

2013

Metropolitan
Area
Planning
Agency

[DISADVANTAGED BUSINESS ENTERPRISE PROGRAM]

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**OMAHA-COUNCIL BLUFFS
METROPOLITAN AREA PLANNING
AGENCY
DBE PROGRAM**

**MAY, 2008
AUGUST, 2008
JANUARY 28, 2011
AUGUST, 2011
MAY, 2012
January, 2013**

**DBE PROGRAM
POLICY STATEMENT**

Objectives/Policy Statement

The Omaha –Council Bluffs Metropolitan Area Planning Agency (MAPA) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S Department of Transportation (DOT), 49 CFR Part 26. MAPA has received Federal Financial assistance from the Department of Transportation, and as a condition of receiving this assistance, MAPA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of MAPA to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- 1) To ensure nondiscrimination in the award and administration of 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.

The Administrative Services Director has been delegated as the DBE Liaison Officer. In that capacity the Administrative Services Director 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 MAPA in its financial assistance agreements with the Department of Transportation.

MAPA will disseminate this policy statement to the Council of Officials and the Board of Directors and all components of our organization. We will distribute this statement to DBE and non-DBE businesses and vendors that perform work for us on DOT-assisted contracts. This distribution will be accomplished by including this policy statement in all contracts and agreements and by posting this policy statement on our website page at www.mapacog.org.



Gregory Youell, Executive Director

2-7-13

Date

SUBPART A – GENERAL REQUIREMENTS

Objectives

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

Applicability

MAPA is the recipient of federal transit funds authorized by Titles I, III, V, and VI of SAFETEA-LU, Pub. L. 102-240 or by Federal Transit laws in Title 49, U. S. Code, or Titles I, II, and V of the SAFETEA-LU, Pub. L. 105-178 and all subsequent transportation acts.

MAPA is also the recipient of federal-aid highway funds authorized under Title I and V of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of SAFETEA-LU, Pub. L. 105-178, 112 Stat. 107 and all subsequent transportation acts.

Definitions

MAPA will adopt the definitions contained in 49 CFR Section 26.5 for this program.

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 Metlaktla 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/Small Business Administration or SBA Memorandum of Understanding or MOU means the agreement signed on November 23, 1999 between the DOT and SBA that streamlined certification procedures for participation in the SBA's 8(a) Business Development or BD and Small Disadvantaged Business or SDB programs and the DOT's DBE program.

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.

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,

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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 four digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site (www.ntis.gov/naics).

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.

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;

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- 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.

Non-discrimination Requirements

MAPA 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 MAPA 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.

Record Keeping Requirements

Reporting to DOT

MAPA will report DBE participation to DOT as follows: We will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs or DOT-assisted contracts.

Bidders List

MAPA will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder list approach for calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

MAPA will collect the information in the following ways: Options include, but will not be limited to, a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts; a notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to MAPA.

Federal Financial Assistance Agreement

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

Assurance

MAPA 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

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Program or the requirement 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 MAPA of its failure to carry out its approved program, the Department may impose sanction 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

MAPA 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

DBE Program Updates

Since MAPA has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Policy Statement

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

DBE Liaison Officer (DBELO)

MAPA has designated the following individual as our DBE Liaison Officer:

Melissa Engel
Administrative Services Director
2222 Cuming Street
Omaha NE 68102
(402) 444-6866 extension 213
mengel@mapacog.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that MAPA complies with all provision of 49 CFR Part 26. The DBELO has direct independent access to the Executive Director concerning DBE program matters. An Organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has no staff to assist in the administration of the program. The duties and responsibilities include the following:

- 1) Gathers and reports statistical data and other information as required by DOT.
- 2) Reviews third party contracts and purchase requisitions for compliance with this program.
- 3) Works with all departments to set overall annual goals.
- 4) Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- 5) Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment) and identifies ways to improve progress.
- 6) Analyzes MAPA's progress toward attainment and identifies ways to improve progress.
- 7) Participates in pre-bid meetings.

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- 8) Advises the Executive Director and governing body on DBE matters and achievement.
- 9) Chairs the DBE Advisory Committee.
- 10) Participates in pre-bid meetings.
- 11) Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- 12) Plans and participates in DBE training seminars.
- 13) Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in the state of Nebraska.
- 14) Provides outreach to DBEs and community organizations to advise them of opportunities.
- 15) Maintains MAPA's updated directory on certified DBEs.

DBE Financial Institutions

It is the policy of MAPA 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. We will make efforts to identify and use such institutions.

The DBE liaison officer will re-evaluate the MAPA DBE program and the program goals every 18 months. The review time frame will allow MAPA to determine if MAPA has been diligent in achieving the stated goals of the DBE program. This evaluation process will include the identification of all efforts to encourage prime contractors to make use of existing DBE eligible and identified financial institutions owned and controlled by socially and economically disadvantaged individuals. MAPA will maintain a list of these entities and provide this list to the prime contractors for all eligible contracting processes. As prime contractors engage in business with MAPA, those DBE firms will be recorded as a percentage of the total contracting effort when applicable.

Information on the availability or the lack of availability of such institutions can be obtained from the DBE Liaison Officer.

Prompt Payment Mechanisms

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

The Prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from MAPA. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of MAPA. This clause applies to both DBE and non-DBE subcontracts.

Retainage Mechanisms

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In order to comply with Title 49 CFR 26 (section 26.29 (b)) MAPA has established the following policies:

- 1) MAPA will, as part of the DBE program, create and maintain 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 that MAPA makes to the prime contractor.
- 2) MAPA will 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. MAPA will use one of the following methods to comply with this requirement:
 - a. MAPA will decline to hold retainage from prime contractors and will prohibit prime contractors from holding retainage from subcontractors.
 - b. MAPA will decline to hold retainage from prime contractors and will require a contract clause obligating prime contractors to pay retainage to subcontractors after the subcontractor's work is satisfactorily completed and within 30 days after payment to the prime contractor.
 - c. MAPA will hold retainage from prime contractors providing for prompt and regular incremental acceptances of portions of the prime contract, will pay retainage to prime contractors based on these acceptances, and will require a contract clause obligating prime contractors to pay retainage to subcontractors after the subcontractor's work is satisfactorily completed and within 30 days after payment to the prime contractor.

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.

Directory

MAPA will maintain a directory identifying all firms eligible to participate as DBEs. The directory will list 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. We will revise the Directory annually. We will make the Directory available by writing to:

DBE Liaison Officer
MAPA
2222 Cuming Street
Omaha NE 68102

It will also be electronically posted on our website www.mapacog.org. The Directory may be found in Attachment 2 to this program document. There will be a link to the combined statewide directory of the Uniform Certification Program on our website.

Overconcentration

MAPA will conduct a review every 18 months to determine if DBE firms are over concentrated in a certain type of work, so as to unduly burden the opportunity of non-

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DBE firms to participate in this field. MAPA's DBE Liaison Officer will do the following processes to reduce the overconcentration:

- 1) MAPA will identify business programs for DBE firms which provide incentives, technical assistance, business development, mentor/protégé links, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which non-DBEs are unduly burdened.
- 2) After review of DBE overconcentration, MAPA's DBE Liaison Officer, with approval by the MAPA Board, may also consider varying use of contract goals (to the extent consistent with §26.51) to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.
- 3) MAPA will obtain approval from the concerned DOT operating administration of MAPA's determination of DBE overconcentration and the measures devised to address the DBE overconcentration. Once approved, these measures will become part of the MAPA DBE program.

At this time, MAPA has not identified any DBE overconcentration in any certain type of work. Therefore, no action is required to mitigate or adjust MAPA's DBE goals.

Business Development Programs

MAPA's DBE Liaison Officer will evaluate the existing list of DBE firms that can compete for MAPA contracts. This review will be conducted every 18 months, or upon a DBE listed firm submitting a written complaint of equity in the contracting process. During the review, MAPA's DBE Liaison Officer, with MAPA Board approval, will decide whether a business development program is needed to achieve the goals of the DBE plan. MAPA has not established a business development program yet, since there are no DBE firms in an over concentrated position within the Omaha region.

Monitoring and Enforcement Mechanisms

MAPA's DBE program will provide the appropriate means to enforce its requirements and the penalties for failure to comply. All payments to prime contractors and subcontractors will follow the instructions in the signed contract between the parties. Any prime contractor or subcontractor that does not comply with the terms of the MAPA contract may be terminated under the guidelines and processes detailed in the MAPA contract. Any delay or postponement of payment between the parties may take place only for good cause with prior written approval from MAPA.

MAPA will use the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

- 1) MAPA 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 26.109.
- 2) We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

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- 3) We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. This will be accomplished by making unscheduled onsite visits.
- 4) We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

MAPA has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

- 1) Breach of contract action, pursuant to the terms of the contract;
- 2) Breach of contract action, pursuant to Nebraska state laws.

In addition, the federal government 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

In order to achieve this monitoring and enforcement process, the MAPA DBE Liaison Officer will review the payments to each MAPA contract to determine if the prime contractor or subcontractors did not comply with the contract terms. Once a contract has been completed, the DBE Liaison Officer will audit and survey the prime contractor and subcontractors to determine if all contract terms were complied with. Any firm that does not comply with the contract terms will be listed by MAPA as noncompliant for up to ten years. The DBE Liaison Officer will maintain the list of noncompliant firms.

MAPA will also establish, as part of the DBE program, 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. MAPA 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 with applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas

MAPA will not use quotas in the administration of this DBE program. Additionally, MAPA transportation projects historically are of a size and magnitude (range \$25,000 to \$500,000) that already accommodate small business participation. Therefore MAPA will not use small business set asides to facilitate small business participation.

Overall Goals

MAPA will establish overall goals every three (3) years in accordance with the 2-step process as specified in 49 CFR Part 26.45 for USDOT assisted contracts. The first step is to determine relative availability of DBEs in the market area, “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 projects.

Amount of Goal

MAPA’s overall goal for FY 2013 is the following: 0.62% of the Federal Financial assistance we will expend in DOT-assisted contracts.

Methodology used to Calculate Overall Goal

Step 1

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing and able}}$$

The data sources used to derive the numerator were the Nebraska Department of Roads List of Certified DBEs (<http://www.dor.state.ne.us/letting/certified-dbes.htm>) and the Iowa Department of Transportation DBE Directory (<http://www.ia.bidx.com/lettings/dbework.pdf>). The data source used to derive the denominator was the 2007 Economic Census as compiled by the US Census Bureau.

During FY2013 MAPA anticipates Contract Opportunities in the following NAICS Codes:

- 485991 – Special Needs Transportation
- 488490 – Other Support Activities for Road Transportation
- 51791 – Other Telecommunications
- 5415 – Computer Systems Design and Related Services
- 56142 – Telephone Call Centers

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- 541330 – Engineering Services

MAPA DBE Breakdown by NAICS Code			
NAICS Code	Certified DBEs	Total Firms	Base Figure
485991	0	60	0.00%
488490	4	9	44.44%
51791	1	28	3.57%
5415	6	4,060	0.15%
56142	0	488	0.00%
541330	24	969	1.65%
Total	35	5,614	0.62%

MAPA's base figure for FY2013 will be 0.62% (35 ready willing and able DBEs divided by 5614 total firms).

Step 2

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by 0%.

The reason we chose not to adjust our base figure was because:

1. The DBE participation goals are weighted according to the percentage each work category represents as part of the entire project.
2. No meaningful conclusion related to DBE participation can be drawn from past participation due to the lack of past participation in projects.
3. No current Disparity Study has been conducted in the Omaha-Council Bluffs MSA to warrant further goal adjustment.
4. MAPA will discuss DBE contracting issues with Nebraska Department of Roads (NDOR) and the Great Plains Minority Supplier Development Council to ascertain if they could relate any examples of past discrimination in our market area. (This takes place during the "community consultation" phase of the graphic on the following page).

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

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participation of DBEs. MAPA will review the overall goal on an annual basis and submit any significant adjustments to the goal to the appropriate USDOT operating administration (FHWA or FTA).

Following this consultation, MAPA will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours the MAPA offices for 45 days following the date of the notice, and informing the public that MAPA and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will be published in the five MAPA county legal newspapers, the Omaha Star Newspaper, Nuestro Mundo Newspaper, trade publication, and the MAPA website. MAPA will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including office and website) where the proposal may be reviewed.

Task	March	April	May	June	July	August	Sept.	Oct.
MAPA DBE Goal Development								
Community Consultation								
Proposed Goal Published								
Comment Period								
Comments Addressed								
Goal Finalized Locally								
Goal Submitted to USDOT (every 3 years)								
USDOT Review (every 3 years)								
Goal Becomes Active								

MAPA's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and MAPA's responses. MAPA will begin using the overall goal on October 1 of the submission year, unless USDOT has issued any other instructions. MAPA may establish project specific DBE goals. Should this occur, MAPA will advertise the DBE goal in the project request for proposals (RFP) and carry forward the goal throughout the life of the project. Project selection for DBE goal projects will include additional scoring points for those firms who submit as a DBE prime consultant or with a DBE sub consultant that meets the terms of the project DBE goal.

Transit Vehicle Manufactures (TVM) Goals

MAPA will require each transit vehicle manufacturer, as a condition of being authorized to bid or purpose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, MAPA may, at its discretion and with FTA approval establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Breakout of Estimated Race-Neutral & Race-Conscious Participation

MAPA will meet the maximum feasible portion of its goal by using race-neutral means of facilitating DBE participation. MAPA will use the following race-neutral means to increase DBE participation:

MAPA DBE Program

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
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); and
5. Ensuring distribution of our DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

MAPA estimates that it will reach the overall goal of 0.62% entirely with race-neutral DBE participation.

In order to ensure that our DBE program will be tailored to overcome the effects of discrimination, if we use contract goals, we will adjust the estimated breakout of race-neutral and race conscious participation as needed to reflect actual DBE participation and we will track and report race neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry DBE goals;
- DBE participation on a prime contract exceeding a contract goal; and
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

MAPA will maintain data separately on DBE achievements in those contracts with and without contract goals respectively.

Contract Goals

If during the course of goal setting MAPA finds that the goals may not be able to be met using race neutral means MAPA will utilize race conscious contract goals. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of MAPA's overall goal that is not projected to be met through the use of race-neutral means.

