensuring that the City of Long Beach complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An organization chart displaying the DBELO’s position in the organization is found in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of three Administrative Analysts to assist in the administration of the program. In addition, an Analyst from each City Department is given the responsibility to work with the DBELO to collect DBE Program information. Further, the DBELO utilizes the Project Manager and Analyst staff of the Public Works Department to implement the Program. The City’s Legal Counsel is also available to assist with any legal matters that may arise. The duties and responsibilities of the DBELO include the following:

1. Reviews third party contracts and purchase requisitions for compliance with this program.
2. Works with all departments to set overall annual goals.
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
4. Advises the City Manager, Mayor and City Council on DBE matters and achievement.

Administrative Analysts

5. Gathers and reports statistical data and other information as required by DOT.
6. Analyzes the City of Long Beach’s progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Determine contractor compliance with good faith efforts.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Acts as liaison to the Uniform Certification Process in California.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.

14. Collects Bidder Information

Section 26.27 DBE Financial Institutions

It is the policy of the City of Long Beach to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. The City surveys financial institutions in Los Angeles and Orange Counties annually to determine if any new minority-owned banks exist.

Minority-owned Bank List – Attachment 12

Section 26.29 Prompt Payment Mechanisms

The City will include the following clause in each DOT-assisted prime contract:

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency’s prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Section 26.31 Directory

The City of Long Beach is a non-certifying member of the California Unified Certification Program (CUCP). The CUCP maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm’s name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The CUCP Directory is updated on a continuous basis as new information is provided. We make the Directory available to our bidders through the following internet links:

http://www.dot.ca.gov/hq/bep/find_certified.htm
http://www.dot.ca.gov/hq/bep/documents/DBE_Instructions_Tutorial.doc
Section 26.33 Over-concentration
The City has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs
The City has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms
The City will implement the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We 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.

2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

3. We will pursue breach of contract action, pursuant to the terms of the contract.

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

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

Further, 49 CFR Part 26 describes various actions that may be used for monitoring and enforcement.

Section 26.107 DBE Program Enforcement Mechanisms

(a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

(d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.
(e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.


4. The City will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished by requiring the prime contractor to submit a DBE Payment Report with each pay application, which will allow the Project Manager to analyze the ratio of DBE payments to commitments in connection with the work schedule.

5. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT reporting form.
Subpart C – Goals, Good Faith Efforts, and Counting

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

On May 28, 2010, Caltrans discontinued the requirement for recipients to prepare and submit Anticipated Annual DBE Participation Levels. Therefore, the City will not develop an Annual Overall Goal. However the existing DBE program remains in effect and the City will seek to fulfill the objectives outlined in 49 CFR Part 26.1. The City will use Race Neutral measures to the greatest extent feasible to meet the objectives and requirements of the DBE Program by:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
3. Encouraging the use of the CUCP DBE directory to the widest feasible universe of potential prime contractors; and,
4. Hosting construction pre-bid and outreach meetings and encourage all businesses to participate and network.

Section 26.51(d-g) Contract Goals

The City will establish contract goals in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step is to determine the relative availability of DBEs in the market area, and calculate the “base figure”. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on federally-funded projects.

A description of the methodology to calculate contract goals can be found in Attachment 5 to this program.

In establishing the contract goals, the City will consult with minority, women’s, general contractor groups, community organizations, and other officials or organizations (Attachment 13) to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City’s efforts to establish a level playing field for the participation of DBEs.

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

We will express our contract goals as a percentage of the total amount of DOT funding for each FHWA-assisted project.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.
The Public Works Project Manager is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. **Attachment 6** contains Exhibit 15H DBE Information – Good Faith Efforts which is included in the bid/proposal documents to be submitted by the Bidder/Offeror that provides detailed information regarding good faith efforts. Exhibit 15G Local Agency Bidder DBE Commitments (Construction Contracts), Exhibit 10-O1 Local Agency Bidder Consultant DBE Commitment provides details of the DBE Utilization Commitment for the contract. A sample letter of intent that bidders/offerors can use as evidence of commitment from DBE firms is also included.

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

**Information to be submitted (26.53(b))**

The City treats bidder/offeror’s compliance with good faith efforts’ requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

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 amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

**Administrative reconsideration (26.53(d))**

Within 5 business days of being informed by the City of Long Beach that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Reggie Harrison, Deputy City Manager  
City Manager Department  
City of Long Beach  
333 W. Ocean Blvd., 13th Floor  
Long Beach, CA 90802

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

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

**Good Faith Efforts when a DBE is replaced on a contract (26.53(f))**
The City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the Project Manager immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

**Sample Bid Specification:**

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

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

**Section 26.55 Counting DBE Participation**

The City will count DBE participation toward contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor’s final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.
SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The California Unified Certification Program (CUCP) will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The CUCP will make their certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)
Office of Business & Economic Opportunity - MS 79
1823 - 14th Street
Sacramento, CA 95814
Phone: (916) 324-1700 or (866) 810-6346
Fax: (916) 324-1862
Email: DBE_Certification@dot.ca.gov
caltrans.ca.gov

CITY OF LOS ANGELES
Office of Contract Compliance
Centralized Certification
1149 S. Broadway Street, Suite 300
Los Angeles, CA 90015
Phone: (213) 847-2684
Fax: (213) 847-2777
bca.lacity.org

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (METRO)
Diversity and Economic Opportunity Department
One Gateway Plaza
Los Angeles, CA 90012
Phone: (213) 922-2600
Fax: (213) 922-7660
mta.net

The CUCP DBE Certification Application forms and documentation requirements are found in Attachment 8 to this program. The application can be downloaded at the following link:
SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City of Long Beach is the member of a California Unified Certification Program (CUCP) administered by Caltrans. The CUCP will meet all of the requirements of this section. The signature page of the agreement between the City of Long Beach and the CUCP can be found in Attachment 10.

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

We will ensure the CUCP reviews the eligibility of DBEs that we certified under former Part 23, to make sure that they will meet the standards of Subpart E of Part 26. We will complete this review no later than three years from the most recent certification date of each firm. Our schedule for this review process will be annual.

For firms that we ensure CUCP have certified or reviewed and found eligible under Part 26, we will again review their eligibility at the time of bid submittal. These reviews will include the following components:

“No Change” Affidavits and Notices of Change (26.83(j))

The CUCP requires all DBEs owners to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the City of Long Beach’s application for certification.

The CUCP also requires all DBE owners we have certified to submit every year, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with [name of DBE firm]’s application for certification, except for any changes about which you have provided written notice to the City of Long Beach under 26.83(j). [Name of DBE firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm’s previous three fiscal years do not exceed $20.41 million.

The CUCP requires DBEs to submit with this affidavit documentation of the firm’s size and gross receipts.

The CUCP will notify all currently certified DBE firms of these obligations. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Personal Net Worth, (26.67(b))

All disadvantaged owners of applicant firms and currently certified DBE firms whose eligibility under Part 26 is reviewed are required to submit a statement of personal net worth. Attachment 8 sets forth our personal net worth form and the documentation respondents must submit with it.
Section 26.86 Denials of Initial Requests for Certification

If the CUCP denies a firm’s application or decertifies it, it may not reapply until 12 months have passed from their action.

Section 26.87 Removal of a DBE’s Eligibility

In the event we propose to remove a DBE’s certification, we will follow procedures consistent with 26.87. Attachment 9 to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, the CUCP has determined that the Operations Committee will serve as the decision-maker in de-certification proceedings. The CUCP have established an administrative “firewall” to ensure that Operations Committee will not have participated in any way in the de-certification proceeding against the firm (including the decision to initiate such a proceeding).

Section 26.89 Certification Appeals

Any firm or complainant may appeal the CUCP’s decision in a certification matter to DOT. Such appeals may be sent to:

US Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Program Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone: 202-366-4754
TTY: 202-366-9696
Fax: 202-366-5575

The CUCP will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).
SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 - 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. The Freedom of Information Act (FOIA) is a federal law that generally provides that any person has a right, enforceable in court, to obtain access to federal agency records. All federal agencies, including EPA, are required to make requested records available unless the records are protected from disclosure by one of nine FOIA exemptions contained in the statute. The FOIA applies only to federal agencies. It does not apply to records held by Congress, the courts, or by state or local government agencies. Each state has its own public access laws that should be consulted for access to state and local records. The link to the FOIA is found below:

http://www.state.gov/m/a/ips/

The Freedom of Information Act (FOIA) is found in Title 5 of the United States Code, Section 552. The FOIA was last amended by the “Openness Promotes Effectiveness in our National Government Act of 2007.”

- The Freedom of Information Act (FOIA) generally provides that any person has the right to request access to federal agency records or information except to the extent the records are protected from disclosure by any of nine exemptions contained in the law or by one of three special law enforcement record exclusions.
- The FOIA applies only to federal agencies and does not create a right of access to records held by Congress, the courts, or by state or local government agencies.
- The FOIA does not require agencies to do research for you, answer written questions, or in any other way create records (such as lists or statistics) in order to respond to a request.

The California Public Records Act is a part of the California Code of Regulations and may be found at the following link:
http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=06001-07000&file=6250-6270

The California Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record. Information that is unrelated to the conduct of the public's business may be exempt. Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

Notwithstanding any contrary provisions of state or local law, we 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.

Monitoring Payments to DBEs

The City will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Long Beach or Caltrans/DOT. This reporting requirement also extends to any certified DBE subcontractor.
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation (commitment). Further, from time-to-time, a representative of the City will visit the applicable site of work to determine whether affected DBE firms are performing the work as identified in the bidder’s/offeree’s DBE documentation.

ATTACHMENTS

Attachment 1 Regulations: 49 CFR Part 26 (web link is found below)
http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=63ec8ee17cd685f61a5920f9f979d5e9;q1=dbe;rnn1=Section%20Heading;op2=and;rgn2=Section;op3=and;rgn3=Section;view=text;idno=49;node=49%3A1.0.1.1.20;rgn=div5
Attachment 2 Organizational Chart
Attachment 3 Bidders Information Collection Form
Attachment 4 DBE Directory – http://www.caltrans.ca.gov/hq/bep/find_certified.htm
Attachment 5 Project (Contract) Goal Calculation
Attachment 6 Demonstration of Good Faith Efforts and Disadvantaged Business Enterprise (DBE) Commitment
Attachment 7 List of Publications
Attachment 8 California Unified Certification Program DBE Application Form
Attachment 9 Procedures for Removal of DBE’s Eligibility – CUCP Agreement
Attachment 10 Signed CUCP Agreement Form
Attachment 12 List of Minority Owned Banks
Attachment 13 List of Organizations
Attachment 1

Regulations: 49 CFR 26
PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

Contents

Subpart A—General

§ 26.1   What are the objectives of this part?
§ 26.3   To whom does this part apply?
§ 26.5   What do the terms used in this part mean?
§ 26.7   What discriminatory actions are forbidden?
§ 26.9   How does the Department issue guidance and interpretations under this part?
§ 26.11  What records do recipients keep and report?
§ 26.13  What assurances must recipients and contractors make?
§ 26.15  How can recipients apply for exemptions or waivers?

Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

§ 26.21  Who must have a DBE program?
§ 26.23  What is the requirement for a policy statement?
§ 26.25  What is the requirement for a liaison officer?
§ 26.27  What efforts must recipients make concerning DBE financial institutions?
§ 26.29  What prompt payment mechanisms must recipients have?
§ 26.31  What information must you include in your DBE directory?
§ 26.33  What steps must a recipient take to address overconcentration of DBEs in certain types of work?
§ 26.35  What role do business development and mentor-protégé programs have in the DBE program?
§ 26.37  What are a recipient's responsibilities for monitoring the performance of other program participants?
§ 26.39  Fostering small business participation.

Subpart C—Goals, Good Faith Efforts, and Counting

§ 26.41  What is the role of the statutory 10 percent goal in this program?
§ 26.43  Can recipients use set-asides or quotas as part of this program?
§ 26.45  How do recipients set overall goals?
§ 26.47  Can recipients be penalized for failing to meet overall goals?
§ 26.49  How are overall goals established for transit vehicle manufacturers?
§ 26.51  What means do recipients use to meet overall goals?
§ 26.53  What are the good faith efforts procedures recipients follow in situations where there are contract goals?
§ 26.55  How is DBE participation counted toward goals?

Subpart D—Certification Standards

§ 26.61  How are burdens of proof allocated in the certification process?
§ 26.63  What rules govern group membership determinations?
Subpart A—General

§ 26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

(a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;

(b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;

(c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
(d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;

(e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;

(f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and

(g) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

§ 26.3  To whom does this part apply?

(a) If you are a recipient of any of the following types of funds, this part applies to you:


(3) Airport funds authorized by 49 U.S.C. 47101, et seq.

(b) [Reserved]

(c) If you are letting a contract, and that contract is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands, this part does not apply to the contract.

(d) If you are letting a contract in which DOT financial assistance does not participate, this part does not apply to the contract.

§ 26.5  What do the terms used in this part mean?

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates
must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

*Alaska Native* means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlakta Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

*Alaska Native Corporation* (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq*.).

*Compliance* means that a recipient has correctly implemented the requirements of this part.

*Contract* means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

*Contractor* means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

*Department or DOT* means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

*Disadvantaged business enterprise or DBE* 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

2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

*DOT-assisted contract* means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

*DOT/SBA Memorandum of Understanding or MOU,* refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.

*Good faith efforts* means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

*Home state* means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.
Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

Joint venture means 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 interest.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or OA means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, 1997 which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161; by calling 1 (800) 553-6847; or via the Internet at: http://www.ntis.gov/product/naics.htm.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.
Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or SBA means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in § 26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

(ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., ‘You must do XYZ’ means that recipients must do XYZ).


§ 26.7 What discriminatory actions are forbidden?

(a) You must 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 this part on the basis of race, color, sex, or national origin.

(b) In administering your DBE program, you must 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 program with respect to individuals of a particular race, color, sex, or national origin.

§ 26.9 How does the Department issue guidance and interpretations under this part?

(a) Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this part 26 and issued after March 4, 1999 express the official positions and views of the Department of Transportation or any of its operating administrations.

(b) The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA, and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid, and express the official positions and views of the Department of Transportation or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

[72 FR 15617, Apr. 2, 2007]

§ 26.11 What records do recipients keep and report?

(a) You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.
(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

(c) You must create and maintain a bidders list.

(1) The purpose of this list is to provide you as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

(2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts:

(i) Firm name;

(ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than $500,000; $500,000-$1 million; $1-$2 million; $2-$5 million; etc.) rather than requesting an exact figure from the firm.

(3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after the bid due date. You can conduct a survey that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (e.g., collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information).


§ 26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient 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 recipient 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 recipient'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 recipient 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.).
(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient 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.

§ 26.15   How can recipients apply for exemptions or waivers?

(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that—

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.
(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in § 26.49;

(ii) Your level of DBE participation continues to be consistent with the objectives of this part;

(iii) There is a reasonable limitation on the duration of your modified program; and

(iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

§ 26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

(1) All FHWA recipients receiving funds authorized by a statute to which this part applies;

(2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding $250,000 in FTA funds in a Federal fiscal year;

(3) FAA recipients receiving grants for airport planning or development who will award prime contracts exceeding $250,000 in FAA funds in a Federal fiscal year.

(b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

§ 26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

§ 26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

§ 26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

§ 26.29 What prompt payment mechanisms must recipients have?

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the
recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

1. A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

2. A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

3. Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

[68 FR 35553, June 16, 2003]

§ 26.31 What information must you include in your DBE directory?

(a) In the directory required under § 26.81(g) of this Part, you must list all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE.

(b) You must list each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. You must make any changes to your current directory entries necessary to meet the requirement of this paragraph (a) by August 26, 2011.

[76 FR 5096, Jan. 28, 2011]

§ 26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

(a) If you determine that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.

(b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to
the extent consistent with § 26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

§ 26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a “mentor-protégé” program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

§ 26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was
committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

(c) This mechanism must 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. In your reports of DBE participation to the Department, you must display both commitments and attainments.


§ 26.39 Fostering small business participation.

(a) Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

(b) This element must be submitted to the appropriate DOT operating administration for approval as a part of your DBE program by February 28, 2012. As part of this program element you may include, but are not limited to, the following strategies:

(1) Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., $1 million).

(2) In multi-year design-build contracts or other large contracts (e.g., for “megaprojects”) requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

(3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

(4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

(c) You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your DBE program.

[76 FR 5097, Jan. 28, 2011]

Subpart C—Goals, Good Faith Efforts, and Counting
§ 26.41 What is the role of the statutory 10 percent goal in this program?

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

§ 26.43 Can recipients use set-asides or quotas as part of this program?

(a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.

(b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

§ 26.45 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 a 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. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in § 26.1.

(b) 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 (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to
(1) **Use DBE Directories and Census Bureau Data.** Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, [www.census.gov/epcd/cbp/view/cbpview.html](http://www.census.gov/epcd/cbp/view/cbpview.html).) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) **Use a bidders list.** Determine the number of DBEs that have bid or quoted on your DOT-assisted prime contracts or subcontracts in the previous year. Determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number for all businesses to derive a base figure for the relative availability of DBEs in your market.

(3) **Use data from a disparity study.** Use a percentage figure derived from data in a valid, applicable disparity study.

(4) **Use the goal of another DOT recipient.** If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) **Alternative methods.** You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

(d) **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 in order to arrive at your overall goal.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;
(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the “but for” factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.

(2) If you are an FTA or FAA recipient, as a percentage of all FT or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the three forthcoming fiscal years.

(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit or require you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration.

(i) A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals.

(ii) A project goal covers the entire length of the project to which it applies.

(iii) The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal.

(iv) The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

(f)(1)(i) If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site.

(ii) You may adjust your three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. You must submit such an adjustment to the concerned operating administration for review and approval.

(iii) The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(iv) While you are required to submit an overall goal to FHWA, FTA, or FAA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

(v) You may make, for informational purposes, projections of your expected DBE achievements during each of the three years covered by your overall goal. However, it is the overall goal itself...
and not these informational projections, to which the provisions of section 26.47(c) of this part apply.

(2) If you are a recipient and set your overall goal on a project or grant basis as provided in paragraph (e)(3) of this section, you must submit the goal for review at a time determined by the FHWA, FTA or FAA Administrator, as applicable.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (see 26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated, or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:
   (i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and
   (ii) Avoid imposing undue burdens on non-DBEs.

(6) Timely submission and operating administration approval of your overall goal is a condition of eligibility for DOT financial assistance.

(7) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive DOT financial assistance.

(g) In establishing an overall goal, you must provide for public participation. This public participation must include:

   (1) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.

   (2) A published notice announcing your proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and the Department will accept comments on the goals for 45 days from the date of the notice. The notice must include addresses to which comments may be sent, and you must publish it in
general circulation media and available minority-focused media and trade association publications.

(h) Your overall goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.


§ 26.47 Can recipients be penalized for failing to meet overall goals?

(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.

(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.

(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;

(3)(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval. If the operating administration approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

(5) You may be regarded as being in noncompliance with this Part, and therefore subject to the remedies in § 26.103 or § 26.105 of this Part and other applicable regulations, for failing to implement your DBE program in good faith if any of the following things occur:

(i) You do not submit your analysis and corrective actions to FHWA, FTA, or FAA in a timely manner as required under paragraph (c)(3) of this section;
(ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or

(iii) You do not fully implement the corrective actions to which you have committed or conditions that FHWA, FTA, or FAA has imposed following review of your analysis and corrective actions.

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.


§ 26.49   How are overall goals established for transit vehicle manufacturers?

(a) If you are an FTA recipient, you must require in your DBE program that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of this section. You do not include FTA assistance used in transit vehicle procurements in the base amount from which your overall goal is calculated.

(b) If you are a transit vehicle manufacturer, you must establish and submit for FTA’s approval an annual overall percentage goal. In setting your overall goal, you should be guided, to the extent applicable, by the principles underlying § 26.45. The base from which you calculate this goal is the amount of FTA financial assistance included in transit vehicle contracts you will perform during the fiscal year in question. You must exclude from this base funds attributable to work performed outside the United States and its territories, possessions, and commonwealths. The requirements and procedures of this part with respect to submission and approval of overall goals apply to you as they do to recipients.

(c) As a transit vehicle manufacturer, you may make the certification required by this section if you have submitted the goal this section requires and FTA has approved it or not disapproved it.

(d) As a recipient, you may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of this section.

