

**ORANGE COUNTY, NEW YORK**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**  
**FOR**  
**FEDERAL TRANSIT ADMINISTRATION GRANTS**

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*REVISED: SUCCESSOR OC DBELO APPOINTED MAY 21, 2015*

*REVISED: SUCCESSOR OC DBLO APPOINTED DECEMBER 12, 2017*

*REVISED: SUCCESSOR OC DBELO APPOINTED JANUARY 18, 2022 AND DBE GOAL UPDATE, EFFECTIVE OCTOBER 1, 2020*

# ORANGE COUNTY LEGISLATURE

**Committee:** Rules, Enactments and Intergovernmental Relations  
**Sponsors:** Faggione, Stegenga  
**Co-Sponsors:**

**Agenda No. 21**

## RESOLUTION NO. 124 OF 2022

### RESOLUTION APPROVING UPDATES FOR THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR THE DEPARTMENT OF PLANNING.

**WHEREAS**, the Orange County Department of Planning is requesting Legislative approval for the Disadvantaged Business Enterprise (DBE) Program, which is required to be maintained due to Federal Transit Administration (FTA) Regulations; and

**WHEREAS**, this program is subject to amendment as necessary to ensure compliance with Federal Law and FTA regulations governing the subject matter of such programs. Resolution No. 54 of 2016 previously approved any necessary changes, whereas this request is to officially approve 2022 program updates.

**NOW, THEREFORE**, it is hereby

**RESOLVED**, that the 2022 program updates for the DBE Program are hereby approved, subject to amendment as necessary to ensure compliance with Federal Law and FTA regulations governing the subject matter of such programs.

**ADOPTED BY THE FOLLOWING VOTE:**

Ayes 18; Noes 0; Excused 2; Absent 1  
(Excused: Sierra, Tautel  
(Absent: Stegenga)

**APPROVED: MAY 5, 2022**



**STEFAN "STEVEN" M. NEUHAUS, COUNTY EXECUTIVE  
068**

**STATE OF NEW YORK  
COUNTY OF ORANGE**

**THIS IS TO CERTIFY THAT I, KELLY A. BRADLEY**, Deputy Clerk of the County Legislature of said County of Orange, have compared the foregoing copy of resolution with the original resolution now on file in my office and which was passed by the County Legislature of said County of Orange on the 5th of May 2022 and that the same is a correct and true transcript of such original resolution and the whole thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the official seal of said County Legislature this 6th day of May 2022.

  
Deputy Clerk of the County Legislature of the County of Orange

## **POLICY STATEMENT**

### **Objectives/Policy Statement (Section 26.1, 26.23)**

Orange County receives grant assistance from the FTA on the condition that it complies with 49 CFR 26. To that end, Orange County hereby establishes this Disadvantaged Business Enterprise (DBE) program in accordance 49 CFR 26 and the rules and regulations promulgated by the Federal Transit Administration (FTA).

The sections of this document are numbered in accordance with 49 CFR Part 26.

The objectives of Orange County's DBE program, as specified in 49 CFR 26, are to:

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

Alan J. Sorensen, AICP, Commissioner of Planning (or his successor), is hereby designated Orange County's DBE Liaison Officer (OC DBELO). The OC DBELO 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 Orange County in its financial assistance agreements with the FTA.

Orange County disseminates this policy statement to county departments who assist in carrying out FTA-assisted contracts.

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Stefan (Steven) M. Neuhaus, County Executive

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Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Objectives (Section 26.1)**

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

### **Applicability (Section 26.3)**

Orange County is a recipient of 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 Teas-21, Pub. L. 105-178.

### **Definitions (Section 26.5)**

Orange County uses the definitions contained in 49 CFR 26, Section 26.5 for this program.

### **Non-discrimination Requirements (Section 26.7)**

Orange County shall not 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 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, Orange County 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 (Section 26.11)**

#### **Reporting to FTA: 26.11(b)**

Orange County reports DBE participation on a semi-annual basis through the DBE reporting module of FTA's online grant management system (TRAMS). These reports will reflect payments actually made to DBEs on FTA-assisted contracts.

#### **Bidders List: 26.11(c)**

Orange County maintains a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on FTA-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder list will include the name, address, DBE or non-DBE status, age, and annual gross receipts of the firm (by the following categories: less than \$500,000, \$500,000-\$1,000,000, \$1,000,000-\$2,000,000, \$2,000,000-\$5,000,000 or \$5,000,000-\$10,000,000).

Orange County collects this information in the following ways:

1. By requesting that firms registered for its bidders list submit proof of their New York State or other governmental certification as a DBE.
2. By requiring that prime contractors maintain records and documents of payments to DBEs for three (3) years following the performance of an FTA-assisted contract. These records are available for inspection upon request by any authorized representative of Orange County, New York State Department of Transportation (NYSDOT), or the FTA.

3. By recording all actual payments to DBE firms for work committed to them at the time of contract award.
4. By performing interim audits of contract payments to DBEs to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amount stated in the DBE participation schedule.

### **Federal Financial Assistance Agreement (Section 26.13)**

Orange County makes the following assurances for each FTA-assisted contract it enters into:

#### **Assurance: 26.13(a)**

Orange County shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR 26. Orange County shall take all necessary and reasonable steps under 49 CFR 26 to ensure nondiscrimination in the award and administration of FTA-assisted contracts. Orange County's DBE Program, as required by 49 CFR 26 and as approved by FTA, is incorporated by reference in this agreement. Implementation of the DBE program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Orange County of its failure to carry out its approved program, the FTA may impose sanction as provided for under 49 CFR 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 must appear in financial assistance agreements between Orange County and its sub-recipients.

#### **Contract Assurance: 26.13b**

The following clause shall be placed in every FTA-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 26 in the award and administration of FTA-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 (Section 26.21)**

Orange County, because it is a recipient of grant monies for FTA planning capital and/or operating assistance in excess of \$250,000 in a federal fiscal year, is required to carry out this DBE program until all funds from FTA financial assistance is expended. Orange County will notify and update the FTA of any significant changes in the program.

### **Policy Statement (Section 26.23)**

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

## **DBE Liaison Officer (OC DBELO) (Section 26.25)**

Orange County designates the following individual (or her successor) as its OC DBELO

Alan J. Sorensen, AICP  
Commissioner of Planning  
Orange County Department of Planning  
124 Main Street  
Goshen, NY 10924  
Phone: (845) 615-3840  
Fax: (845) 291-2533  
Email: [asorensen@orangecountygov.com](mailto:asorensen@orangecountygov.com)

The OC DBELO is responsible for implementing all aspects of the DBE program and ensuring that Orange County complies with 49 CFR 26. The OC DBELO has direct, independent access to Stefan “Steven” M. Neuhaus, County Executive, for matters relating to the DBE program. An organizational chart displaying the OC DBELO’s position in the Orange County organization is attached and marked as Attachment 1.

The OC DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate staff. The OC DBELO’s duties and responsibilities are as follows:

1. Gathers and reports statistical data and other information as required by FTA.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with staff 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 Orange County’s progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the County Executive on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding, and insurance.
10. Plans and participates in DBE training seminars.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.
12. Maintains Orange County’s updated bidders list on certified DBEs and non-DBE contractors and subcontractors.