MAPA DBE Program

MAPA will establish race conscious contract goals on DOT assisted contracts with subcontracting possibilities. MAPA will target the subcontract tasks to encourage DBE participation through race-conscious means in order to meet the DBE program goal.

MAPA will express contract goals as a percentage of the Federal share of USDOT-assisted contracts.

Good Faith Efforts Procedures

For a bidder/offeror to be deemed responsive without meeting the contract goal the bidder/offeror must demonstrate good faith efforts. USDOT has created examples of what constitutes a good faith effort and has included these examples in 49 CFR Part 26, Appendix A.

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

Under this program, it is the obligation of the bidder/offeror to make good faith efforts. The bidder/offeror can demonstrate that it has done so by meeting the contract goal or by documenting the good faith efforts they utilized to attempt to meet the goal. The USDOT examples of good faith efforts from 49CFR Part 26, Appendix A are shown below:

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.

MAPA DBE Program

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.

The DBE Liaison Officer (DBELO) is responsible for determining whether a bidder/offeree who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. The DBELO will review project billings and documentation of effort to determine if the bidder/offeree has met the DBE goal for the contract. In cases where the bidder/offeree has not been able to meet the contract DBE goal, the DBELO will examine project documentation and billings to determine if the bidder/offeree has documented sufficient good faith efforts to engage DBE firms to conduct the tasks.

The DBELO will ensure that all information is complete and accurate and adequately documents the bidder/offeree's good faith efforts before MAPA commit to the performance of the contract by the bidder/offeree. The DBELO will be responsible for reviewing the project documentation, billing reports, and other action items to ensure that the

Information to be submitted (26.53(b))

MAPA treats bidder/offeree compliance with good faith efforts' requirements as a matter of responsiveness – all bidders submit DBE information at the time of bid.

Responsiveness - Each solicitation for which a contract goal has been established will require the bidders/offerees 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 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's 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

MAPA DBE Program

Within seven (7) business days of being informed by MAPA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidders/offerors should make this request in writing to: DBE Reconsideration Official, Transportation Department, Metropolitan Area Planning Agency, 2222 Cuming Street, Omaha, NE 68102. 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 so. MAPA will send the bidder/offeror a written decision on reconsideration explaining the basis for finding that the bidder/offeror did or did not meet the goal or make adequate good faith effort 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

MAPA 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. MAPA will require the prime contractor to notify the DBE Liaison Officer and MAPA's project manager immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, MAPA will require the prime contractor to obtain MAPA's 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, MAPA may issue an order stopping all or part of payment/work until satisfactory action has been taken by the contractor. If the contractor still fails to comply, MAPA may terminate the contract.

Sample Bid Specification

The requirement of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of MAPA 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 goal of 5.5 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

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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

MAPA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55 MAPA 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 PROCEDURES

Unified Certification Programs

MAPA is not a certifying agency.

DBE Certification in the bi-state MAPA Region is conducted by the respective State Departments of Transportation: the Nebraska Department of Roads and the Iowa Department of Transportation. In order to be an eligible DBE for MAPA contracts DBE's seeking contract opportunities should obtain the below certifications.

Nebraska DBE Certification Process

Firms interested in seeking DBE certification in the State of Nebraska must complete and submit a Nebraska Unified Certification Program (NUCP) Application to the Nebraska Department of Roads.

Information relating to this process and the required documentation can be found here:

<http://www.dor.state.ne.us/letting/dbeinfo.htm>

Specifically, the applying DBE will need to include a sworn, notarized Personal Financial Statement attesting to the firm's owner's personal net worth. Additionally, the applying DBE is required to include a sworn, notarized statement attesting to the firms' owner's status as a socially and economically disadvantaged individual.

All information must be filed with the Nebraska Department of Roads DBE Office at the following address:

DBE Office

P.O. Box 94759, Lincoln, Nebraska 68509-4759

1500 Highway 2, Lincoln, Nebraska 68502

Tel (402) 479-4531

Fax (402) 479-3728

Email joe.kisicki@nebraska.gov

Iowa DBE Certification Process

Firms interested in seeking DBE certification in the State of Iowa must complete and submit an Iowa Unified Certification Program (IUCP) Application to the Iowa Department of Transportation.

The application and related instruction, documentation and forms may be found here:

http://www.iowadot.gov/civilrights/dbe_program.html

Specifically, the applying DBE will need to include a sworn, notarized Personal Financial Statement attesting to the firm's owner's personal net worth. Additionally, the applying DBE is required to include a sworn, notarized statement attesting to the firms' owner's status as a socially and economically disadvantaged individual.

All information must be filed with the Iowa Department of Transportation, EEO Section, Office of Contracts at the following address:

MAPA DBE Program

EEO Section
Office of Contracts
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Additional support and information is available from the Iowa Department of Transportation Civil Rights Team. Contact information for this support staff is listed below:

Iowa Department of Transportation
Civil rights team
DBE Supportive Services
800 Lincoln Way
Ames, IA 50010
Phone: 515-239-1422
Fax: 515-239-1175

Reciprocity

At this time, neither the Nebraska Department of Roads, nor the Iowa Department of Transportation maintains a reciprocity agreement with each other, or any other agency.

DBE firms that are certified in the State of Iowa must apply for certification in the State of Nebraska prior to being counted as an eligible DBE in the State of Nebraska. Likewise, DBE firms that are certified in the State of Nebraska must apply for certification in the State of Iowa prior to being counted as an eligible DBE in the State of Iowa.

Certification Appeals

Any firm or complaint may appeal NDOR or IDOT's decisions in a certification matter to the United States Department of Transportation. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

Additional information on certification appeals may be found here:

<https://www.civilrights.dot.gov/page/dbe-certification-appeals-program-brochure>

SUBPART E – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation

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

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

Monitoring Payments to DBEs

We 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 make available for inspection upon request by any authorized representative of MAPA or 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 amount stated in the schedule of DBE participation.

SUBPART F – SMALL BUSINESS ELEMENT

§ 26.39 Fostering Small Business Participation

To facilitate competition by small businesses in projects, funded in-part by USDOT, MARC will unbundle projects as appropriate to help eliminate obstacles to small business participation.

MAPA considers the importance of small businesses as a part of its DBE Program. Special considerations are made for small businesses as a race neutral measure that is independent from other DBE considerations.

MAPA anticipates contract opportunities in the following NAICS Codes for the duration of this plan:

- 485991 – Special Needs Transportation
- 488490 – Other Support Activities for Road Transportation
- 51791 – Other Telecommunications
- 5415 – Computer Systems Design and Related Services
- 56142 – Telephone Call Centers
- 541330 – Engineering Services

Small Business Size Standards

The US Small Business Administration (SBA) considers businesses that operate below a certain level of annual average receipts or number of employees as a small business. Small business size standards for businesses in the previously mentioned NAICS Codes are shown below:

Small Business Size Standards			
NAICS Code	Description	Average Annual Receipts	Total Employees
485991	Special Needs Transportation	Total less than \$14 million	N/A
488490	Other Support Activities for Road Transportation	Total less than \$7 million	N/A
51791	Other Telecommunications	Total less than \$25 million	Less than 1,500
5415	Computer Systems Design and Related Services	Total less than \$25.5 million	N/A
56142	Telephone Call Centers	Total less than \$7 million	N/A
541330	Engineering Services	Total less than \$14 million	N/A

Small Business Set-Aside for Prime Contracts

MAPA's transportation projects historically are of a size and magnitude (range \$25,000 to \$500,000) that already accommodate small business participation. Therefore MAPA will not use small business set asides to facilitate small business participation.

MAPA DBE Program

Mega Project

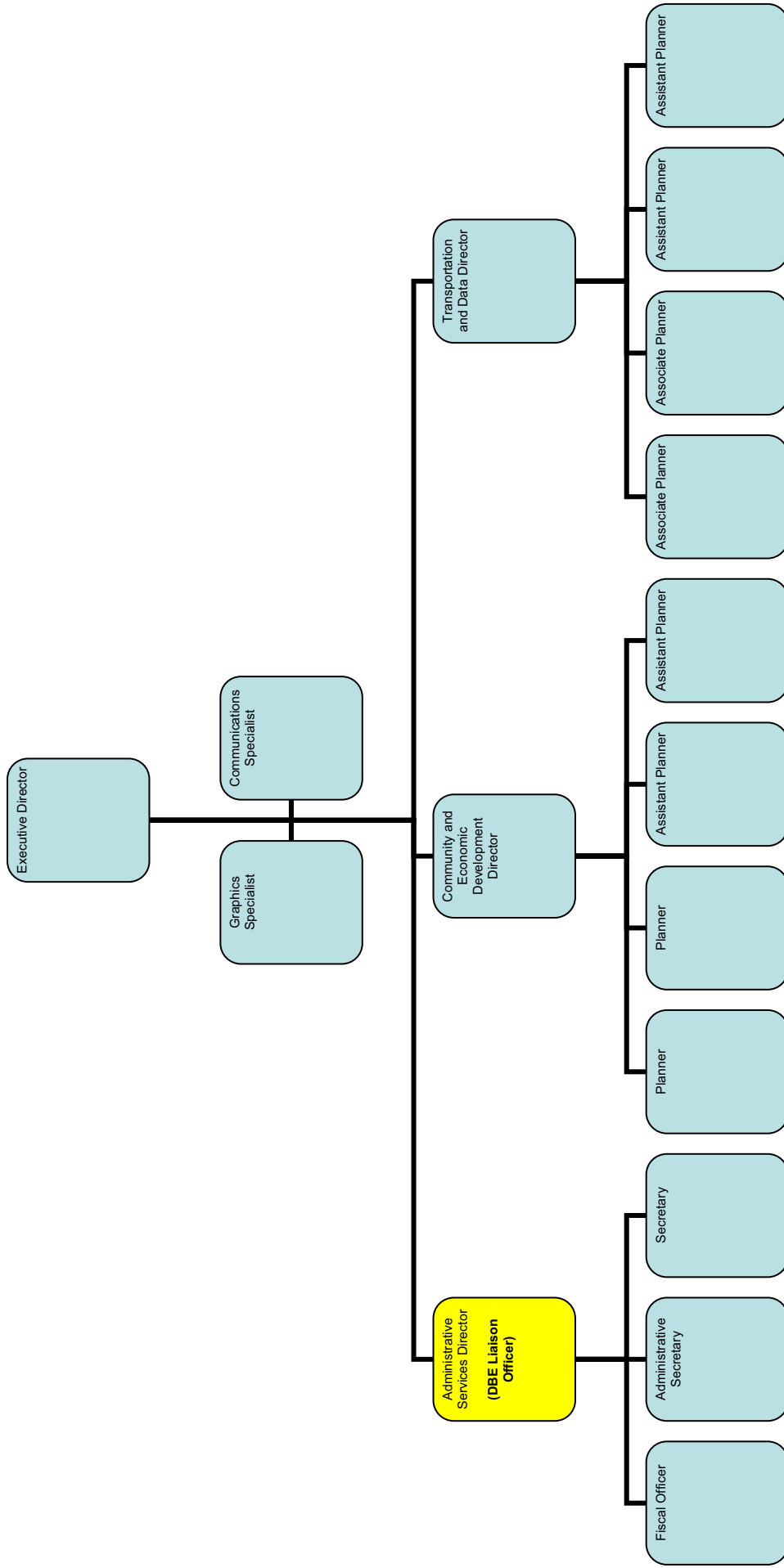
Projects that are multi-year design build or in excess of \$2,000,000 is considered a “*mega project*”. Bidders on a prime contract of a “mega project” will specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

MAPA will include language in the RFP for a mega project requiring the prime contractor to utilize small businesses, including DBEs, on tasks that they are able to reasonably perform.

Small Business Outreach

MAPA will advertise small business contract opportunities in the same way and at the same time as DBE contract opportunities. Outreach will be conducted via the Greater Omaha Chamber of Commerce, the SBA-Nebraska Division, newspaper outlets, and announcements on the MAPA website.

ATTACHMENT I: MAPA ORGANIZATIONAL CHART



ATTACHMENT 2: DBE DIRECTORY

The Metropolitan Area Planning Agency utilizes the Certified DBE lists developed by the Iowa Department of Transportation and the Nebraska Department of Roads. These lists are found on the subsequent Pages.

AMENDMENT to the IOWA 2012 DIRECTORY of DBEs
The 2013 Directory of Certified Disadvantaged Business Enterprises
is amended by the following changes.

New changes to the amendment are in the shaded areas.