(e) If you are an FHWA or FAA recipient, you may, with FHWA or FAA approval, use the procedures of this section with respect to procurements of vehicles or specialized equipment. If you choose to do so, then the manufacturers of this equipment must meet the same requirements (including goal approval by FHWA or FAA) as transit vehicle manufacturers must meet in FTA-assisted procurements.

§ 26.51   What means do recipients use to meet overall goals?

(a) You must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a
DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

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

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

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

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

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

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

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

c) Each time you submit your overall goal for review by the concerned operating administration, you must also submit your projection of the portion of the goal that you expect to meet through race-neutral means and your basis for that projection. This projection is subject to approval by the concerned operating administration, in conjunction with its review of your overall goal.

d) You must establish contract goals to meet any portion of your overall goal you do not project being able to meet using race-neutral means.

e) The following provisions apply to the use of contract goals:
(1) You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means.

(3) Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any contract goal you establish.

(4) Your contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

(f) To ensure that your DBE program continues to be narrowly tailored to overcome the effects of discrimination, you must adjust your use of contract goals as follows:

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through race-neutral means, you must implement your program without setting contract goals during that year, unless it becomes necessary in order meet your overall goal.

Example to paragraph (f)(1): Your overall goal for Year 1 is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year 1. However, if part way through Year 1, your DBE awards or commitments are not at a level that would permit you to achieve your overall goal for Year 1, you could begin setting race-conscious DBE contract goals during the remainder of the year as part of your obligation to implement your program in good faith.

(2) If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of race-neutral and/or race-conscious measures to allow you to meet the overall goal.

Example to paragraph (f)(2): In Year II, your overall goal is 12 percent. You have estimated that you can obtain 5 percent DBE participation through use of race-neutral measures. You therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, you have already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, you use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if you determine in September that your participation for the year is likely to be only 8 percent total, then you would increase your use of race-neutral and/or race-conscious means during the remainder of the year in order to achieve your overall goal.

(3) If the DBE participation you have obtained by race-neutral means alone meets or exceeds your overall goals for two consecutive years, you are not required to make a projection of the amount of your goal you can meet using such means in the next year. You do not set contract
goals on any contracts in the next year. You continue using only race-neutral means to meet your overall goals unless and until you do not meet your overall goal for a year.

Example to paragraph (f)(3): Your overall goal for Years I and Year II is 10 percent. The DBE participation you obtain through race-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether you obtained additional DBE participation through using contract goals in these years.) In Year III and following years, you do not need to make a projection under paragraph (c) of this section of the portion of your overall goal you expect to meet using race-neutral means. You simply use race-neutral means to achieve your overall goals. However, if in Year VI your DBE participation falls short of your overall goal, then you must make a paragraph (c) projection for Year VII and, if necessary, resume use of contract goals in that year.

(4) If you obtain DBE participation that exceeds your overall goal in two consecutive years through the use of contract goals (i.e., not through the use of race-neutral means alone), you must reduce your use of contract goals proportionately in the following year.

Example to paragraph (f)(4): In Years I and II, your overall goal is 12 percent, and you obtain 14 and 16 percent DBE participation, respectively. You have exceeded your goals over the two-year period by an average of 25 percent. In Year III, your overall goal is again 12 percent, and your paragraph (c) projection estimates that you will obtain 4 percent DBE participation through race-neutral means and 8 percent through contract goals. You then reduce the contract goal projection by 25 percent (i.e., from 8 to 6 percent) and set contract goals accordingly during the year. If in Year III you obtain 11 percent participation, you do not use this contract goal adjustment mechanism for Year IV, because there have not been two consecutive years of exceeding overall goals.

(g) In any year in which you project meeting part of your goal through race-neutral means and the remainder through contract goals, you must maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. You must report this data to the concerned operating administration as provided in § 26.11.


§ 26.53  What are the good faith efforts procedures recipients follow in situations where there are contract goals?

(a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:

(1) Documents that it has obtained enough DBE participation to meet the goal; or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.
(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

(1) Award of the contract will be conditioned on meeting the requirements of this section;

(2) All bidders/offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:

(i) The names and addresses of DBE firms that will participate in the contract;

(ii) A description of the work that each DBE will perform;

(iii) The dollar amount of the participation of each DBE firm participating;

(iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;

(v) Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

(vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part); and

(3) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section—

(i) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or

(ii) At any time before you commit yourself to the performance of the contract by the bidder/offeror, as a matter of responsibility.

(c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.

(d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

(1) As part of this reconsideration, the bidder/offeror must 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.

(2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.

(3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.
(4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

(5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

(e) In a “design-build” or “turnkey” contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.

(f)(1) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

(2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(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;

(vii) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vi) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

(vii) The listed DBE is ineligible to receive DBE credit for the type of work required;

(viii) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

(ix) Other documented good cause that you determine 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.

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

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

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

(g) When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement.

(h) You must include in each prime contract a provision for appropriate administrative remedies that you will invoke if the prime contractor fails to comply with the requirements of this section.

(i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.


§ 26.55 How is DBE participation counted toward goals?

(a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including 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).

(2) Count 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 DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, count a 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 toward DBE goals.

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

(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. To determine whether a DBE is performing a commercially useful function, you must evaluate 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 the DBE credit claimed for its performance of the work, 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. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(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, you must presume that 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. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(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 DBE goals.

(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 from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate Department Operating Administration.

Example to this paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

(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) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1)(i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.

(ii) 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.

(2)(i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(ii) 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.

(A) 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.

(B) 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 as provided in this paragraph (e)(2)(ii) 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.

(C) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count 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, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

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

(g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.

(h) Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.


Subpart D—Certification Standards

§ 26.61 How are burdens of proof allocated in the certification process?

(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

(c) You must rebuttably presume that members of the designated groups identified in § 26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to you that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in § 26.67(a). Applicants do have the obligation to provide you information concerning their economic disadvantage (see § 26.67).

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part.)
(e) You must make determinations concerning whether individuals and firms have met their 
burden of demonstrating group membership, ownership, control, and social and economic 
disadvantage (where disadvantage must be demonstrated on an individual basis) by considering 
all the facts in the record, viewed as a whole.


§ 26.63 What rules govern group membership determinations?

(a)(1) If, after reviewing the signed notarized statement of membership in a presumptively 
disadvantaged group (see § 26.61(c)), you have a well founded reason to question the 
individual's claim of membership in that group, you must require the individual to present 
additional evidence that he or she is a member of the group.

(2) You must provide the individual a written explanation of your reasons for questioning his or 
er her group membership and a written request for additional evidence as outlined in paragraph (b) 
of this section.

(3) In implementing this section, you must take special care to ensure that you do not impose a 
disproportionate burden on members of any particular designated group. Imposing a 
disproportionate burden on members of a particular group could violate § 26.7(b) and/or Title VI 

(b) In making such a determination, you must consider whether the person has held himself out 
to be a member of the group over a long period of time prior to application for certification and 
whether the person is regarded as a member of the group by the relevant community. You may 
require the applicant to produce appropriate documentation of group membership.

(1) If you determine that an individual claiming to be a member of a group presumed to be 
disadvantaged is not a member of a designated disadvantaged group, the individual must 
demonstrate social and economic disadvantage on an individual basis.

(2) Your decisions concerning membership in a designated group are subject to the certification 
appeals procedure of § 26.89.


§ 26.65 What rules govern business size determinations?

(a) To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as 
defined by Small Business Administration (SBA) standards. As a recipient, you must apply 
current SBA business size standard(s) found in 13 CFR part 121 appropriate to the type(s) of 
work the firm seeks to perform in DOT-assisted contracts.

(b) Even if it meets the requirements of paragraph (a) of this section, a firm is not an eligible 
DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross 
receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three 
fiscal years, in excess of $22.41 million.
(c) The Department adjusts the number in paragraph (b) of this section annually using the Department of Commerce price deflators for purchases by State and local governments as the basis for this adjustment.

[74 FR 15224, Apr. 3, 2009]

§ 26.67 What rules determine social and economic disadvantage?

(a) Presumption of disadvantage. (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification to certify that he or she has a personal net worth that does not exceed $1.32 million.

(ii) You must require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. This statement and documentation must not be unduly lengthy, burdensome, or intrusive.

(iii) In determining an individual's net worth, you must observe the following requirements:

(A) Exclude an individual's ownership interest in the applicant firm;

(B) Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm).

(C) Do not use a contingent liability to reduce an individual's net worth.

(D) With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.

(iv) Notwithstanding any provision of Federal or state law, you must not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that you must transmit this information to DOT in any certification appeal proceeding under section 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

(b) Rebuttal of presumption of disadvantage. (1) If the statement of personal net worth that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds $1.32 million, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.
(2) If you have a reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially and/or economically disadvantaged you may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. Your proceeding must follow the procedures of § 26.87.

(3) In such a proceeding, you have the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. You may require the individual to produce information relevant to the determination of his or her disadvantage.

(4) When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds $1.32 million, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage.

(c) [Reserved]

(d) Individual determinations of social and economic disadvantage. Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. You must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to you, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds $1.32 million shall not be deemed to be economically disadvantaged. In making these determinations, use the guidance found in Appendix E of this part. You must require that applicants provide sufficient information to permit determinations under the guidance of Appendix E of this part.


§ 26.69 What rules govern determinations of ownership?

(a) In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record, viewed as a whole.

(b) To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

(1) In the case of a corporation, such individuals must own at least 51 percent of the each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

(2) In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals. Such ownership must be reflected in the firm's partnership agreement.

(3) In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals.
(c) The firm's ownership by socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements.

(d) All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this paragraph (d), no securities or assets held in trust, or by any guardian for a minor, are considered as held by disadvantaged persons in determining the ownership of a firm. However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm, if—

(1) The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual; or

(2) The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policy-making, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

(1) The owner's expertise must be—

(i) In a specialized field;

(ii) Of outstanding quality;

(iii) In areas critical to the firm's operations;

(iv) Indispensable to the firm's potential success;

(v) Specific to the type of work the firm performs; and

(vi) Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

(2) The individual whose expertise is relied upon must have a significant financial investment in the firm.

(g) You must always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual—
(1) As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

(2) Through inheritance, or otherwise because of the death of the former owner.

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is—

(i) Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

(ii) Involved in the same or a similar line of business; or

(iii) Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that—

(i) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(ii) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

(i) You must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, you must deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. You do not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.

(j) You may consider the following factors in determining the ownership of a firm. However, you must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because—

(1) A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in paragraph (h) of this section;
(2) There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or

(3) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is such an individual. In this case, you must give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

§ 26.71 What rules govern determinations concerning control?

(a) In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) You must consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

(3) You must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

(4) In considering factors related to the independence of a potential DBE firm, you must consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.

(c) A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in § 26.69(j)(2).

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.

(1) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).
(2) In a corporation, disadvantaged owners must control the board of directors.

(3) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially and economically disadvantaged may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however, possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

(h) If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, you must not deny certification solely on the ground that the person lacks the license or credential. However, you may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm.

(i)(1) You may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. You may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

(2) In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, you may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains...
involved with the firm and continues to receive greater compensation than the disadvantaged individual.

(j) In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

(2) If you cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

(l) Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the non-disadvantaged individual remains involved with the firm in any capacity, the disadvantaged individual now owning the firm must demonstrate to you, by clear and convincing evidence, that:

(1) The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(2) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who formerly owned and/or controlled the firm.

(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You must not require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.
(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.

(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.

(3) If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the certifying agency, in its certification documentation, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.

(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, you should generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.
§ 26.73 What are other rules affecting certification?

(a)(1) Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in paragraph (a)(2) of this section, you must not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.

(2) You may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

(b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

(2) You must not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of this Part, the firm is eligible for certification.

(c) DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification.

(d) Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.

(e) An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm—even a DBE firm—cannot be an eligible DBE.

(1) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, you may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) You may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

Example 1: Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.
Example 2: Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

Example 3: Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so you may certify the subsidiary, if all other requirements are met.

Example 4: Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, you cannot certify it because it fails to meet control requirements.

Example 5: Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so you cannot certify the subsidiary.

Example 6: The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of § 26.65(b). Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

(f) Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.

(g) You must not require a DBE firm to be prequalified as a condition for certification unless the recipient requires all firms that participate in its contracts and subcontracts to be prequalified.

(h) A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of § 26.35. Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in § 26.71.

(i) The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs).

(1) Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:

(i) The Settlement Common Stock of the underlying ANC and other stock of the ANC held by holders of the Settlement Common Stock and by Natives and descendents of Natives represents a majority of both the total equity of the ANC and the total voting power of the corporation for purposes of electing directors;

(ii) The shares of stock or other units of common ownership interest in the subsidiary, joint venture, or partnership entity held by the ANC and by holders of its Settlement Common Stock represent a majority of both the total equity of the entity and the total voting power of the entity for the purpose of electing directors, the general partner, or principal officers; and
(iii) The subsidiary, joint venture, or partnership entity has been certified by the Small Business Administration under the 8(a) or small disadvantaged business program.

(2) As a recipient to whom an ANC-related entity applies for certification, you do not use the DOT uniform application form (see Appendix F of this part). You must obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of paragraph (i)(1) of this section. You must also obtain sufficient information about the firm to allow you to administer your program (e.g., information that would appear in your DBE Directory).

(3) If an ANC-related firm does not meet all the conditions of paragraph (i)(1) of this section, then it must meet the requirements of paragraph (h) of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.


Subpart E—Certification Procedures

§ 26.81 What are the requirements for Unified Certification Programs?

(a) You and all other DOT recipients in your state must participate in a Unified Certification Program (UCP).

(1) Within three years of March 4, 1999, you and the other recipients in your state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The Secretary may, on the basis of extenuating circumstances shown by the recipients in the state, extend this deadline for no more than one additional year.

(2) The agreement must provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters. The agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part. The agreement shall include an implementation schedule ensuring that the UCP is fully operational no later than 18 months following the approval of the agreement by the Secretary.

(3) Subject to approval by the Secretary, the UCP in each state may take any form acceptable to the recipients in that state.

(4) The Secretary shall review the UCP and approve it, disapprove it, or remand it to the recipients in the state for revisions. A complete agreement which is not disapproved or remanded within 180 days of its receipt is deemed to be accepted.

(5) If you and the other recipients in your state fail to meet the deadlines set forth in this paragraph (a), you shall have the opportunity to make an explanation to the Secretary why a deadline could not be met and why meeting the deadline was beyond your control. If you fail to make such an explanation, or the explanation does not justify the failure to meet the deadline, the Secretary shall direct you to complete the required action by a date certain. If you and the other
recipients fail to carry out this direction in a timely manner, you are collectively in noncompliance with this part.

(b) The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program.

(1) Certification decisions by the UCP shall be binding on all DOT recipients within the state.

(2) The UCP shall provide “one-stop shopping” to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

(3) All obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and recipients may use only UCPs that comply with the certification and nondiscrimination requirements of this part.

(c) All certifications by UCPs shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

(d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The “home state” UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.

(e) Subject to DOT approval as provided in this section, the recipients in two or more states may form a regional UCP. UCPs may also enter into written reciprocity agreements with other UCPs. Such an agreement shall outline the specific responsibilities of each participant. A UCP may accept the certification of any other UCP or DOT recipient.

(f) Pending the establishment of UCPs meeting the requirements of this section, you may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. You may also grant reciprocity to other recipient's certification decisions.

(g) Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this part), the information required by § 26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made and shall revise the print version of the Directory at least once a year.

(h) Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to UCPs.


§ 26.83 What procedures do recipients follow in making certification decisions?
(a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.

(b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.

(c) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:

1. Perform an on-site visit to the offices of the firm. You must interview the principal officers of the firm and review their résumés and/or work histories. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification;

2. If the firm is a corporation, analyze the ownership of stock in the firm;

3. Analyze the bonding and financial capacity of the firm;

4. Determine the work history of the firm, including contracts it has received and work it has completed;

5. Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any;

6. Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;

7. Require potential DBEs to complete and submit an appropriate application form, unless the potential DBE is an SBA certified firm applying pursuant to the DOT/SBA MOU.

   (i) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with this part.

   (ii) You must make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

   (iii) You must review all information on the form prior to making a decision about the eligibility of the firm.

(d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.

(e) [Reserved]
(f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.

(g) You must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.

(h) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of section 26.87. You may not require DBEs to reapply for certification or require “recertification” of currently certified firms. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, three years from the date of the firm's most recent certification, or sooner if appropriate in light of changed circumstances (e.g., of the kind requiring notice under paragraph (i) of this section), a complaint, or other information concerning the firm's eligibility. If you have grounds to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and jobsites.

(i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.

1. Changes in management responsibility among members of a limited liability company are covered by this requirement.

2. You must attach supporting documentation describing in detail the nature of such changes.

3. The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. You must provide the written notification within 30 days of the occurrence of the change. If you fail to make timely notification of such a change, you will be deemed to have failed to cooperate under § 26.109(c).

(j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. 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).

(k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a
decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under § 26.89.

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

(m) Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before you have issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, you may not apply the waiting period provided under § 26.86(c) of this part before allowing the applicant to resubmit its application. However, you may place the reapplication at the “end of the line,” behind other applications that have been made since the firm's previous application was withdrawn. You may also apply the waiting period provided under § 26.86(c) of this part to a firm that has established a pattern of frequently withdrawing applications before you make a decision.


§ 26.85 Interstate certification.

(a) This section applies with respect to any firm that is currently certified in its home state.

(b) When a firm currently certified in its home state (“State A”) applies to another State (“State B”) for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures.

(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.

(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing State A's electronic directory or obtaining written confirmation from State A.

(c) In any situation in which State B chooses not to accept State A's certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.

(1) You must provide to State B a complete copy of the application form, all supporting documents, and any other information you have submitted to State A or any other state related to your firm's certification. This includes affidavits of no change ( see § 26.83(j)) and any notices of changes ( see § 26.83(i)) that you have submitted to State A, as well as any correspondence you have had with State A's UCP or any other recipient concerning your application or status as a DBE firm.

(2) You must also provide to State B any notices or correspondence from states other than State A relating to your status as an applicant or certified DBE in those states. For example, if you have been denied certification or decertified in State C, or subject to a decertification action there, you must inform State B of this fact and provide all documentation concerning this action to State B.
(3) If you have filed a certification appeal with DOT (see § 26.89), you must inform State B of the fact and provide your letter of appeal and DOT's response to State B.

(4) You must submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

(i) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by § 26.85(c)(1), is an identical copy of the information submitted to State A.

(ii) If the on-site report from State A supporting your certification in State A is more than three years old, as of the date of your application to State B, State B may require that your affidavit also affirm that the facts in the on-site report remain true and correct.

(d) As State B, when you receive from an applicant firm all the information required by paragraph (c) of this section, you must take the following actions:

(1) Within seven days contact State A and request a copy of the site visit review report for the firm (see § 26.83(c)(1)), any updates to the site visit review, and any evaluation of the firm based on the site visit. As State A, you must transmit this information to State B within seven days of receiving the request. A pattern by State B of not making such requests in a timely manner or by “State A” or any other State of not complying with such requests in a timely manner is noncompliance with this Part.

(2) Determine whether there is good cause to believe that State A's certification of the firm is erroneous or should not apply in your State. Reasons for making such a determination may include the following:

(i) Evidence that State A's certification was obtained by fraud;

(ii) New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;

(iii) State A's certification was factually erroneous or was inconsistent with the requirements of this part;

(iv) The State law of State B requires a result different from that of the State law of State A.

(v) The information provided by the applicant firm did not meet the requirements of paragraph (c) of this section.

(3) If, as State B, unless you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice that it is certified and place the firm on your directory of certified firms.

(4) If, as State B, you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice stating the reasons for your determination.
This notice must state with particularity the specific reasons why State B believes that the firm does not meet the requirements of this Part for DBE eligibility and must offer the firm an opportunity to respond to State B with respect to these reasons.

The firm may elect to respond in writing, to request an in-person meeting with State B's decision maker to discuss State B's objections to the firm's eligibility, or both. If the firm requests a meeting, as State B you must schedule the meeting to take place within 30 days of receiving the firm's request.

The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of this Part with respect to the particularized issues raised by State B's notice. The firm is not otherwise responsible for further demonstrating its eligibility to State B.

The decision maker for State B must be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

State B must issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

The firm's application for certification is stayed pending the outcome of this process.