### **DBE Financial Institutions (Section 26.27)**

It is the policy of Orange County to (i) investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, (ii) make reasonable efforts to use these institutions; and (iii) encourage prime contractors on FTA-assisted contract to make use of these institutions. Orange County performed a search on the New York State Unified Certification Program (NYSUCP) Directory website - <http://biznet.nysucp.net/> and determined that, as of the date of publication and/or amendment of this program, no financial institutions with DBE certification are located within Orange County as of the date of publication of this program.

### **Prompt Payment Mechanisms (Section 26.29)**

Orange County will include the following clause in each FTA-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from Orange County. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's 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 from Orange County. This clause applies to both DBE and non-DBE subcontracts.

### **Directory (Section 26.31)**

Orange County utilizes the New York State Unified Certification Program (NYSUCP) DBE Directory, which identifies all firms eligible to participate as DBEs in the Hudson Valley and Metropolitan New York area. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. Orange County makes the Directory available as follows:

By searching: <https://NYSUCP.NewNYContracts.com>

or

By contacting:

Alan J. Sorensen, AICP

Commissioner of Planning

Orange County Department of Planning

124 Main Street

Goshen, NY 10924

Phone: (845) 615-3840

Fax: (845) 291-2533

Email: [asorensen@orangecountygov.com](mailto:asorensen@orangecountygov.com)

### **Overconcentration (Section 26.33)**

Orange County reviewed the NYSUCP DBE Directory and determined that DBE firms are not so over-concentration in the types of work that DBEs perform in Orange County and the adjacent counties to unduly burden the opportunities of non-DBE firms.



### **Business Development Programs (Section 26.35)**

The Orange County Office of Business Assistance (OCOBA) promotes economic development through a program of incentive-based allocations that assist in the construction, equipping, and maintenance of specific types of projects and facilities. In general, the OCOBA works to advance the health, prosperity, and economic welfare of Orange County's citizens by retaining and creating jobs and attracting new business.

OCOBA assists numerous companies and not-for-profit organizations with new business and capital expansions. As a direct result of the assistance provided, companies have become more competitive by locating or expanding their facilities within Orange County, New York.

### **Monitoring and Enforcement Mechanisms (Section 26.37)**

To ensure compliance with 49 CFR 26, Orange County employs the following monitoring and enforcement mechanisms:

1. Bringing to the attention of the FTA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FTA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Section 26.109.
2. Considering similar action via local legal authorities, including responsiveness/responsibility determinations in future contracts.
3. Providing a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism is detailed in Attachment 2.
4. Keeping a running tally of actual payments to DBE firms for work committed to them at the time of contract award.
5. Requiring contractors (and their subcontractors) to certify in writing their DBE compliance.

### **Fostering Small Business Participation (Section 26.39)**

To foster small business participation, facilitate competition on FTA-assisted or partially funded projects (both DBEs and non-DBE), and ensure that the maximum feasible portion of Orange County's overall DBE goal is met by using race-neutral means, Orange County has integrated the certain non-discriminatory elements to its DBE program.

The Small Business Enterprise (SBE) program is open to all business owners regardless of race, ethnicity or gender. To be an eligible a business or firm must:

1. Be certified that gross revenues or number of employees averaged over the past three (3) years, inclusive of any affiliates as defined by 13 CFR §121.103 does not exceed the size standards as defined pursuant to Section 3 of the Small Business Act;
2. Not have owners whose net worth exceeds \$1.32 million.

3. Be a for-profit and meet the annual gross receipts cap of \$17.42 million as defined in 49 CFR 26; and
4. Meet the size criteria defined by the Small Business Administration. SBE size standards can be accessed at <http://www.sba.gov/content/table-small-business-size-standards>.

Certified Disadvantaged Businesses are defined herein to be a Small Business

Accepted verification and certification for participation may be obtained through the New York State Unified Certification Program (NYSUCP) which was established in accordance with 49 CFR 26 of the Code Of Federal Regulations (49 CFR 26) to provide “one-stop shopping” for DBE and small business firms. Interested parties may obtain an application or additional information by contacting:

New York State Department of Transportation (NYSDOT)  
Contract Audit Bureau  
DBE Certification  
50 Wolf Road, 1st Floor  
Albany, NY 12232  
Telephone: (518) 457-3180  
Fax: (518) 457-1675  
Email: [mdrake@dot.state.ny.us](mailto:mdrake@dot.state.ny.us)  
<https://www.dot.ny.gov/main/business-center/civil-rights/ucp-directory>

Orange County endeavors to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating small business participation. Orange County employs the following mechanisms to eliminate obstacles and facilitate competition and participation by small businesses on its federally funded contracts:

1. Arranging solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate small business 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 personnel).
2. Encouraging prime contractors on contracts not having DBE contract goals to provide subcontracting opportunities for small businesses, including DBEs.
3. Providing assistance by reducing bonding requirements.
4. Allowing consortia or joint ventures of small businesses to bid as prime contractors.
5. Providing outreach, technical assistance and training opportunities for small businesses through the Orange County Office of Business Assistance and other partnerships.

Orange County’s small business program is an active part of its DBE program, but does not replace or act as a substitute for other critical elements of the DBE program, including use of contract goals (as appropriate), good faith efforts evaluations, etc. Additionally, fostering small business participation and employing the elements outlined within this program are required for all Orange County sub-recipients and will be monitored annually.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Set-asides or Quotas (Section 26.43)**

Orange County does not use quotas in any way in the administration of this DBE program.

### **Overall Goals (Section 26.45)**

Orange County, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies that it affirmatively ensures that in any contract entered into, minority business enterprises will be afforded full opportunity to submit bids/proposals in response to requests for bids (RFBs) requests for proposals (RFPs) or requests for qualifications (RFQs) and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Qualified firms and qualified DBEs are encouraged to submit proposals in response to all solicitations. Other respondents are encouraged to utilize DBE sub-consultants where appropriate. Orange County uses the goal set forth on Attachment 3 for FTA Contracts.

Orange County develops its DBE goals on a three (3) year cycle and will submit its overall DBE goal to FTA on August 1 of every third year with an effective date of October 1<sup>st</sup> of that year, or as otherwise directed by the FTA. Before establishing the overall goal, Orange County consults with the NYSUCP Directory to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Orange County's efforts to establish a level playing field for the participation of DBEs. Following this review and analysis, on or before June 1<sup>st</sup> of the year in which Orange County sets the DBE goal, Orange County will announce its proposed overall goal on its website.

### **Transit Vehicle Manufacturers Goals (Section 26.49)**

Orange County requires each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, Orange County 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 transit vehicle manufacturer complying with this element of the program.

### **Breakout of Estimated Race-Neutral & Race-Conscious Participation (Section 26.51(a-c))**

Orange County endeavors to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Orange County uses the following means to increase DBE participation:

1. Arranging solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small business, 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 personnel).
2. Providing assistance by reducing bonding requirements.