Add new DBEs: Minority Woman Airport Concessionaire	<div data-bbox="483 390 1432 661"> <p>2 C's Freight Broker, LLC 13940 W. Meeker Blvd. #115-436 Sun City West, AZ 85375 602-509-8924 E-mail: lauramason@2csfreight.com Work Type: Trucking, General Freight, Local (NAICS Code: 484110)</p> </div> <div data-bbox="483 682 1432 987"> <p>Aerial Data Service, Inc. 8301 East 51st Street, Suite 100 Tulsa, OK 74145 918-622-4144 E-mail: jcarter@aerialdata.com Website: www.aerialdata.com Work Type: Aerial Photography, Surveying, Mobile LiDAR, Digital Mapping (NAICS Code: 541370)</p> </div> <div data-bbox="483 1008 1432 1281"> <p>Davis Freight Management, Inc. 13238 Broadway Alden, NY 14004 716-902-4244 E-mail: wendy.davisfrt@verizon.net Work Type: Freight Forwarding and Warehousing (NAICS Codes: 481220, 493110, 484121, 488510, 541614)</p> </div> <div data-bbox="483 1302 1432 1648"> <p>Doon Technologies, Inc. 200 Middlesex Essex Turnpike, Suite 309 Iselin, NJ 08830 732-404-1334/908-313-0003 E-mail: doon@doontec.com Website: www.doontec.com Work Type: Other Scientific and Technical Consulting Services (NAICS Code: 541690), Employment Placement Agencies (NAICS Code: 561311)</p> </div>
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Add new DBEs: Minority Woman Airport Concessionaire	<p>Ellana, Inc. 32 Broadway, Suite 801 New York, NY 10004 212-971-0936 E-mail: eberenznitsky@ellana.net Website: www.ellana.net Work Type: Construction Cost Estimating (NAICS Code: 541611) and Professional Training for Cost Estimating and Construction Management (NAICS Code: 611410)</p>	<p>Ella Bereznitsky Fax: 212-361-6169</p>
	<p>G5 Tek Solutions, LLC 4485 Tench Road, Suite 2321 P.O. Box 30024 Suwanee, GA 30024 404-374-6350/77--889-4929 E-mail: thwhitfield@bellsouth.net Website: www.g5tek.com Work Type: Telecommunications Equipment and Wiring (NAICS Code: 238210); Telephone and Telephone Equipment Installation, Administration & Support of Solutions for Inmate Telecommunications Systems (NAICS Code: 812990)</p>	<p>Terri Whitfield Fax: 866-369-7389</p>
	<p>Jacobsen Daniels Associates, LLC 121 Pearl Street Ypsilanti, MI 48197 734-971-3200 E-mail: certifications@jacovsendaniels.com Website: www.jacovsendaniels.com Work Type: Other Management Consulting Services (Airport Consulting) (NAICS Code: 541618); Traffic Engineering Consulting Services (NAICS Code: 541330); Transportation Management Consulting Services (NAICS Code: 541614); and Gift, Novelty, and Souvenir Stores (NAICS Code: 453220)</p>	<p>Darryl H. Daniels Fax: 734-961-3204</p>

Add new DBEs: Minority Woman Airport Concessionaire	<p>JMD Enterprises, LLC 13105 Delmar Street Leawood, KS 66209-4147 913-681-6666/913-226-8686 E-mail: Julie@jmdenterprises.net Website: www.jmdenterprises.net Work Type: 236210-Industrial Building Construction; 423610-Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers; 423720-Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers; 423730-Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers; 423830-Industrial Machinery and Equipment Merchant Wholesalers; 423310-Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers; 423320-Brick, Stone, and Related Construction Material Merchant Wholesalers; 423330-Roofing, Siding, and Insulation Material Merchant Wholesalers; 423390-Other Construction Material Merchant Wholesalers; 423690-Other Professional Equipment and Supplies Merchant Wholesalers; 423710-Hardware Merchant Wholesalers; 423740-Refrigeration Equipment and Supplies Merchant Wholesalers; 423840-Industrial Supplies Merchant Wholesalers; 236220-Commercial and Institutional Building Construction; 237110-Water and Sewer Line and Related Structures Construction; 237130-Power and Communication Line and Related Structures Construction; 237310-Highway, Street, and Bridge Construction; 238110-Poured Concrete Foundation and Structure Contractors; 238120-Structural Steel and Precast Concrete Contractors; 238130-Framing Contractors; 238160-Roofing Contractors; 238170-Siding Contractors; 238190-Other Foundation, Structure, and Building Exterior Contractors; 238210-Electrical Contractors and Other Wiring Installation Contractors; 238220-Plumbing, Heating, and Air-Conditioning Contractors; 238290-Other Building Equipment Contractors; 238310-Drywall and Insulation Contractors; 238320-Painting and Wall Covering Contractors; 238390-Other Building Finishing Contractors; 423430-Computer and Computer Peripheral Equipment and Software Merchant Wholesalers; 423810-Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers; 424950-Paint, Varnish, and Supplies Merchant Wholesalers; 517911-Telecommunications Resellers; 532412-Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing; 532490-Other Commercial and Industrial Machinery and Equipment Rental and Leasing</p>	Julie D'Agostino Fax: 913-681-9213
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Add new DBEs: Minority Woman Airport Concessionaire	Marybo Enterprises 3614 Cairnbrook Drive Columbia, SC 29210 803-750-6914/803-479-0406 E-mail: katielondon77@yahoo.com Work Type: Corporate Training and Development, consulting, marketing consulting, project management (non-construction) and executive coaching, commercial voice over services, television, radio, telephone answering services (NAICS Codes; 561421, 512290, 541611, 624190, 541614, 611430, 541613, 561110)	Katie London Fax: None
	Perkins & Perkins Construction 3223 North 45 th Street Omaha, NE 68104 402-208-8587/402-612-1356 E-mail: aperk@97097@msn.com Work Type: Building Construction, Concrete Flatwork, Landscaping, Pavement Patching, and Retaining Walls (NAICS Code: 237310)	Michael A. Perkins Fax: 402-457-6181/402-934-9445
	Premium Transit Services, Inc. 1415 Riding Mall East (Zip 46614) P.O. Box 1496 South Bend, IN 46680 574-291-8020/574-876-0454 E-mail: awbrown@premiumtransit.com Website: www.premiumtransit.com Work Type: Transportation Related Equipment and Instruments (NAICS Code: 423860)	Andrew Brown Fax: 574-299-1482
	Quest Corporation of America, Inc. 17220 Camelot Court, Land O Lakes, FL 34638 Mailing: 3837 Northdale Blvd., Suite 242 Tampa, FL 34638 866-662-6273/813-926-2942 E-mail: corporate@qcausa.com Website: www.qcausa.com Work Type: Full service communication firm that specializes in marketing, advertising, public relations, public information, aviation services, graphics design and web site design and maintenance NAICS Codes: 541611 - 300-Consultants, 541820 - 978-Public Relations	Sharlene Lairscey Fax: 923-926-2962

Add new DBEs: Minority Woman Airport Concessionaire	Tyler Communication & Associates, LLC Dr. Tony Tyler 1513 McGill Park Ave. (Zip: 30312) P.O. Box 1436 Atlanta, GA 30324 505-923-0038 Fax: None E-mail: tony.tyler@tylercommunication.com Website: www.tylercommunication.com Work Type: All Other Support Services (NAICS Code: 561990); Computer Training (NAICS Code: (611420); Professional and Management Development Training (NAICS Code: 611430); Apprenticeship Training (NAICS Code: 611513); Exam Preparation and Tutoring (NAICS Code: 611691); and Educational Support Services (NAICS Code: 611710)	
Remove From Directory:	AFRAM Corporation Coleman Construction Company of Nebraska Pinnacle Mapping Technologies, Inc.	
Other Changes:	Rockette Trucking & Construction Ltd. - Owner's Name Change: Connie J. Ross-Steger	
Name, Address & Phone Changes:		

IOWA DBE DIRECTORY

Work Type: Asphalt Paving

<i>Name</i>	<i>City</i>	<i>State</i>
Midwest Contractors, Inc.	Cedar Falls	IA
Paco Construction, LLC	Runnells	IA

IOWA DBE DIRECTORY

Work Type: Asphalt Services Misc.

<i>Name</i>	<i>City</i>	<i>State</i>
Paco Construction, LLC	Runnells	IA
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
Surfacer's, Inc.	Port Byron	IL

IOWA DBE DIRECTORY

Work Type: Attenuators (Impact)

<i>Name</i>	<i>City</i>	<i>State</i>
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Rupert Construction Co.	Omaha	NE

IOWA DBE DIRECTORY

Work Type: Bridges

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
Dormark Construction Co.	Grimes	IA
Marshall Const., Inc.	Mountainburg	AR
Navarro Enterprise Construction, Inc.	Omaha	NE
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Bridge Approaches

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Collins Concrete LTD	Davenport	IA
Curtis Contracting Corp.	Ely	IA
Cyclone Steel & Supplies, Inc.	Mason City	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Little Construction	Davenport	IA
Marshall Const., Inc.	Mountainburg	AR
MC Concrete, LLC	Blue Grass	IA
Midwest Contractors, Inc.	Cedar Falls	IA
OEL Construction Services, Inc.	Steamboat Rock	IA
RAMMS Construction LLC	Marshalltown	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Bridge Beams Concrete

<i>Name</i>	<i>City</i>	<i>State</i>
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Bridge Blasting

<i>Name</i>	<i>City</i>	<i>State</i>
Central Painting, Inc.	St. John	IN

IOWA DBE DIRECTORY

Work Type: Bridge Cleaning

<i>Name</i>	<i>City</i>	<i>State</i>
Central Painting, Inc.	St. John	IN

IOWA DBE DIRECTORY

Work Type: Bridge Coating

<i>Name</i>	<i>City</i>	<i>State</i>
Central Painting, Inc.	St. John	IN

IOWA DBE DIRECTORY

Work Type: Bridge Metalizing

<i>Name</i>	<i>City</i>	<i>State</i>
Central Painting, Inc.	St. John	IN

IOWA DBE DIRECTORY

Work Type: Bridge Painting

<i>Name</i>	<i>City</i>	<i>State</i>
Central Painting, Inc.	St. John	IN

IOWA DBE DIRECTORY

Work Type: Catch Basin

<i>Name</i>	<i>City</i>	<i>State</i>
Collins Concrete LTD	Davenport	IA
MC Concrete, LLC	Blue Grass	IA

IOWA DBE DIRECTORY

Work Type: Changeable Message Boards

<i>Name</i>	<i>City</i>	<i>State</i>
Bonnie's Barricades, Inc.	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Concrete (Driveways, Sidewalks, and Misc. Flatwork)

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Coleman Construction Company of Nebraska	Omaha	NE
Collins Concrete LTD	Davenport	IA
Curtis Contracting Corp.	Ely	IA
Cyclone Steel & Supplies, Inc.	Mason City	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Intake Man	Des Moines	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
Leader Construction Company	Des Moines	IA
Little Construction	Davenport	IA
Marshall Const., Inc.	Mountainburg	AR
MC Concrete, LLC	Blue Grass	IA
Midwest Contractors, Inc.	Cedar Falls	IA
MPS Engineers, P.C.	Des Moines	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
OEL Construction Services, Inc.	Steamboat Rock	IA
Paco Construction, LLC	Runnells	IA
RAMMS Construction LLC	Marshalltown	IA
Rupert Construction Co.	Omaha	NE
Stokes Construction Company	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Concrete Barrier Rail

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Little Construction	Davenport	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Concrete Box Culvert

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Little Construction	Davenport	IA
MC Concrete, LLC	Blue Grass	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Concrete Crushing

<i>Name</i>	<i>City</i>	<i>State</i>
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Concrete Pumping

<i>Name</i>	<i>City</i>	<i>State</i>
Duffield, Anne Construction, Inc.	Cedar Rapids	IA

IOWA DBE DIRECTORY

Work Type: Crash Cushions

<i>Name</i>	<i>City</i>	<i>State</i>
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA

IOWA DBE DIRECTORY

Work Type: Culvert Pipe

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Little Construction	Davenport	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Curb and Gutter

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Cyclone Steel & Supplies, Inc.	Mason City	IA
MC Concrete, LLC	Blue Grass	IA
OEL Construction Services, Inc.	Steamboat Rock	IA
RAMMS Construction LLC	Marshalltown	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Demolition

<i>Name</i>	<i>City</i>	<i>State</i>
Collins Concrete LTD	Davenport	IA
DeLong Construction, Inc.	Washington	IA
Little Construction	Davenport	IA
MPS Engineers, P.C.	Des Moines	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Paco Construction, LLC	Runnells	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Dowels

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA

IOWA DBE DIRECTORY

Work Type: Erosion Control (Seed, Sod, and Rip-Rap)

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
Collins Concrete LTD	Davenport	IA
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
Little Construction	Davenport	IA
MC Concrete, LLC	Blue Grass	IA
MPS Engineers, P.C.	Des Moines	IA
OEL Construction Services, Inc.	Steamboat Rock	IA
Paco Construction, LLC	Runnells	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Tara Erosion Control, LLC	Lansing	IA
Tiedt Nursery, Ltd.	Waverly	IA
Whitfield's Lawn & Garden Specialists	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Excavation

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
MPS Engineers, P.C.	Des Moines	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Fencing

<i>Name</i>	<i>City</i>	<i>State</i>
Access Control Co., Inc.	Rock Island	IL
Coleman Construction Company of Nebraska	Omaha	NE
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Little Construction	Davenport	IA
Stokes Construction Company	Omaha	NE
Tara Erosion Control, LLC	Lansing	IA
Tiedt Nursery, Ltd.	Waverly	IA

IOWA DBE DIRECTORY

Work Type: Flowable Mortar

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: General Construction (Building Trades)

<i>Name</i>	<i>City</i>	<i>State</i>
Coleman Construction Company of Nebraska	Omaha	NE
Stokes Construction Company	Omaha	NE
TCW Construction, Inc.	Lincoln	NE
Whitfield's Lawn & Garden Specialists	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Geo Grid

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA

IOWA DBE DIRECTORY

Work Type: Grading

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
MPS Engineers, P.C.	Des Moines	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Phoenix Corp. of the Quad Cities	Port Byron	IL
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Guardrail

<i>Name</i>	<i>City</i>	<i>State</i>
Access Control Co., Inc.	Rock Island	IL
Boone Construction Co. of Missouri	Columbia	MO
Coleman Construction Company of Nebraska	Omaha	NE
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Paco Construction, LLC	Runnells	IA
Rupert Construction Co.	Omaha	NE
Stokes Construction Company	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Herbicide Application

<i>Name</i>	<i>City</i>	<i>State</i>
Tiedt Nursery, Ltd.	Waverly	IA

IOWA DBE DIRECTORY

Work Type: High Tension Guardrail

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO

IOWA DBE DIRECTORY

Work Type: Landscaping (Trees and Shrubs)

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
Larry's Landscaping	Cedar Rapids	IA
Little Construction	Davenport	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Paco Construction, LLC	Runnells	IA
Tara Erosion Control, LLC	Lansing	IA
Tiedt Nursery, Ltd.	Waverly	IA
Whitfield's Lawn & Garden Specialists	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Material Testing

<i>Name</i>	<i>City</i>	<i>State</i>
Geo Services, Inc.	Naperville	IL

IOWA DBE DIRECTORY

Work Type: Mowing

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Larry's Landscaping	Cedar Rapids	IA
Little Construction	Davenport	IA
Tiedt Nursery, Ltd.	Waverly	IA
Whitfield's Lawn & Garden Specialists	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Ornamental Rail

<i>Name</i>	<i>City</i>	<i>State</i>
Cyclone Steel & Supplies, Inc.	Mason City	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
J & L Steel Erectors	Hudson	WI

IOWA DBE DIRECTORY

Work Type: PC Paving

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Collins Concrete LTD	Davenport	IA
Curtis Contracting Corp.	Ely	IA
MC Concrete, LLC	Blue Grass	IA
Midwest Contractors, Inc.	Cedar Falls	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: PC Poured Walls