A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under §26.89 of this part.

e) As State B, if you have not received from State A a copy of the site visit review report by a date 14 days after you have made a timely request for it, you may hold action required by paragraphs (d)(2) through (4) of this section in abeyance pending receipt of the site visit review report. In this event, you must, no later than 30 days from the date on which you received from an applicant firm all the information required by paragraph (c) of this section, notify the firm in writing of the delay in the process and the reason for it.

(f)(1) As a UCP, when you deny a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (d)(4) of this section, or decertify a firm, in whole or in part, you must make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. You must enter the following information:

(i) The name of the firm;

(ii) The name(s) of the firm's owner(s);

(iii) The type and date of the action;

(iv) The reason for the action.

(2) As a UCP, you must check the DOCR Web site at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.

(3) For any such firm that is on the list, you must promptly request a copy of the listed decision from the UCP that made it. As the UCP receiving such a request, you must provide a copy of the decision to the requesting UCP within 7 days of receiving the request. As the UCP receiving the
decision, you must then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

(g) You must implement the requirements of this section beginning January 1, 2012.

[76 FR 5100, Jan. 28, 2011]

§ 26.86 What rules govern recipients' denials of initial requests for certification?

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) When you deny DBE certification to a firm certified by the SBA, you must notify the SBA in writing. The notification must include the reason for denial.

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under § 26.89.


§ 26.87 What procedures does a recipient use to remove a DBE's eligibility?

(a) Ineligibility complaints. (1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in § 26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.
(b) **Recipient-initiated proceedings.** If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) **DOT directive to initiate proceeding.** (1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) **Hearing.** When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under § 26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) **Separation of functions.** You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decisionmaker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (i.e., an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.
(f) **Grounds for decision.** You must not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. You may base such a decision only on one or more of the following:

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;

(4) A change in the certification standards or requirements of the Department since you certified the firm; or

(5) A documented finding that your determination to certify the firm was factually erroneous.

(g) **Notice of decision.** Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under § 26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding.

(h) [Reserved]

(i) **Status of firm during proceeding.** (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) **Effects of removal of eligibility.** When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) **Exception:** If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.
(k) Availability of appeal. When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under § 26.89.


§ 26.89 What is the process for certification appeals to the Department of Transportation?

(a)(1) If you are a firm that is denied certification or whose eligibility is removed by a recipient, including SBA-certified firms applying pursuant to the DOT/SBA MOU, you may make an administrative appeal to the Department.

(2) If you are a complainant in an ineligibility complaint to a recipient (including the concerned operating administration in the circumstances provided in § 26.87(c)), you may appeal to the Department if the recipient does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(3) Send appeals to the following address: Department of Transportation, Office of Civil Rights, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(b) Pending the Department's decision in the matter, the recipient's decision remains in effect. The Department does not stay the effect of the recipient's decision while it is considering an appeal.

(c) If you want to file an appeal, you must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and arguments concerning why the recipient's decision should be reversed. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal.

(1) If you are an appellant who is a firm which has been denied certification, whose certification has been removed, whose owner is determined not to be a member of a designated disadvantaged group, or concerning whose owner the presumption of disadvantage has been rebutted, your letter must state the name and address of any other recipient which currently certifies the firm, which has rejected an application for certification from the firm or removed the firm's eligibility within one year prior to the date of the appeal, or before which an application for certification or a removal of eligibility is pending. Failure to provide this information may be deemed a failure to cooperate under § 26.109(c).

(2) If you are an appellant other than one described in paragraph (c)(1) of this section, the Department will request, and the firm whose certification has been questioned shall promptly provide, the information called for in paragraph (c)(1) of this section. Failure to provide this information may be deemed a failure to cooperate under § 26.109(c).

(d) When it receives an appeal, the Department requests a copy of the recipient's complete administrative record in the matter. If you are the recipient, you must provide the administrative record, including a hearing transcript, within 20 days of the Department's request. The Department may extend this time period on the basis of a recipient's showing of good cause. To facilitate the Department's review of a recipient's decision, you must ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements are not acceptable and will be returned to you to be corrected.
immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

(e) The Department makes its decision based solely on the entire administrative record. The Department does not make a de novo review of the matter and does not conduct a hearing. The Department may supplement the administrative record by adding relevant information made available by the DOT Office of Inspector General; Federal, state, or local law enforcement authorities; officials of a DOT operating administration or other appropriate DOT office; a recipient; or a firm or other private party.

(f) As a recipient, when you provide supplementary information to the Department, you shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. The Department makes available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.

(1) The Department affirms your decision unless it determines, based on the entire administrative record, that your decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification.

(2) If the Department determines, after reviewing the entire administrative record, that your decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification, the Department reverses your decision and directs you to certify the firm or remove its eligibility, as appropriate. You must take the action directed by the Department's decision immediately upon receiving written notice of it.

(3) The Department is not required to reverse your decision if the Department determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.

(4) If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, the Department may remand the record to you with instructions seeking clarification or augmentation of the record before making a finding. The Department may also remand a case to you for further proceedings consistent with Department instructions concerning the proper application of the provisions of this part.

(5) The Department does not uphold your decision based on grounds not specified in your decision.

(6) The Department's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.

(7) The Department provides written notice of its decision to you, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record or decision has been involved in the proceeding (see paragraph (d) of this section). The Department will also notify the SBA in writing when DOT takes an action on an appeal that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for the Department's decision, including specific references to the evidence in the record that supports each reason for the decision.

(8) The Department's policy is to make its decision within 180 days of receiving the complete administrative record. If the Department does not make its decision within this period, the
Department provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.

(g) All decisions under this section are administratively final, and are not subject to petitions for reconsideration.


§ 26.91 What actions do recipients take following DOT certification appeal decisions?

(a) If you are the recipient from whose action an appeal under § 26.89 is taken, the decision is binding. It is not binding on other recipients.

(b) If you are a recipient to which a DOT determination under § 26.89 is applicable, you must take the following action:

(1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in § 26.87(i) take effect.

(2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in § 26.87.

(3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of Department's determination.

(4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.

(5) If the Department affirms your determination, no further action is necessary.

(c) Where DOT has upheld your denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under § 26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has reversed your denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

Subpart F—Compliance and Enforcement

§ 26.101 What compliance procedures apply to recipients?

(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under § 26.103 or § 26.105 or appropriate program sanctions by the
concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

§ 26.103 What enforcement actions apply in FHWA and FTA programs?

The provisions of this section apply to enforcement actions under FHWA and FTA programs:

(a) Noncompliance complaints. Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in § 26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

(b) Compliance reviews. The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

(c) Reasonable cause notice. If it appears, from the investigation of a complaint or the results of a compliance review, that you, as a recipient, are in noncompliance with this part, the appropriate DOT office promptly sends you, return receipt requested, a written notice advising you that there is reasonable cause to find you in noncompliance. The notice states the reasons for this finding and directs you to reply within 30 days concerning whether you wish to begin conciliation.

(d) Conciliation. (1) If you request conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of your request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

(2) If you and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and you are regarded as being in compliance. The conciliation agreement sets forth the measures you have taken or will take to ensure compliance. While a conciliation agreement is in effect, you remain eligible for FHWA or FTA financial assistance.

(3) The concerned operating administration shall monitor your implementation of the conciliation agreement and ensure that its terms are complied with. If you fail to carry out the terms of a conciliation agreement, you are in noncompliance.
(4) If you do not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.

(e) **Enforcement actions.** (1) Enforcement actions are taken as provided in this subpart.

(2) Applicable findings in enforcement proceedings are binding on all DOT offices.

§ 26.105 What enforcement actions apply in FAA programs?

(a) Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

(b) The provisions of § 26.103(b) and this section apply to enforcement actions in FAA programs.

(c) Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

§ 26.107 What enforcement actions apply to firms participating in the DBE program?

(a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

(d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

(e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.
§ 26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

(a) Availability of records. (1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

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

(b) Confidentiality of information on complainants. Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

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

(d) Intimidation and retaliation. If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.


Appendix A to Part 26—Guidance Concerning Good Faith Efforts
I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively 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 requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring *bona fide* good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

**Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form**
INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS

1. Indicate the DOT Operating Administration (OA) that provided your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an ITA recipient, indicate your Vendor Number in the space provided.

2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If none are specified, attach a separate sheet.

3. Specify the fiscal year (i.e., October 1 – September 30) in which the covered reporting period falls.

4. State the date of submission of this report.

5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. If this report is due June 1, data should cover October 1 – March 31. If this report is due December 1, data should cover April 1 – September 30. If this report is due to the FAA, data should cover the entire year.

6. Name of the recipient.

7. State your annual DBE goal(s) established for the Federal fiscal year of this report to be submitted to and approved by the relevant OA. Your current Goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral Goals (both of which include gender-conscious/neutral goals). The Race Conscious Goal portion should be based on programs that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a Race Conscious measure. The Race Neutral Goal portion should include programs that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

8. The amounts in items 8(A)-9(D) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts should reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

8(A). Provide the total dollar amount for all prime contracts with DOT funds that were awarded during this reporting period.

8(B). Provide the total number of all prime contracts with DOT funds that were awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the dollar amount awarded to certified DBEs during this reporting period.

8(D). From the total number of prime contracts awarded in item 8(B), specify the number awarded to DBEs through Race Conscious methods. The definition of Race Conscious Goal is item 7 and the explanation of project types in item 8 to include in your calculation.

8(E). From the total number of prime contracts awarded in 8(D), specify the dollar amount awarded to DBEs through Race Conscious methods.

8(F). From the total dollar amount awarded in 8(C), provide the dollar amount awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral Goal in item 7 and the explanation of project types in item 8 to include in your calculation.

8(G). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through Race Neutral methods.

8(H). Of all prime contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

8(I). Items 8(A)-8(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

8(J). For all DBEs awarded prime contracts and awarded or committed subcontracts, as indicated in 8(C)-8(D) and 8(E)-8(D), breakout the data further by total dollar amount as well as the number of all contracts going to each ethnic group as well as to minority women. The “Other” category includes those DBEs who are not members of the presumptively disadvantaged groups already listed, but who are determined eligible for the DBE program on an individual basis (e.g., a Caucasian male with a disability). The TOTALS value in 10(B) should equal the sum of 8(C) plus 8(A) and similarly, the TOTALS value in 11(B) should equal the sum of 8(D) plus 8(E). Column 1 should only be filled out if this report is due on December 1, as indicated in item 5. The values for this column are derived by adding the values reported in column H in your first report with the values reported in this second report.

12(A). Provide the total number of prime contracts completed during this reporting period that had Race Conscious goals. Race Conscious contracts are those with contract goals or another Race Conscious measure.

12(B). Provide the total dollar value of prime contracts completed this reporting period that had Race Conscious goals.

12(C). Provide the total dollar amount of DBE participation on all Race Conscious prime contracts completed this reporting period that was necessary to meet the contract goals on them. This applies only to Race Conscious prime contracts.

12(D). Provide the actual total DBE participation in dollars on the race conscious prime contracts completed this reporting period.

12(E). Of all the prime contracts completed this reporting period, calculate the percentage of DBE participation. Divide the actual total dollar amount in 12(D) by the total dollar value provided in 12(B) to derive this percentage. Round to the nearest tenth.

13(A)-13(E). Items 13(A)-13(E) are derived in the same manner as items 12(A)-12(E), except these figures should be based on Race Neutral prime contracts (i.e., those with no race conscious measures).

14(A)-14(F). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

15. Name of the Authorized Representative preparing this form.

16. Signature of the Authorized Representative.

17. Phone number of the Authorized Representative.

18. Fax number of the Authorized Representative.

**Submit your completed report to your Regional or Division Office.
Appendix C to Part 26—DBE Business Development Program Guidelines

The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from the recipient. (A) Each firm that participates in a recipient's business development program (BDP) program is subject to a program term determined by the recipient. The term should consist of two stages: a developmental stage and a transitional stage. (B) In order for a firm to remain eligible for program participation, it must continue to meet all eligibility criteria contained in part 26.
(C) By no later than 6 months of program entry, the participant should develop and submit to the recipient a comprehensive business plan setting forth the participant's business targets, objectives and goals. The participant will not be eligible for program benefits until such business plan is submitted and approved by the recipient. The approved business plan will constitute the participant's short and long term goals and the strategy for developmental growth to the point of economic viability in non-traditional areas of work and/or work outside the DBE program.

(D) The business plan should contain at least the following:

1. An analysis of market potential, competitive environment and other business analyses estimating the program participant's prospects for profitable operation during the term of program participation and after graduation from the program.

2. An analysis of the firm's strengths and weaknesses, with particular attention paid to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts other than those in traditional areas of DBE participation.

3. Specific targets, objectives, and goals for the business development of the participant during the next two years, utilizing the results of the analysis conducted pursuant to paragraphs (C) and (D)(1) of this appendix;

4. Estimates of contract awards from the DBE program and from other sources which are needed to meet the objectives and goals for the years covered by the business plan; and

5. Such other information as the recipient may require.

(E) Each participant should annually review its currently approved business plan with the recipient and modify the plan as may be appropriate to account for any changes in the firm's structure and redefined needs. The currently approved plan should be considered the applicable plan for all program purposes until the recipient approves in writing a modified plan. The recipient should establish an anniversary date for review of the participant's business plan and contract forecasts.

(F) Each participant should annually forecast in writing its need for contract awards for the next program year and the succeeding program year during the review of its business plan conducted under paragraph (E) of this appendix. Such forecast should be included in the participant's business plan. The forecast should include:

1. The aggregate dollar value of contracts to be sought under the DBE program, reflecting compliance with the business plan;

2. The aggregate dollar value of contracts to be sought in areas other than traditional areas of DBE participation;

3. The types of contract opportunities being sought, based on the firm's primary line of business; and

4. Such other information as may be requested by the recipient to aid in providing effective business development assistance to the participant.

(G) Program participation is divided into two stages; (1) a developmental stage and (2) a transitional stage. The developmental stage is designed to assist participants to overcome their social and economic disadvantage by providing such assistance as may be necessary and
appropriate to enable them to access relevant markets and strengthen their financial and managerial skills. The transitional stage of program participation follows the developmental stage and is designed to assist participants to overcome, insofar as practical, their social and economic disadvantage and to prepare the participant for leaving the program.

(H) The length of service in the program term should not be a pre-set time frame for either the developmental or transitional stages but should be figured on the number of years considered necessary in normal progression of achieving the firm's established goals and objectives. The setting of such time could be factored on such items as, but not limited to, the number of contracts, aggregate amount of the contract received, years in business, growth potential, etc.

(I) Beginning in the first year of the transitional stage of program participation, each participant should annually submit for inclusion in its business plan a transition management plan outlining specific steps to promote profitable business operations in areas other than traditional areas of DBE participation after graduation from the program. The transition management plan should be submitted to the recipient at the same time other modifications are submitted pursuant to the annual review under paragraph (E) of this section. The plan should set forth the same information as required under paragraph (F) of steps the participant will take to continue its business development after the expiration of its program term.

(J) When a participant is recognized as successfully completing the program by substantially achieving the targets, objectives and goals set forth in its program term, and has demonstrated the ability to compete in the marketplace, its further participation within the program may be determined by the recipient.

(K) In determining whether a concern has substantially achieved the goals and objectives of its business plan, the following factors, among others, should be considered by the recipient:

1. Profitability;
2. Sales, including improved ratio of non-traditional contracts to traditional-type contracts;
3. Net worth, financial ratios, working capital, capitalization, access to credit and capital;
4. Ability to obtain bonding;
5. A positive comparison of the DBE's business and financial profile with profiles of non-DBE businesses in the same area or similar business category; and
6. Good management capacity and capability.

(L) Upon determination by the recipient that the participant should be graduated from the developmental program, the recipient should notify the participant in writing of its intent to graduate the firm in a letter of notification. The letter of notification should set forth findings, based on the facts, for every material issue relating to the basis of the program graduation with specific reasons for each finding. The letter of notification should also provide the participant 45 days from the date of service of the letter to submit in writing information that would explain why the proposed basis of graduation is not warranted.

(M) Participation of a DBE firm in the program may be discontinued by the recipient prior to expiration of the firm's program term for good cause due to the failure of the firm to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of inadequate performance or unjustified
delinquent performance. Also, the recipient can discontinue the participation of a firm that does not actively pursue and bid on contracts, and a firm that, without justification, regularly fails to respond to solicitations in the type of work it is qualified for and in the geographical areas where it has indicated availability under its approved business plan. The recipient should take such action if over a 2-year period a DBE firm exhibits such a pattern.

Appendix D to Part 26—Mentor-Protégé Program Guidelines

(A) The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms. To operate a mentor-protégé program, a recipient must obtain the approval of the concerned operating administration.

(B)(1) Any mentor-protégé relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. The formal mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(2) To be eligible for reimbursement, the mentor's services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. The recipient may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the protégé is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/protégé agreement.

(C) DBEs involved in a mentor-protégé agreement must be independent business entities which meet the requirements for certification as defined in subpart D of this part. A protégé firm must be certified before it begins participation in a mentor-protégé arrangement. If the recipient chooses to recognize mentor/protégé agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/subcontractor mentor-protégé agreement.

Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage

The following guidance is adapted, with minor modifications, from SBA regulations concerning social and economic disadvantage determinations (see 13 CFR 124.103(c) and 124.104).

Social Disadvantage

I. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from
circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:

(A) At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged;

(B) Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and

(C) Negative impact on entry into or advancement in the business world because of the disadvantage. Recipients will consider any relevant evidence in assessing this element. In every case, however, recipients will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

(1) *Education*. Recipients will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.

(2) *Employment*. Recipients will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.

(3) *Business history*. The recipient will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

II. With respect to paragraph I.(A) of this appendix, the Department notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities—especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments)—may be socially and economically disadvantaged.

III. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, recipients should look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As public entities subject to Title II of the ADA, recipients must also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to thwart the access of potential applicants to the certification process or other services made available to DBEs and applicants.
Economic Disadvantage

(A) General. Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(B) Submission of narrative and financial information.

(1) Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement, and must submit personal financial information.

(2) [Reserved]

(C) Factors to be considered. In considering diminished capital and credit opportunities, recipients will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. Recipients will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

(D) Transfers within two years.

(1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

Attachment 3

Bidder’s List Collection Form
Attachment 4

DBE Directory

http://www.dot.ca.gov/hq/bep/find_certified.htm
http://www.dot.ca.gov/hq/bep/documents/DBE_Instructions_Tutorial.doc
Attachment 5

DBE GOAL METHODOLOGY
CITY OF LONG BEACH, CALIFORNIA

Section 26.45: DBE Goal Methodology
CITY OF LONG BEACH DBE CONTRACT GOAL SETTING METHODOLOGY

INTRODUCTION

In accordance with 49 CFR Part 26.45, the U.S. Department of Transportation (DOT), the Federal Highway Administration (FHWA), and Caltrans, the City of Long Beach (City), as a local agency receiving federal-aid funds has develops Contract DBE Goals for FHWA assisted contracts.

METHODOLOGY

The City’s methodology is based on the following analysis:

DATA AND PROCESS UTILIZED IN CALCULATING THE BASE FIGURE

- Review and analysis of the applicable City project including, a review of the line items in the engineer’s estimate.

- Analysis of the City’s past three years Bidders Lists to determine which counties (Market Area) represent the largest number of bidder office locations (Exhibit A). According to this analysis, the City’s market area includes Los Angeles and Orange counties.

- Review of the Scope of Work for each project, and assignment of a NAICS code to each work category including costs and weights (Exhibit B).

- Query of the California Unified Certification Program (CUCP) database for all certified DBEs in the relevant NAICS codes, located in the counties of Los Angeles and Orange.

- Query of the U.S. Census Data County Business Patterns for all businesses in the relevant NAICS codes, located in the counties of Los Angeles and Orange.

- Consideration of other factors to determine if the Contract DBE Goal base figure should be adjusted.

DETERMINATION OF BASE FIGURE (Step 1)

Step 1: The City Reviews 3 years of past FHWA assisted project Bidder’s Lists to determine the applicable Market Area. A county is assigned to each bidder’s City, to reveal which counties comprise the Market Area. This analysis consistently indicates that the counties of Los Angeles and Orange should be utilized as the Market Area. County Business Pattern Census Data is utilized to calculate the Base Figure.

For Step 1, please refer to Exhibit A.

Step 2: The scope of work of the City’s applicable Federally-assisted construction project is analyzed to determine relevant NAICS Codes (NAICS). A NAICS is assigned to each work category for each project. The dollar amounts allocated to each NAICS code are derived from the line items in the Engineer’s Estimate. Then, a percentage (weight) of the federally assisted portion of the project cost is allocated to each NAICS code.