3. Providing technical assistance and other services.
4. Carrying out information and communications programs by direct mail and seminars.

Orange County will continue to move towards race neutral methods by conducting outreach seminars, mailings, surveys, and assistance in obtaining necessary certification.

Orange County will adjust breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not limited, to the following:

- ◆ DBE participation on a prime contract awarded under customary competitive procurement procedures;
- ◆ DBE participation as a subcontractor on a prime contract that does not carry a DBE goal;
- ◆ DBE participation on a prime contract exceeding a contract goal; or
- ◆ DBE participation as a subcontractor on a prime contract whose DBE status was not considered at the time of award.

### **Contract Goals (Section 26.51(d-g))**

Orange County will use contract goals to meet any portion of its overall goal that Orange County does not project to be met using race-neutral means. Contract goals are established so that, over the period of time during which the overall goal applies, each contract goal taken cumulatively will facilitate Orange County achieving a portion of its overall goal that is not projected to be met through the use of race-neutral means.

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

Orange County expresses its contract goals as a percentage of its Federal share of a FTA-assisted contract.

### **Good Faith Efforts Procedures (Section 26.53)**

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

The obligation of the bidder/proposer is to make good faith efforts. The bidder/proposer can demonstrate that it has done so either by meeting the contract goal or documenting adequate good faith efforts. See Appendix A of 49 CFR 26 in determining the adequacy of a bidder's/proposer's good faith efforts.

The OC DBELO is responsible for determining whether a bidder/proposer met a contract goal or, alternatively, documented sufficient good faith efforts to be regarded as responsive.

Orange County endeavors to ensure that all information is complete and accurate and adequately documents the bidder's/proposer's good faith efforts before it commits to the performance of the contract by that bidder/proposer.

Information to be submitted (26.53(b))

Orange County treats bidders'/proposers' compliance with good faith efforts' requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/proposers 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 and the NAICS codes for such work;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from each DBE that it is participating in the kind and amount of work provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Award of the contract is conditioned on the bidder/proposer meeting the requirements of 49 CFR 26.

Administrative reconsideration (26.53(d))

Within ten (10) calendar days of being informed by Orange County that it is not responsive for failure to document sufficient good faith efforts, a bidder/proposer may request administrative reconsideration. Bidder/proposers may make this request in writing to the following reconsideration official:

Harry Porr  
Deputy County Executive  
Orange County Executive's Office  
Orange County Government Center  
255 Main St.  
Goshen, NY 10924  
Phone: (845) 291-2700  
Fax: (845) 291-2724  
Email: hporr@orangecountygov.com

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

As part of this reconsideration, the bidder/proposer will have the opportunity to provide written documentation concerning the issue of whether it met the goal or, alternatively, made adequate good faith efforts to do so and will have the opportunity to meet in person with the reconsideration official to discuss the same. Orange County will send the bidder/proposer a written decision on reconsideration,

explaining the basis for the reconsideration decision. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

**Good Faith Efforts when a DBE is replaced on a contract (26.53(f))**

Orange County requires the prime contractor to notify the OC DBELO immediately of any DBE's inability or unwillingness to perform and provide reasonable documentation of the nonperformance. The prime contractor must document 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.

In this situation, the prime contractor must obtain Orange County's prior written approval to replace a DBE with a 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, an order will be issued by Orange County stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

**Counting DBE Participation (Section 26.55)**

Orange County counts DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

**SUBPART D – CERTIFICATION STANDARDS**

**Certification Process (Section 26.61 – 26.73)**

Orange County uses the certification standards of Subpart D of 49 CFR 26 to determine the eligibility of firms to participate as DBEs in FTA-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Orange County makes its certification decisions based on the facts as a whole.

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

Alan J. Sorensen, AICP  
Commissioner of Planning  
Orange County Department of Planning  
124 Main Street  
Goshen, NY 10924  
Phone: (845) 615-3840  
Fax: (845) 291-2533  
Email: [asorensen@orangecountygov.com](mailto:asorensen@orangecountygov.com)

The certification application forms and documentation requirements are found in Attachment 6.

**SUBPART E – CERTIFICATION PROCEDURES**

**Unified Certification Programs (Section 26.81)**

Orange County participates or will participate in the New York State Unified Certification Program Committee. The NYSUCP makes all certification decisions on behalf of recipients.

## **Procedures for Certification Decisions (Section 26.83)**

### **Re-certifications 26.83(a) & (c)**

NYSUCP is responsible for reviewing and certifying DBE eligibility. Orange County relies on NYSUCP to complete this review and re-certifications no later than three (3) years from the date of the most recent certification of each firm.

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

DBEs must inform NYSUCP of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR 26, or of any material changes in the information provided with their application for DBE certification. Such notice must be in the form of a signed affidavit delivered within thirty (30) calendar days of the change.

All certified DBEs must submit to the NYSUCP, every year on the anniversary date of their certification, a “no change” affidavit in the form required by 49 CFR 26.83(j), which reads:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR 26. There have been no material changes in the information provided with [name of DBE]’s application for certification, except for any changes about which I have provided written notice to the [Recipient] under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm’s previous three fiscal years do not exceed \$16.6 million.

Orange County relies on NYSUCP to notify all currently certified DBE firms of these certification/re-certification requirements.

## **Denials of Initial Requests for Certification (Section 26.86)**

If a DBE firm’s application is denied or it is decertified, the DBE firm may not reapply until twelve (12) months have passed from the date of the denial or decertification.

## **Removal of a DBE’s Eligibility (Section 26.87)**

In the event NYSUCP proposes to remove a DBE’s certification, NYSUCP follows the procedures set forth in 49 CFR 26.87.

## **Certification Appeals (Section 26.89)**

Any firm or complainant may appeal certification decisions to the U.S. Department of Transportation (USDOT) at:

U.S. Department of Transportation  
Developmental Office of Civil Rights  
1200 New Jersey Avenue SE  
Washington, D.C. 20590-001

Orange County will promptly implement any USDOT certification appeal decision affecting the eligibility of a DBE (e.g., certify a firm if USDOT determined that a denial of an application was erroneous).

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Information, Confidentiality, Cooperation (Section 26.109)**

Orange County 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 federal, state, or local law, Orange County will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FTA) without the written consent of the submitter.

### **Monitoring Payments to DBEs**

Orange County requires prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Orange County or FTA. This reporting requirement also extends to any certified DBE subcontractor.