<i>Name</i>	<i>City</i>	<i>State</i>
OEL Construction Services, Inc.	Steamboat Rock	IA
RAMMS Construction LLC	Marshalltown	IA

IOWA DBE DIRECTORY

Work Type: Paved Sidewalk/Recreational Trails

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Collins Concrete LTD	Davenport	IA
Curtis Contracting Corp.	Ely	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Leader Construction Company	Des Moines	IA
Midwest Contractors, Inc.	Cedar Falls	IA
Paco Construction, LLC	Runnells	IA
RAMMS Construction LLC	Marshalltown	IA
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Pavement Breaking

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
Curtis Contracting Corp.	Ely	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE

IOWA DBE DIRECTORY

Work Type: Pavement Joints (Sealing, Sawing, and Routing)

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Curtis Contracting Corp.	Ely	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Interstate Sealant & Concrete, Inc.	Waukesha	WI
Little Construction	Davenport	IA
Midwest Contractors, Inc.	Cedar Falls	IA
OEL Construction Services, Inc.	Steamboat Rock	IA
Rupert Construction Co.	Omaha	NE

IOWA DBE DIRECTORY

<i>Work Type: Pavement Patching</i>		
<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
Coleman Construction Company of Nebraska	Omaha	NE
Collins Concrete LTD	Davenport	IA
Curtis Contracting Corp.	Ely	IA
Cyclone Steel & Supplies, Inc.	Mason City	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Intake Man	Des Moines	IA
Interstate Sealant & Concrete, Inc.	Waukesha	WI
Leader Construction Company	Des Moines	IA
MC Concrete, LLC	Blue Grass	IA
Midwest Contractors, Inc.	Cedar Falls	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
OEL Construction Services, Inc.	Steamboat Rock	IA
Rupert Construction Co.	Omaha	NE

IOWA DBE DIRECTORY

Work Type: Paving Baskets

<i>Name</i>	<i>City</i>	<i>State</i>
Curtis Contracting Corp.	Ely	IA
Cyclone Steel & Supplies, Inc.	Mason City	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Little Construction	Davenport	IA
Midwest Contractors, Inc.	Cedar Falls	IA
OEL Construction Services, Inc.	Steamboat Rock	IA
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE

IOWA DBE DIRECTORY

Work Type: Paving Subbase

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE

IOWA DBE DIRECTORY

Work Type: Polymer Grid

<i>Name</i>	<i>City</i>	<i>State</i>
A and B Contracting, LLC	West Des Moines	IA
DeLong Construction, Inc.	Washington	IA

IOWA DBE DIRECTORY

Work Type: Reinforcing Steel (Installation)

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
Cyclone Steel & Supplies, Inc.	Mason City	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Iron Works Rebar, Inc.	Nebraska City	NE
J & L Steel Erectors	Hudson	WI
Marshall Const., Inc.	Mountainburg	AR
Navarro Enterprise Construction, Inc.	Omaha	NE
P.J.R. & Associates, Inc.	Campbell Hill	IL
R.A.E. Rebar, Inc.	Blair	NE
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Removals

<i>Name</i>	<i>City</i>	<i>State</i>
Curtis Contracting Corp.	Ely	IA
Cyclone Steel & Supplies, Inc.	Mason City	IA
DeLong Construction, Inc.	Washington	IA
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Paco Construction, LLC	Runnells	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Retaining Walls

<i>Name</i>	<i>City</i>	<i>State</i>
Cyclone Steel & Supplies, Inc.	Mason City	IA
Larry's Landscaping	Cedar Rapids	IA
Leader Construction Company	Des Moines	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
OEL Construction Services, Inc.	Steamboat Rock	IA
Paco Construction, LLC	Runnells	IA
Tiedt Nursery, Ltd.	Waverly	IA

IOWA DBE DIRECTORY

Work Type: Safety

<i>Name</i>	<i>City</i>	<i>State</i>
Access Control Co., Inc.	Rock Island	IL
Bonnie's Barricades, Inc.	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Security

<i>Name</i>	<i>City</i>	<i>State</i>
Access Control Co., Inc.	Rock Island	IL
Bonnie's Barricades, Inc.	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Shoulders (granular)

<i>Name</i>	<i>City</i>	<i>State</i>
Boone Construction Co. of Missouri	Columbia	MO
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Marshall Const., Inc.	Mountainburg	AR
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Shoulders (Paved)

<i>Name</i>	<i>City</i>	<i>State</i>
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA

IOWA DBE DIRECTORY

Work Type: Signing

<i>Name</i>	<i>City</i>	<i>State</i>
OEL Construction Services, Inc.	Steamboat Rock	IA

IOWA DBE DIRECTORY

Work Type: Snow Removal

<i>Name</i>	<i>City</i>	<i>State</i>
Larry's Landscaping	Cedar Rapids	IA
Whitfield's Lawn & Garden Specialists	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Steel Erection

<i>Name</i>	<i>City</i>	<i>State</i>
J & L Steel Erectors	Hudson	WI
Marshall Const., Inc.	Mountainburg	AR
P.J.R. & Associates, Inc.	Campbell Hill	IL
R.A.E. Rebar, Inc.	Blair	NE
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

Work Type: Storm Sewer/Intakes

<i>Name</i>	<i>City</i>	<i>State</i>
Curtis Contracting Corp.	Ely	IA
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Intake Man	Des Moines	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
Kim Construction Company, Inc.	Steger	IL
MPS Engineers, P.C.	Des Moines	IA
Rupert Construction Co.	Omaha	NE
TCW Construction, Inc.	Lincoln	NE
Watco Construction, Inc.	Waterloo	IA

IOWA DBE DIRECTORY

<i>Work Type: Subdrains</i>		
<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
Watco Construction, Inc.	Waterloo	IA

IOWA DBE DIRECTORY

Work Type: Temporary Barrier Rail

<i>Name</i>	<i>City</i>	<i>State</i>
Dormark Construction Co.	Grimes	IA

IOWA DBE DIRECTORY

Work Type: Traffic Control

<i>Name</i>	<i>City</i>	<i>State</i>
Bonnie's Barricades, Inc.	Des Moines	IA
Boone Construction Co. of Missouri	Columbia	MO
Dormark Construction Co.	Grimes	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Little Construction	Davenport	IA
Midwest Contractors, Inc.	Cedar Falls	IA

IOWA DBE DIRECTORY

Work Type: Tree and Stump Removal (Clearing and Grubbing)

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Duffield, Anne Construction, Inc.	Cedar Rapids	IA
Larry's Landscaping	Cedar Rapids	IA
Little Construction	Davenport	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Rupert Construction Co.	Omaha	NE
Taylor Construction, Inc.	New Vienna	IA

IOWA DBE DIRECTORY

<i>Work Type: Trucking</i>		
<i>Name</i>	<i>City</i>	<i>State</i>
Blackwell Construction, Inc.	Des Moines	IA
Collins Concrete LTD	Davenport	IA
Curtis Contracting Corp.	Ely	IA
Dan Ash Trucking, Inc.	Silvis	IL
DeLong Construction, Inc.	Washington	IA
Donovan, J.D., Inc.	Rockville	MN
Dormark Construction Co.	Grimes	IA
Dysart Trucking	Sioux Falls	SD
James Enterprise, Inc.	Lincoln	NE
Jerry & Larry's Disposal, LLC	Davenport	IA
MPS Engineers, P.C.	Des Moines	IA
Navarro Enterprise Construction, Inc.	Omaha	NE
Paco Construction, LLC	Runnells	IA
Phoenix Corp. of the Quad Cities	Port Byron	IL
Pizano Trucking	Port Byron	IL
River Bend Enterprises, L.C.	Nashua	IA
Rock On Enterprises, Inc.	Waite Park	MN
Rockette Trucking & Construction Ltd.	Strawberry Point	IA
Royal Crane Service, Inc.	Bridgeview	IL
Rupert Construction Co.	Omaha	NE
Surfacer's, Inc.	Port Byron	IL
Taylor Construction, Inc.	New Vienna	IA
TCW Construction, Inc.	Lincoln	NE

IOWA DBE DIRECTORY

Work Type: Water Mains

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
Kim Construction Company, Inc.	Steger	IL
MPS Engineers, P.C.	Des Moines	IA
Watco Construction, Inc.	Waterloo	IA

IOWA DBE DIRECTORY

Work Type: Welding

Name

City

State

P.J.R. & Associates, Inc.

Campbell Hill

IL

IOWA DBE DIRECTORY

Work Type: Wetland Mitigation

<i>Name</i>	<i>City</i>	<i>State</i>
DeLong Construction, Inc.	Washington	IA
MPS Engineers, P.C.	Des Moines	IA

IOWA DBE DIRECTORY

Work Type: Airport

<i>Name</i>	<i>City</i>	<i>State</i>
Advanced Air, Inc.	Council Bluffs	IA
Aviation Alliance, Inc.	Colleyville	TX
KB Environmental Sciences, Inc.	St. Petersburg	FL
LT Leon Associates, Inc.	Des Moines	IA
Marr Arnold Planning, LLC	Ames	IA
Martinez Geospatial, Inc.	Minneapolis	MN
Mary A. Lynch	Arlington	TX
Valley Illuminators	Federal Way	WA

IOWA DBE DIRECTORY

Work Type: Aquatic

<i>Name</i>	<i>City</i>	<i>State</i>
Ecological Specialists, Inc.	O'Fallon	MO

IOWA DBE DIRECTORY

Work Type: Archaeology

<i>Name</i>	<i>City</i>	<i>State</i>
McKnight, Justine Woodard,	Severna Park	MD
Tallgrass Historians L.C.	Iowa City	IA
The 106 Group Ltd.	St. Paul	MN
Wapsi Valley Archaeology, Inc.	Anamosa	IA

IOWA DBE DIRECTORY

Work Type: Architectural

<i>Name</i>	<i>City</i>	<i>State</i>
AFRAM Corporation	St. Louis	MO
Illumination Arts, LLC	Bloomfield	NJ
Kaskaskia Engineering Group, LLC	Belleville	IL
Rosales + Partners, Inc.	Boston	MA
Tallgrass Historians L.C.	Iowa City	IA
Wapsi Valley Archaeology, Inc.	Anamosa	IA

IOWA DBE DIRECTORY

Work Type: Communications, Public Relations, and Public Involvement

<i>Name</i>	<i>City</i>	<i>State</i>
Environmental Planning Strategies, Inc.	Davenport	IA
Kaskaskia Engineering Group, LLC	Belleville	IL
Marr Arnold Planning, LLC	Ames	IA
TranSmart Technologies, Inc.	Madison	WI
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Construction Engineer		
Name	City	State
AFRAM Corporation	St. Louis	MO
American Surveying & Engineering, P.C.	Chicago	IL
Associated Engineering, Inc.	Omaha	NE
FluidClarity, Ltd.	Oak Park	IL
Gandhi and Associates, Inc.	Chicago	IL
Hg Consult, Inc.	Kansas City	MO
Kaskaskia Engineering Group, LLC	Belleville	IL
Lakeside Engineers, LLC	Brookfield	WI
Lin Engineering, Ltd.	Springfield	IL
MFRA, Inc.	Plymouth	MN
Robinson Engineering Company, Inc.	Cedar Falls	IA
Singh & Associates, Inc.	Chicago	IL
Trekk Design Group LLC	Kansas City	MO
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Construction Inspection

<i>Name</i>	<i>City</i>	<i>State</i>
AFRAM Corporation	St. Louis	MO
American Surveying & Engineering, P.C.	Chicago	IL
Associated Engineering, Inc.	Omaha	NE
Geo Services, Inc.	Naperville	IL
Kaskaskia Engineering Group, LLC	Belleville	IL

IOWA DBE DIRECTORY

Work Type: Construction Management

<i>Name</i>	<i>City</i>	<i>State</i>
AFRAM Corporation	St. Louis	MO
American Surveying & Engineering, P.C.	Chicago	IL
Associated Engineering, Inc.	Omaha	NE
B & R Project Management, Inc.	Aurora	CO
Kaskaskia Engineering Group, LLC	Belleville	IL
Lakeside Engineers, LLC	Brookfield	WI
Singh & Associates, Inc.	Chicago	IL

IOWA DBE DIRECTORY

Work Type: Construction Survey

<i>Name</i>	<i>City</i>	<i>State</i>
American Surveying & Engineering, P.C.	Chicago	IL
Associated Engineering, Inc.	Omaha	NE
Lin Engineering, Ltd.	Springfield	IL
MFRA, Inc.	Plymouth	MN
Robinson Engineering Company, Inc.	Cedar Falls	IA
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Consulting Engineer		
Name	City	State
AFRAM Corporation	St. Louis	MO
American Surveying & Engineering, P.C.	Chicago	IL
Associated Engineering, Inc.	Omaha	NE
Aviation Alliance, Inc.	Colleyville	TX
FluidClarity, Ltd.	Oak Park	IL
Gandhi and Associates, Inc.	Chicago	IL
Hg Consult, Inc.	Kansas City	MO
Kaskaskia Engineering Group, LLC	Belleville	IL
Lin Engineering, Ltd.	Springfield	IL
LT Leon Associates, Inc.	Des Moines	IA
Martinez Geospatial, Inc.	Minneapolis	MN
MFRA, Inc.	Plymouth	MN
Robinson Engineering Company, Inc.	Cedar Falls	IA
Trekk Design Group LLC	Kansas City	MO
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Environmental

<i>Name</i>	<i>City</i>	<i>State</i>
EarthView Environmental, LLC	Coralville	IA
Ecological Specialists, Inc.	O'Fallon	MO
Environmental Planning Strategies, Inc.	Davenport	IA
Flenker Land Architecture Consultants, LLC	Long Grove	IA
Geo Services, Inc.	Naperville	IL
H&S Environmental, Inc.	Westborough	MA
Kaskaskia Engineering Group, LLC	Belleville	IL
LT Leon Associates, Inc.	Des Moines	IA
Singh & Associates, Inc.	Chicago	IL
The 106 Group Ltd.	St. Paul	MN
TranSmart Technologies, Inc.	Madison	WI
Trekk Design Group LLC	Kansas City	MO
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Geodetic Survey