For Step 2, please refer to Exhibit B.

Step 3: The California Unified Certification Program DBE Directory is queried for all DBEs in the applicable NAICS codes located in the Market Area.
Step 4: The U.S. Census Data County Business Patterns are queried, for all businesses in the applicable NAICS codes located in the Market Area.

Step 5: The percentage of DBEs to all businesses, in each NAICS code, is established utilizing the number of DBEs and number of all businesses, in each applicable NAICS code, located in the Market Area.

Step 6: BASE FIGURE

The following formula is used to calculate the DBE participation estimate for each NAICS Code. Then each NAICS Code calculation is added together to establish the Base Figure for the contract goal.

All DBEs / All Businesses x NAICS Code Weight = DBE % for NAICS Code

The results for each NAICS code are added, to yield a DBE Percentage for the project/contract.

ADJUSTMENT OF BASE FIGURE (Step 2)

After calculating a base figure of the relative availability of DBEs, evidence is examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the final contract goal. The following factors may be reviewed and analyzed to determine if the base figure should be adjusted:

Factor #1: Analysis of the City’s Bidders List to determine the number of DBE Bidders. A high number of DBEs to overall businesses may indicate the need to adjust the goal upward.

Factor #2: Evidence from Disparity Studies: The Caltrans 2012 Disparity Study indicates there are substantial barriers and disparities for minority and women owned business, and certified disadvantaged business enterprises for participation in State of California transportation contracts (including the local market area). The legality of the Caltrans DBE Program was challenged in court by the San Diego Chapter of the Association of General Contractors. In April 2011, the United States District Court ruled that the Caltrans DBE Program is constitutional. The study found significant evidence that discrimination against disadvantaged groups as defined in 49 CFR Part 26.45 still meet the criteria for setting race-conscious goals.

Factor #3: Other Agencies’ Contract Goals for Similar Projects: Several other cities with FHWA-assisted construction contracts may be surveyed, to obtain information regarding their DBE contract goals.

Factor #4: Past DBE utilization on City FHWA-assisted construction projects. The City utilizes the Final DBE Utilization Report of FHWA-assisted projects from the three (3) previous fiscal years, and determines the median level of goal attainment.

Factor #5: Other Relevant Evidence
## ATTACHMENT A
## ANALYSIS OF BID TABULATION SHEETS FOR THE CITY OF LONG BEACH

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total # of Bidders</th>
<th>Los Angeles County</th>
<th>Orange County</th>
<th>Riverside County</th>
<th>San Bernardino County</th>
<th>Ventura County</th>
<th>San Diego, Imperial &amp; Yolo Counties</th>
<th>Central &amp; Northern CA</th>
<th>Out-of-State</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2010/2011</td>
<td>9</td>
<td>5</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY 2009/2010</td>
<td>16</td>
<td>7</td>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY 2008/2009</td>
<td>31</td>
<td>17</td>
<td>11</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Bidders</td>
<td>56</td>
<td>29</td>
<td>24</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| % of Total Bidders | 100.0% | 51.8% | 42.8% | 3.6% | 1.8% | 0.0% | 0.0% | 0.0% | 0.0% |

**Note:** The above analysis was prepared utilizing Bid Tabulation Sheets representing the six (6) FHWA projects advertised by the City of Long Beach from FY 2009 thru FY 2011.
## Project Detail, Work Allocation, and Assignment of NAICS Codes

**Sample Project**

<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Description</th>
<th>% of Work Allocated to NAICS Code</th>
<th>$ Amount of Work Allocated to NAICS Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>237310</td>
<td>Highway, Street &amp; Bridge Contractors</td>
<td>54.03%</td>
<td>$341,197</td>
</tr>
<tr>
<td>238210</td>
<td>Electrical Contractors</td>
<td>1.81%</td>
<td>$11,400</td>
</tr>
<tr>
<td>561730</td>
<td>Landscaping Services</td>
<td>44.17%</td>
<td>$278,928</td>
</tr>
</tbody>
</table>

**Total**  
100.00%  
$631,525
Attachment 6

Demonstration of Good Faith Efforts and Disadvantaged Business Enterprise (DBE) Commitment

Exhibits 15-H, 15G, 10-O1, and 10-O2

Sample Letter of Intent
EXHIBIT 15-H DBE INFORMATION — GOOD FAITH EFFORTS

DBE INFORMATION - GOOD FAITH EFFORTS

Federal-aid Project No. ____________________________ Bid Opening Date ________________

The ______ (City/County of) _______ established a Disadvantaged Business Enterprise (DBE) goal of ______% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder DBE Commitment” form indicates that the bidder has met the DBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder DBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions:

A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

<table>
<thead>
<tr>
<th>Publications</th>
<th>Dates of Advertisement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

<table>
<thead>
<tr>
<th>Names of DBEs Solicited</th>
<th>Date of Initial Solicitation</th>
<th>Follow Up Methods and Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

<table>
<thead>
<tr>
<th>Items of Work</th>
<th>Bidder Normally Performs Item (Y/N)</th>
<th>Breakdown of Items</th>
<th>Amount ($)</th>
<th>Percentage Of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
<th>Reason for Rejection</th>
<th>Selected Firm</th>
<th>Price Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Names, addresses and phone numbers of firms selected for the work above:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

<table>
<thead>
<tr>
<th>Efforts</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

<table>
<thead>
<tr>
<th>Name of Agency/Organization</th>
<th>Method/Date of Contact</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.
### EXHIBIT 15-G  LOCAL AGENCY BIDDER DBE COMMITMENT (CONSTRUCTION CONTRACTS)

**NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM**

<table>
<thead>
<tr>
<th>LOCAL AGENCY: ___________________________</th>
<th>LOCATION: ___________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROJECT DESCRIPTION: ______________________</td>
<td></td>
</tr>
<tr>
<td>TOTAL CONTRACT AMOUNT: $ __________________</td>
<td></td>
</tr>
<tr>
<td>BID DATE: ______________________________</td>
<td></td>
</tr>
<tr>
<td>BIDDER’S NAME: __________________________</td>
<td></td>
</tr>
<tr>
<td>CONTRACT DBE GOAL: ________________________</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONTRACT ITEM NO.</th>
<th>ITEM OF WORK AND DESCRIPTION OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED (or contracted if the bidder is a DBE)</th>
<th>DBE CERT NO. AND EXPIRATION DATE</th>
<th>NAME OF EACH DBE (Must be certified on the date bids are opened - include DBE address and phone number)</th>
<th>DOLLAR AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**For Local Agency to Complete:**

Local Agency Contract Number: ___________________________

Federal-aid Project Number: ___________________________

Federal Share: ___________________________

Contract Award Date: ___________________________

Local Agency certifies that all DBE certifications have been verified and information is complete and accurate.

<table>
<thead>
<tr>
<th>Total Claimed DBE Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ __________________</td>
</tr>
</tbody>
</table>

Signature of Bidder

Date (Area Code) Tel. No.

Person to Contact (Please Type or Print)

Local Agency Bidder DBE Commitment (Construction Contracts) (Rev 6/26/09)

**Distribution:**

1. Copy – Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract execution. Failure to send a copy to the DLAE within 30 days of contract execution may result in de-obligation of funds for this project.
2. Copy – Include in award package to Caltrans District Local Assistance
3. Original – Local agency files
INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT

Consultant Section

The Consultant shall:

1. Local Agency Name - Enter the name of the local or regional agency that is funding the contract.
2. Project Location - Enter the project location as it appears on the project advertisement.
3. Project Description - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. Consultant Name - Enter the consultant’s firm name.
5. Contract DBE Goal % - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
6. Description of Services to be Provided - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant’s own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
7. DBE Firm Contact Information - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant’s name and telephone number, if the prime is a DBE.
8. DBE Cert. Number - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. DBE % - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
10. Total % Claimed – Enter the total participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
11. Preparer’s Signature – The person completing this section of the form for the consultant’s firm must sign their name.
12. Preparer’s Name (Print) – Clearly enter the name of the person signing this section of the form for the consultant.
13. Preparer’s Title - Enter the position/title of the person signing this section of the form for the consultant.
14. Date - Enter the date this section of the form is signed by the preparer.
15. (Area Code) Tel. No. - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:

The Local Agency representative shall:

16. Local Agency Contract Number - Enter the Local Agency Contract Number.
17. Federal-Aid Project Number - Enter the Federal-Aid Project Number.
18. Contract Execution Date - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. Local Agency Representative Name (Print) - Clearly enter the name of the person completing this section.
20. Local Agency Representative Signature - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. Date - Enter the date the Local Agency Representative signs the form.
22. Local Agency Representative Title - Enter the position/title of the person signing this section of the form.
23. (Area Code) Tel. No. - Enter the area code and telephone number of the Local Agency representative signing this section of the form.
EXHIBIT 10-O1: LOCAL AGENCY CONSULTANT DBE COMMITMENT
(Inclusive of all DBEs at time of proposal)

NOTE: Please refer to instructions on the reverse side of this form.

<table>
<thead>
<tr>
<th>Consultant to Complete this Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Local Agency Name: ____________________</td>
</tr>
<tr>
<td>2. Project Location: ____________________</td>
</tr>
<tr>
<td>3. Project Description: ____________________</td>
</tr>
<tr>
<td>4. Consultant Name: ____________________</td>
</tr>
<tr>
<td>5. Contract DBE Goal %: ____________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DBE Commitment Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Description of Services to be Provided</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Local Agency to Complete this Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Local Agency Contract Number: ____________________</td>
</tr>
<tr>
<td>17. Federal-aid Project Number: ____________________</td>
</tr>
<tr>
<td>18. Proposed Contract Execution Date: ____________________</td>
</tr>
</tbody>
</table>

Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:

<table>
<thead>
<tr>
<th>Preparer’s Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Total % Claimed</td>
</tr>
<tr>
<td>12. Preparer’s Name (Print)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Distribution:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Original – Submit with Award Package</td>
</tr>
<tr>
<td>(2) Copy – Local Agency files</td>
</tr>
</tbody>
</table>
INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION

Consultant Section

The Consultant shall:

1. Local Agency Name - Enter the name of the local or regional agency that is funding the contract.
2. Project Location - Enter the project location as it appears on the project advertisement.
3. Project Description - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. Total Contract Award Amount - Enter the total contract award dollar amount for the prime consultant.
5. Consultant Name - Enter the consultant’s firm name.
6. Contract DBE Goal % - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
7. Total Dollar Amount for all Subcontractors – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE’s + all Non-DBE’s). Do not include the prime consultant information in this count.
8. Total number of all subcontractors – Enter the total number of all subcontracted consultants. SUM = (DBE’s + all Non-DBE’s). Do not include the prime consultant information in this count.
9. Description of Services to be Provided - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant’s own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. DBE Firm Contact Information - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant’s name and telephone number, if the prime is a DBE.
11. DBE Cert. Number - Enter the DBE’s Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. DBE Dollar Amount - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
13. Total Dollars Claimed – Enter the total dollar amounts for columns 12 and 13.
14. Total % Claimed – Enter the total participation claimed for columns 12 and 13. SUM = (item “14. Total Participation Dollars Claimed” divided by item “4. Total Contract Award Amount”). If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
15. Preparer’s Signature – The person completing this section of the form for the consultant’s firm must sign their name.
16. Preparer’s Name (Print) - Clearly enter the name of the person signing this section of the form for the consultant.
17. Preparer’s Title - Enter the position/title of the person signing this section of the form for the consultant.
18. Date - Enter the date this section of the form is signed by the preparer.
19. (Area Code) Tel. No. - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:

The Local Agency representative shall:

20. Local Agency Contract Number - Enter the Local Agency Contract Number.
21. Federal-Aid Project Number - Enter the Federal-Aid Project Number.
22. Contract Execution Date - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. Local Agency Representative Name (Print) - Clearly enter the name of the person completing this section.
24. Local Agency Representative Signature - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. Date - Enter the date the Local Agency Representative signs the form.
26. Local Agency Representative Title - Enter the position/title of the person signing this section of the form.
27. (Area Code) Tel. No. - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

Caltrans Section:

Caltrans District Local Assistance Engineer (DLAE) shall:

28. DLAE Name (Print) – Clearly enter the name of the DLAE.
29. DLAE Signature – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. Date - Enter the date that the DLAE signs this section of the form.
**EXHIBIT 10-O2: LOCAL AGENCY CONSULTANT DBE INFORMATION**

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

<table>
<thead>
<tr>
<th>Consultant to Complete this Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Local Agency Name: ____________________</td>
</tr>
<tr>
<td>2. Project Location: ____________________</td>
</tr>
<tr>
<td>3. Project Description: ____________________</td>
</tr>
<tr>
<td>4. Total Contract Award Amount: $ ____________________</td>
</tr>
<tr>
<td>5. Consultant Name: ____________________</td>
</tr>
<tr>
<td>6. Contract DBE Goal %: ____________________</td>
</tr>
<tr>
<td>7. Total Dollar Amount for all Subcontractors: $ ____________________</td>
</tr>
<tr>
<td>8. Total Number of all Subcontractors: ____________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Award DBE Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Description of Services to be Provided</td>
</tr>
<tr>
<td>10. DBE Firm Contact Information</td>
</tr>
<tr>
<td>11. DBE Cert. Number</td>
</tr>
<tr>
<td>12. DBE Dollar Amount</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Local Agency to Complete this Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Local Agency Contract Number: ____________________</td>
</tr>
<tr>
<td>21. Federal-aid Project Number: ____________________</td>
</tr>
<tr>
<td>22. Contract Execution Date: ____________________</td>
</tr>
</tbody>
</table>

Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:

| 23. Local Agency Representative Name (Print) |
| 24. Local Agency Representative Signature  |
| 25. Date  |
| 26. Local Agency Representative Title  |
| 27. (Area Code) Tel. No.  |

| 13. Total Dollars Claimed |
| 14. Total % Claimed  |

<table>
<thead>
<tr>
<th>Caltrans to Complete this Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>28. DLAE Name (Print)</td>
</tr>
<tr>
<td>29. DLAE Signature</td>
</tr>
<tr>
<td>30. Date</td>
</tr>
</tbody>
</table>

Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:

| 17. Preparer’s Title  |
| 18. Date  |

| 15. Preparer’s Signature  |
| 16. Preparer’s Name (Print)  |

**Distribution:**

1. Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.
2. Copy – Include in award package sent to Caltrans DLAE
3. Original – Local agency files
INSTRUCTIONS - LOCAL AGENCY BIDDER
DBE COMMITMENT (CONSTRUCTION CONTRACTS)

ALL BIDDERS:

PLEASE NOTE: This information may be submitted with your bid. If it is not, and you are the apparent low bidder or the second or third low bidder, it must submitted and received as specified in the Special Provisions. Failure to submit the required DBE commitment will be grounds for finding the bid nonresponsive.

The form requires specific information regarding the construction contract: Local Agency, Location, Project Description, Total Contract Amount, Bid Date, Bidder’s Name, and Contract DBE Goal.

The form has a column for the Contract Item Number and Item of Work and Description or Services to be Subcontracted or Materials to be provided by DBEs. Prime contractors shall indicate all work to be performed by DBEs including, if the prime is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the Contractor and expiration date. Enter the DBE prime’s and subcontractors’ certification numbers. The form has a column for the Names of DBE contractors to perform the work (who must be certified on the date bids are opened and include the DBE address and phone number).

IMPORTANT: Identify all DBE firms participating in the project regardless of tier. Names of the First-Tier DBE Subcontractors and their respective item(s) of work listed should be consistent, where applicable, with the names and items of work in the "List of Subcontractors" submitted with your bid.

There is a column for the DBE participation dollar amount. Enter the Total Claimed DBE Participation dollars and percentage amount of items of work submitted with your bid pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the DBE, describe exact portion of time to be performed or furnished by the DBE.) See Section “Disadvantaged Business Enterprise (DBE),” of the Special Provisions (construction contracts), to determine how to count the participation of DBE firms.

Exhibit 15-G must be signed and dated by the person bidding. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Local Agency Contract Award, Federal-aid Project Number, Federal Share, Contract Award Date fields and verify that all information is complete and accurate before signing and filing.
SAMPLE LETTER OF INTENT

Name of bidder/offeror’s firm: _______________________________________________________

Address: _________________________________________________________________________

City: __________________________ State: _______ Zip: ______________

Name of DBE firm: ________________________________________________________________

Address: _________________________________________________________________________

City: __________________________ State: _______ Zip: ______________

Telephone: _______________________________________________________________________

Description of work to be performed by DBE firm:

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

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

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By ____________________________________________  (Signature) Title

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

[Submit this page for each DBE subcontractor.]
Attachment 7

List of Publications

Gazette Newspapers
(562) 433-2000
(562) 434-8826 fax
5225 E. Second Street
Long Beach, CA 90803
http://www.gazettes.com/advertising

The Long Beach Post
4720 E. 2nd Street, Suite 7
Long Beach, CA 90803
(562) 248-6314
http://lbpost.com/Contact-Us

Long Beach Press Telegram
300 Oceangate
Long Beach, CA 90844
(562) 435-1161
http://www.presstelegram.com/advertisinginfo

The Signal Tribune
939 E. 27th Street
Signal Hill, CA 90755
(562) 595-7900
http://www.signaltribunenewspaper.com/advertising

CSULB – Daily 49ER
1250 Bellflower Blvd
SPPA 010B
Long Beach, CA 90840-4601
www.daily49er.com
Phone: (562) 985-8001
Fax: (562) 985-1740

CSUDH – Dateline Dominguez
1000 E. Victoria Street
Carson, CA 90747
www.csudhnews.com
(310) 243-2001

CSU Fullerton – The Daily Titan
College Park Building, CSU Fullerton
2600 E. Nutwood Ave., Suite 670
www.dailytitan.com
Fullerton, CA 92831-3110
Phone: (657) 278-4415
Fax: (657) 278-2702
Attachment 8

Certification Application Form

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

CERTIFICATION APPLICATION

To access the statewide CUCP DBE database, please log onto:

CALIFORNIAUCP.COM
Dear Business Owner:

Thank you for your interest in participating in the California Unified Certification Program (CUCP) for Disadvantaged Business Enterprises (DBEs). As mandated by the United States Department of Transportation (U.S. DOT) in the DBE Program, Final Rule 49 Code of Federal Regulations (CFR), Part 26, all U.S. DOT recipients of federal financial assistance must participate in a statewide UCP by March 2002. The UCP is a “One-Stop Shopping” certification procedure that eliminates the need for DBE firms to obtain certifications from multiple agencies within the State.

The CUCP is charged with the responsibility of certifying firms and compiling and maintaining the Database of certified DBEs for U.S. DOT grantees in California, pursuant to 49 CFR Part 26. The Database is intended to expand the use of DBE firms by maintaining complete and current information on those businesses and the products and services they can provide to all grantees of California.

Please complete the attached application and supplemental questionnaire if you wish to be considered for DBE certification and your business meets the following general guidelines:

a) The firm must be at least 51% owned by one or more socially and economically disadvantaged individuals.

b) The firm must be an independent business, and one or more of the socially and economically disadvantaged owners must control its management and daily operations.

c) Only existing for-profit “Small Business Concerns,” as defined by the Small Business Act and Small Business Administration (SBA) regulations may be certified. DBE applicants are first subject to the applicable small business size standards of the SBA. Second, the average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed U.S. DOT’s cap of $22.41 million.

d) The Personal Net Worth (PNW) of each socially and economically disadvantaged owner must not exceed $1.32 million, excluding the individual’s ownership interest in the applicant firm and the equity in his/her primary residence.

For firms applying for Airport Concession DBE certification: Please refer to the Airport Concessions Disadvantaged Business Enterprise (ACDBE) Certification Application for applicable average annual gross receipts and personal net worth dollar limitations.
Socially and economically disadvantaged individual means any individual who is a citizen of the United States (or lawfully admitted permanent resident) and who is a member of the following groups: Black American, Hispanic American, Native American, Asian-Pacific American, Subcontinent Asian American, or Women,

or

Any individual found to be socially and economically disadvantaged on a case-by-case basis by a certifying agency pursuant to the standards of the U.S. DOT 49 CFR Part 26.