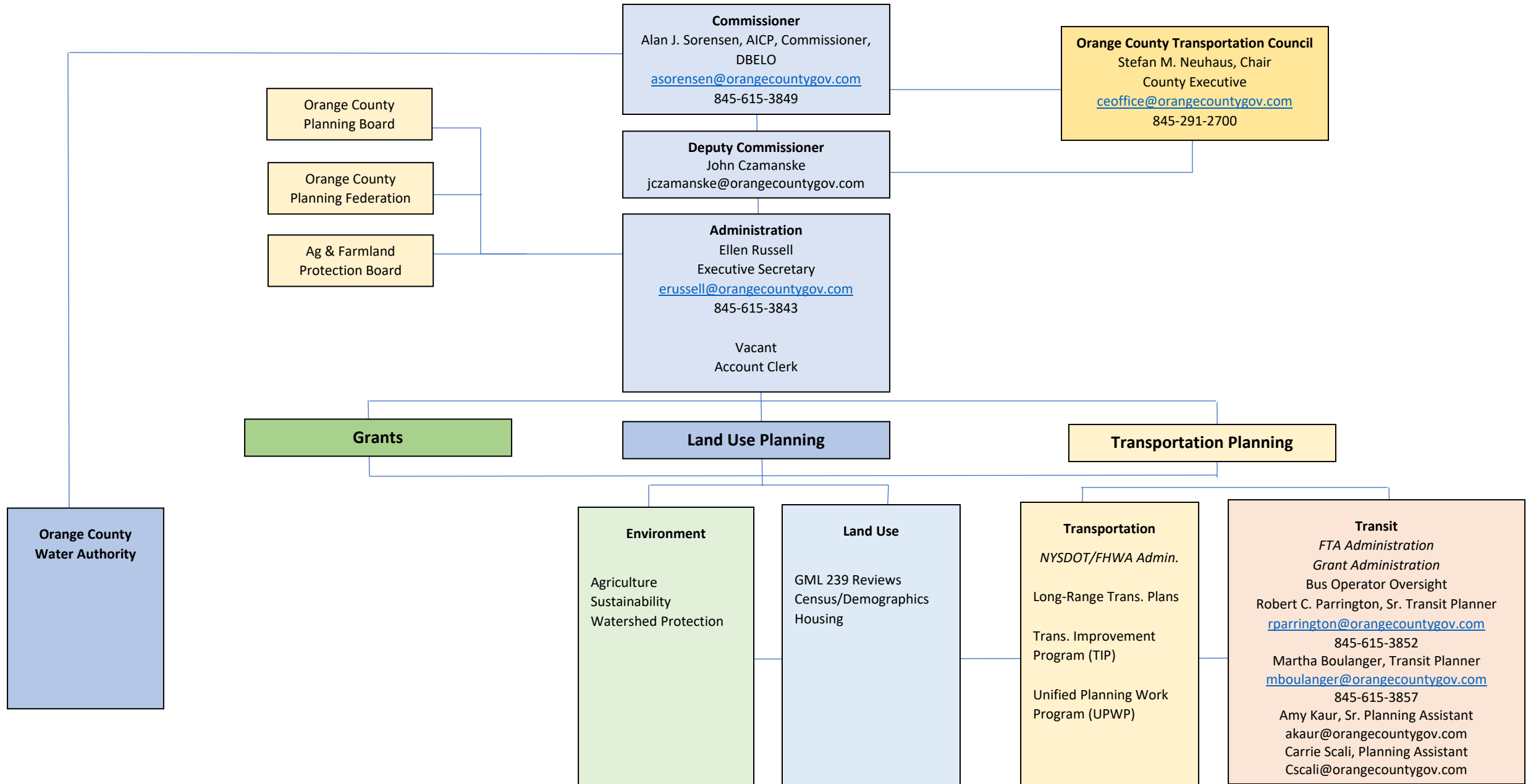
Orange County performs interim audits of contract payments to DBEs. These audits review payments to DBE subcontractors to ensure that the actual amount paid to a DBE subcontractor equals or exceeds the dollar amounts states in the schedule of DBE participation.



## **Attachment 1: Organizational Chart**

# Department of Planning

## Existing Organizational Structure



## **Attachment 2: Monitoring and Enforcement Mechanisms**

Orange County verifies that work committed to DBEs at contract award is actually performed by the DBEs by monitoring progress reporting documentation and timesheets when invoices are received. Monthly progress reporting documentation and timesheets are required for invoice submission.

Orange County possesses remedies to enforce the DBE requirements contained in its contracts, including, but not limited to:

- Termination, for cause or convenience, pursuant to the terms of the contract; and
- Breach of contract action, pursuant to 49 CFR 26.

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

- Suspension or debarment proceedings pursuant to 49 CFR 26;
- Enforcement action pursuant to 49 CFR 31;
- Prosecution pursuant to 18 USC 1001.

## Attachment 3: Overall Goal Calculation (§ 26.45)

### Amount of Goal

1. Orange County's overall DBE participation goal is 1.2% of the Federal Financial assistance Orange County will expend in FTA-assisted contracts, exclusive of FTA funds used for the purchase of transit vehicles in a fiscal year.
2. Orange County anticipates awarding an average of approximately \$2,700,000 of FTA-assisted contracts during each year. If the 1.2% DBE participation is met, the County would expend at least \$32,400 on DBE contracts or subcontracts.

### Methodology used to Calculate Overall Goal

Step 1: 49 CFR 26.45(c)

To calculate the relative availability of DBEs for "Step 1," data from DBE lists (NYSUCP) and US Census Bureau Data were reviewed for NYSDOT Region 8, comprised of the counties of Columbia, Dutchess, Orange, Putnam, Rockland, Ulster, and Westchester.

The base figure for the relative availability of DBEs was calculated by dividing the total number of ready, willing, and able firms/contractors by the number of ready, willing, and able DBEs, as follows:

Ready, willing, and able DBEs (numerator):	123	
	-----	= <b>1.87%</b>
All firms ready, willing and able (denominator)	6,570	

The data source used to derive the numerator was the NYSUCP Directory.

The data source used to derive the denominator was the North American Industry Classification System categories for:

- Engineering Services (541330)
- Other Scientific and Technical Consulting Services (541690)
- Geophysical Surveying and Mapping Services (54136)
- Transportation Management Consulting Services (541614)
- Professional and Management Development Training (611430)
- Bus and Other Motor Vehicle Transit Systems (485113)
- Special Needs Transportation (485991)

By dividing the numerator by the denominator, Orange County arrived at the base figure for its overall goal and that number was: **1.87%**

Orange County made the decision to further adjust the goal by the method of weighted base figure. The weighted base figure was determined by multiplying the weight of each DOT funded contract by the

relative availability of those projects which resulted in a weighted figure for each contract opportunity. The total of all individual figures resulted in the total weighted base figure. This process currently resulted in a weighted base figure of 1.2%.

The weighted DBE goal is 1.2%

Step 2: 26.45(d)

After calculating the base figure of the relative availability of DBEs, Orange County considered whether to make adjustments to the base figure in order to arrive at the overall participation goal. No adjustments were made.

Orange County will announce the overall goal on its website before submission to the FTA on August 1<sup>st</sup>.

## **Attachment 4: Breakout of Estimated Race-Neutral & Race Conscious Participation (§26.51)**

Orange County endeavors to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The County uses the following race-neutral means to increase DBE participation:

1. Arranging solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small business, 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 personnel).
2. Providing assistance by reducing bonding requirements.
3. Providing technical assistance and other services.
4. Carrying out information and communications programs by direct mail and seminars.

Orange County estimates that, in meeting its DBE goal as stated in Attachment 3, Orange County will obtain 100% of the goal from race-neutral participation and 0% through race-conscious measures.