<i>Name</i>	<i>City</i>	<i>State</i>
American Surveying & Engineering, P.C.	Chicago	IL

IOWA DBE DIRECTORY

Work Type: Geotechnical Services

<i>Name</i>	<i>City</i>	<i>State</i>
Geo Services, Inc.	Naperville	IL
Kaskaskia Engineering Group, LLC	Belleville	IL
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Highway Design

<i>Name</i>	<i>City</i>	<i>State</i>
American Surveying & Engineering, P.C.	Chicago	IL
FluidClarity, Ltd.	Oak Park	IL
Hg Consult, Inc.	Kansas City	MO
Kaskaskia Engineering Group, LLC	Belleville	IL
Lakeside Engineers, LLC	Brookfield	WI
Lin Engineering, Ltd.	Springfield	IL
Robinson Engineering Company, Inc.	Cedar Falls	IA
Singh & Associates, Inc.	Chicago	IL
Trekk Design Group LLC	Kansas City	MO
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Information Technology

<i>Name</i>	<i>City</i>	<i>State</i>
Cerebral InfoTech, LLC	Urbandale	IA
Genova Technologies, Inc.	Cedar Rapids	IA
TranSmart Technologies, Inc.	Madison	WI
Zia Engineering & Environmental Consultants, LLC	Las Cruces	NM

IOWA DBE DIRECTORY

Work Type: Landscape Architect

<i>Name</i>	<i>City</i>	<i>State</i>
Flenker Land Architecture Consultants, LLC	Long Grove	IA
Vireo	Kansas City	MO

IOWA DBE DIRECTORY

Work Type: Rail Transportation

<i>Name</i>	<i>City</i>	<i>State</i>
LT Leon Associates, Inc.	Des Moines	IA
Prime Focus, LLC	De Pere	WI

IOWA DBE DIRECTORY

Work Type: Survey, Mapping, and Photogrammetry

<i>Name</i>	<i>City</i>	<i>State</i>
Associated Engineering, Inc.	Omaha	NE
Martinez Geospatial, Inc.	Minneapolis	MN
MFRA, Inc.	Plymouth	MN
Pinnacle Mapping Technologies, Inc.	Fishers	IN
Robinson Engineering Company, Inc.	Cedar Falls	IA

IOWA DBE DIRECTORY

Work Type: Traffic Engineering (traffic analysis, signal design, etc.)

<i>Name</i>	<i>City</i>	<i>State</i>
Kaskaskia Engineering Group, LLC	Belleville	IL
Lin Engineering, Ltd.	Springfield	IL
TranSmart Technologies, Inc.	Madison	WI
Trekk Design Group LLC	Kansas City	MO

IOWA DBE DIRECTORY

Work Type: Transit Planning

<i>Name</i>	<i>City</i>	<i>State</i>
Connetics Transportation Group, Inc.	Roswell	GA
Marr Arnold Planning, LLC	Ames	IA
TranSmart Technologies, Inc.	Madison	WI

IOWA DBE DIRECTORY

Work Type: Transportation Planning

<i>Name</i>	<i>City</i>	<i>State</i>
Connetics Transportation Group, Inc.	Roswell	GA
Environmental Planning Strategies, Inc.	Davenport	IA
FluidClarity, Ltd.	Oak Park	IL
Kaskaskia Engineering Group, LLC	Belleville	IL
LT Leon Associates, Inc.	Des Moines	IA
Marr Arnold Planning, LLC	Ames	IA
Singh & Associates, Inc.	Chicago	IL
Trekk Design Group LLC	Kansas City	MO

IOWA DBE DIRECTORY

OTHER CONSULTANTS

Name		Services
City	State	
AFRAM Corporation		Mechanical & Electrical Engineering; Material
St. Louis	MO	Inspection & Testing
American Surveying & Engineering, P.C.		Subsurface Utility Engineering (SUE)
Chicago	IL	
Aviation Alliance, Inc.		Engineering Services (NAICS Code: 541330);
Colleyville	TX	Other Airport Operations (NAICS Code: 488119); Specializing in Airfield Electrical Design and Navigational Aids (NAVAIDS) Installation Design; Also Provides Electrical Facility Assessments, Specialty TERPS Analysis, Airport Planning, and Expert Witness/Investigative Services
Community CPA & Associates, Inc.		CPA Audits, Accounting, Payroll, Taxes, and
Des Moines	IA	Business Consultation
Connetics Transportation Group, Inc.		Mass Transportation Management Consulting
Roswell	GA	Services - NAICS Code 541614: Process, Physical Distribution and Logistics Consulting Services
C-Wise Design and Consulting, LLC		Green Building Consulting, LEED Consulting;
Iowa City	IA	Green Building Design and Education
EarthView Environmental, LLC		Wetland Services and Natural Resource
Coralville	IA	Consulting
Environmental Planning Strategies, Inc.		Environmental Planning Consulting Services, such
Davenport	IA	as: National Environmental Policy Act Consulting, Training, Public Involvement, Communication, Public Relations, Transportation Planning, Environmental Document Review – including Feasibility Studies, such as: Incorporation of Crosscutting Laws, Environmental Conflict Resolution, CWA, 4(f), NHPA, ESA, and SAFETEA – LU Regulations
Flenker Land Architecture Consultants, LLC		Architecture: Landscape Architecture; Land
Long Grove	IA	Planning; Wetland Delineation; Design, Monitoring & Permitting; Graphic Design; Storm Water Quality & Erosion Control Planning & Design

IOWA DBE DIRECTORY

OTHER CONSULTANTS

Name		Services
City	State	
FluidClarity, Ltd.		Feasibility Studies
Oak Park	IL	
Gandhi and Associates, Inc.		Consulting Engineering Services in Civil,
Chicago	IL	Electrical, and Mechanical Engineering
Geo Services, Inc.		Borings for Building Construction, Core Drilling
Naperville	IL	and Test Borings; Soils Test Drilling and Test Borings for Construction (NAICS Code: 238910); Materials Testing, Laboratory Services (NAICS Code: 541380); Geotechnical Environmental, Construction Inspection and Construction QA/QC (NAICS Code: 541690)
Illumination Arts, LLC		Architectural Lighting Design Services with a
Bloomfield	NJ	particular niche in Aesthetic Lighting for Signature Bridges. Participation in community design presentations for bridge projects, Sustainable Lighting, LEED Lighting Design, Lighting Consulting, Energy Efficient Lightng Design. (NAICS Code: 541310)
KB Environmental Sciences, Inc.		Consultant in the areas of: Transportation related
St. Petersburg	FL	Air Quality and Noise, Hazardous Materials, and Industrial Hygiene
LT Leon Associates, Inc.		Civil and Environmental Engineering Consultant
Des Moines	IA	providing expertise with planning design, and construction projects. Project Areas include: Road Corridors, Transit, Airports, Rail, Trails, Watersheds and Drainage, Utility Systems, ADA accewssibility, and LEED/Sustainable projects. Services include: Hydraulic/Hydrologic Analysis, Sustainable Stormwater Management, Regulatory Permitting, SWPPP Management, Construction Observation, and Construction Administration.
MAC Consulting, LLC		Administrative Management and General
Guilford	IN	Management Consulting Services (NAICS Code: 541611)
Marr Arnold Planning, LLC		Administrative Management and General
Ames	IA	Management Consulting Services (NAICS Code 541611)

IOWA DBE DIRECTORY

OTHER CONSULTANTS

<i>Name</i>		<i>Services</i>
<i>City</i>	<i>State</i>	
Martinez Geospatial, Inc. Minneapolis	MN	Soft copy photogrammetry, Digital Topographic/Planimetric Mapping, Analytical Triangulation, Digital Orthophotography, CADD Reprographics Full Scanning Service, Consulting & Training; Digital Photogrammetric Mapping; 3D Spatial Modeling & Visualization; Airport Obstruction Analysis Surveys
Mary A. Lynch Arlington	TX	Air Transportation Consulting, such as: Other Airport Operations (488119); Administrative Management and General Management Consulting Services (541611); Marketing Consulting Services (541613); Other Supportive Activities for Air Transportation (488190); and Other Management Consulting Services (541618)
McKnight, Justine Woodard, Severna Park	MD	Archeobotanical Consultant - NAICS Codes 541690 & 541710
NorthStar Strategies, Inc. Highland Park	IL	Advertising (NAICS Code: 541890), Marketing Research & Public Opinion Polling (NAICS Code: 541910), Direct Mail Advertising (NAICS Code: 541860), Advertising Agencies (NAICS Code: 541810), Marketing Consulting Services (NAICS Code: 541613), and Graphic Services (NAICS Code: 541430)
Pinnacle Mapping Technologies, Inc. Fishers	IN	Aerial Photography, Photogrammetric Mapping, Parcel Conversions, and Geographic Information Systems Services
Robinson Engineering Company, Inc. Cedar Falls	IA	Storm Water Design
Rosales + Partners, Inc. Boston	MA	Architectural Services: Specializing in Aesthetic Conceptual Design of Bridges; Facilitators for Community Participation in the Design of Bridges and Transportation Facilities

IOWA DBE DIRECTORY

OTHER CONSULTANTS

Name		Services
City	State	
Singh & Associates, Inc. Chicago	IL	Design and Construction Management Services in Civil, Structural, Mechanical, Electrical, and Environmental Engineering. Specializing in transportation planning, highways and bridge design, traffic signals, roadway lighting, hydraulic/drainage studies, and site development.
Tallgrass Historians L.C. Iowa City	IA	Historian/Architectural Historian Consultant; Archaeology Consultant
The 106 Group Ltd. St. Paul	MN	Environmental Consulting Services: Archaeology, Cultural Resource Management, Historic Preservation Consulting, Interpretive Planning, and Tribal Consultation (NAICS Code 541620)
Transcend Spatial Solutions, LLC Sarasota	FL	Providing spatial information technology services including geographic information systems (GIS), transportation, database, and software development consulting (NAICS Code: 541512 - Computer Systems Design and Related Services)
TranSmart Technologies, Inc. Madison	WI	Transportation Consulting Services: Computer Software, Intelligent Transportation Systems (ITS), Traffic Engineering, Highway Engineering, Corridor Studies, Transportation Planning, Transit Systems, Environmental Assessment, Public Involvement, Geographic Information Systems (GIS), Computer Aided Design (CAD), and Information Technology.
Trekk Design Group LLC Kansas City	MO	Civil Engineering; Professional Engineering Services of Civil Projects including the Design of Streets, Site Plans, Storm Water Retention, Sanitary Sewers, Water Lines, Lighting and Traffic Signals
Vireo Kansas City	MO	Community Planning and Natural Resource Planning
Zia Engineering & Environmental Consultant Las Cruces	NM	Civil Design, Hydrology/Hydraulics, Environmental Services and Compliance, Remediation, Facilities Support, Natural/Cultural Resources, Land Survey/GIS, Air Quality, Water Resources, Solid Waste, and Information Technology

IOWA DBE DIRECTORY

BROKER - BUILDINGS

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Blaylock Chemical Overland Park	KS	Resins, Chemicals, Pumps, Pump Stations, Grouts, Sealants, Graffiti Removers, Cleaners, & Detergents

IOWA DBE DIRECTORY

BROKER - CONSTRUCTION

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Boone Construction Co. of Missouri Columbia	MO	Pipe, Steel, Structural Steel, Reinforcing Steel, Piling, Steel Baskets, & Saw Blades
River Bend Enterprises, L.C. Nashua	IA	Aggregates
Rock On Trucks, Inc. Waite Park	MN	Truck Brokering (NAICS Code: 541614)

IOWA DBE DIRECTORY

BROKER - MISCELLANEOUS ITEMS

<i>Name City</i>	<i>State</i>	<i>Services/Materials</i>
Cargo Transit, Inc. Weaverville	NC	Transportation Broker - Arranging for Transportation of Freight Only (NAICS Code: 488510)
Leslie Saunders Insurance Agency, Inc. Lutz	FL	Insurance - Insurance Agencies and Brokerages
Progressive Industries, Inc. Chicago	IL	Broker in the areas of Medical, Janitorial, and Industrial Products

IOWA DBE DIRECTORY

MANUFACTURER - AVIATON

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Valley Illuminators Federal Way	WA	Aviation Transportation - Manufacture and Sell L-853 Elevated Retro-reflective Edge Markers for Taxiways, Runways etc., L-860 Runway, Threshold & Taxiway Edge Lights, L-858 Reflective Runway, Taxiway & Guidance Signs, and Sell Wind Socks

IOWA DBE DIRECTORY

MANUFACTURER - CONSTRUCTION

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Bonnie's Barricades, Inc.		Barricades & Signs
Des Moines	IA	
River Bend Enterprises, L.C.		Aggregates
Nashua	IA	

IOWA DBE DIRECTORY

MANUFACTURER - MISCELLANEOUS

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Classic Window Treatments Norwalk	IA	Professional Custom Drapery Fabrication, Made to Order Window Treatments and Bedding
KLII, Inc. Streamwood	IL	Manufacturer of: Electronic and Electromechanical Components and Assemblies; and Cable and Harness Assemblies

IOWA DBE DIRECTORY

SUPPLIER - AVIATON

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Valley Illuminators Federal Way	WA	Aviation Transportation - Manufacture and Sell L-853 Elevated Retro-reflective Edge Markers for Taxiways, Runways etc., L-860 Runway, Threshold & Taxiway Edge Lights, L-858 Reflective Runway, Taxiway & Guidance Signs, and Sell Wind Socks

IOWA DBE DIRECTORY

SUPPLIER - CONSTRUCTION

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Access Control Co., Inc. Rock Island	IL	Fencing and Guardrail Supplies which includes - Chain Link Fence, Colored Chain Link Fence, Guardrail Post, Guardrail, Guardrail Hardware, Chain Link Fence Hardware
Bonnie's Barricades, Inc. Des Moines	IA	Changeable Message Signs
Cyclone Steel & Supplies, Inc. Mason City	IA	Reinforcing Steel Black, Reinforcing Steel Epoxy, PVC Sewer Pipe, Drainage Tile, Concrete Cure, Concrete Expansion Joint Material, Metal Pipe Culvert, Reinforcing Steel Bar Supports, Bar Slab Bridge Supports, Expansion Joint Sealer, Engineering Fabric, Concrete Floor Cleaner, Paslode Nails, and Silt Fencing
River Bend Enterprises, L.C. Nashua	IA	Aggregates
Tiedt Nursery, Ltd. Waverly	IA	Trees, Shrubs, Seed, Fertilizer, Erosion Control Products, Plastic Tubing, and Fence

IOWA DBE DIRECTORY

SUPPLIER - ELECTRICAL

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Carlo Lachmansingh Sales, Inc.		Supplier of Electrical Apparatus and Equipment:
Minneapolis	MN	Electrical Apparatus and Equipment Wiring Supplies and Related Equipment Merchant Wholesaler (NAICS Code 423610)
Centrex Electrical Supply Corp.		Electrical Supplies and Equipment, Telecom & Data
St Louis	MO	
Peachtree Telecommunications International		Supplier Electrical apparatus and Equipment, Wiring Supplies, and Related Equipment
Duluth	GA	Merchant Wholesalers (NAICS - 423610)

IOWA DBE DIRECTORY

SUPPLIER - MISCELLANEOUS

<i>Name</i>		<i>Services/Materials</i>
<i>City</i>	<i>State</i>	
Centrex Electrical Supply Corp.		Electrical Supplies and Equipment, Telecom & Data
St Louis	MO	
Classic Window Treatments		Window Blinds and Shades
Norwalk	IA	

IOWA DBE DIRECTORY

AIRPORT RELATED SERVICES

Name		Services
City	State	
Advanced Air, Inc. Council Bluffs	IA	Fixed Base Operation Aircraft Charter, Rental, Maintenance, and Fuel; Lasergrade/PSI Computer Testing; Calibration and Flight Training
Aviation Alliance, Inc. Colleyville	TX	Engineering Services (NAICS Code: 541330); Other Airport Operations (NAICS Code: 488119); Specializing in Airfield Electrical Design and Navigational Aids (NAVAIDS) Installation Design; Also Provides Electrical Facility Assessments, Specialty TERPS Analysis, Airport Planning, and Expert Witness/Investigative Services
B & R Project Management, Inc. Aurora	CO	Material Handling Equipment Installation (NAICS Code - 238290); Project/Construction Management (NAICS Code - 237990); and Contract Administration (NAICS Code - 52100)
Genova Technologies, Inc. Cedar Rapids	IA	Information Technology Consultant: Specializing in Custom Software Development, System Networking & Integration, and Database Design and Development
Interstate Sealant & Concrete, Inc. Waukesha	WI	Pavement Joints (Sealing, Sawing, and Routing), Spall Repair, and/or Patching
KB Environmental Sciences, Inc. St. Petersburg	FL	Consultant in the areas of: Transportation related Air Quality and Noise, Hazardous Materials, and Industrial Hygiene
MAC Consulting, LLC Guilford	IN	Administrative Management and General Management Consulting Services (NAICS Code: 541611)
Marr Arnold Planning, LLC Ames	IA	Airport Related Services - Research (NAICS Code 488190)

IOWA DBE DIRECTORY

AIRPORT RELATED SERVICES

<i>Name</i>		<i>Services</i>
<i>City</i>	<i>State</i>	
Martinez Geospatial, Inc.		Airport Obstruction Analysis Surveys
Minneapolis	MN	
Valley Illuminators		Aviation Transportation - Manufacture and Sell L-
Federal Way	WA	853 Elevated Retro-reflective Edge Markers for Taxiways, Runways etc., L-860 Runway, Threshold & Taxiway Edge Lights, L-858 Reflective Runway, Taxiway & Guidance Signs, and Sell Wind Socks

IOWA DBE DIRECTORY

AIRPORT CONCESSIONAIRES

<i>Name</i>		<i>Services</i>
<i>City</i>	<i>State</i>	
Aero Service Group, Inc. St. Louis Park	MN	Airport Concessionaire providing Food and Beverages at airport facilities
Aero Service Partners, LLC St. Louis Park	MN	Airport Concessionaire providing Food and Beverage Services

IOWA DBE DIRECTORY

COMPUTER RELATED SERVICES

<i>Name</i>		<i>Services</i>
<i>City</i>	<i>State</i>	
Cerebral InfoTech, LLC Urbandale	IA	IT Services, Consulting and Software Implementation, Staff Agumentation, and Software Development
Genova Technologies, Inc. Cedar Rapids	IA	Information Technology Consultant: Specializing in Custom Software Development, System Networking & Integration, and Database Design and Development
TranSmart Technologies, Inc. Madison	WI	Computer Software, Intelligent Transportation Systems (ITS), Geographic Information Systems (GIS), Computer Aided Design (CAD), and Information Technology

IOWA DBE DIRECTORY

MISC. CONSTRUCTION SERVICES

Name		Services
City	State	
B & R Project Management, Inc.		Material Handling Equipment Installation (NAICS Code - 238290); Project/Construction Management (NAICS Code - 237990); and Contract Administration (NAICS Code - 52100)
Aurora	CO	
Blackwell Construction, Inc.		Weatherization
Des Moines	IA	
Coleman Construction Company of Nebrask		Lead Based Paint Removal
Omaha	NE	
FluidClarity, Ltd.		Feasibility Studies
Oak Park	IL	
Geo Services, Inc.		Borings for Building Construction, Core Drilling and Test Borings; Soils Test Drilling and Test Borings for Construction (NAICS Code: 238910); Materials Testing, Laboratory Services (NAICS Code: 541380); Geotechnical Environmental, Construction Inspection and Construction QA/QC (NAICS Code: 541690)
Naperville	IL	
Rock On Trucks, Inc.		Truck Trailer Rental (NAICS Code: 532120)
Waite Park	MN	
Royal Crane Service, Inc.		Construction Equipment Rental: 8 Ton - 250 ton Hydraulic Cranes and Heavy Equipment Rental
Bridgeview	IL	

IOWA DBE DIRECTORY

PRINTING AND GRAPHIC SERVICES

Name		Services
City	State	
Martinez Geospatial, Inc. Minneapolis	MN	Soft copy photogrammetry, Digital Topographic/Planimetric Mapping, Analytical Triangulation, Digital Orthophotography, CADD Reprographics Full Scanning Service, Consulting & Training; Digital Photogrammetric Mapping
NorthStar Strategies, Inc. Highland Park	IL	Advertising (NAICS Code: 541890), Marketing Research & Public Opinion Polling (NAICS Code: 541910), Direct Mail Advertising (NAICS Code: 541860), Advertising Agencies (NAICS Code: 541810), Marketing Consulting Services (NAICS Code: 541613), and Graphic Services (NAICS Code: 541430)
Sandy's Sign Shop New Hampton	IA	Commercial Custom Signage; Vehicle and Vinyl Graphics

IOWA DBE DIRECTORY

PUBLIC TRANSIT SERVICES

Name		Services
City	State	
American Class Taxi, Inc.		Ground Transportation Services
Cedar Rapids	IA	
B & R Project Management, Inc.		Material Handling Equipment Installation (NAICS Code - 238290); Project/Construction Management (NAICS Code - 237990); and Contract Administration (NAICS Code - 52100)
Aurora	CO	
ESP Enterprises, Inc.		Telecommunication Equipment Installation (NAICS Code: 517919); Fare Collection Equipment Installation and Maintenance, and Temporary Help Services (NAICS Code: 561320)
Houston	TX	
Transcend Spatial Solutions, LLC		Providing spatial information technology services including geographic information systems (GIS), transportation, database, and software development consulting (NAICS Code: 541512 - Computer Systems Design and Related Services)
Sarasota	FL	
VSIS, Inc.		Public Transit - Performing Customized Integration of Fleet Management, Radio and GPS Systems; Communication Equipment Repair and Maintenance
Minneapolis	MN	

IOWA DBE DIRECTORY

RAILROAD SERVICES

<i>Name</i>		<i>Services</i>
<i>City</i>	<i>State</i>	
Prime Focus, LLC De Pere	WI	Transportation Consulting (Freight, Economic Analysis, Facility Design, Demand Assessments); Marketing and Brochure Design; Marketing Consulting Services

IOWA DBE DIRECTORY

MISCELLANEOUS SERVICES

Name		Services
City	State	
B & R Project Management, Inc. Aurora	CO	Material Handling Equipment Installation (NAICS Code - 238290); Project/Construction Management (NAICS Code - 237990); and Contract Administration (NAICS Code - 52100)
Chenhall's Staffing Services, Inc. Davenport	IA	Employment Services: Full Service Recruitment, HR Consulting and Payroll Transfer Firm (NAICS Code 561310); Employment Services and Temporary Help Services (NAICS Code: 541612); Human Resources and Executive Search Consulting Services (NAICS Code: 541214); and Payroll Services
Community CPA & Associates, Inc. Des Moines	IA	CPA Audits, Accounting, Payroll, Taxes, and Business Consultation
ESP Enterprises, Inc. Houston	TX	Telecommunication Equipment Installation (NAICS Code: 517919); Fare Collection Equipment Installation and Maintenance, and Temporary Help Services (NAICS Code: 561320)
ETC Institute Olathe	KS	Providing Marketing Research and Public Opinion Polling: Surveys and Data/Statistical Analysis
H&S Environmental, Inc. Westborough	MA	Environmental Remediation Services
Jerry & Larry's Disposal, LLC Davenport	IA	Hauling Garbage and Debris Collection, Roll-Off Trucks, Garbage Trucks, Garbage Containers, Garbage Roll-Off Containers, and Garbage Box Delivery Trucks (NAICS Codes: 333318, 335228, 423620, 423640, and 562212)
Leslie Saunders Insurance Agency, Inc. Lutz	FL	Insurance - Insurance Agencies and Brokerages

IOWA DBE DIRECTORY

MISCELLANEOUS SERVICES

<i>Name</i>		<i>Services</i>
<i>City</i>	<i>State</i>	
Martinez Geospatial, Inc. Minneapolis	MN	Soft copy photogrammetry, Digital Topographic/Planimetric Mapping, Analytical Triangulation, Digital Orthopotography, CADD Reprographics Full Scanning Service, Consulting & Training; Digital Photogrammetric Mapping
Sandy's Sign Shop New Hampton	IA	Commercial Custom Signage; Vehicle and Vinyl Graphics

AC/DBE DIRECTORY

Company Name			Phone Number	Date Certified
Owner			2nd Phone/Cell Number	TSB Certified
Address			Fax Number	SBA 8A Certified
PO Box			E Mail Address	ACDBE
City	State	Zip	Web Site	
NAICS Code		Additional Information		
Work Type				
Advanced Air, Inc.			712-323-2173	1/1/2006
Lisa M. LaMantia			402-689-7397	<input type="checkbox"/>
16801 McCandless Lane			712-323-7209	<input type="checkbox"/>
			advancedaircb@yahoo.com	<input checked="" type="checkbox"/>
Council Bluffs	IA	51503	www.advancedaircb.com	
488119				
Fixed Base Operation Aircraft Charter, Rental, Maintenance, and Fuel; Lasergrade/PSI Computer Testing; Calibration and Flight Training				
Aero Service Group, Inc.			952-922-8720	3/16/2005
Cheng Lor			612-578-4520	<input type="checkbox"/>
6121 Excelsior Blvd. Suite 210			952-746-3312	<input type="checkbox"/>
			cheng.lor@aero-sp.com	<input checked="" type="checkbox"/>
St. Louis Park	MN	55416		
722211				
Airport Concessionaire providing Food and Beverages at airport facilities (NAICS Code: 72211)				
Aero Service Partners, LLC			952-922-8720	9/18/2007
Cheng Lor				<input type="checkbox"/>
6121 Excelsior Blvd. Suite 210			952-746-3312	<input type="checkbox"/>
			cheng.lor@aero-sp.com	<input checked="" type="checkbox"/>
St. Louis Park	MN	55416		
722211				
Airport Concessionaire providing Food and Beverage Services (NAICS Code: 72210)				

DIRECTORY OF NDOR CERTIFIED DISADVANTAGED BUSINESS ENTERPRISES

Only the firms appearing on this list may be used to fulfill DBE participation goals on projects in this letting.

The type of work each DBE firm may perform to meet a goal is indicated by the NDOR work codes and the NAICS codes following the firm's contact information. The index for the NDOR work codes is listed below.

NAICS code information may be found at: <http://www.census.gov/eos/www/naics/>

In the event of a joint venture between two or more DBE firms, at least one firm must be certified to do the work items they bid.

For additional information, contact the NDOR Disadvantaged Business Enterprise Office at (402) 479 4531.

D1	GRADING AND EARTH WORK
D2	AGGREGATES
D3	CONCRETE FLATWORK
D4	CULVERTS
D5	LANDSCAPING
D6	BRIDGES
D6A	REBAR SUPPLY AND INSTALL
D6B	REBAR INSTALL ONLY
D7	GUARDRAIL AND FENCE
D7A	RETAINING WALLS
D8	SPECIALTY
D8A	BUILDING CONSTRUCTION
D8B	ELECTRICAL
D8C	SIGNING
D8D	PAINTING
D8E	DEMOLITION
D9	MAINLINE PAVING
D10	CRUSHING, AGGREGATES
D11	TRUCKING AND HAULING
D12	TRAFFIC CONTROL
D13	PAVEMENT PATCHING
D14	CONCRETE PUMPING/PLACEMENT
D15	CONSULTING SERVICES
D16	SUPPLIER / MANUFACTURER
D17	BROKER
D18	GENERAL

NEBRASKA DEPARTMENT OF ROADS DISADVANTAGED BUSINESS ENTERPRISES CERTIFIED FOR THE LETTING

VENDOR NUMBER NAME
STREET
CITY STATE
PHONE FAX
NDOR WORK CODES
NAICS CODES

1429 ALL ROAD BARRICADES, INC.
5700 BALLARD AVE, PO BOX 29196
LINCOLN, NE 68529 9196
PHONE: (402)467 2553 FAX: (402)467 1982
D8C, D8D, D12, D16
NAICS: 237310, 488490, 561990

6620 ASSOCIATED ENGINEERING, INC.
2705 NORTH MAIN ST
OMAHA, NE 68022 3348
PHONE: (402)289 5040 FAX: (402)289 5045
D3, D4, D15
NAICS: 237310, 541330, 541370

3912 AVIATION ALLIANCE, INC.
101 TIMBERLINE N, PO BOX 799
COLLEYVILLE, TX 76034
PHONE: (817)498 0388 FAX: (817)281 1867
D15
NAICS: 488119, 541330, 541614

2324 KIRK BARNES CONSTRUCTION, INC.
HC 15, PO BOX 656
VALENTINE, NE 69201 0656
PHONE: (402)376 2723 FAX: (402)376 3013
D1, D2, D3, D4, D5, D6, D6A, D7, D7A, D8, D8A, D8C, D8D,
D8E, D11, D13
NAICS: 236210, 237310, 237990, 238120, 238910, 238990, 423320, 488490,
561730

4561 BIENKA TRUCKING & STORAGE, INC.
8607 CORNHUSKER HIGHWAY
LINCOLN, NE 68507
PHONE: (402) 464 0354 FAX: 402 464 0374
D2, D11
NAICS: 423320, 484220

3748 BLAYLOCK CHEMICAL
5706 W 131st TERRACE
OVERLAND PARK, KS 66209
PHONE: (913)681 2050 FAX: (816)478 1520
D16, D17
NAICS: 423840, 424610, 424690

4676 BMAKK CORPORATION
3000 S 25th ST
OMAHA, NE 68105
PHONE: (402)342 0200 FAX: (402)502 1172
D2, D11, D16
NAICS: 42320, 484220

3137 BRYE CONSTRUCTION, INC.
2505 N 24th ST
OMAHA, NE 68422
PHONE: (402)812 7465 FAX: (402)453 5086
D3, D7A, D8A, D8D, D13
NAICS: 236210, 237310, 237990, 238910, 561730

3155 BUKA CONSTRUCTIION
 2508 DECATUR ST
 OMAHA, NE 68111
 PHONE: (308)325 1261 FAX: (402)553 0339
 D3, D4, D5, D6A, D6B, D7, D7A, D8E, D13
 NAICS: 237310, 237990, 238120, 238910, 561730

3249 CARLO LACHMANSINGH SALES, INC.
 4801 4th AVE S
 MINNEAPOLIS, MN 55419
 PHONE: (612)827 2211 FAX: (612)821 0161
 D16, D17
 NAICS: 423610

3813 CENTREX ELECTRICAL SUPPLY, INC.
 3900 WASHINGTON AVE
 ST. LOUIS, MO 63108
 PHONE: (314)535 3900 FAX: (314)535 4206
 D16, D17
 NAICS: 423610

1056 COASTAL ENVIRONMENTAL GROUP, INC.
 320 CARLETON AVE, STE 6000
 CENTRAL ISLIP, NY 11720
 PHONE: (631)433 4100 FAX: (631)234 4160
 D8E, D15, D18
 NAICS: 238910, 562112, 562211, 562910

1630 COLEMAN CONSTRUCTION CO.
 2505 N 24th ST, STE 536
 OMAHA, NE 68110 2279
 PHONE: (402)453 1431 FAX: (402)453 5086
 D1, D3, D6B, D7A, D8, D8A, D8D, D8E, D11, D13, D18
 NAICS: 236210, 237310, 237990, 238120, 238910

3201 J. D. DONOVAN, INC.
 P O BOX 364
 ROCKVILLE, MN 56369
 PHONE: (320)251 1213 FAX: (320)251 3220
 D11
 NAICS: 212321, 424720, 484220

2429 DORMARK CONSTRUCTION CO.
 3310 SW BROOKSIDE DR, PO BOX 530
 GRIMES, IA 50111 0530
 PHONE: (515)986 4270 FAX: (515)986 9573
 D6A, D6B, D18
 NAICS: 237310, 238120

6460 EDWARDS & ASSOCIATES
 210 W 5th ST, PO BOX 507
 NORTH PLATTE, NE. 69103
 PHONE: (308)532 1819 FAX: (308)532 3887
 D15
 NAICS: 541330, 541370

6716 ENGINEERING DESIGN CONSULTANTS, L.L.C.
1021 D ST
LINCOLN, NE 68502
D15
NAICS: 541330, 541370

3250 FAITH GROUP, L.L.C.
14 ARBOR ROAD
ST LOUIS, MO 63132
PHONE: (314)991 2228 FAX: (314)991 2268
D15
NAICS: 541618

2865 FORD'S COMPLETE CONTRACTING
2334 N 44th ST, #24
LINCOLN, NE 68504
PHONE: (402)730 4748 FAX: (402)464 0321
D3, D4, D6, D11, D13
NAICS: 237310, 238910, 488490

3231 GIL'S SALES COMPANY / DBA GSC LIGHTING SUPPLY
16506 CORNERSTONE DRIVE
BELTON, MO 64012
PHONE: (816)322 6999 FAX: (816)322 8169
D16
NAICS: 444190

0958 GLOBAL CONVEYOR INSTALLATION, INC.
3909 BOWFIN TRAIL
KISSIMMEE, FL 34746
PHONE: (571)235 2594 FAX: (239)362 1533
D18
NAICS: 238290

3439 HUSKER CONCRETE, L.L.C.
141 M ST
LINCOLN, NE 68508
PHONE: (402)475 5030 FAX: (402)475 5049
D16
NAICS: 327320

3355 INFINITY CONSTRUCTION, INC.
522 5th AVE, PO BOX 2453
SCOTTSBLUFF, NE 69363 2453
PHONE: (308)632 3800 FAX: (308)632 8466
D1, D3, D4, D6, D8E, D11, D13
NAICS: 237310, 238910, 488490

1028 INTERSTATE SEALANT & CONCRETE, INC.
S40 W24211 Rockwood Way
WAUKESHA, WI 53189 7924
PHONE: (262)547 6316 FAX: (262)547 6844
D3, D8, D13, D18
NAICS: 237310, 238110, 238990

2392 IRON WORKS, INC.
 212 S 6th ST, PO BOX 77
 NEBRASKA CITY, NE 68410
 PHONE: (402)873 3583 FAX: (402)873 3581
 D4, D6, D6A, D6B
 NAICS: 237310, 238120

3263 JACOBSEN/DANIELS ASSOCIATES, L.L.C.
 121 PEARL ST
 YPSILANTI, MI 48197 2611
 PHONE: (734)961 3200 FAX: (734)961 3204
 D15
 NAICS: 541330, 541614, 541618, 813319, 926120

0440 JAMES ENTERPRISE, INC.
 7000 WHITEWATER LANE
 LINCOLN, NE 68521
 PHONE: (402)432 2286 FAX: (402)742 9113
 D2, D11, D16
 NAICS: 423320, 484220

4632 JMD ENTERPRISES, LLC
 13105 DELMAR STREET
 LEAWOOD, KS 66209 4147
 PHONE: (913)681 6666 FAX: (913)681 9213
 D17
 NAICS: 423510, 423610, 423720, 424950, 517911

3138 KB ENVIRONMENTAL SCIENCES, INC.
 9500 KOGER BLVD, STE 211
 ST. PETERSBURG, FL 33702
 PHONE: (402)453 5086 FAX: (727)578 5210
 D15
 NAICS: 541618, 541620, 562112

4603 LT LEON ASSOCIATES, INC.
 500 E LOCUST ST, STE 400
 DES MOINES, IA 50309
 PHONE: (515)422 7016 FAX:
 D15
 NAICS: 221310, 541320, 541330, 541340, 541690

3105 M.B. TECH, INC.
 6375 WAVELAND DR
 CUMMING, GA 30040
 PHONE: (678)947 5082 FAX: (770)886 5082
 D8A
 NAICS: 236118, 238130, 238190, 238320, 238330

3905 STANFORD MADLOCK TRUCKING, INC.
 6120 ARBOR ROAD
 LINCOLN, NE 68517
 PHONE: (402)476 4440 FAX: (402)476 4447
 D2, D11, D16
 NAICS: 423320, 484220

4562 MARR ARNOLD PLANNING, L.L.C.
1328 CALIFORNIA AVE
AMES, IA 50014
PHONE: (402)231 0344 FAX: NONE
D15
NAICS: 488190

6420 MARTINEZ GEOSPATIAL, INC.
8011 34th AVE SOUTH, STE C47
MINNEAPOLIS, MN 55425
PHONE: 952 698 0230 FAX: 952 698 0234
D15
NAICS: 518210, 541330, 541370, 541511, 541512, 541614, 541922

4541 MARY A. LYNCH
5719 OVERRIDGE DR
ARLINGTON, TX 76017 1139
PHONE: (817)478 3308 FAX: NONE
D15
NAICS: 488119, 488190, 541611, 541613, 541618

3709 NAVARRO ENTERPRISE CONSTRUCTION, INC.
2914 R ST
OMAHA, NE 68107 3430
PHONE: (402)734 6156 FAX: (402)884 3269
D1, D2, D3, D4, D5, D6, D6A, D7A, D8E, D11, D13
NAICS: 237310, 237990, 238120, 238910, 423320, 561730

0563 NEAL CONSTRUCTION, INC.
967 N 56th
LINCOLN, NE 68504
PHONE: (402)464 8859 FAX: (402)464 9051
D1, D3, D5, D7A, D8E, D11, D13
NAICS: 237310, 237990, 238910, 561730

3257 NORTH/WESTERN ELECTRICAL CORP OF COLORADO
10825 IRMA DR
NORTHGLENN, CO 80233
PHONE: (303)452 8576 FAX: (303)452 0255
D8A, D8B, D8C
NAICS: 238210

6731 PATTI BANKS ASSOCIATES, L.L.C. / DBA VIREO
929 WALNUT, STE 700
KANSAS CITY, MO 64106
PHONE: 816 756 5690 FAX: 816 756 1606
D15
NAICS: 541320

3256 PERKINS & PERKINS CONSTRUCTION
3223 N 45th ST
OMAHA, NE 68104
PHONE: (402)208 8587 FAX: (402)457 6181
D3, D5, D7A, D8A, D8E, D13
NAICS: 236210, 237310, 237990, 238910, 561730

2850 R.A.E. REBAR, INC.
15398 COUNTY ROAD #18
BLAIR, NE 68008
PHONE: (402)306 0867 FAX: (402)426 2906
D4, D6, D6A, D6B, D7A
NAICS: 237310, 237990, 238120

4630 R.W. TRUCKING
1640 S COTNER BLVD
LINCOLN, NE 68506
PHONE: (402) 217 1236 FAX: NONE
D2, D11
NAICS: 423320, 484220

6170 ROSALES & PARTNERS, INC.
37 NEWBURY ST, 6th FLOOR
BOSTON, MA 02116
PHONE: (617)247 7499 FAX: (617)247 7139
D15
NAICS: 541310, 541330

1539 RUPERT CONSTRUCTION CO.
8316 BLONDO ST, STE 211
OMAHA, NE 68134
PHONE: (402)397 2320 FAX: (402)397 2493
D1, D2, D3, D4, D7A, D9, D13
NAICS: 237310, 237990, 238910, 423320

3609 SANDOVAL CONCRETE
714 NORTH CURTIS
NORTH PLATTE, NE 69101
PHONE: (308)534 9276 FAX: (308)532 2651
D3, D4, D9, D13
NAICS: 237310, 238910

2854 SEALCOAT SERVICES, INC. / DBA SCS CONSTRUCTION CO.
9314 BINNEY ST
OMAHA, NE 68134 4614
PHONE: (402)571 9909 FAX: (402)571 9909
D3, D4, D5, D6, D8, D8D, D9, D13
NAICS: 237310, 238910, 238990, 561730

0835 SIMPLEX CONSTRUCTION SUPPLIES, INC.
9020 W. 35W SERVICE DR
BLAINE, MN 55449
PHONE: (763)398 0040 FAX: (763)398 0039
D16
NAICS: 423320, 423330, 423390, 423810, 423990, 424690, 424990, 444190

3255 STOKES CONSTRUCTION CO.
2505 N 24th ST, STE 101
OMAHA, NE 68110 2252
PHONE: (402)359 1506 FAX: (402)504 1889
D3, D5, D7, D8A, D8D, D13
NAICS: 236210, 237310, 238910, 561730

2966 TCW CONSTRUCTION, INC.
141 M ST
LINCOLN, NE 68508 2436
PHONE: (402)475 5030 FAX: (402)475 5049
D1, D2, D3, D4, D6A, D8A, D8E, D9, D10, D11, D13
NAICS: 236210, 237310, 238120, 238910, 423320

3565 WAHOO CONCRETE PRODUCTS, CO.
1505 N HWY 77, PO BOX 143
WAHOO, NE 68066
PHONE: (402)443 4626 FAX: (402)443 4999
D16
NAICS: 327320, 327331

0975 D. WILSON CONSULTING GROUP, L.L.C.
14816 AMELIA VIEW DR
JACKSONVILLE, FL 32226
PHONE: (904)757 9300 FAX: (904)652 2677
D15
NAICS: 541611

4616 XG INDUSTRIES, L.L.C.
2505 N 24TH ST, STE 409D
OMAHA, NE 68112
PHONE: (402)202 2854 FAX: NONE
D15
NAICS: 541620

ATTACHMENT 3: MONITORING AND ENFORCEMENT MECHANISMS

MAPA has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Nebraska state laws.

In addition, the federal government 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.

ATTACHMENT 4: OVERALL GOAL CALCULATION

Amount of Goal

MAPA's overall goal for FY 2013 is the following: 0.62% of the Federal Financial assistance we will expend in DOT-assisted contracts.

Methodology used to Calculate Overall Goal

Step 1

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing and able}}$$

The data sources used to derive the numerator were the Nebraska Department of Roads List of Certified DBEs (<http://www.dor.state.ne.us/letting/certified-dbes.htm>) and the Iowa Department of Transportation DBE Directory (<http://www.dor.state.ne.us/letting/certified-dbes.htm>). The data source used to derive the denominator was the 2007 Economic Census as compiled by the US Census Bureau.

During FY2013 MAPA anticipates Contract Opportunities in the following NAICS Codes:

- 485991 – Special Needs Transportation
- 488490 – Other Support Activities for Road Transportation
- 51791 – Other Telecommunications
- 5415 – Computer Systems Design and Related Services
- 56142 – Telephone Call Centers
- 541330 – Engineering Services

MAPA DBE Breakdown by NAICS Code			
NAICS Code	Certified DBEs	Total Firms	Base Figure
485991	0	60	0.00%
488490	4	9	44.44%
51791	1	28	3.57%
5415	6	4,060	0.15%
56142	0	488	0.00%
541330	24	969	1.65%
Total	35	5,614	0.62%

MAPA DBE Program

MAPA's base figure for FY2013 will be 0.62% (35 ready willing and able DBEs divided by 5614 total firms).

Step 2

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by 0%.

The reason we chose not to adjust our base figure was because:

1. The DBE participation goals are weighted according to the percentage each work category represents as part of the entire project.
2. No meaningful conclusion related to DBE participation can be drawn from past participation due to the lack of past participation in projects.
3. No current Disparity Study has been conducted in the Omaha-Council Bluffs MSA to warrant further goal adjustment.
4. We will discuss DBE contracting issues with Nebraska Department of Roads (NDOR) and the Great Plains Minority Supplier Development Council to ascertain if they could relate any examples of past discrimination in our market area.

Public Participation

MAPA will:

- Publish goals,
- Receive comments,
- Summarize comments, and
- Respond to comments in writing.

We will publish our goal informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the MAPA office for 30 days following the date of the notice and inform the public that MAPA will accept comments on the goal for 45 days from the date of the notice. We will publish our goal information in the following newspapers:

- Omaha World Herald
- Council Bluffs Nonpareil
- Bellevue Leader
- Daily Record
- Douglas County Post-Gazette
- Papillion Times
- Omaha Star
- Nuestro Mundo

MAPA DBE Program

The goal information will also be posted on our web site. www.mapacog.org
Comments received will be summarized and forwarded to FTA, with our responses.

ATTACHMENT 5: BREAKOUT OF ESTIMATED RACE CONSCIOUS & RACE NEUTRAL PARTICIPATION

MAPA will meet the maximum feasible portion of its goal by using race-neutral means of facilitating DBE participation. MAPA will use the following race-neutral means to increase DBE participation:

6. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
7. 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);
8. Providing technical assistance and other services;
9. 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); and
10. Ensuring distribution of our DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

We estimate that we will reach our overall goal of 0.62% entirely with race-neutral DBE participation.

In order to ensure that our DBE program will be tailored to overcome the effects of discrimination, if we use contract goals, we will adjust the estimated breakout of race-neutral and race conscious participation as needed to reflect actual DBE participation and we will track and report race neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry DBE goals;
- DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

MAPA DBE Program

MAPA will maintain data separately on DBE achievements in those contracts with and without contract goals respectively.

ATTACHMENT 6: FORMS 1 & 2 FOR DEMONSTRATION OF GOOD FAITH EFFORTS

(Forms 1 & 2 will be provided as part of the solicitation documents.)

Form 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to a minimum of ____% DBE utilization on this contract.

_____ The bidder/offeror (if unable to meet the DBE goal of ____% is committed to a minimum of ____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
Signature Title

FORM 2: 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 representation in this letter of intent and affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)

ATTACHMENT 9: REGULATIONS, 49 CFR PART 26

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR Data is current as of February 5, 2013

Title 49: Transportation

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 Foster 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?
- § 26.65 What rules govern business size determinations?
- § 26.67 What rules determine social and economic disadvantage?
- § 26.69 What rules govern determinations of ownership?
- § 26.71 What rules govern determinations concerning control?
- § 26.73 What are other rules affecting certification?

Subpart E—Certification Procedures

- § 26.81 What are the requirements for Unified Certification Programs?
- § 26.83 What procedures do recipients follow in making certification decisions?
- § 26.85 Interstate certification.
- § 26.86 What rules govern recipients' denials of initial requests for certification?
- § 26.87 What procedures does a recipient use to remove a DBE's eligibility?
- § 26.89 What is the process for certification appeals to the Department of Transportation?
- § 26.91 What actions do recipients take following DOT certification appeal decisions?

Subpart F—Compliance and Enforcement

- § 26.101 What compliance procedures apply to recipients?
- § 26.103 What enforcement actions apply in FHWA and FTA programs?
- § 26.105 What enforcement actions apply in FAA programs?
- § 26.107 What enforcement actions apply to firms participating in the DBE program?
- § 26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?
- Appendix A to Part 26—Guidance Concerning Good Faith Efforts
- Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form
- Appendix C to Part 26—DBE Business Development Program Guidelines
- Appendix D to Part 26—Mentor-Protégé Program Guidelines
- Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage
- Appendix F to Part 26—Uniform Certification Application Form

AUTHORITY: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.*; 49 U.S.C. 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105-178, 112 Stat. 107, 113.

SOURCE: 64 FR 5126, Feb. 2, 1999, unless otherwise noted.

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 programs are 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:

(1) Federal-aid highway funds authorized under Titles (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107.

(2) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178.

(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 Metlakatla 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 the 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.

Persona net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's persona 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/production/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 Mariana Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, 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).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011]

§ 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 a 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).

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 76 FR 5096, Jan. 28, 2011]

§ 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.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000]

§ 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 agency.

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.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 76 FR 5097, Jan. 28, 2011]

§ 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.

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 determine a base figure may be used, subject to approval by the concerned operating administration.

(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/epca/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 FTA 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.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003; 75 FR 5536, Feb. 3, 2010; 76 FR 5097, Jan. 28, 2011]

§ 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.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011]

§ 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 project on 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 to meet your overall goal.

Example to paragraph (1)(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 (1)(2): In Year I, 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 set 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 (1)(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 (1)(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 IV you obtain 11 percent participation, you do not use this contract goal adjustment mechanism for Year V, 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.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011]

§ 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 to 2 CFR Parts 180, 215 and 1,200 or applicable state law;

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

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

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

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

(x) Other documented good cause that 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.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011]

§ 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 (c)(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)(i) 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) Packers, 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.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003]

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 the 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.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

§ 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 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 of the Civil Rights Act of 1964 and 49 CFR part 21.

(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.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

§ 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()(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 a₁₉₆

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 act on.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchisor 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.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5099, Jan. 28, 2011]

§ 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 descendants 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.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5099, Jan. 28, 2011]

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 recipients' 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.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5100, Jan. 28, 2011]

§ 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 () 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 job sites.

(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.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5100, Jan. 28, 2011]

§ 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.

(i) 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.

(ii) 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.

(iii) 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.

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

(v) 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.

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

(vii) A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under s§ 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) Eligibility 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 Website 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.

[64 FR 5126, Feb. 2, 1999. Redesignated and amended at 68 FR 35555, June 16, 2003]

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

(a) *Eligibility 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 direct or 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's operation 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 eligibility 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 eligibility 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.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35556, June 16, 2003; 73 FR 33329, June 12, 2008]

§ 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.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5101, Jan. 28, 2011]

§ 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.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011]

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.

I. 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.

II. 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 with 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 differences are 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 provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA 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 more than six, attach a separate sheet.

3. Specify the Federal 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 Overall 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.

8-9. The amounts in items 8(A)-9(I) 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 are to 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 assisted with DOT funds that were awarded during this reporting period.

8(B). Provide the total number of all prime contracts assisted 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 certified DBEs during this reporting period.

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

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

8(G). From the total dollar amount awarded in item 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.

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

8(I). 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.

9(A)-9(I). Items 9(A)-9(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.

10(A)-11(I). For all DBEs awarded prime contracts and awarded or committed subcontracts as indicated in 8(C)-(D) and 9(C)-(D), break the data down further by total dollar amount as well as the number of all contracts going to each ethnic group as well as to non-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(I) should equal the sum of 8(C) plus 9(C), and similarly, the TOTALS value in 11(I) should equal the sum of 8(D) plus 9(D). Column I 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(E). 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.**

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UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS																			
"Please refer to the instructions sheet for directions on filling out this form"																			
1. Submitted to (check only one):		FHWA		FAA		FTA-Vendor Number													
2. AIP Numbers (FAA Recipients Only):																			
3. Federal fiscal year in which reporting period ends:		FY		4. Date This Report Submitted:															
5. Reporting Period		Report due June 1 (for period Oct. 1-Mar. 31)		Report due Dec. 1 (for period April 1-Sept. 30)															
6. Name of Recipient:																			
7. Annual DBE Goal(s):		Race Conscious Goal		Race Neutral Goal		OVERALL Goal													
		%		%		%													
AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (Total contracts and subcontracts awarded or committed during this reporting period.)		A		B		C		D		E		F		G		H		I	
		Total Dollars		Total Number		Total to DBEs (dollars)		Total to DBEs (number)		Total to DBEs/Race Conscious (dollars)		Total to DBEs/Race Conscious (number)		Total to DBEs/Race Neutral (dollars)		Total to DBEs/Race Neutral (number)		Percentage of total dollars to DBEs	
8. Prime contracts awarded this period																			
9. Subcontracts awarded/committed this period																			
TOTAL																			
DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY & GENDER		A		B		C		D		E		F		G		H		I	
		Black American		Hispanic American		Native American		Subcont. Asian American		Asian-Pacific American		Non-Minority Women		Other (i.e., not of any other group listed here)		TOTALS (for this reporting period only)		Year-End TOTALS	
10. Total Number of Contracts (Prime and Sub)																			
11. Total Dollar Value																			
ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD		A		B		C		D		E		F		G		H		I	
		Number of Prime Contracts Completed		Total Dollar Value of Prime Contracts Completed		DBE Participation Needed to Meet Goal (Dollars)		Total DBE Participation (Dollars)		Percentage of Total DBE Participation									
12. Race Conscious																			
13. Race Neutral																			
14. Totals																			
15. Submitted by (Print Name of Authorized Representative)		16. Signature of Authorized Representative																	
17. Phone Number:												18. Fax Number:							

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[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003]

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 transition 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 transition 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 allocable 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.

I. 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.

II. 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 I 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).

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35559, June 16, 2003]

Appendix F to Part 26—Uniform Certification Application Form

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.

NOTE: If your firm is currently certified under the SBA's 8(a) and/or SDB programs, you may not have to complete this application. You should contact your state UCP to find out about a streamlined application process for firms that are already certified under the 8(a) and SDB programs.

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 an SBA 8(a) or SDB 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 your firm's or your contact person's email address.
- (7) State your firm's website address, if any.
- (8) State the street address of your firm (i.e., the physical location of its offices — not a post office box address).
- (9) State the mailing address of your firm, if it is different from your firm's street address.

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 or charter. 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 consisted of a partnership in which one or more of the partners are other firms;
- (c) Your firm has owned any percentage of any other firm; and
- (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 function or title 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 function or title 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 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;
- (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) State the main phone number of your firm's bank branch.
(c) State 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) State your agent's/broker's phone number.
(d) State 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 name of the person securing the loan, 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 license or permit, 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.?
- Is your firm a small business that meets the Small Business Administration's (SBA's) size standard and does not exceed \$17.42 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 **Is there an easier way to apply?**

If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form.

NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review.

③ **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.**

④ **Where can I find more information?**

- U.S. DOT – <http://osdbuweb.dot.gov/business/dbe/index.html> (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
- SBA – <http://www.ntis.gov/naics> (provides a listing of NAICS codes) and <http://www.sba.gov/size/indexableofsize.html> (provides a listing of NAICS codes)
- 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, Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-free Workplace (grants), 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

Is your firm currently certified for any of the following programs? (If Yes, check appropriate box(es))	<input type="checkbox"/> DBE	Name of certifying agency:
		Has your firm's state UCP conducted an on-site visit?
		<input type="checkbox"/> Yes, on ____ / ____ / ____ State: ____ <input type="checkbox"/> No
	<input type="checkbox"/> 8(a) <input type="checkbox"/> SDB	⊗ STOP! If you checked either the 8(a) or SDB box, you <u>may not</u> have to complete this application. Ask your state UCP about the streamlined application process under the SBA-DOT MOU.

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

(1) Contact person and Title:		(2) Legal name of firm:	
(3) Phone #:	(4) Other Phone #:	(5) Fax #:	
(6) E-mail:	(7) Website (if have one):		
(8) Street address of firm (No P.O. Box):	City:	County/Parish:	State: Zip:
(9) Mailing address of firm (if different):	City:	County/Parish:	State: Zip:

B. Business Profile

(1) Describe the primary activities of your firm:		(2) Federal Tax ID (if any):
(3) This firm was established on ____ / ____ / ____		(4) I/We have owned this firm since: ____ / ____ / ____
(5) Method of acquisition (check all that apply): <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other (explain)		
(6) Is your firm "for profit"? <input type="checkbox"/> Yes <input type="checkbox"/> No		⊗ 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?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(b) consisted of a partnership in which one or more of the partners are other firms?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(c) owned any percentage of any other firm?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	(d) had any subsidiaries?	<input type="checkbox"/> Yes <input type="checkbox"/> 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.					

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

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address (street and number): City: State: Zip:		
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(6) Ethnic group membership (Check all that apply):	
(7) U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American	
(8) Lawfully Admitted Permanent Resident:	<input type="checkbox"/> Asian Pacific <input type="checkbox"/> Subcontinent Asian	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other (specify): _____	

B. Ownership Interest

(1) Number of years as owner:	(2) Initial investment to acquire ownership interest in firm:	Type	Dollar Value
(3) Percentage owned:		Cash	\$
(4) Familial relationship to other owners:		Real Estate	\$
		Equipment	\$
		Other	\$
(5) Shares of Stock:	Number	Percentage	Class
			Date acquired
			Method Acquired
(6) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, identify: Name of Business: Function/Title:			
(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.)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
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)

(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? (Use and attach the Personal Net Worth calculator form at the end of this application; attach additional sheets if more than one owner is applying)
(2) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
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):

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(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):

	Name	Title	Ethnicity	Gender
(1) Financial Decisions (responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)	a.			
	b.			
(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

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(2) Vehicles

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(3) Office Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

(4) Storage Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

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:

Name of Source	Address of Source	Name of Person Securing the Loan	Original Amount	Current Balance	Purpose of Loan
1.					
2.					
3.					

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):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1.					
2.					
3.					

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):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	License Number and State
1.			
2.			
3.			

I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1.			
2.			
3.			

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1.					
2.					
3.					

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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 (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 and SBA 8(a) or SDB 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.

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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 place(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) (circle all that apply):

Female Black American Hispanic American
Native American Asian- Pacific American
Subcontinent Asian American
Other (specify) _____

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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 \$750,000, 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

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[68 FR 35559, June 16, 2003]

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