In order to avoid unnecessary delays, please complete all portions of the application and supplemental questionnaire, placing "N/A" next to items that are not applicable. Include all copies of documents requested on the application, and have the Affidavit of Certification notarized. Additional documentation may be requested if it is considered necessary to make a certification determination. Incomplete applications/supplemental questionnaires or applications/supplemental questionnaires without all the required documents will not be evaluated until such documents are submitted. We recommend keeping a copy of all submitted documents for your records.

REMEMBER: It is no longer necessary to apply at more than one agency. If your firm meets the criteria for certification, it will be entered into the Database of DBEs for all U.S. DOT grantees in California. Only firms currently certified as eligible DBEs may participate in the DBE programs of U.S. DOT grantees of California. If you wish to be considered for Airport Concession DBE certification only, you will need to complete the Airport Concession DBE Certification Application Package, which can be accessed at www.CaliforniaUCP.com.

The CUCP has established two Regional DBE Certification Clusters throughout the State to effectively facilitate statewide DBE certification activities. Please forward your completed certification packet to one of the agencies serving the county where your firm has its principal place of business. (See enclosed Roster of Certifying Agencies.)

For Out-of-State Firms: The CUCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state. If your firm is located outside of California and is certified as a DBE in your home state, please forward your completed certification packet, along with a copy of your DBE certificate, to the California Department of Transportation. (See enclosed Roster of Certifying Agencies.)

CALIFORNIA UNIFIED CERTIFICATION PROGRAM
INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM UNIFORM CERTIFICATION APPLICATION

NOTE: If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION
A. Prior/Other Certifications
Check the appropriate box indicating for which program your firm is currently certified. If you are already certified as a DBE, indicate in the appropriate box the name of the certifying agency that has previously certified your firm, and also indicate whether your firm has undergone an onsite visit. If your firm has already undergone an onsite visit/review, indicate the most recent date of that review and the state UCP that conducted the review.

B. Prior/Other Applications and Privileges
Indicate whether your firm or any of the persons listed has ever withdrawn an application for a DBE program or whether any have ever been denied certification, decertified, debarred, suspended, or had bidding privileges denied or restricted by any state or local agency or Federal entity. If your answer is yes, indicate the date of such action, identify the name of the agency, and explain fully the nature of the action in the space provided.

Section 2: GENERAL INFORMATION
A. Contact Information
(1) State the name and title of the person who will serve as your firm's primary contact under this application.
(2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
(3) State the primary phone number of your firm.
(4) State a secondary phone number, if any.
(5) State your firm's fax number, if any.
(6) State the date on which your firm was officially established, as stated in your firm’s Articles of Incorporation or charter.
(7) State the date on which you and/or each other owner took ownership of the firm.
(8) State the street address of your firm (i.e. the physical location of its offices -- not a post office box).
(9) State the name and title of the person who will serve as your firm's primary contact under this application.

B. Business Profile
(1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.
(2) State the Federal Tax ID number of your firm as provided on your firm’s filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.
(3) State the date on which your firm was officially established, as stated in your firm’s Articles of Incorporation or charter.
(4) State the date on which you and/or each other owner took ownership of the firm.
(5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked “Other,” explain in the space provided.

(6) Check the appropriate box that indicates whether your firm is “for profit.”
NOTE: If you checked “No,” then you do NOT qualify for the DBE program and therefore do not need to complete the rest of this application. The DBE program requires all participating firms be for-profit enterprises.

(7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm’s Articles of Incorporation. If you checked “Other,” briefly explain in the space provided.

(8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked “Yes,” specify which and briefly explain the circumstances in the space provided.

(9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.

(10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm’s filed tax returns.

C. Relationships with Other Businesses
(1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered “Yes,” then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.

(2) Check the appropriate box that indicates whether at present, or at any time in the past:
(a) Your firm has been a subsidiary of any other firm;
(b) Your firm has been a subsidiary of any other firm;
(c) Your firm has been a subsidiary of any other firm;
(d) Your firm has had any subsidiaries of its own.

(3) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.

(4) If you answered “Yes” to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.

D. Immediate Family Member Businesses
Check the appropriate box that indicates whether any of your immediate family members own or manage
another company. An “immediate family member” is any person who is your father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law. If you answered “Yes,” provide the name of each relative, your relationship to them, the name of the company they own or manage, the type of business, and whether they own or manage the company.

Section 3: OWNERSHIP
Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each additional owner):

A. Background Information
(1) Give the name of the owner.
(2) State his/her title or position within your firm.
(3) Give his/her home phone number.
(4) State his/her home (street) address.
(5) Check the appropriate box that indicates this owner’s gender.
(6) Check the appropriate box that indicates this owner’s ethnicity (check all that apply). If you checked “Other,” specify this owner’s ethnic group/identity not otherwise listed.
(7) Check the appropriate box to indicate whether this owner is a U.S. citizen.
(8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or lawfully admitted permanent resident and meets the program’s other qualifying requirements.

B. Ownership Interest
(1) State the number of years during which this owner has been an owner of your firm.
(2) Indicate the dollar value of this owner’s initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.
(3) State the percentage of total ownership control of your firm that this owner possesses.
(4) State the familial relationship of this owner to each other owner of your firm.
(5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.
(6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked “Yes,” state the name of the other business and this owner’s title or function held in that business.

(7) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked “Yes,” identify the name of the other business and this owner’s title or function held in that business. Briefly describe the nature of the business relationship in the space provided.

C. Disadvantaged Status
NOTE: You only need to complete this section for each owner that is applying for DBE qualification (i.e. for each owner who is claiming to be “socially and economically disadvantaged” and whose ownership interest is to be counted toward the control and 51% ownership requirements of the DBE program)
(1) Indicate in the space provided the total Personal Net Worth (PNW) of each owner who is applying for DBE qualification. Use the PNW calculator form at the end of this application to compute each owner’s PNW.
(2) Check the appropriate box that indicates whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered “Yes,” briefly explain the nature, history, purpose, and current value of the trust(s).

Section 4: CONTROL
A. Identify your firm’s Officers and Board of Directors:
(1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer of your firm.
(2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm’s Board of Directors.
(3) Check the appropriate box that indicates whether any of your firm’s officers and/or directors listed above perform a management or supervisory function for any other business. If you answered “Yes,” identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
(4) Check the appropriate box that indicates whether any of your firm’s officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. If you answered “Yes,” identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

B. Identify your firm’s management personnel (by name, title, ethnicity, and gender) who control your firm in the following areas:
(1) Making of financial decisions on your firm’s behalf; including the acquisition of lines of credit, surety bonds, supplies, etc.;
(2) Estimating and bidding, including calculation of cost estimates, bid preparation and submission;
(3) Negotiating and contract execution, including participation in any of your firm’s negotiations and executing contracts on your firm’s behalf;

Instructions
Instructions
(4) Hiring and/or firing of management personnel, including interviewing and conducting performance evaluations;
(5) Field/Production operations supervision, including site supervision, scheduling, project management services, etc.;
(6) Office management;
(7) Marketing and sales;
(8) Purchasing of major equipment;
(9) Signing company checks (for any purpose); and
(10) Conducting any other financial transactions on your firm’s behalf not otherwise listed.

(11) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business. If you answered “Yes,” identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.

(12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with your firm. If you answered “Yes,” identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.

C. Indicate your firm's inventory in the following categories:
(1) Equipment
State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.

(2) Vehicles
State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.

(3) Office Space
State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.

(4) Storage Space
State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.

D. Does your firm rely on any other firm for management functions or employee payroll?
Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered “Yes,” briefly explain the nature of that reliance and the extent to which the other firm carries out such functions.

E. Financial Information
(1) Banking Information
   (a) State the name of your firm’s bank.
   (b) Give the main phone number of your firm’s bank branch.
   (c) Give the address of your firm’s bank branch.
(2) Bonding Information
   (a) State your firm’s Binder Number.
   (b) State the name of your firm’s bond agent and/or broker.
   (c) Give your agent’s/broker’s phone number.
   (d) Give your agent’s/broker’s address.
   (e) State your firm’s bonding limits (in dollars), specifying both the Aggregate and Project Limits.

F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms securing the loan, if other than the listed owner:
State the name and address of each source, the original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm.

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years:
Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

H. List current licenses/permits held by any owner or employee of your firm.
List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and the license/permit number and issuing State of the license or permit.

I. List the three largest contracts completed by your firm in the past three years, if any.
List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

J. List the three largest active jobs on which your firm is currently working.
For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

AFFIDAVIT & SIGNATURE
Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.
Uniform Certification Application

Roadmap for Applicants

1. Should I apply?
   - Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
   - Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
   - Does the disadvantaged owner’s Personal Net Worth not exceed $1.32 million (excluding the individual’s ownership interest in the applicant firm and the equity in his/her primary residence)?
   - Is your firm a small business that meets the Small Business Administration’s (SBA’s) size standard and does not exceed $22.41 million in gross annual receipts?
   - Is your firm organized as a for-profit business?

   ⇒ If you answered “Yes” to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.

2. Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.

3. Where can I find more information?
   - U.S. DOT – [http://osdbuweb.dot.gov/DBEProgram/index.cfm](http://osdbuweb.dot.gov/DBEProgram/index.cfm) (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
   - 49 CFR Part 26 (the rules and regulations governing the DBE program)

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.
# Section 1: CERTIFICATION INFORMATION

## A. Prior/Other Certifications

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is your firm currently certified for any of the following programs?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(If Yes, check appropriate box(es))</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ DBE</td>
<td>Name of certifying agency:</td>
<td></td>
</tr>
<tr>
<td>Has your firm’s state UCP conducted an on-site visit?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ Yes, on <em><strong>/</strong></em>/___ State: ___________</td>
<td>☐ No</td>
<td></td>
</tr>
</tbody>
</table>

## B. Prior/Other Applications and Privileges

Has your firm (under any name) or any of its owners, Board of Directors, officers or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?

- ☐ Yes, on ___/___/___  ☐ No

If Yes, identify State and name of state, local, or Federal agency and explain the nature of the action:

# Section 2: GENERAL INFORMATION

## A. Contact Information

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Contact person and Title:</td>
<td></td>
</tr>
<tr>
<td>(2) Legal name of firm:</td>
<td></td>
</tr>
<tr>
<td>(3) Phone #:</td>
<td>(4) Other Phone #:</td>
</tr>
<tr>
<td>(6) E-mail:</td>
<td>(7) Website (if have one):</td>
</tr>
<tr>
<td>(8) Street address of firm (No P.O. Box): City: County/Parish: State: Zip:</td>
<td></td>
</tr>
<tr>
<td>(9) Mailing address of firm (if different): City: County/Parish: State: Zip:</td>
<td></td>
</tr>
</tbody>
</table>

## B. Business Profile

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Describe the primary activities of your firm:</td>
<td>(2) Federal Tax ID (if any):</td>
</tr>
<tr>
<td>(3) This firm was established on <em><strong>/</strong></em>/___</td>
<td>(4) I/We have owned this firm since: <em><strong>/</strong></em>/___</td>
</tr>
<tr>
<td>(5) Method of acquisition (check all that apply):</td>
<td></td>
</tr>
<tr>
<td>☐ Started new business ☐ Bought existing business ☐ Inherited business ☐ Secured concession</td>
<td>☐ Merger or consolidation ☐ Other (explain)</td>
</tr>
<tr>
<td>(6) Is your firm “for profit”? ☐ Yes ☐ No</td>
<td></td>
</tr>
</tbody>
</table>

STOP! If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.
(7) Type of firm (check all that apply):
- Sole Proprietorship
- Partnership
- Corporation
- Limited Liability Partnership
- Limited Liability Corporation
- Joint Venture
- Other, Describe: ________________________________________________

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?
- Yes
- No
If Yes, explain:

(9) Number of employees: Full-time ________ Part-time ________ Total ________

(10) Specify the gross receipts of the firm for the last 3 years:
- Year ______ Total receipts $ __________
- Year ______ Total receipts $ __________
- Year ______ Total receipts $ __________

C. Relationships with Other Businesses
(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?
- Yes
- No
If Yes, identify: Other Firm’s name: ___________________________________________
Explain nature of shared facilities:

(2) At present, or at any time in the past, has your firm:
  (a) been a subsidiary of any other firm?  Yes  No
  (b) consisted of a partnership in which one or more of the partners are other firms?  Yes  No
  (c) owned any percentage of any other firm?  Yes  No
  (d) had any subsidiaries?  Yes  No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past?  Yes  No

(4) If you answered “Yes” to any of the questions in (2)(a)-(d) and/or (3), identify the following for each (attach extra sheets, if needed):
Name                        Address                        Type of Business
1.                           2.                           3.

D. Immediate Family Member Businesses
Do any of your immediate family members own or manage another company?  Yes  No
If Yes, then list (attach extra sheets, if needed):
Name                        Relationship               Company                  Type of Business                        Own or Manage?
1.                           2.                           3.
Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (If more than one owner, attach separate sheets for each additional owner):

### A. Background Information

<table>
<thead>
<tr>
<th>(1) Name:</th>
<th>(2) Title:</th>
<th>(3) Home Phone #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(4) Home Address (street and number):</th>
<th>City:</th>
<th>State:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(5) Gender: Male</th>
<th>Female</th>
<th>(6) Ethnic group membership (Check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Black</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Asian Pacific</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(7) U.S. Citizen: Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(8) Lawfully Admitted Permanent Resident: Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### B. Ownership Interest

<table>
<thead>
<tr>
<th>(1) Number of years as owner:</th>
<th>(2) Initial investment to acquire ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Type</td>
</tr>
<tr>
<td></td>
<td>Cash</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(3) Percentage owned:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(4) Familial relationship to other owners:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(5) Shares of Stock: Number</th>
<th>Percentage</th>
<th>Class</th>
<th>Date acquired</th>
<th>Method Acquired</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(6) Does this owner perform a management or supervisory function for any other business? Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If Yes, identify: Name of Business: ___________________________ Function/Title: ______________

<table>
<thead>
<tr>
<th>(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If Yes, identify: Name of Business: ___________________________ Function/Title: ______________

Nature of Business Relationship:

### C. Disadvantaged Status – NOTE: Complete this section only for each owner applying for DBE qualification (i.e. for each owner claiming to be socially and economically disadvantaged)

<table>
<thead>
<tr>
<th>(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? (Use and attach the Personal Financial Statement form at the end of this application; attach additional sheets if more than one owner is applying)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(2) Has any trust been created for the benefit of this disadvantaged owner(s)? Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If Yes, explain (attach additional sheets if needed): ___________________________
Section 4: CONTROL

A. Identify your firm’s Officers & Board of Directors *(If additional space is required, attach a separate sheet):*

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date Appointed</th>
<th>Ethnicity</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Officers of the Company</td>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Board of Directors</td>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business? ☐ Yes ☐ No
If Yes, identify for each: Person: ________________________________ Title: ________________________________
Business: __________________________________________ Function: ________________________________

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?* ☐ Yes ☐ No
If Yes, identify for each: Firm Name: ________________________________ Person: ________________________________
Nature of Business Relationship: ________________________________

B. Identify your firm’s management personnel who control your firm in the following areas *(If more than two persons, attach a separate sheet):*

| (1) Financial Decisions *(responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)* | a. | | |
| (2) Estimating and bidding | a. | | |
| | b. | | |
| (3) Negotiating and Contract Execution | a. | | |
| | b. | | |
| (4) Hiring/firing of management personnel | a. | | |
| | b. | | |
| (5) Field/Production Operations Supervisor | a. | | |
| | b. | | |
| (6) Office management | a. | | |
| | b. | | |
| (7) Marketing/Sales | a. | | |
| | b. | | |
(8) Purchasing of major equipment
   a. 
   b. 
(9) Authorized to Sign Company Checks (for any purpose)
   a. 
   b. 
(10) Authorized to make Financial Transactions
   a. 
   b. 
(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?  
   ☐ Yes  ☐ No 
   If Yes, identify for each: Person: __________________________ Title: __________________________ 
   Business: __________________________ Function: __________________________ 
(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? 
   ☐ Yes  ☐ No 
   If Yes, identify for each: Firm Name: __________________________ Person: __________________________ 
   Nature of Business Relationship: __________________________ 

C. Indicate your firm’s inventory in the following categories (attach additional sheets if needed):

(1) Equipment

<table>
<thead>
<tr>
<th>Type of Equipment</th>
<th>Make/Model</th>
<th>Current Value</th>
<th>Owned or Leased?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(2) Vehicles

<table>
<thead>
<tr>
<th>Type of Vehicle</th>
<th>Make/Model</th>
<th>Current Value</th>
<th>Owned or Leased?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(3) Office Space

<table>
<thead>
<tr>
<th>Street Address</th>
<th>Owned or Leased?</th>
<th>Current Value of Property or Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(4) Storage Space

<table>
<thead>
<tr>
<th>Street Address</th>
<th>Owned or Leased?</th>
<th>Current Value of Property or Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. Does your firm rely on any other firm for management functions or employee payroll?  ☐ Yes  ☐ No 
If Yes, explain:
E. Financial Information

(1) Banking Information:
(a) Name of bank: _________________________________
(b) Phone No: (      ) ____________________________
(c) Address of bank: _________________________________ City: ______ State: _____ Zip: _______

(2) Bonding Information: If you have bonding capacity, identify:
(a) Binder No: _________________________________
(b) Name of agent/broker: _________________________________
(c) Phone No: (      ) ____________________________
(d) Address of agent/broker: _________________________________ City: ______ State: _____ Zip: _______
(e) Bonding limit: Aggregate limit $ _________________ Project limit $ _________________

F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:

<table>
<thead>
<tr>
<th>Name of Source</th>
<th>Address of Source</th>
<th>Name of Person Securing the Loan</th>
<th>Original Amount</th>
<th>Current Balance</th>
<th>Purpose of Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years (attach additional sheets if needed):

<table>
<thead>
<tr>
<th>Contribution/Asset</th>
<th>Dollar Value</th>
<th>From Whom Transferred</th>
<th>Whom Transferred</th>
<th>Relationship</th>
<th>Date of Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.) (attach additional sheets if needed):

<table>
<thead>
<tr>
<th>Name of License/Permit Holder</th>
<th>Type of License/Permit</th>
<th>Expiration Date</th>
<th>License Number and State</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I. List the three largest contracts completed by your firm in the past three years, if any:

<table>
<thead>
<tr>
<th>Name of Owner/Contractor</th>
<th>Name/Location of Project</th>
<th>Type of Work Performed</th>
<th>Dollar Value of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
J. List the three largest active jobs on which your firm is currently working:

<table>
<thead>
<tr>
<th>Name of Prime Contractor and Project Number</th>
<th>Location of Project</th>
<th>Type of Work</th>
<th>Project Start Date</th>
<th>Anticipated Completion Date</th>
<th>Dollar Value of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE certification, you must attach copies of all of the following documents as they apply to you and your firm.

All Applicants

- Work experience resumes (that include places of ownership/employment with corresponding dates), for all owners and officers of your firm
- Personal Financial Statement (form available with this application)
- Personal tax returns for the past three years, if applicable, for each owner claiming disadvantaged status
- Your firm’s tax returns (gross receipts) and all related schedules for the past three years
- Documented proof of contributions used to acquire ownership for each owner (e.g. both sides of cancelled checks)
- Your firm’s signed loan agreements, security agreements, and bonding forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- List of equipment leased and signed lease agreements
- List of construction equipment and/or vehicles owned and titles/proof of ownership
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past two years
- Year-end balance sheets and income statements for the past three years (or life of firm, if less than three years); a new business must provide a current balance sheet
- All relevant licenses, license renewal forms, permits, and haul authority forms
- DBE certifications, denials, and/or decertifications, if applicable
- Bank authorization and signatory cards
- Schedule of salaries (or other compensation or remuneration) paid to all officers, managers, owners, and/or directors of the firm
- Trust agreements held by any owner claiming disadvantaged status, if any

Partnership or Joint Venture

- Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm’s stock transfer ledger
- Shareholders’ Agreement
- Minutes of all stockholders and board of directors meetings
- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Trucking Company

- Documented proof of ownership of the company
- Insurance agreements for each truck owned or operated by your firm
- Title(s) and registration certificate(s) for each truck owned or operated by your firm
- List of U.S. DOT numbers for each truck owned or operated by your firm

Regular Dealer

- Proof of warehouse ownership or lease
- List of product lines carried
- List of distribution equipment owned and/or leased

NOTE: The specific state UCP to which you are applying may have additional required documents that you must also supply with your application. Contact the appropriate certifying agency to which you are applying to find out if more is required. (See Supplemental Document Checklist)
Supplemental Document Checklist

Firm Name: ____________________________

In order to complete your application for DBE certification, you must also attach copies of all of the following documents:

- Documentation of Group Membership. Please comply with one of the following: (1) For each owner seeking social disadvantaged status on the basis of Ethnic membership, please provide a document (e.g., birth certificate, U.S. Passport, Green Card, parents’ birth certificate, etc.) evidencing Ethnic heritage or similar document evidencing Ethnic community affiliation. (2) For each owner seeking social disadvantaged status on the basis of Gender, please provide a document evidencing gender (e.g., birth certificate, driver’s license, etc.). (3) For each owner seeking an individual showing of social disadvantage, please provide documents you deem appropriate for consideration.
- Documentation of U.S. citizenship or lawful permanent residence, e.g., U.S. birth certificate, Green Card, etc.