The following summarizes Orange County's basis for its estimated breakout of race-neutral and race-conscious DBE participation:

To ensure that Orange County's DBE program is sufficient to overcome the effects of discrimination, if contract goals are used the estimated breakout of race-neutral and race-conscious participation will be adjusted as needed in order to reflect actual DBE participation (see 26.51(f)), and race-neutral and race-conscious participation will be tracked and reported 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 a DBE goal; 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.

Orange County maintains separate data on DBE achievements in contracts with and without contract DBE goals.

## Attachment 5: Forms 1 & 2 for Demonstration of Good Faith Efforts (§26.53)

### FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/proposer has satisfied the requirements of the bid specification in the following manner (please check one):

- The bidder/proposer is committed to a minimum of \_\_\_\_ % DBE utilization on this contract.
- The bidder/proposer (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's/proposer's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

(Signature/Title)

**FORM 2: LETTER OF INTENT**

Name of bidder's/proposer'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/proposer 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: \_\_\_\_\_ Date: \_\_\_\_\_

(Signature/Title)

**If the bidder/proposer does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor.)



## **Attachment 6: Certification Application Forms**



OMB APPROVAL NO:  
2105-0510  
Expiration Date: 10/31/2021

Appendix F

**UNIFORM CERTIFICATION APPLICATION**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) /**  
**AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)**  
**49 C.F.R. Parts 23 and 26**

***Roadmap for Applicants***

**1. Should I apply?**

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and DBE/ACDBE size standards—  
<https://www.transportation.gov/DBEsizestandards>

**2. How do I apply?**

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

**3. Where can I send my application? [INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION]**

**4. Who will contact me about my application and what are the eligibility standards?** A transportation agency in your state that performs certification functions will contact you. The agency is a member of a statewide Unified Certification Program (UCP), which is required by the U.S. Department of Transportation. The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

**5. Where can I find more information?**

U.S. DOT—<https://www.transportation.gov/civil-rights> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS):  
<http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §26.5 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §23.3. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 2, 1999 and January 28, 2011, 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 2 C.F.R. Parts 180 and 1200, No procurement Suspension and Department, take enforcement action under 49 C.F.R. 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.



**INSTRUCTIONS FOR COMPLETING THE  
DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)  
UNIFORM CERTIFICATION APPLICATION**

**NOTE:** All participating firms must be for-profit enterprises. If your firm is not for profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. 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. Basic Contact Information**

- (1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website addresses, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

**B. Prior/Other Certifications and Applications**

- (10) Check the appropriate box indicating whether your firm is currently certified in the DBE/ACDBE programs, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of state/UCP members that conducted the review.
- (11) Indicate whether your firm or any firms owned by the persons listed has ever been denied certification as a DBE/ACDBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

**Section 2: GENERAL INFORMATION**

**A. Business profile:**

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.

- (2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.
- (3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.
- (4) State the date each person became a firm owner.
- (5) Check the appropriate box describing 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." **If you checked "No," then you do NOT qualify for the DBE/ACDBE program** and should not complete this application. All participating firms must be for-profit enterprises. Provide the Federal Tax ID number as stated on your firm's Federal tax return.
- (7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. If you checked "Other," briefly explain in the space provided.
- (8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.
- (9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firm(s) Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

**B. Relationships and Dealings 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, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral



agreement. Provide an explanation of any items shared with other firms in the space provided.

- (2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.
- (3) Check the appropriate box that indicates whether at present or at any time in the past your firm:
  - (a) ever existed under different ownership, a different type of ownership, or a different name;
  - (b) existed as a subsidiary of any other firm;
  - (c) existed as a partnership in which one or more of the partners are/were other firms;
  - (d) owned any percentage of any other firm; and
  - (e) had any subsidiaries of its own.
  - (f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

### Section 3: MAJORITY OWNER INFORMATION

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 owner):

#### A. Identify the majority owner of the firm holding 51% or more ownership interest

- (1) Enter the full name of the owner.
- (2) Enter his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) Enter his/her home (street) address.
- (5) Indicate this owner's gender.
- (6) Identify the owner's ethnic group membership. 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 or 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.
- (8) Enter the number of years during which this owner has been an owner of your firm.
- (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
- (10) 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. Describe how you acquired your business and attach documentation substantiating this investment.

#### B. Additional Owner Information

- (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
- (2) Indicate 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/title held in that business.

- (3) (a) 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, the nature of the business relationship, and the owner's function at the firm.
  - (b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.
- (4) (a) Provide the personal net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).
- (b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.
- (5) Check the appropriate to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

### Section 4: CONTROL

#### A. Identify the 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.
- (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 to indicate whether any of your firm's officers and/or directors listed above performs 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. (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.

#### B. Duties of Owners, Officers, Directors, Managers and Key Personnel

- (1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who are responsible for the functions listed for the firm. Submit résumés for each owner and non-owner identified below. State the name of the individual, title, race



and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

**C. Inventory:** Indicate firm inventory in these categories:

**(1) Equipment and Vehicles**

State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

**(2) Office Space**

State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

**(3) Storage Space**

State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

**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," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

**E. Financial / Banking Information**

State the name, City and State of your firm's bank. Identify the persons able to sign checks on this account. Provide bank authorization and signature cards.

Bonding Information. State your firm's bonding limits both aggregate and project limits.

**F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.**

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each

loan was made to your firm. Provide copies of signed loan agreements and security agreements

**G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual 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. Current licenses/permits held by any owner or employee of your firm.**

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and haul authority forms.

**I. 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. 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.

**Section 5: AIRPORT CONCESSION (ACDBE) APPLICANTS**

Complete the entries in this section if you are applying for ACDBE certification. Indicate in Section A if you operate a concession at the airport, and/or supply a good or service to an airport concessionaire. Indicate in Section B whether the applicant firm owns or operates any off-airport locations, providing the type of business, lease information, address/location, and annual gross receipts generated. Provide similar information in section C for any airport concession locations the firm currently owns or operates. If the applicant firm has any affiliates, provide the requested information in Section D. Indicate whether the ACDBE firm is participating in any joint ventures, and if so, include the original and any amended joint venture agreements.

**AFFIDAVIT & SIGNATURE**

The Affidavit of Certification must accompany your application. 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.



**Section 1: CERTIFICATION INFORMATION**

**A. Basic Contact Information**

I am applying for certification as  DBE  ACDBE

(1) Contact person and Title: \_\_\_\_\_  
\_\_\_\_\_

(2) Legal name of firm: \_\_\_\_\_  
\_\_\_\_\_

(3) Phone #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ (4) Other Phone #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ (5) Fax #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

(6) E-mail: \_\_\_\_\_ (7) Firm Websites: \_\_\_\_\_

(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. Prior/Other Certifications and Applications**

(10) Is your firm currently certified for any of the following U.S. DOT programs?