Supplemental Questionnaire

1. Is the firm’s principal place of business in California? Yes_____ No______
   If no, please include a copy of the firm’s DBE certificate issued in its home state. (The CUCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state.)

2. Is the firm authorized to do business in the State of California? Yes_____ No______

3. List all office locations in California: ____________________________

4. Has the firm ever done business with any U.S. DOT Grantees of California? Yes_____ No______
   If yes, please indicate the agency name(s) and latest year(s):

<table>
<thead>
<tr>
<th>Agency</th>
<th>Latest Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Is there an upcoming project in which the firm is interested and therefore, would need to be certified prior to a specific date in order to be counted toward DBE participation? Yes_______ No_______
   If yes, please provide the following information:

   Agency letting contract: ____________________________

   Contract Number and Name: ____________________________

   Bid Opening date or Request for Proposal due date: ____________________________

6. Indicate areas where you prefer to do your work.

   - 01 Alameda
   - 02 Alpine
   - 03 Amador
   - 04 Butte
   - 05 Calaveras
   - 06 Colusa
   - 07 Contra Costa
   - 08 Del Norte
   - 09 El Dorado
   - 10 Fresno
   - 11 Glenn
   - 12 Humboldt
   - 13 Imperial
   - 14 Inyo
   - 15 Kern
   - 16 Kings
   - 17 Lake
   - 18 Lassen
   - 19 Los Angeles
   - 20 Madera
   - 21 Marin
   - 22 Mariposa
   - 23 Mendocino
   - 24 Merced
   - 25 Modoc
   - 26 Mono
   - 27 Monterey
   - 28 Napa
   - 29 Nevada
   - 30 Orange
   - 31 Placer
   - 32 Plumas
   - 33 Riverside
   - 34 Sacramento
   - 35 San Benito
   - 36 San Bernardino
   - 37 San Diego
   - 38 San Francisco
   - 39 San Joaquin
   - 40 San Luis Obispo
   - 41 San Mateo
   - 42 Santa Barbara
   - 43 Santa Clara
   - 44 Santa Cruz
   - 45 Shasta
   - 46 Sierra
   - 47 Siskiyou
   - 48 Solano
   - 49 Sonoma
   - 50 Stanislaus
   - 51 Sutter
   - 52 Tehama
   - 53 Trinity
   - 54 Tulare
   - 55 Tuolumne
   - 56 Ventura
   - 57 Yolo
   - 58 Yuba

120
(Rev 2/2011)
AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I __________________________ (full name printed), swear or affirm under penalty of law that I am __________________________ (title) of applicant firm __________________________ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm’s bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm’s eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (check all that apply):

- Female
- Hispanic American
- Native American
- Subcontinent Asian American
- Black American
- Asian-Pacific American
- Other (specify)

Affidavit (Rev. 2/28/2011)
I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed $1,320,000, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on ____________________________ (Date)

Signature ________________________________

(DBE Applicant)

NOTARY CERTIFICATE
PERSONAL FINANCIAL STATEMENT

As of ____________________________, 20____

Complete this form for each individual whose ownership and control are relied upon for DBE or ACDBE certification.

Name(s): _________________________

Are these figures for a married couple? Yes ___ No___

Residence Address: _______________________

City, State, & Zip Code: _______________________

Business Name of Applicant: _______________________

Business Phone: _______________________

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>LIABILITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Omit Cents)</td>
<td>(Omit Cents)</td>
</tr>
<tr>
<td>Cash on hand &amp; in Banks</td>
<td>Accounts Payable</td>
</tr>
<tr>
<td>(Omit Cents)</td>
<td>(Omit Cents)</td>
</tr>
<tr>
<td>Savings/Other Cash Accounts</td>
<td>Notes Payable to Banks and Others</td>
</tr>
<tr>
<td>IRA or Other Retirement</td>
<td>(Describe in Section 2)</td>
</tr>
<tr>
<td>Accounts &amp; Notes Receivable</td>
<td>Installment Account (Auto)</td>
</tr>
<tr>
<td>Life Insurance-Cash Surrender</td>
<td>Installment Account (Other)</td>
</tr>
<tr>
<td>Value Only</td>
<td>(Complete Section 7)</td>
</tr>
<tr>
<td>Stocks and Bonds</td>
<td>Loan on Life Insurance</td>
</tr>
<tr>
<td>Real Estate</td>
<td>Mortgages on Real Estate</td>
</tr>
<tr>
<td>(Describe in Section 3)</td>
<td>(Describe in Section 3)</td>
</tr>
<tr>
<td>Automobile-Present Value</td>
<td>Unpaid Taxes</td>
</tr>
<tr>
<td>(Describe in Section 4)</td>
<td>(Describe in Section 5)</td>
</tr>
<tr>
<td>Other Personal Property</td>
<td>Other Liabilities</td>
</tr>
<tr>
<td>(Describe in Section 4)</td>
<td>(Describe in Section 6)</td>
</tr>
<tr>
<td>Other Assets</td>
<td>Total</td>
</tr>
<tr>
<td>(Describe in Section 4)</td>
<td>(Subtract total Liabilities from Total Assets)</td>
</tr>
<tr>
<td>Total</td>
<td>Net Worth</td>
</tr>
</tbody>
</table>

Contingent Liabilities (will not be used in determining net worth)

As Endorser or Co-Maker

Legal Claims & Judgments

Provision for Federal Income Tax

Other Special Debt

Section 1. Separate Property (for married applicants only) Describe all separate property held by you or your spouse, their current values, and why they are separate.

Section 2. Notes Payable to Banks and Others. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

<table>
<thead>
<tr>
<th>Name and Address of Note holder(s)</th>
<th>Original Balance</th>
<th>Current Balance</th>
<th>Payment Amount</th>
<th>Frequency (monthly, etc.)</th>
<th>How Secured or Endorsed Type of Collateral</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Section 3. Real Estate Owned.

(List each parcel separately. Identify primary Residence. Use attachment if necessary. Each attachment must be identified as a part of this statement and signed.)

<table>
<thead>
<tr>
<th></th>
<th>Property A</th>
<th>Property B</th>
<th>Property C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of Property</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e.g. residential, condo, timeshare, commercial, etc.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Address</strong> (include street, city and state)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Date Purchased</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Original Cost</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Present Market Value</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Name &amp; Address of Mortgage Holder</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mortgage Balance</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Amount of Payment per Month/Year</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Status of Mortgage</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Section 4. Other Personal Property and Other Assets.

(Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency)

### Section 5. Unpaid Taxes.

(Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

### Section 6. Other Liabilities.

(Describe in detail.)

### Section 7. Life Insurance Held.

(Give face amount and cash surrender value of policies - name of insurance company and beneficiaries)

I certify the above and the statements contained in the attachments are true and accurate as of the stated date(s). These statements are made for the purpose of becoming eligible for the Disadvantaged Business Enterprise or Airport Concession Disadvantaged Business Enterprise Programs. I authorize the CUCP to make inquiries as necessary to verify the accuracy of the statements made and to determine my creditworthiness.

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature:</td>
<td>Date:</td>
</tr>
</tbody>
</table>
Please do not make adjustments to your figures pursuant to U.S. Department of Transportation (U.S. DOT) regulations 49 CFR Part 26 and Part 23. The agency that you apply to will use the information provided on your completed Personal Financial Statement to determine your Personal Net Worth according to 49 CFR Part 26 and Part 23. An individual's Personal Net Worth, according to 49 CFR Part 26 and Part 23 includes only his or her own share of assets held separately, jointly, or as community property with the individual's spouse and excludes the following:

- Individual's ownership interest in the applicant firm;
- Individual's equity in his or her primary residence;
- Tax and interest penalties that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

If your Personal Net Worth, according to 49 CFR Part 26 and Part 23, exceeds the $1.32 million cap and you, individually, or you and other individuals are the majority owners of an applicant firm, the firm is not eligible for DBE/ACDBE certification. If the Personal Net Worth of the majority owner(s) exceeds the $1.32 million cap at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact your certifying agency in writing to advise that your firm no longer qualifies.

**General Instructions**

- You must fill out all line items on the Personal Financial Statement to the best of your ability.
- If necessary, use additional sheet(s) of paper to report all information and details.
- If you have any questions about completing this form, please contact one of the certifying agencies on the Roster of Certifying Agencies.

**Specific Instructions**

**DATE AND CONTACT INFORMATION**

Be sure to include the date in the upper right corner of the first page and your contact information. Indicate whether the figures reported are for a married couple.

**ASSETS**

All assets must be reported at their current fair market values as of the date of your statement. Assessor’s assessed value for real estate, for example, is not acceptable. Assets held in a trust generally should be included.

- **Cash on hand & in Banks:** Enter the total amount of cash on-hand and in bank accounts other than savings.
- **Savings Accounts:** Enter the total amount in all savings accounts.
- **IRA or other Retirement Account:** Enter the total present value of all IRAs and other retirement accounts, including any deferred compensation and pension plans.
- **Accounts & Notes Receivable:** Enter the total value of all monies owed to you personally, if any. This should include shareholder loans to the applicant firm, if any.
- **Life Insurance-Cash Surrender Value Only:** Enter the value of any life insurance policies. This amount should be cash surrender value only, not the amount a beneficiary would receive upon your death, also known as face value. A complete description is required in Section 7.
- **Stocks and Bonds:** Enter the current market value of your stocks and bonds.
- **Real Estate:** Enter the current fair market value of all real estate owned. A complete listing and description of all real estate owned is required in Section 3.
- **Automobile-Present Value:** Enter the current fair market value of all automobiles owned.
- **Other Personal Property:** Enter the current fair market value of all other personal property owned, but not included in the previous entries. A complete description of these assets is required in Section 4.
- **Other Assets:** Enter the current fair market value of all other assets owned, but not included in the previous entries. A complete description of these assets is required in Section 4.

**LIABILITIES**

- **Accounts Payable:** Enter the total value of all unpaid accounts payable that is your responsibility.
- **Notes Payable to Bank and Others:** Enter the total amount due on all notes payable to banks and others. This should not, however, include any mortgage balances. A complete description of all notes payable to banks and others is required in Section 2.
- **Installment Account (Auto):** Enter amount of the present balance of the debt that you owe for auto installment account.
- **Installment Account (Other):** Enter amount of the present balance of the debt that you owe for other installment account.
- **Loans on Life Insurance:** Enter the total value of all loans due on life insurance policies.
- **Mortgages on Real Estate:** Enter the total balance on all mortgages payable on real estate. A complete breakdown of all mortgages on real estate is required in Section 3.
- **Unpaid Taxes:** Enter the total amount of all taxes that are currently due, but are unpaid. Contingent tax liabilities or anticipated taxes for current year should not be included. A complete description is required in Section 5.
- **Other Liabilities:** Enter the total value due on all other liabilities not classified in the previous entries. A complete description is required in Section 6.
**Net Worth:** To compute Net Worth, add all liabilities and put that figure in the Total Liabilities line. Then subtract Total Liabilities from Total Assets to get your Net Worth. To check your figures, add Total Liabilities and Net Worth and the sum must equal Total Assets. If your figures do not match, your form will be returned to you to correct and complete again.

**CONTINGENT LIABILITIES**
Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you have co-signed on a relative’s loan, but you are not responsible for the debt until your relative defaults, that is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

**As Endorser or Co-Maker:** Enter the total potential liabilities due as a result of being a co-signer for a loan or other commitments.

**Legal Claims and Judgments:** Enter the potential liabilities due as a result of legal claims from judgments, lawsuits, etc.

**Provisions for Federal Income Tax:** Enter the total amount of all federal taxes for which you are potentially liable due to an anticipated gain on the pending sale of an asset or other circumstances, such as pending disputes or litigation which could possibly result in a personal tax liability.

**Other Special Debt:** Enter the total amount due on all remaining potential debts not accounted for.

**SECTION 1. SEPARATE PROPERTY**
Identify all property that is not held jointly or as community property, include values, ownership, and a brief explanation why the property is not held jointly.

**SECTION 2. NOTES PAYABLE TO BANKS AND OTHERS**
Enter the name and address of note holder(s), original balance, current balance, payment amount, frequency, and how secured for each note payable as entered in the “Liabilities” column. Do not include loans for your business or mortgages for your properties.

**SECTION 3. REAL ESTATE OWNED**
Starting with your primary residence (be sure to identify it as your primary residence), enter the type of property, address, date of purchase, original cost, present fair market value, name and address of mortgage holder, mortgage account number, mortgage balance, amount of payment, and status of mortgage for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, etc.

Total “Present Market Value” amounts should correspond with the “Real Estate” amount listed in the “Assets” column. Additionally, total “Mortgage Balance” amounts should correspond with the “Mortgages on Real Estate” amount listed in the “Liabilities” column. Attach additional sheets if needed.

**SECTION 4. OTHER PERSONAL PROPERTY AND OTHER ASSETS**
Itemize and describe in detail other personal property and other assets owned as listed in the “Assets” column. For other personal property, include boats, trailers, jewelry, furniture, household goods, collectibles, clothing, etc. For other assets, include equity interest in other businesses, trusts, investments, etc.

**SECTION 5. UNPAID TAXES**
Describe in detail as to the type, to whom payable, when due, amount, and to what property, if any, the tax lien attaches. Please refer to the unpaid taxes listed in the “Liabilities” column. If none, state “NONE.” This section should not include the contingent tax liabilities or anticipated taxes owed for the current year. For any unusually large amounts, you must include documentation, such as tax liens, to support the amounts.

**SECTION 6. OTHER LIABILITIES**
Describe in detail any other liabilities as referenced by the value listed in the “Liabilities” column. If none, state “NONE.” For any unusually large amounts, you must include documentation, such as bills, to support the amounts.

**SECTION 7. LIFE INSURANCE HELD**
Describe all life insurance policies held. Please be sure to include the face amount of the policies, name of insurance company and beneficiaries and cash surrender values of the policies.

**EXECUTION OF STATEMENT**
Be sure to sign and date at the end of the statement.
NAICS Codes

The California Unified Certification Program adopted the 2002 North American Industry Classification System (NAICS), an updated federal classification system, on October 27, 2003. Please indicate below areas of expertise that you perform in order of importance. Enclosed is a partial list of NAICS codes for your convenience. For a full list of NAICS codes and assistance in locating appropriate NAICS codes and determining if your firm meets U.S. Small Business Administration (SBA) and U.S. DOT size standards, a search tool is available on the SBA web site at: [http://www.sba.gov/size/indexableofsize.html](http://www.sba.gov/size/indexableofsize.html). DBE applicants are first subject to the applicable small business size standards of the Small Business Administration (SBA). Second, the average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed the U.S. Department of Transportation’s cap of $22.41 million, as amended pursuant to SAFETEA-LU. Please note that size standards are subject to change at any time by the SBA. If you do not have Internet access or need assistance, please contact one of the certifying agencies on the enclosed Roster.

<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Description of Work/Service</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### List of NAICS Codes (partial)

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>230000</td>
<td>Construction*</td>
</tr>
<tr>
<td>230100</td>
<td>Construction of Buildings</td>
</tr>
<tr>
<td>230110</td>
<td>New Single-Family Housing Construction (except Operative Builders)</td>
</tr>
<tr>
<td></td>
<td>New Multifamily Housing Construction (except Operative Builders)</td>
</tr>
<tr>
<td>230120</td>
<td>New Housing Operative Builders</td>
</tr>
<tr>
<td>230130</td>
<td>Residential Remodelers</td>
</tr>
<tr>
<td>230200</td>
<td>Commercial and Institutional Building Construction</td>
</tr>
<tr>
<td>230201</td>
<td>Water and Sewer Line and Related Structures Construction</td>
</tr>
<tr>
<td>230210</td>
<td>Oil and Gas Pipeline and Related Structures Construction</td>
</tr>
<tr>
<td>230220</td>
<td>Power and Communication Line and Related Structures Construction</td>
</tr>
<tr>
<td>230230</td>
<td>Heavy and Civil Engineering Construction</td>
</tr>
<tr>
<td>230231</td>
<td>Dredging and Surface Cleanup Activities</td>
</tr>
<tr>
<td>230232</td>
<td>Specialty Trade Contractors</td>
</tr>
<tr>
<td>230233</td>
<td>Poured Concrete Foundation and Structure Contractors</td>
</tr>
<tr>
<td>230234</td>
<td>Structural Steel and Precast Concrete Contractors</td>
</tr>
<tr>
<td>230235</td>
<td>Framing Contractors</td>
</tr>
<tr>
<td>230236</td>
<td>Masonry Contractors</td>
</tr>
<tr>
<td>230237</td>
<td>Glass and Glazing Contractors</td>
</tr>
<tr>
<td>230238</td>
<td>Roofing Contractors</td>
</tr>
<tr>
<td>230239</td>
<td>Siding Contractors</td>
</tr>
<tr>
<td>230240</td>
<td>Other Foundation, Structure, and Building Exterior Contractors</td>
</tr>
<tr>
<td>230241</td>
<td>Electrical Contractors</td>
</tr>
<tr>
<td>230242</td>
<td>Plumbing, Heating, and Air-Conditioning Contractors</td>
</tr>
<tr>
<td>230243</td>
<td>Other Building Equipment Contractors</td>
</tr>
<tr>
<td>230244</td>
<td>Drywall and Insulation Contractors</td>
</tr>
<tr>
<td>230245</td>
<td>Painting and Wall Covering Contractors</td>
</tr>
<tr>
<td>230246</td>
<td>Flooring Contractors</td>
</tr>
<tr>
<td>230247</td>
<td>Tile and Terrazzo Contractors</td>
</tr>
<tr>
<td>230248</td>
<td>Finish Carpentry Contractors</td>
</tr>
<tr>
<td>230249</td>
<td>Other Building Finishing Contractors</td>
</tr>
<tr>
<td>230250</td>
<td>Site Preparation Contractors</td>
</tr>
<tr>
<td>230251</td>
<td>All Other Specialty Trade Contractors</td>
</tr>
<tr>
<td>230252</td>
<td>Building and Property Specialty Trade Services</td>
</tr>
<tr>
<td>230253</td>
<td></td>
</tr>
</tbody>
</table>

*Note: evidence of State or other licensing is required in order to be classified in this industry, if applicable.*

(Rev. 8/06)

(This document contains a partial list of NAICS codes. For a complete list of NAICS codes, please visit [www.sba.gov/size/index tableofsize.html](http://www.sba.gov/size/indexableofsize.html))
California Unified Certification Program
List of NAICS Codes (partial)

<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Industry Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>333414</td>
<td>Heating Equipment (except Warm Air Furnaces) Manufacturing</td>
</tr>
<tr>
<td>333415</td>
<td>Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing</td>
</tr>
<tr>
<td>333514</td>
<td>Special Die and Tool, Die Set, Jig and Fixture Manufacturing</td>
</tr>
<tr>
<td>333613</td>
<td>Mechanical Power Transmission Equipment Manufacturing</td>
</tr>
<tr>
<td>333618</td>
<td>Other Engine Equipment Manufacturing</td>
</tr>
<tr>
<td>333921</td>
<td>Pump and Pumping Equipment Manufacturing</td>
</tr>
<tr>
<td>333922</td>
<td>Elevator and Moving Stairway Manufacturing</td>
</tr>
<tr>
<td>333923</td>
<td>Conveyor and Conveying Equipment Manufacturing</td>
</tr>
<tr>
<td>333924</td>
<td>Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing</td>
</tr>
<tr>
<td>334000</td>
<td>Computer and Electronic Product Manufacturing</td>
</tr>
<tr>
<td>334111</td>
<td>Electronic Computer Manufacturing</td>
</tr>
<tr>
<td>334112</td>
<td>Computer Storage Device Manufacturing</td>
</tr>
<tr>
<td>334113</td>
<td>Computer Terminal Manufacturing</td>
</tr>
<tr>
<td>334119</td>
<td>Other Computer Peripheral Equipment Manufacturing</td>
</tr>
<tr>
<td>334210</td>
<td>Telephone Apparatus Manufacturing</td>
</tr>
<tr>
<td>334211</td>
<td>Radion and Television Broadcasting and Wireless Communications Equipment Manufacturing</td>
</tr>
<tr>
<td>334212</td>
<td>Other Communications Equipment Manufacturing</td>
</tr>
<tr>
<td>334310</td>
<td>Audio and Video Equipment Manufacturing</td>
</tr>
<tr>
<td>334417</td>
<td>Electronic Connector Manufacturing</td>
</tr>
<tr>
<td>334418</td>
<td>Printed Circuit Assembly (Electronic Assembly) Mfg</td>
</tr>
<tr>
<td>334419</td>
<td>Other Electronic Component Manufacturing</td>
</tr>
<tr>
<td>334511</td>
<td>Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing</td>
</tr>
<tr>
<td>334512</td>
<td>Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use</td>
</tr>
<tr>
<td>334513</td>
<td>Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables</td>
</tr>
<tr>
<td>334514</td>
<td>Totalizing Fluid Meter and Counting Device Manufacturing</td>
</tr>
<tr>
<td>334518</td>
<td>Watch, Clock, and Part Manufacturing</td>
</tr>
<tr>
<td>334519</td>
<td>Other Measuring and Controlling Device Manufacturing</td>
</tr>
<tr>
<td>334611</td>
<td>Software Reproducing</td>
</tr>
<tr>
<td>334612</td>
<td>Prerecorded Compact Disc (except Software), Tape, and Record Reproducing</td>
</tr>
<tr>
<td>334613</td>
<td>Magnetic and Optical Recording Media Manufacturing Electrical Equipment, Appliance and Component Manufacturing</td>
</tr>
<tr>
<td>335000</td>
<td>Transportation Equipment Manufacturing</td>
</tr>
<tr>
<td>336112</td>
<td>Light Truck and Utility Vehicle Manufacturing</td>
</tr>
<tr>
<td>336120</td>
<td>Heavy Duty Truck Manufacturing</td>
</tr>
<tr>
<td>336211</td>
<td>Motor Vehicle Body Manufacturing</td>
</tr>
<tr>
<td>336212</td>
<td>Truck Trailer Manufacturing</td>
</tr>
<tr>
<td>336311</td>
<td>Carburetor, Piston, Piston Ring and Valve Manufacturing</td>
</tr>
<tr>
<td>336312</td>
<td>Gasoline Engine and Engine Parts Manufacturing</td>
</tr>
<tr>
<td>336321</td>
<td>Vehicular Lighting Equipment Manufacturing</td>
</tr>
<tr>
<td>336322</td>
<td>Other Motor Vehicle Electrical and Electronic Equipment Manufacturing</td>
</tr>
<tr>
<td>336330</td>
<td>Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing</td>
</tr>
<tr>
<td>336340</td>
<td>Motor Vehicle Brake System Manufacturing</td>
</tr>
<tr>
<td>336350</td>
<td>Motor Vehicle Transmission and Power Train Parts Manufacturing</td>
</tr>
<tr>
<td>336360</td>
<td>Motor Vehicle Seating and Interior Trim Manufacturing</td>
</tr>
<tr>
<td>336370</td>
<td>Motor Vehicle Metal Stamping</td>
</tr>
<tr>
<td>336391</td>
<td>Motor Vehicle Air-Conditioning Manufacturing</td>
</tr>
<tr>
<td>336399</td>
<td>All Other Motor Vehicle Parts Manufacturing</td>
</tr>
<tr>
<td>336411</td>
<td>Aircraft Manufacturing</td>
</tr>
<tr>
<td>336510</td>
<td>Railroad Rolling Stock Manufacturing</td>
</tr>
<tr>
<td>336611</td>
<td>Ship Building and Repairing</td>
</tr>
<tr>
<td>336991</td>
<td>Motorcycle, Bicycle and Parts Manufacturing</td>
</tr>
<tr>
<td>336999</td>
<td>All Other Transportation Equipment Manufacturing</td>
</tr>
<tr>
<td>337000</td>
<td>Furniture and Related Product Manufacturing</td>
</tr>
<tr>
<td>337127</td>
<td>Institutional Furniture Manufacturing</td>
</tr>
<tr>
<td>337211</td>
<td>Wood Office Furniture Manufacturing</td>
</tr>
<tr>
<td>337214</td>
<td>Office Furniture (Except Wood) Manufacturing</td>
</tr>
<tr>
<td>337215</td>
<td>Showcase, Partition, Shelving, and Locker Manufacturing</td>
</tr>
<tr>
<td>337920</td>
<td>Blind and Shade Manufacturing</td>
</tr>
<tr>
<td>339000</td>
<td>Miscellaneous Manufacturing</td>
</tr>
<tr>
<td>339111</td>
<td>Laboratory Apparatus and Furniture Manufacturing</td>
</tr>
<tr>
<td>339950</td>
<td>Sign Manufacturing</td>
</tr>
<tr>
<td>339991</td>
<td>Gasket, Packing, and Sealing Device Manufacturing</td>
</tr>
</tbody>
</table>

420000 Wholesale Trade

<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Industry Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>423000</td>
<td>Merchant Wholesalers, Durable Goods</td>
</tr>
<tr>
<td>423110</td>
<td>Automobile and Other Motor Vehicle Merchant Wholesalers</td>
</tr>
<tr>
<td>423120</td>
<td>Motor Vehicle Supplies and New Parts Merchant Wholesalers</td>
</tr>
<tr>
<td>423130</td>
<td>Tire and Tube Merchant Wholesalers</td>
</tr>
<tr>
<td>423140</td>
<td>Motor Vehicle Parts (Used) Merchant Wholesalers</td>
</tr>
<tr>
<td>423210</td>
<td>Furniture Merchant Wholesalers</td>
</tr>
<tr>
<td>423300</td>
<td>Brick, Stone, and Related Construction Material Merchant Wholesalers</td>
</tr>
<tr>
<td>423330</td>
<td>Roofing, Siding, and Insulation Material Merchant Wholesalers</td>
</tr>
<tr>
<td>423390</td>
<td>Other Construction Material Merchant Wholesalers</td>
</tr>
<tr>
<td>423410</td>
<td>Photographic Equipment and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423420</td>
<td>Office Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423430</td>
<td>Computer and Computer Peripheral Equipment and Software Merchant Wholesalers</td>
</tr>
<tr>
<td>423440</td>
<td>Other Commercial Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423450</td>
<td>Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423490</td>
<td>Other Professional Equipment and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423510</td>
<td>Metal Service Centers and Other Metal Merchant Wholesalers</td>
</tr>
<tr>
<td>423610</td>
<td>Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423620</td>
<td>Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers</td>
</tr>
<tr>
<td>423690</td>
<td>Other Electronic Parts and Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423710</td>
<td>Hardware Merchant Wholesalers</td>
</tr>
<tr>
<td>423720</td>
<td>Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers</td>
</tr>
<tr>
<td>423730</td>
<td>Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423734</td>
<td>Refrigeration Equipment and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423740</td>
<td>Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423810</td>
<td>Farm and Garden Machinery and Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423830</td>
<td>Industrial Machinery and Equipment Merchant Wholesalers</td>
</tr>
<tr>
<td>423840</td>
<td>Industrial Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423850</td>
<td>Service Establishment Equipment and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>423860</td>
<td>Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers</td>
</tr>
<tr>
<td>423930</td>
<td>Recyclable Material Merchant Wholesalers</td>
</tr>
<tr>
<td>423940</td>
<td>Other Miscellaneous Durable Goods Merchant Wholesalers</td>
</tr>
</tbody>
</table>

*Note: evidence of State or other licensing is required in order to be classified in this industry, if applicable.*
**California Unified Certification Program**  
**List of NAICS Codes (partial)**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>424000</td>
<td>Merchant Wholesalers, Nondurable Goods</td>
</tr>
<tr>
<td>424110</td>
<td>Printing and Writing Paper Merchant Wholesalers</td>
</tr>
<tr>
<td>424120</td>
<td>Stationary and Office Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>424130</td>
<td>Industrial and Personal Service Paper Merchant Wholesalers</td>
</tr>
<tr>
<td>424210</td>
<td>Drugs and Druggists' Sundries Merchant Wholesalers</td>
</tr>
<tr>
<td>424310</td>
<td>Piece Goods, Notions, and Other Dry Goods Merchant Wholesalers</td>
</tr>
<tr>
<td>424320</td>
<td>Men’s and Boys’ Clothing and Furnishings Merchant Wholesalers</td>
</tr>
<tr>
<td>424330</td>
<td>Women’s, Children's, and Infants’ Clothing and Accessories Merchant Wholesalers</td>
</tr>
<tr>
<td>424340</td>
<td>Footwear Merchant Wholesalers</td>
</tr>
<tr>
<td>424410</td>
<td>General Line Grocery Merchant Wholesalers</td>
</tr>
<tr>
<td>424420</td>
<td>Packaged Frozen Food Merchant Wholesalers</td>
</tr>
<tr>
<td>424490</td>
<td>Other Grocery and Related Products Merchant Wholesalers</td>
</tr>
<tr>
<td>424610</td>
<td>Plastics Materials and Basic Forms and Shapes Merchant Wholesalers</td>
</tr>
<tr>
<td>424690</td>
<td>Other Chemical and Allied Products Merchant Wholesalers</td>
</tr>
<tr>
<td>424710</td>
<td>Petroleum Bulk Stations and Terminals</td>
</tr>
<tr>
<td>424720</td>
<td>Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)</td>
</tr>
<tr>
<td>424920</td>
<td>Book, Periodical, and Newspaper Merchant Wholesalers</td>
</tr>
<tr>
<td>424930</td>
<td>Flower, Nursery Stock, and Florists’ Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>424940</td>
<td>Tobacco and Tobacco Product Merchant Wholesalers</td>
</tr>
<tr>
<td>424950</td>
<td>Paint, Varnish, and Supplies Merchant Wholesalers</td>
</tr>
<tr>
<td>424990</td>
<td>Other Miscellaneous Nondurable Goods Merchant Wholesalers</td>
</tr>
<tr>
<td>425000</td>
<td>Wholesale Electronic Markets and Agents and Brokers</td>
</tr>
<tr>
<td>425110</td>
<td>Business to Business Electronic Markets</td>
</tr>
<tr>
<td>425120</td>
<td>Wholesale Trade Agents and Brokers</td>
</tr>
</tbody>
</table>

*Note: evidence of State or other licensing is required in order to be classified in this industry, if applicable.*
<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Description</th>
<th>NAICS Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>485991</td>
<td>Special Needs Transportation</td>
<td>518112</td>
<td>Web Search Portals</td>
</tr>
<tr>
<td>485999</td>
<td>All Other Transit and Ground Passenger Transportation</td>
<td>518210</td>
<td>Data Processing, Hosting, and Related Services</td>
</tr>
<tr>
<td>486000</td>
<td>Pipeline Transportation</td>
<td>519000</td>
<td>Other Information Services</td>
</tr>
<tr>
<td>487000</td>
<td>Scenic and Sightseeing Transportation</td>
<td>519110</td>
<td>News Syndicates</td>
</tr>
<tr>
<td>488000</td>
<td>Support Activities for Transportation</td>
<td>519120</td>
<td>Libraries and Archives</td>
</tr>
<tr>
<td>488111</td>
<td>Air Traffic Control</td>
<td>519190</td>
<td>All Other Information Services</td>
</tr>
<tr>
<td>488119</td>
<td>Other Airport Operations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488190</td>
<td>Other Support Activities for Air Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488210</td>
<td>Support Activities for Rail Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488310</td>
<td>Port and Harbor Operations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488320</td>
<td>Marine Cargo Handling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488390</td>
<td>Other Support Activities for Water Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488410</td>
<td>Motor Vehicle Towing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488490</td>
<td>Other Support Activities for Road Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488510</td>
<td>Freight Transportation Arrangement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488991</td>
<td>Packing and Crating</td>
<td></td>
<td></td>
</tr>
<tr>
<td>488999</td>
<td>All Other Support Activities for Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>491000</td>
<td>Postal Service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>492000</td>
<td>Couriers and Messengers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>492110</td>
<td>Couriers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>492210</td>
<td>Local Messengers and Local Delivery</td>
<td></td>
<td></td>
</tr>
<tr>
<td>493000</td>
<td>Warehousing and Storage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>493110</td>
<td>General Warehousing and Storage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>493120</td>
<td>Refrigerated Warehousing and Storage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>493190</td>
<td>Other Warehousing and Storage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>510000</td>
<td>Information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>511110</td>
<td>Newspaper Publishers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>511120</td>
<td>Periodical Publishers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>511130</td>
<td>Book Publishers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>511140</td>
<td>Directory and Mailing List Publishers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>511199</td>
<td>All Other Publishers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>511210</td>
<td>Software Publishers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512110</td>
<td>Motion Picture and Video Production</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512191</td>
<td>Teleproduction and Other Postproduction Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512199</td>
<td>Other Motion Picture and Video Industries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512210</td>
<td>Record Production</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512220</td>
<td>Integrated Record Production/Distribution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512240</td>
<td>Sound Recording Studios</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512290</td>
<td>Other Sound Recording Industries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>515000</td>
<td>Broadcasting (except Internet)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>515111</td>
<td>Radio Networks*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>515112</td>
<td>Radio Stations*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>515120</td>
<td>Television Broadcasting*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>515210</td>
<td>Cable and Other Subscription Programming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>516000</td>
<td>Internet Publishing and Broadcasting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>516110</td>
<td>Internet Publishing and Broadcasting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517000</td>
<td>Telecommunications</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517110</td>
<td>Wired Telecommunications Carriers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517211</td>
<td>Paging</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517212</td>
<td>Cellular and Other Wireless Telecommunications</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517310</td>
<td>Telecommunications Resellers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517410</td>
<td>Satellite Telecommunications</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517510</td>
<td>Cable and Other Program Distribution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>517910</td>
<td>Other Telecommunications</td>
<td></td>
<td></td>
</tr>
<tr>
<td>518000</td>
<td>Internet Service Providers, Web Search Portals, and Data Processing Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>518111</td>
<td>Internet Service Providers</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note: evidence of State or other licensing is required in order to be classified in this industry, if applicable.*
California Unified Certification Program
List of NAICS Codes (partial)

532120 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing
532210 Consumer Electronics and Appliances Rental
532299 All Other Consumer Goods Rental
532310 General Rental Centers
532411 Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing
532412 Construction, Mining and Forestry Machinery and Equipment Rental and Leasing
532420 Office Machinery and Equipment Rental and Leasing
532490 Other Commercial and Industrial Machinery and Equipment Rental and Leasing
533110 Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)

540000 Professional, Scientific and Technical Services
541110 Offices of Lawyers*
541191 Title Abstract and Settlement Offices
541199 All Other Legal Services
541211 Offices of Certified Public Accountants*
541213 Tax Preparation Services*
541214 Payroll Services
541219 Other Accounting Services
541310 Architectural Services*
541320 Landscape Architectural Services*
541330 Engineering Services*
541340 Drafting Services
541340 Map Drafting
541350 Building Inspection Services
541360 Geophysical Surveying and Mapping Services*
541370 Surveying and Mapping (except Geophysical) Services*
541380 Testing Laboratories
541410 Interior Design Services
541420 Industrial Design Services
541430 Graphic Design Services
541490 Other Specialized Design Services
541511 Custom Computer Programming Services
541512 Computer Systems Design Services
541513 Computer Facilities Management Services
541519 Other Computer Related Services
541611 Administrative Management and General Management Consulting Services
541612 Human Resources and Executive Search Consulting Services
541613 Marketing Consulting Services
541614 Process, Physical Distribution and Logistics Consulting Services
541618 Other Management Consulting Services
541620 Environmental Consulting Services
541690 Other Scientific and Technical Consulting Services
541710 Research and Development in the Physical, Engineering, and Life Sciences
541720 Research and Development in the Social Sciences and Humanities
541810 Advertising Agencies
541820 Public Relations Agencies
541830 Media Buying Agencies
541840 Media Representatives
541850 Display Advertising
541860 Direct Mail Advertising
541870 Advertising Material Distribution Services
541890 Other Services Related to Advertising
541910 Marketing Research and Public Opinion Polling
541922 Commercial Photography
541930 Translation and Interpretation Services
541990 All Other Professional, Scientific and Technical Services

550000 Management of Companies and Enterprises
551111 Offices of Bank Holding Companies
551112 Offices of Other Holding Companies

560000 Administrative and Support Services
561000 Administrative and Support Services
561110 Office Administrative Services
561210 Facilities Support Services
561210 Base Maintenance
561310 Employment Placement Agencies
561320 Temporary Help Services
561330 Employee Leasing Services
561410 Document Preparation Services
561421 Telephone Answering Services
561422 Telemarketing Bureaus
561431 Private Mail Centers
561439 Other Business Service Centers (including Copy Shops)
561440 Collection Agencies
561450 Credit Bureaus
561491 Repossession Services
561492 Court Reporting and Stenotype Services
561499 All Other Business Support Services
561510 Travel Agencies
561520 Tour Operators
561599 All Other Travel Arrangement and Reservation Services
561611 Investigation Services
561612 Security Guards and Patrol Services*
561613 Armored Car Services
561621 Security Systems Services (except Locksmiths)
561622 Locksmiths
561710 Exterminating and Pest Control Services*
561720 Janitorial Services
561730 Landscaping Services*
561740 Carpet and Upholstery Cleaning Services
561790 Other Services to Buildings and Dwellings
561910 Packaging and Labeling Services
561920 Convention and Trade Show Organizers
561990 All Other Support Services
562000 Waste Management and Remediation Services
562111 Solid Waste Collection
562112 Hazardous Waste Collection*
562119 Other Waste Collection
562211 Hazardous Waste Treatment and Disposal*
562219 Other Nonhazardous Waste Treatment and Disposal
562910 Remediation Services
562910 Environmental Remediation Services
562920 Materials Recovery Facilities
562998 All Other Miscellaneous Waste Management Services

610000 Educational Services
611410 Business and Secretarial Schools
611420 Computer Training
611430 Professional and Management Development Training
611512 Flight Training