DBE  ACDBE Names of certifying agencies: \_\_\_\_\_

⊗ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date \_\_\_/\_\_\_/\_\_\_ State/UCP Member: \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_ State/UCP Member: \_\_\_\_\_

(11) Indicate whether the firm or any persons listed in this application have ever been:

- (a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm?  Yes  No
- (b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?  Yes  No

If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision)

\_\_\_\_\_  
\_\_\_\_\_

**Section 2: GENERAL INFORMATION**

**A. Business Profile:** (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) Applicable NAICS Codes for this line of work include: \_\_\_\_\_

(3) This firm was established on \_\_\_/\_\_\_/\_\_\_ (4) I/We have owned this firm since: \_\_\_/\_\_\_/\_\_\_



**(5) Method of acquisition** (Check all that apply):

- Started new business  Bought existing business  Inherited business  Gifted
- Merger or consolidation  Other (explain) \_\_\_\_\_

**(6) Is your firm "for profit"?**  Yes  
Federal Tax ID# \_\_\_\_\_

No → **⊗ STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.

**(7) Type of Legal Business Structure:** (check all that apply):

- Sole Proprietorship
- Limited Liability Partnership
- Partnership  Corporation
- Limited Liability Company  Other, Describe \_\_\_\_\_

**(8) Number of employees:** Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Seasonal \_\_\_\_\_ Total \_\_\_\_\_  
(Provide a list of employees, their job titles, and dates of employment, to your application).

**(9) Specify the firm's gross receipts for the last 3 years.** (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

**B. Relationships and Dealings 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 or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity?**  Yes  No

If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared

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**(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?**

Yes  No If Yes, explain \_\_\_\_\_

**(3) At present, or at any time in the past, has your firm:**

- (a) Ever existed under different ownership, a different type of ownership, or a different name?  Yes  No
  - (b) Existed as a subsidiary of any other firm?  Yes  No
  - (c) Existed as a partnership in which one or more of the partners are/were other firms?  Yes  No
  - (d) Owned any percentage of any other firm?  Yes  No
  - (e) Had any subsidiaries?  Yes  No
  - (f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts?  Yes  No
- (If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).

**Section 3: MAJORITY OWNER INFORMATION**



**A. Identify the majority owner of the firm holding 51% or more ownership interest.**

(1) Full Name: \_\_\_\_\_ | (2) Title: \_\_\_\_\_ | (3) Home Phone #: \_\_\_\_\_  
 \_\_\_\_\_ | \_\_\_\_\_ | ( ) \_\_\_\_\_ - \_\_\_\_\_

(4) Home Address (Street and Number): \_\_\_\_\_ | City: \_\_\_\_\_ | State: \_\_\_\_\_ | Zip: \_\_\_\_\_  
 \_\_\_\_\_ | \_\_\_\_\_ | \_\_\_\_\_ | \_\_\_\_\_ - \_\_\_\_\_

(5) Gender:  Male  Female

(6) Ethnic group membership (Check all that apply):

- Black
- Hispanic
- Asian Pacific
- Native American
- Subcontinent Asian
- Other (specify) \_\_\_\_\_

(7) U.S. Citizenship:  U.S. Citizen  
 Lawfully Admitted Permanent Resident

(8) Number of years as owner: \_\_\_\_\_  
 (9) Percentage owned: \_\_\_\_\_ %  
 Class of stock owned: \_\_\_\_\_ Date acquired \_\_\_\_\_

(10) Initial investment to acquire ownership interest in firm:	<u>Type</u>	<u>Dollar Value</u>
	Cash	\$ _____
	Real Estate	\$ _____
	Equipment	\$ _____
	Other	\$ _____

Describe how you acquired your business:  
 Started business myself.  
 It was a gift from: \_\_\_\_\_  
 I bought it from: \_\_\_\_\_  
 I inherited it from: \_\_\_\_\_  
 Other \_\_\_\_\_  
 (Attach documentation substantiating your investment)

**B. Additional Owner Information**

(1) Describe familial relationship to other owners and employees:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) Does this owner perform a management or supervisory function for any other business?  Yes  No  
 If Yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)  Yes  No  
 Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

\_\_\_\_\_  
 \_\_\_\_\_

(b) Does this owner work for any other firm, non-profit organization, or engage in any other activity more than 10 hours per week? If yes, identify this activity: \_\_\_\_\_

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ \_\_\_\_\_

(b) Has any trust been created for the benefit of this disadvantaged owner(s)?  Yes  No  
 (If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company?  Yes  No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: (Please attach extra sheets, if needed): \_\_\_\_\_  
 \_\_\_\_\_



**Section 3: OWNER INFORMATION, Cont'd.**



**A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm** *(Attach separate sheets for each additional owner)*

(1) Full Name: \_\_\_\_\_ | (2) Title: \_\_\_\_\_ | (3) Home Phone #: \_\_\_\_\_  
 ( ) \_\_\_\_\_ - \_\_\_\_\_

(4) Home Address *(Street and Number)*: \_\_\_\_\_ | City: \_\_\_\_\_ | State: \_\_\_\_\_ | Zip: \_\_\_\_\_  
 \_\_\_\_\_ - \_\_\_\_\_

(5) Gender:  Male  Female

(6) Ethnic group membership *(Check all that apply)*

- Black
- Hispanic
- Asian Pacific
- Native American
- Subcontinent Asian
- Other *(specify)* \_\_\_\_\_

(7) U.S. Citizenship:

- U.S. Citizen
- Lawfully Admitted Permanent Resident

(8) Number of years as owner: \_\_\_\_\_

(9) Percentage owned: \_\_\_\_\_ %

Class of stock owned: \_\_\_\_\_ Date acquired \_\_\_\_\_

(10) Initial investment

to acquire ownership interest in firm:	<u>Type</u>	<u>Dollar Value</u>
	Cash	\$ _____
	Real Estate	\$ _____
	Equipment	\$ _____
	Other	\$ _____

Describe how you acquired your business:

- Started business myself.
- It was a gift from: \_\_\_\_\_
- I bought it from: \_\_\_\_\_
- I inherited it from: \_\_\_\_\_
- Other \_\_\_\_\_

*(Attach documentation substantiating your investment)*

**B. Additional Owner Information**

(1) Describe familial relationship to other owners and employees:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) Does this owner perform a management or supervisory function for any other business?  Yes  No

If Yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)*  Yes  No

Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: \_\_\_\_\_

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ \_\_\_\_\_

(b) Has any trust been created for the benefit of this disadvantaged owner(s)?  Yes  No

*(If Yes, you may be asked to provide a copy of the trust instrument).*

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company?  Yes  No

If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: *(Please attach extra sheets, if needed)*: \_\_\_\_\_  
 \_\_\_\_\_

**Section 4: CONTROL**



**A. Identify your firm's Officers and Board of Directors** (If additional space is required, attach a separate sheet):

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

**(3) Do any of the persons listed above perform a management or supervisory function for any other business?**  
 Yes  No If Yes, identify for each:

Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

**(4) Do any of the persons listed in section A 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. Duties of Owners, Officers, Directors, Managers, and Key Personnel**

**1. Complete for all Owners who are responsible for the following functions of the firm** (Attach separate sheets as needed).

A= Always F = Frequently	S = Seldom N = Never	Majority Owner (51% or more)				Minority Owner (49% or less)			
		Name: _____	Title: _____	Percent Owned: _____		Name: _____	Title: _____	Percent Owned: _____	
Sets policy for company direction/scope of operations		A	F	S	N	A	F	S	N
Bidding and estimating		A	F	S	N	A	F	S	N
Major purchasing decisions		A	F	S	N	A	F	S	N
Marketing and sales		A	F	S	N	A	F	S	N
Supervises field operations		A	F	S	N	A	F	S	N
Attend bid opening and lettings		A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)		A	F	S	N	A	F	S	N
Hires and fires management staff		A	F	S	N	A	F	S	N
Hire and fire field staff or crew		A	F	S	N	A	F	S	N
Designates profits spending or investment		A	F	S	N	A	F	S	N
Obligates business by contract/credit		A	F	S	N	A	F	S	N
Purchase equipment		A	F	S	N	A	F	S	N
Signs business checks		A	F	S	N	A	F	S	N



**2. Complete for all Officers, Directors, Managers, and Key Personnel who are responsible for the following functions of the firm. (Attach separate sheets as needed).**

<b>A= Always</b> <b>S = Seldom</b> <b>F = Frequently</b> <b>N = Never</b>	Officer/Director/Manager/Key Personnel				Officer/Director/Manager/ Key Personnel			
	Name: _____				Name: _____			
	Title: _____				Title: _____			
	Race and Gender: _____				Race and Gender: _____			
	Percent Owned: _____				Percent Owned: _____			
Sets policy for company direction/scope of operations	A	F	S	N	A	F	S	N
Bidding and estimating	A	F	S	N	A	F	S	N
Major purchasing decisions	A	F	S	N	A	F	S	N
Marketing and sales	A	F	S	N	A	F	S	N
Supervises field operations	A	F	S	N	A	F	S	N
Attend bid opening and lettings	A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)	A	F	S	N	A	F	S	N
Hires and fires management staff	A	F	S	N	A	F	S	N
Hire and fire field staff or crew	A	F	S	N	A	F	S	N
Designates profits spending or investment	A	F	S	N	A	F	S	N
Obligates business by contract/credit	A	F	S	N	A	F	S	N
Purchase equipment	A	F	S	N	A	F	S	N
Signs business checks	A	F	S	N	A	F	S	N

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function: \_\_\_\_\_

Do any of the persons listed 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.) If Yes, describe the nature of the business relationship: \_\_\_\_\_

**C. Inventory:** Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):=

**1. Equipment and Vehicles**

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				

**2. Office Space**

Street Address Owned or Leased by Firm or Owner? Current Value of Property or Lease

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**3. Storage Space** (Provide signed lease agreements for the properties listed)



Street Address

Owned or Leased by  
Firm or Owner?

Current Value of Property or Lease

\_\_\_\_\_

\_\_\_\_\_

**D. Does your firm rely on any other firm for management functions or employee payroll?**  Yes  No

**E. Financial/Banking Information** (Provide bank authorization and signature cards)

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are able to sign checks on this account: \_\_\_\_\_

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are able to sign checks on this account: \_\_\_\_\_

**Bonding Information:** If you have bonding capacity, identify the firm's bonding aggregate and project limits:

Aggregate limit \$ \_\_\_\_\_ Project limit \$ \_\_\_\_\_

**F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner.** (Provide copies of signed loan agreements and security agreements).

Name of Source	Address of Source	Name of Person Guaranteeing 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 or another individual 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	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. _____					

**Additional Information:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SECTION 5 - AIRPORT CONCESSION**

**(ACDBE APPLICANTS ONLY)**

**A. I am applying for ACDBE certification to:** *(check all that apply)*

- Operate a concession at an airport     Supply a good or service to an airport concessionaire

**B. Does the applicant firm own/operate any off-airport locations?**    Yes    No    *If Yes, identify the following*

Type of Business (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Lease Term (years)	Lease Start Date	Address / Location	Annual Gross Receipts Generated

**C. Does the applicant firm currently own/operate any airport concession locations?**    Yes    No    *If Yes, supply the following information:*

Airport Name	Concession Type (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Number of Leases	Number of Locations	Annual Gross Receipts Generated	Lease Type <i>(e.g. Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)</i>

**D. Does the applicant firm have any affiliates?**    Yes    No    *If Yes, provide the following information concerning any locations owned/operated by affiliate firms.*

Airport Name	Concession Type (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Number of Leases	Number of Locations	Annual Gross Receipts Generated	Lease Type <i>(e.g. Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)</i>

**E. Is the ACDBE applicant firm a participant in any joint ventures?**    Yes    No    *If Yes, attach all original and any amended Joint Venture Agreements and any amendments to the agreements.*



# 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 the applicant firm  
\_\_\_\_\_ and that I  
have read and understood all of the questions in this  
application and that all of the foregoing information and  
statements submitted in this application and its attachments  
and supporting documents are true and correct to the best of  
my knowledge, and that all responses to the questions are full  
and complete, omitting no material information. The responses  
include all material information necessary to fully and  
accurately identify and explain the operations, capabilities and  
pertinent history of the named firm as well as the ownership,  
control, and affiliations thereof.

I recognize that the information submitted in this application is  
for the purpose of inducing certification approval by a  
government agency. I understand that a government agency  
may, by means it deems appropriate, determine the accuracy  
and truth of the statements in the application, and I authorize  
such agency to contact any entity named in the application, and  
the named firm's bonding companies, banking institutions,  
credit agencies, contractors, clients, and other certifying  
agencies for the purpose of verifying the information supplied  
and determining the named firm's eligibility.

I agree to submit to government audit, examination and review  
of books, records, documents and files, in whatever form they  
exist, of the named firm and its affiliates, inspection of its  
places(s) of business and equipment, and to permit interviews  
of its principals, agents, and employees. I understand that  
refusal to permit such inquiries shall be grounds for denial of  
certification.

If awarded a contract, subcontract, concession lease or  
sublease, 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 of any material change in the  
information contained in the original application within 30  
calendar days of such change (e.g., ownership changes,  
address/telephone number, personal net worth exceeding \$1.32  
million, 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 or Airport  
Concession Disadvantaged Business Enterprise. In support of my  
application, I certify that I am a member of one or more of the  
following groups, and that I have held myself out as a member of  
the group(s): (Check all that apply):

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

I certify that I am socially disadvantaged because I have been  
subjected to racial or ethnic prejudice or cultural bias, or have  
suffered the effects of discrimination, because of my identity  
as a member of one or more of the groups identified above,  
without regard to my individual qualities.

I further certify that my personal net worth does not exceed  
\$1.32 million, 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.

Signature \_\_\_\_\_ (Date) \_\_\_\_\_  
(DBE/ACDBE Applicant)

## NOTARY CERTIFICATE

## UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST



**In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following REQUIRED documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.**

### **Required Documents for All Applicants**

- Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners who the applicant firm relies upon to satisfy the Regulation's 51% ownership requirement.
- Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- Documented proof of contributions used to acquire ownership for each owner (*e.g., both sides of cancelled checks*)
- Signed loan and security agreements, and bonding forms
- List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- Licenses, license renewal forms, permits, and haul authority forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertification's, if applicable; and any U.S. DOT appeal decisions on these actions.
- Bank authorization and signatory cards
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- List of all employees, job titles, and dates of employment.
- Proof of warehouse/storage facility ownership or lease arrangements

### **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(s)
- Minutes of all stockholders and board of director's 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)

### **Optional Documents to Be Provided on Request**

*The certifying agency to which you are applying may require the submission of the following documents. If requested to provide these document, you must supply them with your application or at the on-site visit.*

- Proof of citizenship
- Insurance agreements for each truck owned or operated by your firm
- Audited financial statements (if available)
- Trust agreements held by any owner claiming disadvantaged status
- Year-end balance sheets and income statements for the past 3 years (*or life of firm, if less than three years*)

### **Suppliers**

- List of product lines carried and list of distribution equipment owned and/or leased



NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
 Contract Audit Bureau DBE Certification Team  
 50 Wolf Road, 1<sup>st</sup> Floor South  
 Albany, New York 12232



STATEMENT OF PERSONAL NET WORTH

As of \_\_\_\_\_, \_\_\_\_\_

**Complete this form for: (1) each socially disadvantaged owner; (2) each socially disadvantaged limited and general partner whose combined interest totals 51% or more; or (3) each socially disadvantaged stockholder whose combined interest totals 51% or more of voting stock.**

**Name** \_\_\_\_\_ **Business Phone:** \_\_\_\_\_

**Residence Address** \_\_\_\_\_ **Residence Phone:** \_\_\_\_\_

**City, State & Zip Code** \_\_\_\_\_

**Business Name of Applicant** \_\_\_\_\_

ASSETS (Omit Cents)	LIABILITIES (Omit Cents)
Cash on hand & in Banks ..... \$	Accounts Payable ..... \$ (Describe in Section 7)
Savings Accounts ..... \$	Notes Payable to Bank and Others ..... \$ (Describe in Section 2)
IRA or Other Retirement Account ..... \$	Installment Account (Auto) ..... \$ (Describe in Section 7)
Accounts & Notes Receivable ..... \$	Mon. Payments \$ _____
Life Insurance-Cash Surrender Value Only.. \$ (Complete Section 8)	Installment Account (Other) ..... \$ Mon. Payments \$ _____
Stocks and Bonds ..... \$ (Describe in Section 3)	Loan on Life Insurance ..... \$
Real Estate ..... \$ (Describe in Section 4)	Mortgages on Real Estate ..... \$ (Describe in Section 4)
Automobile-Present Value ..... \$	Unpaid Taxes ..... \$ (Describe in Section 6)
Other Personal Property ..... \$ (Describe in Section 5)	Other Liabilities ..... \$ (Describe in Section 7)
Other Assets ..... \$	Total Liabilities ..... \$
Total \$	Net Worth ..... \$
Total \$	Total \$

**Section 1. Source of Income** \_\_\_\_\_ **Contingent Liabilities** \_\_\_\_\_

Salary ..... \$	As Endorser or Co-Maker ..... \$
Net Investment Income ..... \$	Legal Claims & Judgments ..... \$
Real Estate Income ..... \$	Provisions for Federal Income Tax ..... \$
Other Income (Describe below)* ..... \$	Other Special Debt ..... \$

**Description of Other Income in Section 1.**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**\*Alimony or child support payments need not be disclosed in "Other Income" unless is desired to have such payments counted toward total income.**

**Section 2. Notes Payable to Banks and Others (Use attachments if necessary. Each attachment must be identified as part of this statement and signed.)**  
 \_\_\_\_\_  
 \_\_\_\_\_

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral


**Section 3. Stocks and Bonds. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed).**

Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

**Section 4. Real Estate Owned. (List each parcel separately. Use attachment if necessary. Each attachment must be identified as a part of this statement and signed. Do NOT include your primary residence.)**

	Property A	Property B	Property C
Type of Property			
Address			
Date Purchased			
Original Cost			
Present Market Value			
Name & Address of Mortgage Holder			
Mortgage Account Number			
Mortgage balance			
Amount of Payment per month/Year			
Status of Mortgage			

**Section 5. Other Personal Property and Other Assets. (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency Ownership interest in affiliate firms must be included. Use attachments if necessary).**

**Section 6. Unpaid Taxes. (Describe in detail, as to type, to whom payable, when due, and to what property, if any, a tax lien attaches).**

**Section 7. Other Liabilities. (Describe in detail. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed).**

**Section 8. Life Insurance held. (Give face amount and cash surrender value of policies – name of insurance company and beneficiaries).**

**I authorize the New York State Department of Transportation to verify the accuracy of the statements made in order to determine whether I meet the standards of economic disadvantage for participation in the New York State Department of Transportation Disadvantaged Business Enterprise Program.**

Print Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

I swear that the foregoing statements and attachments are true and accurate. I understand that any misrepresentation in the Statement of Personal Net Worth will be grounds for terminating DBE certification status with the New York State Department of Transportation. I further understand that any misrepresentation made in this Statement of Personal Net Worth is subject to both the civil and criminal laws of the State of New York and may also be referred to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

**SWORN BEFORE ME**

This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

Date: \_\_\_\_\_

## Attachment 7: Procedures for Removal of DBE's Eligibility

In the event NYSUCP proposes to remove a DBE's certification, Orange County will rely on NYSUCP to follow the procedures consistent with 49 CFR 26.87:

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

(a) Ineligibility complaints.

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

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

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) Recipient-initiated proceedings. If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) DOT directive to initiate proceeding.

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

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

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

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

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

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

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

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

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

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

(3) Before a UCP is operational in its state, a small airport or small transit authority (i.e., an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) Grounds for decision. You may base a decision to remove a firm's eligibility only on one or more of the following grounds:

- (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 relevant to eligibility that has been concealed or misrepresented by the firm;
  - (4) A change in the certification standards or requirements of the Department since you certified the firm;
  - (5) Your decision to certify the firm was clearly erroneous;
  - (6) The firm has failed to cooperate with you (see § 26.109(c));
  - (7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see § 26.73(a)(2)); or
  - (8) The firm has been suspended or debarred for conduct related to the DBE program.
- The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

(g) Notice of decision. Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under § 26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding. Provided that, when sending such a notice to a complainant other than a DOT operating administration, you must not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.

(h) [Reserved by 76 FR 5101]

(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](#).

## **Attachment 8: 49 CFR 26 – Disadvantaged Business Enterprise**

Regulatory text, questions and answers, and other resources pertaining to 49 CFR 26 may be found on the FTA's website: [http://www.fta.dot.gov/sitemap\\_14041.html](http://www.fta.dot.gov/sitemap_14041.html).



## Attachment 9: APPENDIX A TO 49 CFR 26—Guidance Concerning Good Faith Efforts

I. When, as a recipient, you establish a contract goal on a DOT–assisted contract for procuring construction, equipment, services, or any other purpose, a bidder must, in order to be responsible and/or responsive, make sufficient 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, you have the responsibility 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, based on the regulations and the guidance in this Appendix.

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. Determinations should not be made using quantitative formulas.

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. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid

and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should 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 (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

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 with their offer for the subcontract.

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. (1) 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 status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

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, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. 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 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. As provided in § 26.53(b)(2)(vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.