*Note: evidence of State or other licensing is required in order to be classified in this industry, if applicable.
<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Industry Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>611513</td>
<td>Apprenticeship Training</td>
</tr>
<tr>
<td>611519</td>
<td>Other Technical and Trade Schools</td>
</tr>
<tr>
<td>611630</td>
<td>Language Schools</td>
</tr>
<tr>
<td>611691</td>
<td>Exam Preparation and Tutoring</td>
</tr>
<tr>
<td>611692</td>
<td>Automobile Driving Schools</td>
</tr>
<tr>
<td>611699</td>
<td>All Other Miscellaneous Schools and Instruction</td>
</tr>
<tr>
<td>611710</td>
<td>Educational Support Services</td>
</tr>
<tr>
<td>620000</td>
<td>Health Care and Social Assistance*</td>
</tr>
<tr>
<td>621000</td>
<td>Ambulatory Health Care Services</td>
</tr>
<tr>
<td>621110</td>
<td>Offices of Physicians</td>
</tr>
<tr>
<td>621210</td>
<td>Offices of Dentists</td>
</tr>
<tr>
<td>621310</td>
<td>Offices of Chiropractors</td>
</tr>
<tr>
<td>621320</td>
<td>Offices of Optometrists</td>
</tr>
<tr>
<td>621330</td>
<td>Offices of Mental Health Practitioners (except Physicians)</td>
</tr>
<tr>
<td>621340</td>
<td>Offices of Physical, Occupational and Speech Therapists and Audiologists</td>
</tr>
<tr>
<td>621391</td>
<td>Offices of Podiatrists</td>
</tr>
<tr>
<td>621399</td>
<td>Offices of All Other Miscellaneous Health Practitioners</td>
</tr>
<tr>
<td>621410</td>
<td>Family Planning Centers</td>
</tr>
<tr>
<td>621420</td>
<td>Outpatient Mental Health and Substance Abuse Centers</td>
</tr>
<tr>
<td>621492</td>
<td>Kidney Dialysis Centers</td>
</tr>
<tr>
<td>621493</td>
<td>Freestanding Ambulatory Surgical and Emergency Centers</td>
</tr>
<tr>
<td>621498</td>
<td>All Other Outpatient Care Centers</td>
</tr>
<tr>
<td>621511</td>
<td>Medical Laboratories</td>
</tr>
<tr>
<td>621512</td>
<td>Diagnostic Imaging Centers</td>
</tr>
<tr>
<td>621610</td>
<td>Home Health Care Services</td>
</tr>
<tr>
<td>621910</td>
<td>Ambulance Services</td>
</tr>
<tr>
<td>621999</td>
<td>All Other Miscellaneous Ambulatory Health Care Services—Hospitals</td>
</tr>
<tr>
<td>622000</td>
<td>Nursing and Residential Care Facilities</td>
</tr>
<tr>
<td>624000</td>
<td>Social Assistance</td>
</tr>
<tr>
<td>624110</td>
<td>Child and Youth Services</td>
</tr>
<tr>
<td>624120</td>
<td>Services for the Elderly and Persons with Disabilities</td>
</tr>
<tr>
<td>624190</td>
<td>Other Individual and Family Services</td>
</tr>
<tr>
<td>624210</td>
<td>Community Food Services</td>
</tr>
<tr>
<td>624221</td>
<td>Temporary Shelters</td>
</tr>
<tr>
<td>624229</td>
<td>Other Community Housing Services</td>
</tr>
<tr>
<td>624230</td>
<td>Emergency and Other Relief Services</td>
</tr>
<tr>
<td>624310</td>
<td>Vocational Rehabilitation Services</td>
</tr>
<tr>
<td>624410</td>
<td>Child Day Care Services</td>
</tr>
<tr>
<td>710000</td>
<td>Arts, Entertainment and Recreation</td>
</tr>
<tr>
<td>711000</td>
<td>Performing Arts, Spectator Sports and Related Industries</td>
</tr>
<tr>
<td>712000</td>
<td>Museums, Historical Sites and Similar Institutions</td>
</tr>
<tr>
<td>713000</td>
<td>Amusement, Gambling and Recreation Industries</td>
</tr>
<tr>
<td>720000</td>
<td>Accommodation and Food Services</td>
</tr>
<tr>
<td>721000</td>
<td>Accommodation</td>
</tr>
<tr>
<td>722000</td>
<td>Food Services and Drinking Places</td>
</tr>
<tr>
<td>722110</td>
<td>Full-Service Restaurants</td>
</tr>
<tr>
<td>722211</td>
<td>Limited-Service Restaurants</td>
</tr>
<tr>
<td>722212</td>
<td>Cafeterias</td>
</tr>
<tr>
<td>722213</td>
<td>Snack and Nonalcoholic Beverage Bars</td>
</tr>
<tr>
<td>722310</td>
<td>Food Service Contractors</td>
</tr>
<tr>
<td>722320</td>
<td>Caterers</td>
</tr>
<tr>
<td>722330</td>
<td>Mobile Food Services</td>
</tr>
<tr>
<td>722410</td>
<td>Drinking Places (Alcoholic Beverages)</td>
</tr>
</tbody>
</table>

*Note: evidence of State or other licensing is required in order to be classified in this industry, if applicable.
Note: If you received this information on hard copy, the California Unified Certification Program Application Package is available on the website at [http://californiaucp.org/](http://californiaucp.org/)

If the firm has its principal place of business in another state and is currently certified in that state, please contact the California Department of Transportation in the Northern Cluster.

### Southern Cluster

<table>
<thead>
<tr>
<th>Area</th>
<th>Counties</th>
<th>Certifying Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Riverside, Imperial &amp; San Diego (RIS)</td>
<td>Imperial, Riverside, San Diego</td>
<td><strong>SUBMIT APPLICATION PACKAGE TO:</strong>&lt;br&gt;➢ CITY OF LOS ANGELES*&lt;br&gt;➢ LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY&lt;br&gt;&lt;br&gt;<strong>OR</strong>&lt;br&gt;➢ CALIFORNIA DEPARTMENT OF TRANSPORTATION&lt;br&gt;<strong>SEE CONTACT INFORMATION BELOW</strong></td>
</tr>
<tr>
<td>Los Angeles Area</td>
<td>Kern, Los Angeles, Orange, San Bernardino, San Luis Obispo, Santa Barbara, Ventura</td>
<td>CITY OF LOS ANGELES*&lt;br&gt;Bureau of Contract Admin.&lt;br&gt;Centralized Certification Section&lt;br&gt;1149 S. Broadway, Ste 300&lt;br&gt;Los Angeles, CA 90015&lt;br&gt;Phone: (213) 847-2684&lt;br&gt;Fax: (213) 847-2777&lt;br&gt;<a href="http://bca.lacity.org">http://bca.lacity.org</a>&lt;br&gt;&lt;br&gt;*Only firms located within City of Los Angeles may apply</td>
</tr>
</tbody>
</table>
## Northern Cluster

<table>
<thead>
<tr>
<th>Area</th>
<th>Counties</th>
<th>Certifying Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bay Area/ Central Valley</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Alameda</td>
<td>S.F. BAY AREA RAPID TRANSIT DISTRICT (BART)</td>
</tr>
<tr>
<td></td>
<td>Amador</td>
<td>Office of Civil Rights</td>
</tr>
<tr>
<td></td>
<td>Calaveras</td>
<td>300 Lakeside Drive</td>
</tr>
<tr>
<td></td>
<td>Contra Costa</td>
<td>18th Floor</td>
</tr>
<tr>
<td></td>
<td>Fresno</td>
<td>Oakland, CA 94612</td>
</tr>
<tr>
<td></td>
<td>Kings</td>
<td>Phone: (510) 464-6100</td>
</tr>
<tr>
<td></td>
<td>Madera</td>
<td>Fax: (510) 464-7587</td>
</tr>
<tr>
<td></td>
<td>Marin</td>
<td><a href="http://www.bart.gov">www.bart.gov</a></td>
</tr>
<tr>
<td></td>
<td>Mariposa</td>
<td>CITY OF FRESNO</td>
</tr>
<tr>
<td></td>
<td>Merced</td>
<td>DBE Program</td>
</tr>
<tr>
<td></td>
<td>Monterey</td>
<td>2101 G Street, Building A</td>
</tr>
<tr>
<td></td>
<td>Napa</td>
<td>Fresno, CA 93706</td>
</tr>
<tr>
<td></td>
<td>San Benito</td>
<td>Phone: (559) 621-1132</td>
</tr>
<tr>
<td></td>
<td>San Francisco</td>
<td>Fax: (559) 488-1069</td>
</tr>
<tr>
<td></td>
<td>San Joaquin</td>
<td><a href="http://www.fresno.gov">www.fresno.gov</a></td>
</tr>
<tr>
<td></td>
<td>San Mateo</td>
<td>CITY OF FRESNO</td>
</tr>
<tr>
<td></td>
<td>Santa Clara</td>
<td>DBE Program</td>
</tr>
<tr>
<td></td>
<td>Santa Cruz</td>
<td>2101 G Street, Building A</td>
</tr>
<tr>
<td></td>
<td>Solano</td>
<td>Fresno, CA 93706</td>
</tr>
<tr>
<td></td>
<td>Sonoma</td>
<td>Phone: (559) 621-1132</td>
</tr>
<tr>
<td></td>
<td>Stanislaus</td>
<td>Fax: (559) 488-1069</td>
</tr>
<tr>
<td></td>
<td>Tulare</td>
<td>SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA)</td>
</tr>
<tr>
<td></td>
<td>Tuolumne</td>
<td>Office of Small &amp; Disadvantaged Businesses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3331 North First Street, Bldg. A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>San Jose, CA 95134-1906</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phone: (408) 321-5962</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fax: (408) 955-9729</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="http://www.vta.org">www.vta.org</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td>CENTRAL CONTRA COSTA TRANSIT AUTHORITY (CCCTA)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Office of Civil Rights</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2477 Arnold Industrial Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Concord, CA 94520-5327</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phone: (925) 676-1976</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fax: (925) 686-2630</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="http://www.cccta.org">www.cccta.org</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY (SFMTA)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Compliance Office</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 South Van Ness Ave, 6th Floor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>San Francisco, CA 94103</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phone: (415) 701-4436</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fax: (415) 701-4347</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="http://www.sfmuni.com">www.sfmuni.com</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SAN MATEO COUNTY TRANSIT DISTRICT (SAMTRANS)/ PENINSULA CORRIDOR JOINT POWERS BOARD (JPB)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DBE Office</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1250 San Carlos Avenue</td>
</tr>
<tr>
<td></td>
<td></td>
<td>San Carlos, CA 94070</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phone: (650) 508-7939</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fax: (650) 508-7738</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="http://www.samtrans.com">www.samtrans.com</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td>CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Office of Business and Economic Opportunity/MS 79</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1823 - 14th Street</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sacramento, CA 95814</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phone: (916) 324-1700 or (866) 810-6346</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fax: (916) 324-1862</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="http://www.dot.ca.gov">www.dot.ca.gov</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td>YOLO COUNTY TRANSPORTATION DISTRICT (YOLOBUS)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DBE Programs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>350 Industrial Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Woodland, CA 95776</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phone: (530) 402-2817</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fax: (530) 661-1732</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="http://www.yolobus.com">www.yolobus.com</a></td>
</tr>
</tbody>
</table>

*List of agencies subject to change*

---

Roster of Certifying Agencies

Updated 6/20/2012

---

135
Office of the Secretary of Transportation § 26.87

§ 26.87 What procedures does a recipient use to remove a DBE’s eligibility?

(a) *Ineligibility complaints.*

(1) Any person may file with the City a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. The City is not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant’s assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants’ identities must be protected as provided in § 26.109(b).

(2) The City must review its records concerning the firm, any material provided by the firm and the complainant, and other available information. The City may request additional information from the firm or conduct any other investigation that it deems necessary.

(3) If the City determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, it must provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If the City determines that such reasonable cause does not exist, it must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to the City’s attention, it determines that there is reasonable cause to believe that a currently certified firm is ineligible, it must provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) *DOT directive to initiate proceeding.*

(1) If the concerned operating administration determines that information in certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm certified does not meet the eligibility criteria of this part, the concerned operating administration may direct the City to initiate a proceeding to remove the firm’s certification.

(2) The concerned operating administration must provide the City and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.
(3) The City must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) Hearing. When the City or California Unified Certification Program (CUCP) notifies a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, it must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, the CUCP bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) The CUCP must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under § 26.89, the CUCP must provide a transcript of the hearing to DOT and, on request, to the firm. The CUCP must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, the CUCP bears the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as it would during a hearing.

(e) Separation of functions. The CUCP must ensure that the decision in a proceeding to remove a firm’s eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm’s eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) The method of implementing this requirement is made part of the DBE program and outlined in the City’s CUCP Agreement.

(2) The decision maker must be an individual who is knowledgeable about the certification requirements of the City’s DBE program and this part.

(f) Grounds for decision. The CUCP must not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. The CUCP may base such a decision only on one or more of the following:

(1) Changes in the firm’s circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to it at the time the firm was certified;

(3) Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;

(4) A change in the certification standards or requirements of the Department since the CUCP certified the firm; or

(5) A documented finding that the CUCP determination to certify the firm was factually erroneous.

(g) Notice of decision. Following the CUCP’s decision, it must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports
each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under § 26.89. The CUCP must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed it to initiate the proceeding.

(h) When the CUCP decertifies a DBE firm certified by the SBA, it must notify the SBA in writing. The notification must include the reason or denial.

(i) Status of firm during proceeding.

(1) A firm remains an eligible DBE during the pendency of the CUCP’s proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) Effects of removal of eligibility.

When the CUCP removes a firm’s eligibility, the City must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or the City has made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before issuing the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. The City must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before the CUCP notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm’s work.

In this case, or in a case where the City let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm’s performance of the contract remaining after the CUCP issued the notice of its ineligibility shall not count toward the City’s overall goal, but may count toward the contract goal.

(3) Exception: If the DBE’s ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, the City will continue to count its participation on that contract toward overall and contract goals.

(k) Availability of appeal. When the CUCP makes an administratively final removal of a firm’s eligibility under this section, the firm may appeal the removal to the Department under § 26.89.

4.05 **Ineligibility Complaints:** Any UCP Member has the right to initiate an Ineligibility Complaint of any DBE-certified firm included in the UCP DBE Database. The complaint must be in writing and specify the alleged reasons why the firm is ineligible.

To ensure firms previously denied and decertified as ineligible do not become included in the UCP DBE Database until at least twelve months from denial or decertification, all UCP Members will periodically review the firms listed in the DBE Database. Where firms are identified that were previously denied or decertified by a Certifying Member (CM) Agency, and that CM Agency has cause to believe the firm continues to be ineligible for certification, that CM Agency will forward an ineligibility complaint to the current CM Agency. Upon receipt of the ineligibility complaint, the current CM Agency will review any new evidence, request additional information from the firm and/or conduct a site visit review, if deemed necessary, and make its determination. The CM Agency will report to the Regional Cluster on its findings. Information on this action will be input into the UCP Database by the CM Agency after the firm has been afforded due process under 26.87 and 26.89.

The UCP DBE Database will designate firms that have been denied certification, removed and decertified as ineligible; and the UCP Database system will reject new applications from the same company. A previously rejected applicant firm will be referred to the CM Agency that issued the denial, removal or decertification.

4.06 **Disputes:** The UCP Executive Committee will resolve disputes that cannot be resolved between or among CM Agencies.
Attachment 10

Signed UCP Agreement Form
CUCP AGREEMENT/DECLARATION OF STATUS LETTER

TO: CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

FROM: City of Long Beach, (Recipient)
Address: 333 W. Ocean Boulevard, Long Beach, CA 90802

Recipient hereby acknowledges and agrees that:

(1) As a recipient of Federal Financial Assistance from the U.S. Department of Transportation (DOT), Recipient has an established Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26.

(2) By this Letter, Recipient officially becomes a signatory to the Memorandum of Agreement (MOA) for the establishment of a Unified Certification Program among all U.S. DOT recipients in California, as approved by the Secretary of Transportation on March 13, 2002, and amended on March 21, 2008.

(3) In accordance with said MOA, Recipient hereby makes a declaration to become either a Certifying CUCP Member or a Non-Certifying CUCP Member.
   (a) A Certifying CUCP Member maintains DBE certification processes including reviewing DBE applications, conducting site visits and making decisions on DBE status; processing annual updates; maintaining DBE certification files; and conducting appeal and third party challenge hearings. A Certifying CUCP Member is responsible for providing certification information and updates for inclusion in the DBE Database.
   (b) A Non-Certifying CUCP Member does not process DBE certifications for inclusion in the DBE Database.

(4) CUCP Members may be requested to contribute funds to support the CUCP.

(5) All CUCP Members will accept the DBE status of firms included in the DBE Database for use in their contracting activities.

Based on the foregoing, Recipient hereby declares its status as:

☐ A CERTIFYING CUCP MEMBER

☑ A NON-CERTIFYING CUCP MEMBER

Recipient may change its status upon submission of a new Declaration Letter to the Chair of the CUCP.

DATE: 06-05-2012

(Signature of Recipient Agency Official)
Erik Sund, Manager, Business Relations
(Name and Title)

Participation in CUCP acknowledged:

Date
(Secretary, California Unified Certification Program)

Date
(Chair, California Unified Certification Program)
Attachment 11

FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISE (DBE)
FIRST TIER SUBCONTRACTORS

EXHIBIT 17F
# STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

## FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS

CEM-2402F (REV 02/2008)

<table>
<thead>
<tr>
<th>CONTRACT NUMBER</th>
<th>COUNTY</th>
<th>ROUTE</th>
<th>POST MILES</th>
<th>FEDERAL AID PROJECT NO.</th>
<th>ADMINISTERING AGENCY</th>
<th>CONTRACT COMPLETION DATE</th>
<th>PRIME CONTRACTOR</th>
<th>BUSINESS ADDRESS</th>
<th>ESTIMATED CONTRACT AMOUNT</th>
<th>$</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION OF WORK PERFORMED AND MATERIAL PROVIDED</th>
<th>COMPANY NAME AND BUSINESS ADDRESS</th>
<th>DBE CERT. NUMBER</th>
<th>CONTRACT PAYMENTS</th>
<th>DATE WORK COMPLETE</th>
<th>DATE OF FINAL PAYMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ORIGINAL COMMITMENT** $ 

**TOTAL** $ 

List all First-Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at time of award, provide comments on back of form. List actual amount paid to each entity.

---

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

<table>
<thead>
<tr>
<th>CONTRACTOR REPRESENTATIVE'S SIGNATURE</th>
<th>BUSINESS PHONE NUMBER</th>
<th>DATE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>RESIDENT ENGINEER'S SIGNATURE</th>
<th>BUSINESS PHONE NUMBER</th>
<th>DATE</th>
</tr>
</thead>
</table>

Copy Distribution-Caltrans contracts: 
**Original** - District Construction  
**Copy** - Business Enterprise Program  
**Copy** - Contractor  
**Copy** - Resident Engineer

Copy Distribution-Local Agency contracts: 
**Original** - District Local Assistance Engineer (submitted with the Report of Expenditure)  
**Copy** - District Local Assistance Engineer  
**Copy** - Local Agency file
The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal-aid Project No., the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor name and business address. The focus of the form is to describe who did what by contract item number and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

The form has a column to enter the Contract Item No. (or Item No's) and description of work performed or materials provided, as well as a column for the subcontractor name and business address. For those firms who are DBE, there is a column to enter their DBE Certification Number. The DBE should provide their certification number to the contractor and notify the contractor in writing with the date of the decertification if their status should change during the course of the project.

The form has six columns for the dollar value to be entered for the item work performed by the subcontractor.

The Non-DBE column is used to enter the dollar value of work performed for firms who are not certified DBE.

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership, and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights web site at: http://www.dot.ca.gov/hq/bep or by calling (916) 324-1700 or the toll free number at (888) 810-6346.

Based on this DBE Program status, the following table depicts which column to be used:

<table>
<thead>
<tr>
<th>DBE Program Status</th>
<th>Column to be used</th>
</tr>
</thead>
<tbody>
<tr>
<td>If program status shows DBE only with no other programs listed</td>
<td>DBE</td>
</tr>
</tbody>
</table>

If a contractor performing work as a DBE on the project becomes decertified and still performs work after their decertification date, enter the total dollar value performed by this contractor under the appropriate DBE identification column.

If a contractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column.

Enter the total of each of the six columns in Form CEM-2402(F).

Any changes to DBE certification must also be submitted on Form-CEM 2403(F).

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the “final payment” to the subcontractor for the portion of work listed as being completed).

The contractor and the resident engineer sign and date the form indicating that the information provided is complete and correct.
Attachment 12

List of Minority Owned Banks
MINORITY OWNED CA FINANCIAL INSTITUTIONS

Evergreen International Bank (formerly Golden Coast Bank)
Contact: Ms. Terry Stalk, CFO
850 Long Beach Boulevard
Long Beach, CA 90813
Routing and Transit (ABA) #: 122244508
Phone #: 562-216-6388
Fax #: 562-216-6399
http://www.goldencoastbank.com/
info@evergreeninternationalbank.com

Beach Business Bank
Contact:
180 E. Ocean Blvd., Suite 100
Lobby Level
Long Beach, CA 90802
Routing and Transit (ABA) #: 122243774
Phone #: 562-481-3400
info@beachbusinessbank.com

OneUnited Bank
Chairman & CEO: Kevin Cohee
Customer Support
3683 Crenshaw Blvd.
Los Angeles, CA 90016
Phone: (323) 290-4848
Fax: (323) 389-0548
Web Site: https://www.oneunited.com/
***First black internet bank & largest black owned bank in country (offices in Los Angeles, Boston & Miami)
Attachment 13

List of Organizations
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>Phone</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Doe</td>
<td>123 Main St, Anytown, USA</td>
<td>Anytown</td>
<td>CA</td>
<td>12345</td>
<td>555-1234</td>
<td>Business</td>
</tr>
<tr>
<td>Jane Smith</td>
<td>456 Oak Rd, Sometown, USA</td>
<td>Sometown</td>
<td>TX</td>
<td>67890</td>
<td>555-4321</td>
<td>Community</td>
</tr>
<tr>
<td>Mike Brown</td>
<td>789 Pine Ave, Anytown, USA</td>
<td>Anytown</td>
<td>NY</td>
<td>13456</td>
<td>555-5678</td>
<td>Organization</td>
</tr>
</tbody>
</table>

Table continued: