DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

TOWN OF HUNTINGTON

POLICY STATEMENT

Section 26.1, 26.23 **Objectives/Policy Statement**

The Town of Huntington has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

The Town of Huntington has received Federal financial assistance from the Department of Transportation. As a condition of receiving this assistance, the Town of Huntington has signed an assurance that it will comply with 49 CFR Part 26.

It is, therefore, the policy of the Town of Huntington to ensure that DBEs as defined in Part 26 have an equal opportunity to receive and participate in DOT-assisted contracts. It is further our policy:

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

Rhonda Shepardson, Esq., has been delegated by the Town Board as the DBE Liaison Officer. In that capacity, Ms. Shepardson is responsible for implementing all aspects of the DBE program. Ensuring full compliance is accorded the same high priority as with all other legal obligations that are entrusted to the Town of Huntington as a result of its decision to enter financial assistance agreements with the United States Department of Transportation.

Ms. Shepardson disseminates this policy statement, under the signature of the Town Supervisor, to the members of the Town Board and all component departments, divisions and offices of our organization.

This policy statement, in addition, is distributed to the DBE and non-DBE business community, alike, that perform work for us on DOT-assisted contracts. The policy is posted on the Town's website and made available for inspection at the Office of the Town Clerk located at Town Hall, 100 Main Street, Huntington, NY 11743.

Frank P. Petrone
Supervisor
Town of Huntington
1211712014 5:

8/19/15
Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

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

Section 26.3 Applicability

The Town of Huntington is the recipient of federal –aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

The Town of Huntington is the 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, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The Town of Huntington will adopt the definitions contained in Section 26.5 of Part 26 for this program.

Section 26.7 Non-discrimination Requirements

The Town of Huntington will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the Town of Huntington will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Uniform Report of DBE Awards or Commitments and Payments: 26.11(a)

The Town of Huntington will report DBE participation to the relevant operating administration using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

Bidders List: 26.11(c)

The DBE Liaison will be notified of proposed bids before they are put out to bid and the DBE Liaison will check with the New York State DBE website to identify persons or entities that meet requirements and needs of the proposed bid. The DBE Liaison will advise the Departments of Transportation and Traffic Safety and of Purchasing of the names and contact information of eligible DBE certified parties eligible to bid as such, so that, they may be added to the Bid List and as a result will have notice and an opportunity to avail themselves of the bid opportunity.

Additionally, the Town's website will indicate in its bid proposals that bidders are encouraged to use DBE qualified persons or entities. It will also provide a convenient link to the NYS DBE website.
https://www.dot.ny.gov/main/business-center/civil-rights/general-info/dbe-certification

Section 26.13 Assurances

The Town of Huntington has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance: 26.13(a)

> The Town of Huntington shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Town of Huntington shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The Town of Huntington's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Town of Huntington of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear *verbatim* in financial assistance agreements with sub-recipients of the Town of Huntington.

Contract Assurance: 26.13b

We will ensure that the following clause is placed *verbatim* in every DOT-assisted contract and subcontract:

> The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract that may result in the termination of this contract or such other remedy as the Town of Huntington deems appropriate.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Rhonda T. Shepardson, Esq.
Title VI Civil Rights Coordinator & DBELO
100 Main Street, Huntington NY 11743
(631) 351-3291 – Fax: (631) 351-3221
rshepardson@HuntingtonNY.gov [email]
www.HuntingtonNY.gov [website]

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Town of Huntington complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Supervisor of the Town of Huntington, Frank P. Petrone, the Chief Executive Officer, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment " 1 " to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of one (herself) to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations. (Both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.)
6. Analyzes the Town of Huntington's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Participates in the established capital budget process with Department Heads to make sure that the capital budget process takes into account DBE policy and procedures.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process ("UCP") in New York State.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

Other personnel responsible for DBE Program implementation:

Town Attorney
Assistant Town Attorney
Director, Intergovernmental Relations
Director of Transportation and Traffic Safety
Senior Transportation Planner
Comptroller
Director of Purchasing
Director, Community Development Agency

Section 26.27 DBE Financial Institutions

It is the policy of the U.S. Department of Transportation to encourage the Town of Huntington to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the Town, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions: None were located, although efforts were made to locate same through NYS which qualifies DBE's and maintains the list of qualified financial institutions. We will also re-evaluate the availability of DBE financial institutions *annually*.

To date we have identified the following such institutions: N/A

Section 26.29 Prompt Payment Mechanisms

Prompt Payment: 26.29(a)

The Town of Huntington will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Town of Huntington. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 shown following written approval of the Town of Huntington. This clause applies to both DBE and non-DBE subcontracts. Non-compliance with this policy will be considered a violation of the contract and will be referred to the Town Attorney's office for remedy up to the possibility of termination of the contract.

Retainage: 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Town of Huntington. This clause applies to both DBE and non-DBE subcontracts. Non-compliance with this policy will be considered a violation of the contract and will be referred to the Town Attorney's office for remedy up to the possibility of termination of the contract.

Monitoring and Enforcement: 26.29(d)

The Town of Huntington has established a prompt payment mechanism through contract language which is implemented by the Department of Audit and Control which monitors the execution of the process to assure that prompt payment is made and return of retainage is in fact occurring. Any failure to adhere to such guidelines would be enforced by the Office of the Town of Attorney, at the request of the Department of Audit and Control, which has a number of enforcement actions and/or procedures which may be taken, which would be implemented in any given situation as the facts may warrant. In addition to the usual enforcement actions, the Town Board has appointed a Board of Responsibility, which is customarily chaired by the Town Attorney or his or her designee, with the participation of the Director of the Purchasing Department and other Department Directors, to bring contractors whose practices may fail to comply with applicable contract terms before that Board to answer allegations of non-compliance, affording the contractor due process and an opportunity to be heard. The failure of a contractor to address perceived deficiencies may result in a recommendation to the Town Board of the recommended action in the event that the non-compliance is not remedied. Remedies may include a declaration that a contract is in breach and the rights thereunder are deemed forfeited; the withholding of final payment until proof that subcontractors have been paid is submitted, etc.

Section 26.31 Directory

The Town of Huntington will utilize the NYSDOT UCP to identify firms to participate as DBEs. The Town of Huntington encourages potential DBEs to register with NYSDOT for inclusion of their business in the directories provided by the New York State Department of Transportation (NYSDOT) Office of Equal Opportunity Development (OEOD) and Compliance. New York State revises the Directory on an on-going basis. Registry information and downloadable copies of the current New York State Directory are available through the Empire State Development (ESD) agency's Website:

ESD Regional Offices or
www.esd.ny.go

Additionally, the Town of Huntington has established the Huntington Business Incubator which is located at 1268 New York Avenue in Huntington Station just steps from the Long Island Railroad, Huntington Station. Membership at Biz, Inc offers early stage businesses and entrepreneurs' access to co-working space, WiFi, telephone, conference rooms with mounted Smart HDTVs for presentations, business guidance from mentors and other technical assistance, including monthly informational seminars on a variety of topics and access to micro-loans from the program's various business assistance providers. Biz, Inc. may be accessed through the following link:

http://www.huntingtonny.gov/content/13751/16461/18802/25693/default.aspx

Section 26.33 Overconcentration

The Town of Huntington has not identified that overconcentration currently exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Town of Huntington recognizes the importance of business development for the purpose of fostering a healthy business environment for the exchange of goods and service within the Town. To this end, the Town with its Community Development Agency has recently launched a business incubator program office to facilitate the development of targeted businesses, DBEs & W/MBEs in the Town of Huntington. A supplemental goal of this initiative is to increase the number of jobs in the Town of Huntington. This initiative involves the placement of up to eight (8) minority and/or women businesses in the incubator for a period of time to assist in the development of their businesses. The Huntington Business Incubator ("Biz Inc.") offers early stage businesses and entrepreneur's access to co-working space, WiFi, telephone, conference rooms with mounted Smart HDTV's for presentations, business guidance from mentors and other technical assistance, including monthly informational seminars on a variety of topics, etc. Information about the Biz, Inc. is available at the Town's website. The Town's Community Development Agency has worked toward having increased participation of targeted businesses and DBEs & W/MBEs though targeted advertising.

The Town of Huntington Economic Development Corporation reaches out to targeted businesses, DBEs & W/MBEs in connection with consulting and contract opportunities. The Hispanic Chamber of Commerce operates a business incubator which is now located in Melville. Outreach efforts may be undertaken through information sharing with the NAACP, the Urban League, 100 Black Men and 100 Black Women, Black Women's Enterprise, Women Economic Developers of Long Island (WEDLI), Suffolk County Women's Business Enterprise Coalition, Long Island Development Corporation (LIDC), and other organizations of a similar nature.

Section 26.37 Monitoring and Enforcement Mechanisms

The Town of Huntington will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

(1) We will bring to the attention of the U.S. Department of Transportation (US DOT) any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the U.S. DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
(2) We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
(3) We will require in new contracts, that all contractors using DBEs certify in writing prior to final payment that the work proposed to be undertaken by DBEs at the time of the award was actually performed by the DBEs. This will be monitored by inspections conducted by the Town's Transportation and Traffic Safety Department or by the Engineering Department of the Town, or by

both, which will conduct on-site inspections for contract compliance, including DBE performance compliance. The Town Comptroller's Office at the time of final payment will require the submission of invoices in support of the final claim submitted under the contract, including without limitation submission of DBE invoices to demonstrate that the DBE undertook the work that they contracted to perform.

Section 26.39 Small Business Participation

The Town of Huntington has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

The Town of Huntington will make this Policy Statement available on its website for DBE and non-DBE businesses, and further disseminate it to its Department of Engineering Services, Highway Department and outside consultants which prepare contract documents, so that, they are familiar with the following goals and objectives:

(1) The removal of unnecessary bundling of contract requirements to provide more opportunity to DBE's;
(2) The inclusion of race-neutral small business set-asides for prime contracts below a certain value; requiring bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation;
(3) The development of acquisition strategies and structuring procurements to facilitate bids by and awards to small business consortia or joint ventures;
(4) The letting of prime contracts of a size that small businesses can reasonably compete for and perform; etc.

In support of this objective, the Town of Huntington will use its new Huntington Opportunity Resource Center (HORC) developed by the Town of Huntington's Community Development Agency in partnership with the Suffolk County Department of Labor and Department of Social Services, to provide supportive community services, e.g. resume preparation, job searches, career option exploration, access to training, job readiness skills, as well as, English as a second language classes as well as other on-site training opportunities. [See also: Section 26.35, entitled "Business Development Programs" regarding Huntington's Biz Inc. program].

Other programming partner organizations include: Hofstra Law Community & Economic Development Clinic, Huntington Community Council, Huntington Economic Development Corporation, Huntington Public Library, Huntington Station Business Improvement District, Huntington Township Chamber of Commerce, La Fuerza Uida Community Development Corporation, Long Island Development Corporation, Saint Joseph's College, Small Business Development Center at Farmingdale State college, U.S. Small Business Administration.

Renaissance Downtowns/Source the Station - $150/month offers access to professional workspace, office amenities and many other helpful services for growing businesses.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

We are going to set goals in accordance with 49 CFR Part 26.45.

Town of Huntington will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by the FTA.

The process generally used by recipient to establish overall DBE goals is annexed and attached hereto as Attachment 4.

Before establishing the overall goal, Town of Huntington will consult with some of those individuals and groups referred to and identified in Section 26-39, but not limited thereto and including minority, women's and general contractor groups, community organizations, and other officials or organizations, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Town of Huntington's efforts to establish a level playing field for the participation of DBEs

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rational are available for inspection during normal business hours at the Huntington Town Clerk's Office for 30 days following the date of the notice, and informing the public that the Town of Huntington and DOT will accept comments on the goals for 45 days from the date of the notice. The public notice will be published in the Town's official newspapers, available minority-focus media, trade publications and websites, more particularly described in Attachment 10, annexed and attached hereto.

The notice of the goal will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

We will begin using our overall goal on October 1 of the specified year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on Town of Huntington's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis.

Section 26.49 Transit Vehicle Manufacturers Goals

Town of Huntington will require 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.

Section 26.51 Meeting Overall Goals/Contract Goals

The Town of Huntington will make good faith efforts to meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, Town of Huntington

will make good faith efforts by implementing some or all of the following listed actions towards attaining said goal:

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

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing;

(3) Providing technical assistance and other services;

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

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

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

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

(8) The Town of Huntington will insure the distribution of the UCP directory of NYS DBEs by providing a link on the Town of Huntington website; and

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

The Town of Huntington may use contract goals to meet any portion of the overall goal Town of Huntington does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

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

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Award of Contracts with a DBE Contract Goal: 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, Town of Huntington will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to

meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts: 26.53(a) & (c)

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Director of the Contracting Department, DBELO, Town Attorney or Town Attorney's designee.

The process used to determine whether good-faith efforts have been made by a bidder are as follows: The Town of Huntington will follow the guidance, among other tools, included in Appendix A to Part 26, in making is assessment, a copy of which is annexed as part of Attachment 5.

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

Information to be Submitted: 26.53(b)

Town of Huntington treats bidder/offers' 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/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration: 26.53(d)

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

> Town Attorney, 100 Main Street Huntington, New York 11743, *631-351-3042, townattorney@huntingtonNY.gov.*

The Town Attorney will assign one of the Assistant Town Attorneys to act as the reconsideration official. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals: 26.53(f)

Town of Huntington requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the Town of Huntington's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation. For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract resulted from the bad faith or discriminatory action of the prime contractor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable nondiscriminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is eligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;

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

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

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

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

(x) Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after the contract award. [Section 26.53(f)(3) of the DBE regulation]

Before transmitting to Town of Huntington its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to Town of Huntington prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise Town of Huntington of why it objects to the proposed termination, unless a shorter period is required as a matter of public necessity for health, safety and welfare considerations.

In those instances where "good cause" exists to terminate a DBE's contract, Town of Huntington will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

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

Sample Bid Specification: The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the *Town of Huntington* to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to

all bidders/offerors, including those who qualify as a DBE. A DBE contract goal may be established for this contract. If such a goal has been set the bidder/offeror shall make good faith efforts to meet the contract goal for DBE participation in the performance of this contract.

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

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPARTS D & E– CERTIFICATION

Section 26.81 Unified Certification Programs

Town of Huntington participates in the Unified Certification Program (UCP) administered by the State of New York. The NYS UCP will meet all of the requirements of this section. Town of Huntington will use and count for DBE credit only those DBE firms certified by the State of New York UCP. For convenience, the NYS Certification information is printed below:

New York State Unified Certification Program (NYSUCP)

The Disadvantaged Business Enterprise (DBE) regulation that took effect March 4, 1999 (Title 49 Part 26.81 of the Code of Federal Regulations) requires that each state have a "one-stop shopping" certification process. This means that a firm would apply to only one agency for DBE certification, and that agency's decision would be honored by all other DBE certifying agencies (see below) and all entities within the state that receive funds from the United States Department of Transportation (for example, Metropolitan Planning Organizations and most airports). The NYSUCP began to operate November 30, 2005. There are four agencies in New York State that administer a DBE certification program. They are:

- The Metropolitan Transportation Authority

  Department of Diversity and Civil Rights
  2 Broadway, 16th Floor
  New York, NY 10004-9256
  (646) 252-1378
  Fax: (646) 252-1350
  cgreene@mtahq.org

- The Port Authority of New York and New Jersey

  Office of Business Diversity and Civil Rights
  233 Park Avenue South, 4th Floor
  New York, NY 10003

(212) 435-7888
Email: CertHelp@panynj.gov
Website: www.panynj.gov/supplierdiversity

- The Niagara Frontier Transportation Authority

Equal Employment Opportunity/Diversity Development Department
181 Ellicott Street
Buffalo, NY 14203
(716) 855-7489
Fax: (716) 855-7657
linda_seay@nfta.com

- The New York State Department of Transportation (NYSDOT DBE Certification Unit page)

Contract Audit Bureau
DBE Certification
50 Wolf Road, 6th Floor
Albany, NY 12232
(518) 457-3180
Fax: (518) 457-1675
DBECert@dot.ny.gov

NOTE: DBE certification is a Federal program certification. It is separate and distinct from the State M/WBE program. (Last updated April 13, 2015.)

For more information on the NYS UCP program, contact any of the following offices, fax to the addressee indicated or use the link listed below:

New York State Department of Transportation
Contract Management Bureau
50 Wolf Road, 1st Floor, Suite 1cm
Albany, NY 12232
(518) 457-1564

New York State Department of Transportation
DBE Certification
50 Wolf Road – 6th Floor
Albany, NY 12232

Attn: Johnny Cisneros, Supervisor
Phone: (518) 417-6631
Fax: (518) 457-1675

https://www.dot.ny.gov/main/business-center/civil-rights/general-info/dbe-certification

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

We will take efforts to safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local law, including the New York State Freedom of Information Law [FOIL], Public Officers Law, Article 6, Sections 84-90.

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

Monitoring Payments to DBEs

We may require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Town of Huntington or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENTS

Attachment 1: Organizational Chart
Attachment 2: DBE Directory
Attachment 3: Monitoring and Enforcement Mechanisms/Legal Remedies
Attachment 4: Goal Setting Methodology
Attachment 5: Good Faith Efforts Forms
Attachment 6: Certification Forms
Attachment 7: DBE Regulation, 49 CFR Part 26
Attachment 8: Town of Huntington DBE List
Attachment 9: Town of Huntington Prompt Payment Mechanism
Attachment 10: Public Notice newspapers and other media

ATTACHMENT 1

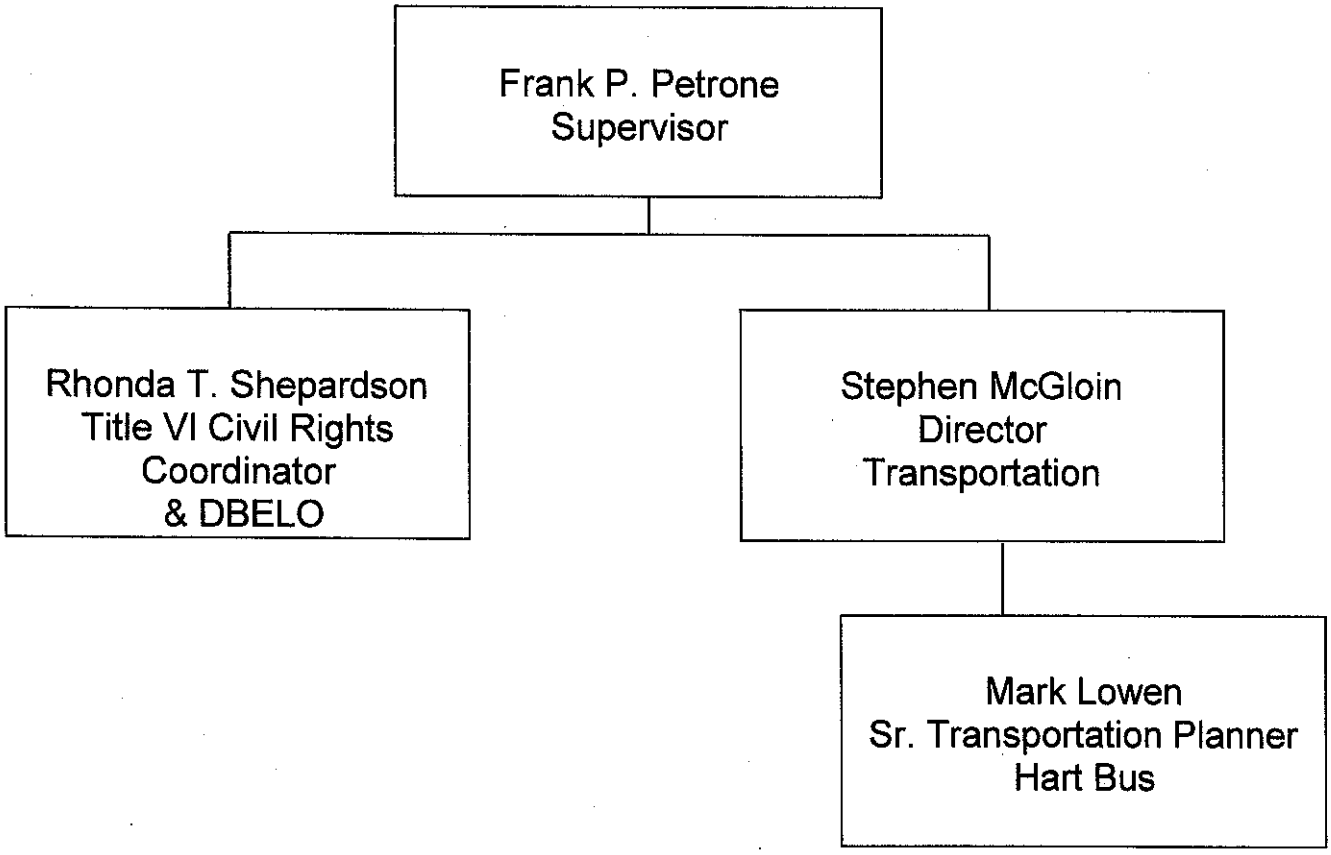
Organizational Chart

Attachment 1

Town of Huntington
Organizational Chart

Frank P. Petrone
Supervisor

Town Board
Susan A. Berland, Councilwoman
Eugene Cook, Councilman
Mark A. Cuthbertson, Councilman
Tracey A. Edwards, Councilwoman



ATTACHMENT 2

DBE Directory

http://www.nysucp.net/

The Directory is too lengthy to reproduce as an Attachment.

ATTACHMENT 3

Monitoring and Enforcement Mechanisms/Legal Remedies

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to NYS CPLR
3. Board of Responsibility of the Town of Huntington
4. Contract Language for Payments, Final Estimate & Payment. and Contractor's Labor and Material Affidavit provides a regulatory enforcement mechanism.

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

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

The examples provided above are not intended to be an exclusive or exhaustive list of the monitoring mechanisms and legal remedies used by the Town of Huntington. All appropriate measures, mechanisms and/or remedies in addition to what is provided above will be included with the Town of Huntington DBE program.

Attachment 4

Section 26.45: Overall Goal Calculation

Amount of Goal

1. Town of Huntington's overall goal for FY 2015, is the following:

   2.5% of the Federal Financial assistance we will expend in DOT-assisted contracts.

Methodology used to Calculate Overall Goal

Please see: Attached

Town of Huntington
OVERALL DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL
FISCAL YEARS 2014-2016

Summary

In keeping with the requirements of 49 C.F.R. Part 26 (Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation (DOT) Programs), an overall Disadvantaged Business Enterprise (DBE) goal has been developed for DBE participation in DOT-assisted contracting by the Town of Huntington during Fiscal Year 2014 through Fiscal Year 2016. The Town of Huntington receives funding from the Federal Transit Administration (FTA) of U.S. Department of Transportation. The Town of Huntington's FTA overall DBE goal for 2014-2016 is 2.5% of the federal financial assistance we will expend in FTA-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

This goal identifies the relative availability of DBEs based on evidence of ready, willing, and able DBEs in relationship to all comparable businesses which are known to be available to compete in the Transit Division's FTA-assisted contracts. The overall DBE goal reflects staff's determination of the level of DBE participation which would be expected absent the effects of discrimination.

DBE Goal Methodology

FTA-assisted contracting for Fiscal Years 2014 - 2016 is expected to consist of two contracts, exclusive of contracts for purchase of transit vehicles, which are not subject to this goal-setting process. Additional projects may be undertaken if additional revenue becomes available; the overall DBE goal will be adjusted if necessary. The anticipated contracts are listed in Table 1.

Table 1: Anticipated FTA-assisted contracts for FY 2013-15 (excluding transit vehicle purchases)

Project	FTA share of contract	% of total contract dollars for FY 13-15
General Construction	$ 292,586	**0.9372**
Other Bldg. Finishing	$ 19,613	**0.0628**
Total	$ 312,199	**1**

A two-step process was used to establish the overall DBE goal, as described below.

Step 1: Compute Base Figure

Per 49 CFR 26.45(c), a base figure was developed to determine the relative availability of DBEs to perform work on the five anticipated contracts (see Table 2). The formula for calculating the relative availability of DBEs is as follows:

Base figure equals Ready, willing and able DBEs divided by All firms ready, willing and able (including DBEs and non-DBEs)

Table 2: Relative Availability of DBEs for Anticipated Contracts

NAICS Code		Suffolk	Nassau	Queens	Kings	Total	Relative Availability (DBE's per Total)
236220	DBE	0	6	10	6	22	
	Total	278	212	268	208	966	0.0228
238390	DBE	1	2	4	2	9	
	Total	57	32	30	37	156	0.0577
COMBINED	**DBE**	**1**	**8**	**14**	**8**	**31**	
	Total	**335**	**244**	**298**	**245**	**1122**	**0.0276**

Step 2: Compute Weighted Base Figure

However, based on guidance from FTA and the U.S. DOT Office of Small and Disadvantaged Business Utilization, a weighted base figure was computed that takes into account the relative size of the anticipated contracts (see Table 3). The formula used is as follows:

*Weighted Base Figure = [(Project's % of total contract dollars) * (Relative availability of DBEs)] + [(Project's % of total contract dollars) * (Relative availability of DBEs)]...*

The weighted base figure was developed by:

1) Using Unified Certification Program Directory to identify the number of registered DBEs in Suffolk, Nassau, Queens and Kings Counties that are willing to perform work in the Town of Huntington's market area for each of the anticipated contracts, based on

the NAICS (North American Industry Classification System) code(s) most relevant to each contract. Data was collected in May 2013.

2) Using 2011 Countywide Business Patterns (CBP) data from the U.S. Census Bureau to identify the total number of businesses available in Suffolk, Nassau, Queens and Kings Counties market area for work on each contract, based on the same NAICS codes.

3) Dividing the number of DBEs by the number of all businesses to determine the relative availability of DBES in the market area, for each contract (noted as "% DBE" in Table 2).

Table 3: Weighted Base Percentage Calculation

NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
236220	General Construction	0.9372	x	0.0228	0.0213
238390	Other Building Finishing	0.0628	x	0.0577	0.0036
				Total	0.0250
				BASE FIGURE	**2.5%**

Weighted Base Figure = 2.5%

Step 3: Adjust Base Figure

Per 49 CFR 26.45(d), following calculation of a base figure, all available evidence must be examined to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall DBE goal. The primary form of evidence available is the past participation of DBEs in Transit Division contracting. It is the judgment of the Transit Division that it is not possible to provide a rational basis for a numerical adjustment of the base figure based on past participation, due to the very different nature of the anticipated contracts, compared with past contracting. However, past participation by DBEs in recent contracting is generally in line with the proposed base figure.

Thus, the available evidence and information did not provide a rational basis for a numerical adjustment to the base figure computed in Step 1.

Based on this analysis, the Town of Huntington proposes an overall DBE goal of 2.5% of FTA funds that will be expended in FTA-assisted contracts in Fiscal Years 2014-2016, exclusive of funds to be used for the purchase of transit vehicles.

Use of Race-Neutral Methods and DBE Contract Goals

The U.S. DOT regulations require that race-neutral methods be used to the maximum extent feasible to achieve the DBE overall goal. Race-neutral methods include making efforts to assure that bidding and contract requirements facilitate participation by DBEs and other small businesses; unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they might otherwise perform themselves; and providing technical assistance, communications programs, and other support services to facilitate consideration of DBEs and other small businesses.

Because of the emphasis placed on race-neutral methods, the Town of Huntington does not propose to set contract-specific DBE goals on FTA-assisted contracts to be awarded in Fiscal Year 2014 through Fiscal Year 2016. Instead, the Town of Huntington will focus on developing race-neutral methods for facilitating DBE participation. The Town of Huntington will advise prospective contractors of areas for possible subcontracting, and of the availability of ready, willing, and able subcontractors, including DBE firms, to perform such work. The Town of Huntington will carefully monitor its progress during the course of the year and may establish contract-specific goals if race-neutral methods do not appear sufficient to achieve the overall DBE participation goals for Fiscal Year 2014 through Fiscal Year 2016. It is anticipated that the DBE goal for FTA-assisted contracts will be achieved through race-neutral methods.

Public Participation in Setting Overall DBE Goal

This analysis was sent to minority, women's, and general professional and trade organizations, and other officials and organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses. On June 4, 2013 notices were sent to Women Economic Developers of Long Island (WEDLI), Black Women Enterprise, Long Island Development Corporation, Long Island Small Business Assistance Corporation, Long Island Hispanic Chamber of Commerce, Suffolk County Women's Business Enterprise Coalition, Town of Huntington Community Development Agency and Huntington Small Business Resource and Recovery Center. Notices were also published in the June 13, 2013 issues of the Observer and Long Islander in addition to the Town of Huntington Web Page.

The notice informed the public that the proposed DBE goal and its rationale were available for inspection during normal business hours for a period of thirty (30) days

following the date of the notice. The Town of Huntington accepted comments on the proposed goal for forty-five (45) days from the date of notice.

Interested parties were encouraged to submit comments to:

Rhonda Shepardson, DBE Liaison Officer, Town of Huntington, 423 Park Avenue, Huntington, NY 11743

And

Federal Transit Administration, U.S. Department of Transportation, Attention: Civil Rights Officer, One Bowling Green, Room 429, New York, NY 10004-1415.

Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

[*Forms 1 and 2 should be provided as part of the solicitation documents.*]

When contract goals have been specified this form shall be utilized

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm:

Address:

City: State: _____ Zip:

Name of DBE firm:

Address:

City: State: Zip: ___

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is $ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

[Note: the examples provided above are not intended to be the exact forms to be used by the Town of Huntington when evaluating DBE participation on bids and/or making good faith efforts determinations. The Town of Huntington reserves the right to modify or tailor the forms from time to time as the program progresses and specific processes and needs are refined.]

Attachment 6

Certification Forms

Annexed and attached hereto are the following sample forms:

1). NYS Vendor Responsibility Questionnaire For-Profit Construction (CCA-2)

2). Uniform Certification Application for Disadvantaged Business Enterprise (DBE)

3). NYS Unified Certification Program (NYSUCP)

Other pertinent forms and information may be obtained by using the following link:

https://www.dot.ny.gov/main/business-center/civil-rights/general-info/dbe-certification

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

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

APPENDIX A TO PART 26—GUIDANCE CONCERNING GOOD FAITH EFFORTS

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

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

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

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

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

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

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

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or

associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

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

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

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

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

Attachment 6

Certification Forms

Annexed and attached hereto are the following sample forms:

1). NYS Vendor Responsibility Questionnaire For-Profit Construction (CCA-2)

2). Uniform Certification Application for Disadvantaged Business Enterprise (DBE)

3). NYS Unified Certification Program (NYSUCP)

Other pertinent forms and information may be obtained by using the following link:

https://www.dot.ny.gov/main/business-center/civil-rights/general-info/dbe-certification

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR PROFIT CONSTRUCTION (CCA-2)

INSTRUCTIONS FOR COMPLETING THE NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR PROFIT CONSTRUCTION

Please Read Before Completing Questionnaire

- Complete all sections of the Questionnaire.

- Submit this form as required by the contracting agency after being announced the low bidder for any competitively bid contract, or when proposed for subcontract work. If you have submitted one within six (6) months of the bid date with any contracting agency, as long as the information remains unchanged and accurate, you may submit a complete certified copy of that form, together with an Affidavit of No Change, to the Agency with which you are bidding. A contracting agency may require additional information deemed necessary for its review. Whenever more space is needed to answer any question or you wish to give further explanation, complete by attaching extra pages. All questions must be answered.

- For each "Yes" answer in Sections IV, V, VI, VII, VII and IX, add additional explanatory material. For question 7.2, if your firm has OSHA citations, attach copies of each citation.

- A certified annual financial statement, including Accountant's Review Report and Accompanying Notes, will be acceptable in lieu of completing the financial disclosure forms in the questionnaire.

- If you wish material in this Questionnaire to be held as confidential and exempt from disclosure under Freedom of Information, place an asterisk in front of all information you do not want disclosed to outside sources.

- This Questionnaire is generally valid for one calendar year, unless major changes have occurred (firm purchased by another business, bankruptcy, etc.), in which case re-submittal is required.

- Submit completed questionnaires marked "CONFIDENTIAL" to:

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
CONTRACT MANAGEMENT BUREAU
50 WOLF ROAD, 1st FLOOR, SUITE 1CM
ALBANY, NY 12232
(518) 457-1564

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR PROFIT CONSTRUCTION (CCA-2)

BUSINESS ENTITY INFORMATION			
Legal Business Name*		EIN	
Complete Address of the Principal Place of Business		Phone Number	Fax Number
E-mail	Website		
Authorized Contact for this Questionnaire			
Name		Phone Number	Fax Number
Title		E-mail	

Additional Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity, or EIN used in the last five (5) years, the state or county where filed and the status (active or inactive).

Type (DBA, Trade Name, Other)	Name	EIN	State or County where filed	Status (ACTIVE OR INACTIVE)
SELECT				SELECT
SELECT				SELECT

I. BUSINESS CHARACTERISTICS		
1.0 Business Entity Type -		
a) ☐ Corporation (including P.C.)	Date of Incorporation	
b) ☐ Limited Liability Company (LLC or PLLC)	Date Organized	
c) ☐ Limited Liability Partnership	Date of Registration	
d) ☐ Limited Partnership	Date Established	
e) ☐ General Partnership	Date Established	County (If formed in NYS)
f) ☐ Sole Proprietor	How many years in business?	
g) ☐ Other	Date Established	
If Other, explain:		
1.1 Was the Business Entity formed in New York State?	Yes ☐	No ☐
If "No" indicate jurisdiction where the Business Entity was formed: United States ☐ State Other ☐ Country		

*All under lined terms are defined in the "New York State Vendor Responsibility Definitions List", which can be found at: http://www.osc.state.ny.us/vendrep/documents/definitions.pdf.

Note: **These terms may not have their ordinary, common or traditional meanings.** Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. **By submitting this questionnaire, the vendor agrees to be bound by the terms as fefined in the "New York State Vendor Responsibility Definitions List" as it existed at the time of certifications.**

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR PROFIT CONSTRUCTION (CCA-2)

EIN:

I. BUSINESS CHARACTERISTICS

1.2 Is the Business Entity currently registered to do business in New York State? *Note: Select "Not Required" if the Business Entity is a Sole Proprietor or General Partnership*	☐ Yes ☐ No ☐ Not Required
If "No," explain why the Business Entity is not required to be registered to do business in New York State:	
1.3 Is the responding Business Entity a Joint Venture? Note: If the submitting Business Entity is a Joint Venture, also submit a separate questionnaire for each Business Entity comprising the Joint Venture.	☐ Yes ☐ No
1.4 If the Business Entity's Principal Place of Business is not in New York State, does the Business Entity maintain an office in New York State? *(Select "N/A" if Principal Place of Business is in New York State.)*	☐ Yes ☐ No ☐ N/A
If "Yes," provide the address and telephone number for one office located in New York State.	
1.5 Is the Business Entity a New York State certified Minority-Owned Business Enterprise, or Women-Owned Business Enterprise, or New York State Small Business, or federally certified Disadvantaged Business Enterprise?	☐ Yes ☐ No

If "Yes," check all that apply:

- ☐ New York State certified Minority-Owned Business Enterprise (MBE)
- ☐ New York State certified Women-Owned Business Enterprise (WBE)
- ☐ New York State Small Business
- ☐ Federally certified Disadvantaged Business Enterprise (DBE)

1.6 Identify each person who is, or has been within the past five (5) years, a Business Entity Official or Principal Owner of 5.0% or more of the firm's shares, or one of the five largest shareholders or a director, an officer, a partner or a proprietor. Joint Ventures: Provide information for all firms involved. *(Attach additional pages if necessary.)*

Name	Title	Percentage Ownership *(Enter 0% if not applicable)*	Employment Status with the Firm
			☐ Current ☐ Former
			☐ Current ☐ Former
			☐ Current ☐ Former
			☐ Current ☐ Former

II. AFFILIATE and JOINT VENTURE RELATIONSHIPS

2.0 Are there any other construction-related firms in which, now or in the past five years, the submitting Business Entity or any of the individuals listed in question 1.6 either owned or owns 5.0% or more of the shares of, or was or is one of the five largest shareholders or a director, officer, partner or proprietor of said other firm?	☐ Yes ☐ No

Firm/Company Name	Firm/Company EIN (If Available)	Firm/Company's Primary Business Activity

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR PROFIT CONSTRUCTION (CCA-2)

EIN:

II. AFFILIATE and JOINT VENTURE RELATIONSHIPS			
Firm/Company Address			
Explain relationship with the firm and indicate percent ownership, if applicable (enter N/A, if not applicable):			
Are there any shareholders, directors, officers, owners, partners or proprietors that the submitting Business Entity has in common with this affiliate?			☐ Yes ☐ No
Individual's Name	Position/Title with Firm/Company		
2.1 Does the Business Entity have any construction-related affiliates not identified in the response to 2.0 above?			☐ Yes ☐ No
Affiliate Name	Affiliate EIN (If available)	Affiliate's Primary Business Activity	
Affiliate Address			
Explain relationship with the affiliate and indicate percent ownership, if applicable (enter N/A, if not applicable):			
Are there any shareholders, directors, officers, owners, partners or proprietors that the submitting Business Entity has in common with this firm?			☐ Yes ☐ No
Individual's Name	Position/Title with Firm/Company		
2.2 Has the Business Entity participated in any construction Joint Ventures within the past three (3) years? *Attach additional pages if necessary.*			☐ Yes ☐ No
Joint Venture Name	Joint Venture EIN (If available)	Identify parties to the Joint Venture	

III. CONTRACT HISTORY
3.0 List the ten most recent construction contracts the Business Entity has completed using Attachment A – Completed Construction Contracts, found at http://www.osc.state.ny.us/vendrep/documents/attachmenta.doc. If less than ten, include most recent subcontracts on projects up to that number.
3.1 List all current uncompleted construction contracts by using Attachment B – Uncompleted Construction Contracts, found at http://www.osc.state.ny.us/vendrep/documents/attachmentb.doc.

IV. INTEGRITY – CONTRACT BIDDING Within the past five (5) years, has the Business Entity, an affiliate or any predecessor company or entity:	
4.0 Been suspended or debarred from any government contracting process or been disqualified on any government procurement?	☐ Yes ☐ No
4.1 Been subject to a denial or revocation of a government prequalification?	☐ Yes ☐ No
4.2 Had any bid rejected by a government entity for lack of qualifications, responsibility or because of the submission of an informal, non-responsive or incomplete bid?	☐ Yes ☐ No
4.3 Had a proposed subcontract rejected by a government entity for lack of qualifications, responsibility or because of the submission of an informal, non-responsive or incomplete bid?	☐ Yes ☐ No
4.4 Had a low bid rejected on a government contract for failure to make good faith efforts on any Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	☐ Yes ☐ No

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR PROFIT CONSTRUCTION (CCA-2)

EIN:

IV. INTEGRITY – CONTRACT BIDDING **Within the past five (5) years, has the Business Entity, an affiliate or any predecessor company or entity:**	
4.5 Agreed to a voluntary exclusion from bidding/contracting with a government entity?	☐ Yes ☐ No
4.6 Initiated a request to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity?	☐ Yes ☐ No
For each "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, project(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.	

V. INTEGRITY – CONTRACT AWARD **Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:**	
5.0 Defaulted on or been suspended, cancelled or terminated for cause on any contract?	☐ Yes ☐ No
5.1 Been subject to an administrative proceeding or civil action seeking specific performance or restitution (except any disputed work proceeding) or requiring the Business Entity to enter into a formal monitoring agreement in connection with any government contract?	☐ Yes ☐ No
5.2 Had its surety called upon to complete any contract whether government or private sector?	☐ Yes ☐ No
For each "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity/owners involved, project(s), contract number(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.	

VI. CERTIFICATIONS/LICENSES **Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:**	
6.0 Had a revocation or suspension of any business or professional permit and/or license?	☐ Yes ☐ No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of Minority-Owned Business Enterprise, Women-Owned Business Enterprise or a federal certification of Disadvantaged Business Enterprise status, for other than a change of ownership?	☐ Yes ☐ No
For each "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.	

VII. LEGAL PROCEEDINGS **Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:**	
7.0 Been the subject of a criminal investigation, whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or federal law?	☐ Yes ☐ No
7.1 Been the subject of: **(i) An indictment, grant of immunity, judgment or conviction (including entering into a plea bargain) for conduct constituting a crime; or** **(ii) Any criminal investigation, felony indictment or conviction concerning the formation of, or any business association with, an allegedly false or fraudulent Minority-Owned Business Enterprise, Women-Owned Business Enterprise, or a Disadvantaged Business Enterprise?**	☐ Yes ☐ No ☐ Yes ☐ No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	☐ Yes ☐ No

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR PROFIT CONSTRUCTION (CCA-2)

EIN:

VII. LEGAL PROCEEDINGS Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:	
7.3 Had a government entity find a willful prevailing wage or supplemental payment violation?	☐ Yes ☐ No
7.4 Had a New York State Labor Law violation deemed willful?	☐ Yes ☐ No
7.5 Entered into a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local environmental laws?	☐ Yes ☐ No
7.6 Other than previously disclosed, been the subject of any citations, notices, violation orders, pending administrative hearings or proceedings or determinations of a violation of:	
▪ **Federal, state or local health laws, rules or regulations;**	☐ Yes ☐ No
▪ **Federal, state or local environmental laws, rules or regulations;**	☐ Yes ☐ No
▪ **Unemployment insurance or workers compensation coverage or claim requirements;**	☐ Yes ☐ No
▪ **Any labor law or regulation, which was deemed willful;**	☐ Yes ☐ No
▪ **Employee Retirement Income Security Act (ERISA);**	☐ Yes ☐ No
▪ **Federal, state or local human rights laws;**	☐ Yes ☐ No
▪ **Federal, state or local security laws?**	☐ Yes ☐ No
For each "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.	

VIII. LEADERSHIP INTEGRITY If the Business Entity is a Joint Venture Entity, answer "N/A - Not Applicable" to questions in this section. Within the past five (5) years has any individual previously identified or any individual having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the Business Entity with New York State been subject to:	
8.0 A sanction imposed relative to any business or professional permit and/or license?	☐ Yes ☐ No ☐ N/A
8.1 A criminal investigation, whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or federal law?	☐ Yes ☐ No ☐ N/A
8.2 Misdemeanor or felony charge, indictment or conviction for:	
(i) Any business-related activity including but not limited to fraud, coercion, extortion, bribe or bribe-receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price-fixing or collusive bidding; or	☐ Yes ☐ No ☐ N/A
(ii) Any crime, whether or not business-related, the underlying conduct of which related to truthfulness, including but not limited to the filing of false documents or false sworn statements, perjury or larceny?	☐ Yes ☐ No ☐ N/A
8.3 A debarment from any government contracting process?	☐ Yes ☐ No ☐ N/A
For each "Yes," provide an explanation of the issue(s), the individual involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.	

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR PROFIT CONSTRUCTION (CCA-2)

EIN:

IX. FINANCIAL AND ORGANIZATIONAL CAPACITY

9.0 Within the past five (5) years, has the Business Entity or any affiliate received any formal unsatisfactory performance assessment(s) from any government entity on any contract? ☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.1 Within the past five (5) years, has the Business Entity or any affiliate had any liquidated damages assessed over $25,000? ☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), the Business Entity involved, the *relationship to the submitting Business Entity, relevant dates, the contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.*

9.2 Within the past five (5) years, has the Business Entity or any affiliate had any liens, claims or judgments (not including UCC filings) over $25,000 filed against the Business Entity which remain undischarged or were unsatisfied for more than 90 days? ☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, relevant dates, the Lien holder or Claimants' name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.3 In the last seven (7) years, has the Business Entity or any affiliate initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending? ☐ Yes ☐ No

If "Yes," provide the Business Entity involved, the relationship to the submitting Business Entity, the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.

9.4 What is the Business Entity's Bonding Capacity?

a. Single Project	b. Aggregate (All Projects)

9.5 List Business Entity's Gross Sales for the previous three (3) Fiscal Years:

1st Year (Indicate year) Gross Sales	2nd Year (Indicate year) Gross Sales	3rd Year (Indicate year) Gross Sales

9.6 List Business Entity's Average Backlog for the previous three (3) fiscal years: (Estimated total value of uncompleted work on outstanding contracts)

1st Year (Indicate year) Amount	2nd Year (Indicate year) Amount	3rd Year (Indicate year) Amount

9.7 Attach Business Entity's annual financial statement and accompanying notes or complete Attachment C – Financial Information, found at http://www.osc.state.ny.us/vendrep/documents/attachmentc.xls

X. FREEDOM OF INFORMATION LAW (FOIL)

10.0 Indicate whether any information provided herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).
Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL. Attach additional pages if necessary.
☐ Yes ☐ No

Indicate the question number(s) and explain the basis for the claim.

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR PROFIT CONSTRUCTION (CCA-2)

EIN:

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State contracting entities in making responsibility determinations regarding an award of a contract or approval of a subcontract; (2) recognizes that the Office of the State Comptroller (OSC) will rely on information disclosed in the questionnaire in making responsibility determinations and in approving a contract or subcontract; (3) acknowledges that the New York State contracting entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (4) acknowledges that intentional submission of false or misleading information may constitute a misdemeanor or felony under New York State Penal Law, may be punishable by a fine and/or imprisonment under Federal Law, and may result in a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State contracting entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Officer _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

Sworn to before me this _____ day of _____, 20____;

_____ Notary Public

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT A - COMPLETED CONSTRUCTION CONTRACTS

EIN:

Question 3.0: List the ten most recent construction contracts the Business Entity has completed. If less than ten, include most recent subcontractson projects up to that number.						
1.	**Agency/Owner**			**Award Date**	**Amount**	**Date Completed**
	Contact Person		**Telephone No.**	**Design Architect and/or Design Engineer**		
	Contract No.	**Prime or Sub**	**Joint Venture (JV) Name, if applicable**			**EIN of JV, if applicable**
2.	**Agency/Owner**			**Award Date**	**Amount**	**Date Completed**
	Contact Person		**Telephone No.**	**Design Architect and/or Design Engineer**		
	Contract No.	**Prime or Sub**	**Joint Venture (JV) Name, if applicable**			**EIN of JV, if applicable**
3.	**Agency/Owner**			**Award Date**	**Amount**	**Date Completed**
	Contact Person		**Telephone No.**	**Design Architect and/or Design Engineer**		
	Contract No.	**Prime or Sub**	**Joint Venture (JV) Name, if applicable**			**EIN of JV, if applicable**
4.	**Agency/Owner**			**Award Date**	**Amount**	**Date Completed**
	Contact Person		**Telephone No.**	**Design Architect and/or Design Engineer**		
	Contract No.	**Prime or Sub**	**Joint Venture (JV) Name, if applicable**			**EIN of JV, if applicable**
5.	**Agency/Owner**			**Award Date**	**Amount**	**Date Completed**
	Contact Person		**Telephone No.**	**Design Architect and/or Design Engineer**		
	Contract No.	**Prime or Sub**	**Joint Venture (JV) Name, if applicable**			**EIN of JV, if applicable**

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT A - COMPLETED CONSTRUCTION CONTRACTS

EIN:

Question 30: List the ten most recent construction contracts the Business Entity has completed. If less than ten, include most recent subcontracts on projects up to that number.

6.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
7.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
8.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
9.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
10.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT B - UNCOMPLETED CONSTRUCTION CONTRACTS

EIN:

Question 31: List all current uncompleted construction contracts

1.	Agency/Owner			Award Date / Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer	
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable		EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others	Uncompleted Amount
2.	Agency/Owner			Award Date / Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer	
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable		EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others	Uncompleted Amount
3.	Agency/Owner			Award Date / Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer	
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable		EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others	Uncompleted Amount
4.	Agency/Owner			Award Date / Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer	
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable		EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others	Uncompleted Amount

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT B - UNCOMPLETED CONSTRUCTION CONTRACTS

EIN:

Question 5.1: List all current uncompleted construction contracts.

5.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others		Uncompleted Amount
6.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others		Uncompleted Amount
7.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others		Uncompleted Amount
8.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Design Architect and/or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
			Total Contract Amount	Amount Sublet to Others		Uncompleted Amount

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT B - UNCOMPLETED CONSTRUCTION CONTRACTS

EIN:

Question 3.1: List all current uncompleted construction contracts.					
9.	Agency/Owner			Award Date / Amount	Date Completed
	Contact Person	Telephone No.	Design Architect and/or Design Engineer		
	Contract No. / Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
		Total Contract Amount	Amount Sublet to Others		Uncompleted Amount
10.	Agency/Owner			Award Date / Amount	Date Completed
	Contact Person	Telephone No.	Design Architect and/or Design Engineer		
	Contract No. / Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
		Total Contract Amount	Amount Sublet to Others		Uncompleted Amount

Grand Total All Uncompleted Contracts	$0.00

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT C – FINANCIAL INFORMATION

EIN:
As of Date:

ASSETS

Current Assets					
1.	Cash		$		
2.	Accounts receivable – less allowance for doubtful accounts	$			
	Retainers included in accounts receivable				
	Claims included in accounts receivable not yet approved or in litigation				
	Total accounts receivable		$	0.00	
3.	Notes receivable – due within one year		$		
4.	Inventory – materials		$		
5.	Contract costs in excess of billings on uncompleted contracts		$		
6.	Accrued income receivable				
	Interest				
	Other (list)				
	Total accrued income receivable		$	0.00	
7.	Deposits				
	Bid and plan				
	Other (list)				
	Total deposits		$	0.00	
8.	Prepaid expenses				
	Income Taxes				
	Insurance				
	Other (List)				
	Total prepaid expenses		$	0.00	
9.	Other current assets				
	(List)				
	Total other current assets		$	0.00	
10.	Total current assets				$ 0.00

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT C – FINANCIAL INFORMATION

EIN:

11.	Investments				
	Listed securities present market value	$			
	Unlisted securities present value				
	Total investments		$	0.00	
12.	Fixed Assets				
	Land				
	Building and improvements				
	Leasehold improvements				
	Machinery and equipment				
	Automotive equipment				
	Office furniture and fixtures				
	Other (list)				
	Total		$	0.00	
	Less: accumulated depreciation		$		
	Total fixed assets net				$ 0.00
13.	Other Assets				
	Loans receivable	officers			
		employees			
		shareholders			
	Cash surrender value of officers' life insurance				
	Organization expense – net of amortization				
	Notes receivable – due after one year				
	Other (list)				
	Total Other Assets		$	0.00	
14.	TOTAL ASSETS				$ 0.00

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
ATTACHMENT C – FINANCIAL INFORMATION

EIN:

26.	Long Term Liabilities				
	Loans from shareholders – due after one year				
	Notes payable – due after one year				
	Mortgage – due after one year				
	Other payables – due after one year				
	(List)				
	Total long term liabilities		$ 0.00		
27.	Other Liabilities				
	(List)				
	Total other liabilities		$ 0.00		
28.	TOTAL LIABILITIES			$	0.00
	NET WORTH				
29.	Net Worth (if proprietorship or partnership)		$		
30.	Stockholders' Equity				
	Common stock issued and outstanding	$			
	Preferred stock issued and outstanding				
	Retained earnings				
	Total		$ 0.00		
	Less: Treasury Stock				
31.	TOTAL STOCKHOLDERS EQUITY			$	0.00
32.	TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY			$	0.00

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 does not exceed $23.98 million in gross annual receipts for DBE ($52.47 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

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?

The DBE and ACDBE Programs require that all U.S. Department of Transportation (DOT) recipients of federal assistance participate in a statewide Unified Certification Program (UCP). 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 for DOT grantees, 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.civilrights.dot.gov/ (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 CFR §26.5 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 CFR §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 CFR Parts 180 and 1200, Nonprocurement 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 of the persons listed has ever been denied certification as a DBE, 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. If the firm is a for profit enterprise, 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. Identify all joint venture partners if applicable. 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 control the functions listed for the business. 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

Banking Information. State the name, City and State of your firm's bank. In the space provided, identify the persons able to sign checks on this account. Provide bank authorization and signature cards

Bonding Information. State your firm's bonding limits (in dollars), specifying both the 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.

AIRPORT CONCESSION (ACDBE) APPLICANTS

Identify the concession space, address and location at the airport, the value of the property or lease, and fees/lease payments paid to the airport. Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of the concession enterprise.

AFFIDAVIT & SIGNATURE

The Affidavit of Certification must accompany your application for certification. 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

(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 ❑ Secured concession
❑ Merger or consolidation ❑ Other *(explain)* _____

(6) Is your firm "for profit"? ❑ Yes ❑No→ ⊗ **STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.
Federal Tax ID# _____

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

- ❑ Sole Proprietorship
- ❑ Partnership
- ❑ Limited Liability Company
- ❑ Applying as an ACDBE
- ❑ Limited Liability Partnership
- ❑ Corporation
- ❑ Joint Venture (Identify all JV partners _____)
- ❑ 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.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

(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:

Type	Dollar Value
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 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:	Type	Dollar Value
	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
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(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. *(Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed).*

A= Always **F = Frequently**	**S = Seldom** **N = Never**	Majority Owner (51% or more) Name: _____ Title: _____ Percent Owned: _____				Minority Owner (49% or less) 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 control the following functions for the firm. *(Attach separate sheets as needed).*

A= Always S = Seldom **F = Frequently N = Never**	Officer/Director/Manager/Key Personnel Name: _____ Title: _____ Race and Gender: _____ Percent Owned:				Officer/Director/Manager/ Key Personnel Name: _____ Title: _____ Race and Gender: _____ 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.						

AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION

Identify the following information concerning the ACDBE applicant firm:

Concession Space	Address / Location at Airport	Value of Property or Lease	Fees/Lease Payments Paid to the Airport

Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession

Name of Concession	Location	Type of Concession	Start Date of Concession

AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for <u>each</u> 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 _____ _____
(DBE/ACDBE Applicant) (Date)

<u>NOTARY CERTIFICATE</u>

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 comprising 51% or more of the ownership percentage of the applicant firm.
☐ 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 decertifications, 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 directors meetings
☐ Corporate by-laws and any amendments
☐ Corporate bank resolution and bank signature cards
☐ Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Optional Documents to Be Provided on Request

The UCP 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)
☐ Personal Federal Tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm.
☐ 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 Unified Certification Program (NYSUCP)

The Disadvantaged Business Enterprise (DBE) regulation that took effect March 4, 1999 (Title 49 Part 26.81 of the Code of Federal Regulations) requires that each state have a "one-stop shopping" certification process. This means that a firm would apply to only one agency for DBE certification, and that agency's decision would be honored by all other DBE certifying agencies (see below) and all entities within the state that receive funds from the United States Department of Transportation (for example, Metropolitan Planning Organizations and most airports). The NYSUCP began to operate November 30, 2005. There are four agencies in New York State that administer a DBE certification program. They are:

- The Metropolitan Transportation Authority

  Department of Diversity and Civil Rights
  2 Broadway, 16th Floor
  New York, NY 10004-9256
  (646) 252-1378
  Fax: (646) 252-1350
  cgreene@mtahq.org

- The Port Authority of New York and New Jersey

  Office of Business Diversity and Civil Rights
  233 Park Avenue South, 4th Floor
  New York, NY 10003
  (212) 435-7888
  Email: CertHelp@panynj.gov
  Website: www.panynj.gov/supplierdiversity

- The Niagara Frontier Transportation Authority

  Equal Employment Opportunity/Diversity Development Department
  181 Ellicott Street
  Buffalo, NY 14203
  (716) 855-7489
  Fax: (716) 855-7657
  linda_seay@nfta.com

- The New York State Department of Transportation (NYSDOT DBE Certification Unit page)

  Contract Audit Bureau
  DBE Certification
  50 Wolf Road, 6th Floor
  Albany, NY 12232
  (518) 457-3180
  Fax: (518) 457-1675
  DBECert@dot.ny.gov

United Certification Program MOU

NYSUCP DBE Directory

Note Regarding Directory Listings

The information contained in the New York State Unified Certification Program (NYSUCP) Disadvantaged Business Enterprise (DBE) Directory is provided by the NYSUCP Certifying Partners listed above.

The New York State Department of Transportation (NYSDOT), as host of the NYSUCP DBE Directory site, does not assume responsibility for DBE information provided by the remaining NYSUCP certifying partners. If the information listed is incorrect, please notify the NYSUCP certifying partner to which that firm is assigned; this is indicated in the Directory for each firm. If a firm is missing, please contact the NYSUCP certifying partner that certified the firm.

- NYSUCP DBE Directory
- Construction & Consulting NYSDOT codes with descriptions

NOTE: DBE certification is a Federal program certification. It is separate and distinct from the State M/WBE program. For more information on the State program go to: NY Business

(Last updated April 13, 2015.)

Èd nan Lang | Assistenza Linguistica | Языковая поддержка | Asistencia de Idioma | 语言援助

Attachment 7

Regulations: 49 CFR Part 26

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR Data is current as of December 15, 2014

Title 49 → Subtitle A → Part 26 → Subpart A

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

Subpart A—General

Contents

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

Back to Top

§26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

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

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

(c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;

(d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;

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

(f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

Back to Top

§26.3 To whom does this part apply?

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

(1) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

(2) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

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

(b) [Reserved]

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

Back to Top

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

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

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

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

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

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

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

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

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

Assets mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

Business, business concern or business enterprise means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

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

Contingent Liability means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

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

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

Days mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

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

Disadvantaged business enterprise or *DBE* means a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

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

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

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

Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

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

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Liabilities mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

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

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

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

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

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

Primary industry classification means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site: *http://www.census.gov/eos/www/naics/.*

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

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

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

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

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

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

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

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

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

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

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

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

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

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

(iii) "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

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

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Spouse means a married person, including a person in a domestic partnership or a civil union recognized under State law.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale "off the lot" are not considered transit vehicle manufacturers.

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]

Back to Top

§26.7 What discriminatory actions are forbidden?

(a) You must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin.

(b) In administering your DBE program, you must not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

Back to Top

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

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

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

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

[72 FR 15617, Apr. 2, 2007]

Back to Top

§26.11 What records do recipients keep and report?

(a) You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

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

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

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

(i) Firm name;

(ii) Firm address;

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

(iv) Age of the firm; and

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

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

(d) You must maintain records documenting a firm's compliance with the requirements of this part. At a minimum, you must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records must be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

(e) The State department of transportation in each UCP established pursuant to §26.81 of this part must report to the Department of Transportation's Office of Civil Rights, by January 1, 2015, and each year thereafter, the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

(1) Women;

(2) Socially and economically disadvantaged individuals (other than women); and

(3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 76 FR 5096, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

Back to Top

§26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the

award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible.

[79 FR 59593, Oct. 2, 2014]

Back to Top

§26.15 How can recipients apply for exemptions or waivers?

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

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

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

(2) Your application must show that—

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

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

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

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

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

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

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

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

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

Back to Top

For questions or comments regarding e-CFR editorial content, features, or design, email ecfr@nara.gov.
For questions concerning e-CFR programming and delivery issues, email webteam@gpo.gov.

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR Data is current as of December 15, 2014

Title 49 → Subtitle A → Part 26 → Subpart B

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

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

Contents

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

Back to Top

§26.21 Who must have a DBE program?

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

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

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

(3) FAA recipients receiving grants for airport planning or development who will award prime contracts the cumulative total value of which exceeds $250,000 in FAA funds in a Federal fiscal year.

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

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 79 FR 59593, Oct. 2, 2014]

Back to Top

§26.23 What is the requirement for a policy statement?

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

Back to Top

§26.25 What is the requirement for a liaison officer?

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

Back to Top

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

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

Back to Top

§26.29 What prompt payment mechanisms must recipients have?

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

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

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

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

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all

retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

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

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

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

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

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

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

[68 FR 35553, June 16, 2003]

Back to Top

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

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

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

[76 FR 5096, Jan. 28, 2011]

Back to Top

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

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

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

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

Back to Top

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

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

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

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

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

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

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

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

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

Back to Top

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

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

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

(c) This mechanism must provide for a running tally of actual DBE attainments (*e.g.*, payments actually made to DBE firms), including a means of comparing these attainments to commitments. In

your reports of DBE participation to the Department, you must display both commitments and attainments.

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

Back to Top

§26.39 Fostering small business participation.

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

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

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

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

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

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

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

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

[76 FR 5097, Jan. 28, 2011]

Back to Top

For questions or comments regarding e-CFR editorial content, features, or design, email ecfr@nara.gov.
For questions concerning e-CFR programming and delivery issues, email webteam@gpo.gov.

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR Data is current as of December 15, 2014

Title 49 → Subtitle A → Part 26 → Subpart C

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

Subpart C—Goals, Good Faith Efforts, and Counting

Contents

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

Back to Top

§26.41 What is the role of the statutory 10 percent goal in this program?

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

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

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

Back to Top

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

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

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

Back to Top

§26.45 How do recipients set overall goals?

(a)(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.

(2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) $250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, *www.census.gov/epcd/cbp/view/cbpview.html.*) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market. When using this approach, you must establish a mechanism (documented in your goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on your DOT-assisted contracts.

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

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

(5) *Alternative methods.* Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market. The exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section, is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive

at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

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

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

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

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

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

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the operating administration will be guided by goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

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

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

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

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

The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site.

(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30-day comment period. Notice of the comment period must include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

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

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003; 75 FR 5536, Feb. 3, 2010; 76 FR 5097, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

Back to Top

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

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

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

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

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

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

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

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

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

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

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

(ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or

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

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

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

Back to Top

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

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

(1) Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.

(2) A TVM's failure to implement the DBE Program in the manner as prescribed in this section and throughout 49 CFR part 26 will be deemed as non-compliance, which will result in removal from FTA's certified TVMs list, resulting in that manufacturer becoming ineligible to bid.

(3) FTA recipient's failure to comply with the requirements set forth in paragraph (a) of this section may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).

(4) FTA recipients are required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

(b) If you are a transit vehicle manufacturer, you must establish and submit for FTA's approval an annual overall percentage goal.

(1) In setting your overall goal, you should be guided, to the extent applicable, by the principles underlying §26.45. The base from which you calculate this goal is the amount of FTA financial assistance included in transit vehicle contracts you will bid on during the fiscal year in question, less the portion(s) attributable to the manufacturing process performed entirely by the transit vehicle manufacturer's own forces.

(i) You must consider and include in your base figure all domestic contracting opportunities made available to non-DBE firms; and

(ii) You must exclude from this base figure funds attributable to work performed outside the United States and its territories, possessions, and commonwealths.

(iii) In establishing an overall goal, the transit vehicle manufacturer must provide for public participation. This includes consultation with interested parties consistent with §26.45(g).

(2) The requirements of this part with respect to submission and approval of overall goals apply to you as they do to recipients.

(c) Transit vehicle manufacturers awarded must comply with the reporting requirements of §26.11 of this part including the requirement to submit the Uniform Report of Awards or Commitments and Payments, in order to remain eligible to bid on FTA assisted transit vehicle procurements.

(d) Transit vehicle manufacturers must implement all other applicable requirements of this part, except those relating to UCPs and DBE certification procedures.

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

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

[79 FR 59594, Oct. 2, 2014]

Back to Top

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

(a) You must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

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

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

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

(3) Providing technical assistance and other services;

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

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

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

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

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

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

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

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

(e) The following provisions apply to the use of contract goals:

(1) You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

Back to Top

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

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

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

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.

(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

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

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

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

(ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;

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

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

(v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.

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

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

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

(B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.

(ii) Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

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

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

(1) As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

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

(3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

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

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

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

(ii) You must include in each prime contract a provision stating:

(A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and

(B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

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

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

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contracor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;

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

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

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

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

(ix) Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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

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

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

(g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) You must include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

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

(j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

Back to Top

§26.55 How is DBE participation counted toward goals?

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

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

(2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

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

(1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

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

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

(1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

(2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

(3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

(4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

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

(6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph (d)(6): DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

(7) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

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

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

(ii) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

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

(ii) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(B) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

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

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

(4) You must determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expediter) on a contract-by-contract basis.

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

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 79 FR 59595, Oct. 2, 2014]

Back to Top

For questions or comments regarding e-CFR editorial content, features, or design, email ecfr@nara.gov.
For questions concerning e-CFR programming and delivery issues, email webteam@gpo.gov.

Attachment 8

Town of Huntington DBE List attached.

Business description contains: c

Businesses	Contact	Phone
50 STATES ENGINEERING, CORP.	MARGITA BATISTIC	(201) 507-8283
A DENNIS CONSTRUCTION AND REMODELING	AINSWORTH L. DENNIS	(585) 721-9533
A.G. CONSULTING ENGINEERING, PC	ARIGANJAN GULERIA, PE	(212) 268-0950
ACCESS SAFETY PRODUCTS INC.	NICOLE L. ANATRIELLO	(518) 756-3600
ADVANCED ENGINEERING & INSPECTION SERVICES	GHOUSE M. ISMAIL	(908) 788-2717
AGAM CONSTRUCTORS, INC.	ARMANDO M. BYRNE	(845) 452-3936
AI ENGINEERS INC PC	ABULKHAIR A. ISLAM	(212) 760-2423
AIA ENGINEERS LTD	ASHRAF ISLAM	(281) 493-4140
AK ASSOCIATES	ALFRED KIMEU	(716) 573-5491
AL SLAWSON INC	SHARON H. SLAWSON	(585) 248-3203
AMERCOM CORP CONSULTING ENGINEERS	RICHARD LEE	(973) 402-6111
ANDREW VELEZ CONSTRUCTION INC	ANDREW VELEZ	(718) 565-2111
ARKAY CONSTRUCTION, INC.	RANTIK PARIKH	(973) 450-4443
ARMAND CORPORATION	BARBARA ARMAND	(856) 489-8200
ARORA ENGINEERS, INC.	RAJEEV ARORA, P.E.	(973) 645-1880
AT&A TRUCKING CORPORATION	ANNEMARIE TRIPI	(716) 681-3386
ATLANTIC & PACIFIC MECH. CONTRS.	ANTONIO FERNANDES	(908) 925-5595
ATLANTIC BRIDGE & ENGINEERING INC.	VICTORIA KOLENDA	(978) 465-4337
AURORA ELECTRIC INC.	VERONICA ROSE	(718) 371-0385
BAG-IT INC	NICOLE SCHORR	(718) 224-6137
BARBARA THAYER, PE, ARCH, LANDSCAPE ARCHITECTURE,LS, PC	BARBARA L. THAYER	(516) 364-0660
BASANO CONTRACTING INC	ANN LORENZO	(631) 864-4296
BELLA MANAGEMENT GROUP, INC.	LAURA PECK	(845) 742-8276
BEST CLEAN	ELAINE OLIVEIRA	(718) 216-5154
BJLJ ENGINEERS & ARCH, P.C.	ANDREW C.P. WONG	(516) 741-2222
BLACKRIDGE CONSTRUCTION, LLC	JAMES CARROLL	(917) 972-1520
BREIT CONSULTING ENTERPRISES INC	ERICA BREIT	(516) 845-1163
C.H.S. CONSTRUCTION CO.	CECIL SANDERS, JR	(973) 624-7876
C2PM	ROWENA ALTAHA	(949) 333-3700
CALLAH BENUE ASSOCIATES INC	EMMANUEL DAUDU	(347) 419-0907
CAPABLE CONSTRUCTION CORP.	JEAN-CLAUDE JEAN PIERRE	(917) 701-7602
CARDONA & SONS INC	STEVEN CARDONA	(518) 346-6146
CERTIFIED SITE SAFETY, INC.	PENNY GIANATASIO	(914) 437-5454
CHEN ENGINEERING SERVICES PC	HENLIA CHEN	(516) 829-4463
CLASSIC ENVIRONMENTAL INC	SANDRA L INGALLS	(518) 591-0234
CLASSICO BUILDING MAINTENANCE, INC.	MARIA RIOS	(718) 881-5551
CLIFTON WEISS & ASSOCIAT	ELIZABETH CLIFTON	(215) 628-2640
COAST AND HARBOR ASSOCIAT	MARCELLA A. LANCOME	(781) 224-3870
CONSTRUCTION PROJECT MANAGEMENT SERVICES INC	EUGENE MARSH	(609) 951-9401

CONTRACTORS SUPPLY COMPANY INC	CATHY R HUELS	(607) 324-9422
CREEKSIDE BOUNDARY	MICHELE A. CLARK	(585) 786-5640
CROWN PROJECT MANAGEMENT SERVICES	ANTHONY FITZGERALD	(800) 868-1323
CUTTING EDGE GROUP LLC	ANTONIO E. ABRANTES	(518) 798-4151
CV ASSOCIATES NY PE LSPC	CHAMARAJANAGAR V. SHASHIKUMAR	(845) 774-1075
D.B.E. ELECTRIC CORP.	JANAK SHAH	(516) 825-7878
DACK CONSULTING SOLUTIONS INC	ALEKSANDRA CHANCY	(914) 686-7102
DEBORAH BRADLEY CONSTRUCTION & MANAGEMENT SVC. INC	DEBORAH BRADLEY	(212) 222-2494
DELAND CONTRACTING INC	JOSE A TORRES	(917) 299-3014
DELTA INTERNATIONAL SERVICES, CORP.	MAGUID AZER	(201) 222-3366
DESIGN SOLUTIONSFL INC	KENNETH PATTERSON	(407) 532-8323
DIGERONIMO, P.C.	SUZANNE DIGERONIMO	(201) 670-9200
DKI ENGINEERING & CONSULTING USA, P.C.	DHIRENDRA GUPTA, P.E.	(518) 373-4999
DOZIER AND DOZIER CONSTRUCTION INC	WILLIAM L DOZIER	(305) 624-5274
DRM INTERNATIONAL INC	ARNOLD YOUNG	(202) 944-3390
DUMONT ELECTRICAL, INC.	JOHN IRIZARRY	(973) 729-8084
EAGLE VETERAN CONSTRUCTION SERVICES LLC	ISRAEL CUYLER	(585) 235-2360
EASTWOOD INDUSTRIES INC	JANE E. ROZBORSKI	(716) 941-7420
EATON ELECTRIC, INC.	GARY EATON	(718) 994-9212
ELECTRICAL CONSTRUCTION CONSULTING, INC. (ECC)	NELLIE TORRES	(917) 273-0803
ENTECH ENGINEERING PC	SUSAN BAYAT P.E.	(646) 722-0000
ENVIRONMENTAL ENERGY ASSOCIATES INC	BALU A. KAMAT	(201) 941-9429
ENVISION CONSULTANTS LTD	VICTORIA MALASZECKI	(856) 223-0800
EURO-AMERICAN BUILDERS, INC.	ELIZABETH KOMPOGIORGAS	(516) 569-9506
EWELL W. FINLEY, P.C.	CLAUDE JEAN-PIERRE	(718) 482-7000
FIELD ASSOCIATES PC	LEOPOLD FIELD	(516) 378-2794
GATES ROOFING & GENERAL CONSTRUCTION CO INC	FRANK J. GATES SR.	(518) 563-5090
GEDEON ENGINEERING PC	RUDOLF J GEDEON	(516) 873-7010
GEO TECH CONSTRUCTION CORP	VIJAY SAQI	(516) 625-1870
GEOMATICS LAND SURVEYING PC	STACEY L ALLOTT	(518) 891-6218
GLOBAL MARINE CONSTRUCTION SUPPLY, INC.	YONA BOCCHINO	(516) 484-2900
GM2 ASSOCIATES, INC.	MADAN M. GUPTA	(860) 659-1416
GOLDEN DEVELOPMENT AND CONSTRUCTION CORP.	N. ANTHONY CLOUDEN	(718) 875-1690
GOMEZ ELECTRICAL CONTRACTORS INC	JOSEPH A. GOMEZ	(518) 427-8365
GRANDVIEW CONSTRUCTION, INC.	DEBRA MALIS	(716) 693-9222
HAFCO SERVICES INC	HUMBERTO FRIEDE	(512) 721-6801
HAIDER ENGINEERING PC	SYED HAIDER	(516) 378-2278

HELEN NEUHAUS & ASSOCIATES INC	HELEN NEUHAUS	(212) 532-4175
HELPING HANDS JANITORIAL & PROPERTY MAINTENANCE INC DBA MITCHELL'S CONSTRUCTION SOLUTIONS	EDWARD MITCHELL	(315) 672-3431
HENRY MARINE SERVICE INC.	DOROTHY JULIAN	(718) 966-6193
HIRANI CONSULTING INC	JITENDRA S. HIRANI	(516) 352-3630
HI-TECH INTERNATIONAL ENGINEERING, P.C.	JACOB MUNIR	(516) 568-1212
HRV CONFORMANCE VERIFICATION ASSOC.	ROCHELLE STACHEL	(412) 788-2522
HUDSON VALLEY ENGINEERING ASSOCIATES PC	MIA K NADASKY	(845) 838-3600
HYKE ENGINEERING MANAGEMENT PC	GENE HU	(646) 269-5129
IH ENGINEERS PC	IFTEKHAR HOSSAIN	(609) 734-8400
INFRA TECH ENGINEERING, LLC	S. DAVID ALI	(212) 514-7500
INTERSTATE REINFORCING INC	ROBBIE L. ABRANTES	(315) 963-4762
INVICTUS LLC	JAMES BERMUDEZ	(203) 546-0505
IRONHORSE LTD	GAINES SMITH	(904) 810-2444
JACOBSEN/DANIELS ASSOCIATES, LLC	DARRYL DANIELS	(734) 961-3200
JCMS INC	UMESH JOIS	(609) 631-0700
JMA CONCRETE CONSTRUCTION CO INC	JOSEPH M. ARGRETTE	(914) 777-6400
JMC STONE CORPORATION	JOSE ARAUJO	(718) 569-0811
JOHN W FRANCISCO INC	VIRGINIA L PEARSON	(518) 756-2116
K.B.C. CONSTRUCTION, CORP.	GRACE FRANCO	(917) 237-5872
KC ENGINEERING AND LAND SURVEYING PC	RAJASHEKAR R. RAVILLA	(212) 947-4945
KEVILLE ENTERPRISES INC	CHRISTINE KEVILLE	(781) 837-3884
KND LICENSED ELECTRICAL CONTRACTING & SERVICES CO	KRISTINE HILL DENAPOLI	(631) 242-1708
KOCHER-O'BRIEN CONSTRUCTION CO., INC.	WILLIAM J OBRIEN	(315) 469-1882
KS ENGINEERS, P.C.	KAMAL SHAHID,PE	(973) 623-2999
KT CONSTRUCTION INC	MICHAEL ST-LEWIS	(631) 673-1446
LAMBCO ERECTING, INC.	LESLAINE LAMBERT	(973) 429-7959
LAND-SITE CONTRACTING CORP	ADRIANO P. LOTT	(718) 523-1749
LARSEN ENGINEERS PE LS PC	S. RAM SHRIVASTAVA	(585) 272-7310
LAZORES'S CONSTRUCTION	JOHN A LAZORE	(518) 358-3017
LCA DEVELOPMENT, INC.	LINDA ARTMEIER	(716) 823-9645
LGM CONSULTANTS	LYUDMILA GUZMAN	(914) 524-7910
LKG-CMC INC	LOUISE K. GARSIDE	(818) 844-0800
LLF CONSTRUCTION SERVICES	LEONARDO FABIO	(914) 287-6441
LS ENGINEERING ASSOCIATES	KIM P. LAW	(973) 588-3122
LUNA MANAGEMENT INC	MARISA A. LANDI	(914) 419-1876
M & J ENGINEERING, P.C.	MAQSOOD MALIK	(718) 525-5500
M.O. TRUCKING	MARJORIE MCKEOWN	(716) 962-4253
MA GENERAL CONSTRUCTION CORP	AMAR SHAMAR	(718) 297-1997

MAC CONSULTING, LLC	AMY WILLIAMSON	(812) 487-2547
MACON PACE INC PC	DHIRAJ M. CHANDA	(609) 587-8669
MARD ELECTRICAL CONTRACTING CORP.	EDWARD DIMARTINO	(973) 625-3511
MARY'S CONTRACTING SERVICES CORP.	MARY MORELLO	(516) 285-1117
MASSAND ENGINEERING LS PC	NANIK MASSAND	(718) 464-3300
MAX-TEC CONSTRUCTION CORP	DONNA STONIS	(516) 332-7277
MCCORMACK-SMITH ENGINEERING PLLC	PATTI MCCORMACK SMITH	(845) 424-3848
MCGUINESS UNLIMITED INC	ERIN MCGUINESS	(216) 941-8411
MCSS INC	KIRAN GHODOSARA	(732) 591-8220
MEHTA AND ASSOCIATES INC	VIPIN C. MEHTA	(407) 657-6662
MERIT CONSTRUCTORS INC	MOHAMED BAKSH	(718) 404-2193
METRO TECH CONSULTING SERVICES INC	VALLABH L PATEL	(212) 819-9191
METROPOLIS A.C. CORP.	JOSE BLANCO	(914) 366-4822
MICHELLE ROBINSON ARCHITECTS	MICHELLE ROBINSON	(267) 767-9644
MID CITY ELECTRICAL CORP	TERRIC MCFARLIN	(718) 333-2522
MJ ENGINEERING & LAND SURVEYING PC	M. MOHAN JAGGI	(518) 371-0799
MLOK CONSULTING, INC.	MELANIE LOK	(415) 334-2168
MUNOZ TRUCKING CORP.	MANUEL MUNOZ	(973) 277-1944
NAIK CONSULTING GROUP P C	SANJAY NAIK	(732) 777-0030
NCC, INC.	SHELBY NETTERVILLE	(908) 754-1731
NEW FORM BUILDING SYSTEMS, INC.	ERICA LIBBY	(207) 469-2711
NJ C ASSOCIATES INC	NANCY CASTRO	(914) 879-6098
NOBLE STRATEGY LLC	WILLIAM PARRISH	(973) 313-1006
NORTHEASTERN SIGN CORPORATION	ANNE M. CLARKSON	(315) 265-6657
NS ENGINEERS PC	NAZRUL I SIDDIQUE	(732) 254-1163
NUGENT TRUCKING INC.	ROBERT NUGENT	(718) 241-6972
OKG ENGINEERS PLLC	OSEI GYEBI	(212) 213-8711
OLIVER'S BLACKTOP MAINTENANCE INC.	JEREMIAH OLIVER	(716) 563-7201
OPTA CONTRACTING & GENERAL BUILDER	PETER ONITIRI	(917) 213-4573
ORTEGA GROUP LLC	KIRK A. ORTEGA	(914) 668-1000
PACO GROUP INC	FRANK OTERO	(212) 685-0578
PDK COMMERCIAL PHOTOGRAPHERS LTD. DBA BERNSTEIN ASSOCIATES	LAURIE DONALD	(914) 835-2121
PHOENIX ASSOCIATES DEVELOPMENT CONSULTATNS	WAYNE NEALE	(212) 283-3177
PJS ELECTRIC, INC.	EILEEN SCARIANO	(718) 832-9609
PORT CHESTER SCAFFOLDING, INC.	DON PHILLIPS	(203) 777-2244
PROJECT COST ASSOCIATES, INC.	FESTUS EZEJI	(973) 441-9023
PROJECT MANAGEMENT RESOURCE GROUP INC	FREDRICK REDD	(212) 983-7385
PROJECT MANAGEMENT TECHNOLOGIES, INC.	YVETTE STREAHLE	(856) 461-3663
PRUDENT ENGINEERING LLP	CLETUS O. EZENWA	(315) 432-9823
QUALITY VIDEO DBA PROTEC	LISA M. BLANCHARD	(609) 267-2666
QWIC INC	NANCY C. MEYERS	(856) 829-7942

RAVI ENGINEERING & L.S., P.C.	NAGAPPA RAVINDRA	(585) 223-3660
RAYFORD ENTERPRISES, INC.	OSCAR RAYFORD	(716) 854-3331
RCGA ARCHITECT, P.C.	ROBERT ST. C GASKIN	(718) 206-2200
RIZZO ASSOCIATES, INC.	CAROL RIZZO	(516) 825-7227
RK CLEANING & MAINTENANCE SERVICE	ROBERT KEARNEY	(718) 638-6666
RMBDC INC	BEVERLY J. JACKSON	(585) 546-5556
RML CONSTRUCTION INC.	ROMULO M. LUZ	(201) 462-0013
ROCHESTER RIGGING & ERECTORS, INC.	KELLY J. GILLIGAN	(585) 657-7665
RONSCO ELECTRIC, INC.	RHONDA J. GRUNTHER	(516) 897-8703
ROY D. MCQUEEN PE & ASSOCIATES	PETER YIP	(703) 709-2540
S & D ELECTRO MECHANICAL	NIGEL DAVY	(212) 722-5222
S AND J ENTERPRISE, INC.	SHERRI GLEASON AMADOR	(201) 997-0526
SA ENGINEERING INC	SYED ASHRAF	(732) 939-6211
SAGONA LANDSCAPING LTD.	KATHLEEN A SAGONA	(718) 948-5734
SANZO LTD., INC.	CAROL SANZO	(908) 276-6654
SCI ENGINEERING, P.C.	MUHAMMAD IQBAL	(212) 239-3400
SELECTO-FLASH SAFETY, INC	LEE JONES	(973) 239-7788
SHEEN & SHINE, INC.	ISRAEL CUYLER	(585) 423-2282
SHREWSBERRY & ASSOCIATES, LLC	WILLIAM SHREWSBURY	(317) 841-4799
SI ENGINEERING PC	SARWAT IZHAR	(212) 354-5939
SIDDIQUI ENGINEERING	RASHID S SIDDIQUI	(212) 204-7212
SITEWORKS LLC	ANNETTE WILKUS	(212) 255-8350
SLR CONTRACTING & SERVICE CO., INC.	SUNDRA RYCE	(716) 896-8148
SOLOMON OLIVER MECHANICAL CONTRACTING CORP.	SOLOMON OLIVER	(718) 346-1616
SPIRAL CONTRACTING CORPORATION	ANGELO LOPEZ	(718) 239-0673
SQUARE INCH DESIGN CORP	ANGELA ANDERSON	(347) 228-3063
SUMMIT CM, INC.	KEN RICE	(925) 363-5560
SWEET HOME ASSOCIATES, INC.	MARGARET RICHEY	(716) 695-0007
T N T INTERIORS, INC.	DONNA JABBOUR	(718) 776-5315
T. J. PIPING HEATING & SPRINKLER, INC.	TERRANCE JACKMAN	(718) 574-6117
TAKBEER ENTERPRISES, INC.	MUHAMMAD A. BEIG	(718) 349-8877
TAKE IT AWAY INC.	AMADOR SHERRI	(201) 538-3747
TERRY BERGENDORFF COLLINS, LAND SURVEYOR	TERRY B. COLLINS	(845) 279-4261
THE MCKISSACK GROUP INC	CHERYL MCKISSACK	(212) 349-6500
TLH CONSTRUCTION CORP	NICK ANGELES	(718) 827-3800
TOTAL ELECTRICAL CONSTRUCTION CO., INC.	MICHAEL LIPARI	(718) 361-8402
TRICON ENTERPRISES INC	DENISE PETRIZZO	(732) 739-1200
TRISTATE AVIATION, INC. D/B/A DY CONSULTANTS	DENNIS YAP, P.E.	(516) 625-9800
UNICORN CONSTRUCTION ENTERPRISES, INC.	SANJEEV DHAWAN	(845) 352-2012
UNION CITY CONTRACTORS INC	DUANE CUYLER	(585) 654-9801
URBANTECH CONSULTING ENGINEERING, P.C.	WEI WANG	(212) 627-3366

VARLOTTA CONSTRUCTION CORP.	ISABEL VARLOTTA	(718) 720-8029
VERTECH INTERNATIONAL, INC.	RAJ VERMA	(215) 529-0300
VIBRANALYSIS INC.	LINDA SOCQUET	(718) 601-7343
VJ ASSOCIATES INC. OF SUFFOLK	VIJAY DESAI	(516) 932-1010
VN ENGINEERS INC	SOPHIA NIRSHBERG	(203) 234-7862
W.C. ROBERSON PLUMBING & CONSTRUCTION CORP.	WILLIE ROBERSON	(716) 892-5052
WINDHAM CONSTRUCTION CORP	ROGER WONG-MULLEY	(718) 681-1033
WINDSOR ELECTRICAL CONTRACTING INC.	PRAMANAND RAMBHAROSE	(718) 850-6523
WJL EQUITIES CORP.	DANIELLE BUENAVENTURA	(914) 771-4030
WORLDWIDE SAFETY CONSULTANTS	STEVE DAVID	(646) 208-4484
YEE ENGINEERING & ASSOCIATES, INC.	WANDA YEE	(856) 985-5232
YU & ASSOCIATES INC	K.PETER YU	(201) 791-0075

SEARCH RESULTS

onstruction, Zip Code:ALL, Area Code:ALL, Region:ALL, County:ALL

Total **208** records found.

Fax	Address	City	State	Zip
(201) 591-7907	140 Phelps Avenue	Cresskill	NJ	7626
(585) 336-9904	71 NYE PARK	ROCHESTER	NY	14621
(212) 268-7497	260 West 35 Street 13th. Floor	New York	NY	10001
(518) 756-6201	PO Box 267	Hannacroix	NY	12087
(908) 788-2976	16 MONSEY RD	FLEMINGTON	NJ	8822
(845) 452-3936	4 E DOWNING PLACE	POUGHKEEPSIE	NY	12603
(212) 760-2451	99 Wall Street 24th Floor	New York	NY	10005
(281) 493-2211	350 5TH AVENUE 59 FLOOR	NEW YORK	NY	77084
NONE	5500 Main Street Suite 109B1	Williamsville	NY	14221-
(585) 248-2149	3 PRINCETON PL	PITTSFORD	NY	14534
(973) 402-0611	1259 ROUTE 46E BLDG 1	PARSIPPANY	NJ	7054
(718) 565-2155	74 16 GRAND AVENUE	ELMHURST	NY	11393-
(973) 450-8434	102-104 Greylock Avenue	Belleville	NJ	7109
(856) 489-8212	1815 GARDEN AVENUE	CHERRY HILL	NJ	8003
(973) 645-1882	One Gateway Center Suite 1020	Newark	NJ	7102
(716) 681-7642	77 West Drullard Avenue PO Box 367	Lancaster	NY	14086-1648
(908) 925-3328	103 North Wood Avenue Suite #46	Linden	NJ	7036
(978) 465-4088	191 ELM ST	SALISBURY	MA	1952
(718) 371-0390	JFK International Airport Building 141,	Jamaica	NY	11430
(718) 423-5634	42-04 243 STREET	DOUGLASTON	NY	11363
(516) 364-0668	100 CROSSWAYS PARK DRIVE WEST SUITE 104	WOODBURY	NY	11797
(631) 864-5703	1431 CARLLS STRAIGHT PATH	DIX HILLS	NY	11746
(845) 592-0165	5 Toms Way	Lagrangeville	NY	12540
(347) 365-1198	420 East 70 Street Unit 8C	New York	NY	10021
(516) 742-7730	393 Jericho Turnpike	Mineola	NY	11501
(914) 371-1853	115 East 122 Street	New York	NY	10035
(516) 845-4979	28 SHERMAN RD STE 117	OLD BETHPAGE	NY	11804
(973) 624-6136	40 Clinton Street	Newark	NJ	7102
(949) 333-3701	16520 BAKE PKWY SUITE 250	IRVINE	CA	92618-
(718) 940-3369	590 FLATBUSH AVE STE 10F	BROOKLYN	NY	11225
(718) 826-0877	100 Casals Place Suite 14M	Bronx	NY	10475
(518) 346-7784	397 ANTHONY ST	SCHENECTADY	NY	12308
(914) 437-5455	2975 Westchester Avenue Suite 114	Purchase	NY	10577
(516) 829-2573	28 DEEPDALE DR	GREAT NECK	NY	11021
(518) 591-0704	PO BOX 480	CLIFTON PARK	NY	12065-0480
	2580 BOSTON ROAD	BRONX	NY	10467
(215) 628-3165	524 PLYMOUTH RD BOX 639	GWYNEDD VALLEY	PA	19437
(781) 224-3876	7 KIMBALL LANE SUITE D	LYNNFIELD	MA	1940
(609) 951-9402	707 ALEXANDER ROAD SUITE 208	PRINCETON MERCER	NJ	08540-

(607) 324-9422	22 PARK DRIVE SUITE 101	HORNELL	NY	14843-
(585) 786-5649	1746 HIGGINS RD	WARSAW	NY	14569
(866) 496-1167	582 Kensington Avenue mail to PO Box 292 Buffalo NY 14207	Buffalo	NY	14214
(518) 798-4152	P.O. Box 733	LAKE GEORGE	NY	12845
(845) 774-8139	148 Route 17M Suite 2	HARRIMAN	NY	10926
(516) 825-7979	989 Rockaway Avenue	Valley Stream	NY	11581
(914) 686-7103	2 WILLIAM STREET SUITE 404	WHITE PLAINS	NY	10601
(212) 222-5887	481 Manhattan Avenue	New York	NY	10027
(516) 791-3812	31 AVONDALE STREET	VALLEY STREAM	NY	11581-
(201) 222-3365	57 A Bleecker Street	Jersey City	NJ	7307
(407) 532-8324	6239 EDGEWATER DRIVE BUILDING N2 SUITE 3B	ORLANDO	FL	32810-
(201) 447-3562	12 Sunflower Avenue	Paramus	NJ	7652
(518) 373-6657	632 Plank Road Suite 208	Clifton Park	NY	12065
(305) 625-1452	3932 NW 167TH STREET	MIAMI	FL	33054-
(202) 625-0101	4400 MACARTHUR BLVD NW STE 301	WASHINGTON	DC	20007
(973) 729-7325	70 Main Street	Sparta	NJ	7871
(585) 783-1209	214 West Main Street Mail to PO BOX 14096 Rochester 14614-0096	Rochester	NY	14614-
(716) 941-5884	PO BOX 305	NORTH BOSTON	NY	14110
(718) 994-9264	2345 Hollers Avenue	Bronx	NY	10475
(718) 788-2233	702 6th. Avenue	Brooklyn	NY	11215
(212) 785-8018	11 BROADWAY 21ST FL	NEW YORK	NY	10004
(201) 941-9429	560 COLUMBIA AVE	RIDGEFIELD	NJ	7657
(856) 223-8886	3 WHEATLY BLVD UNIT 6B	MULLICA HILL	NJ	8062
(516) 569-6334	826 West Broadway	Woodmere	NY	11598
(718) 937-5938	34-18 Northern Blvd.	Long Island City	NY	11101
(516) 378-4995	379 NASSAU RD	ROOSEVELT	NY	11575
(518) 563-0051	7518 RTE 9	PLATTSBURGH	NY	12901
(516) 873-7011	1517 FRANKLIN AVE STE 200	MINEOLA	NY	11501
(516) 625-1226	86 UNION ST	MINEOLA	NY	11501
(518) 891-2858	PO BOX 1277	SARANAC LAKE	NY	12983
(516) 484-2950	55 Lumber Road Suite 125	Roslyn	NY	11576
(860) 657-2926	730 HEBRON AVENUE	GLASTONBURY	CT	6033
(718) 404-1076	26 Court Street Suite 2205	Brooklyn	NY	11242
(518) 427-8366	251 N PEARL ST	ALBANY	NY	12207
(716) 693-9282	167 Young Street Mail to Box 408 14151 0408	Tonawanda	NY	14150
(512) 996-0722	1411 BRISTLE OAK TRAIL	AUSTIN	TX	78750-
(516) 378-4147	755 MERRICK RD	BALDWIN	NY	11510

(212) 532-7479	460 PARK AVE SOUTH	NEW YORK	NY	10016
(315) 672-3188	2666 WARNERS RD	WARNERS	NY	13164
(718) 966-6193	12 Craig Avenue	Staten Island	NY	10307
(516) 248-9018	30 JERICHO EXECUTIVE PLAZA SUITE 200C	JERICHO	NY	11753
(516) 568-0935	27 Caldwell Road	Valley Stream	NY	11580
(412) 788-1697	200 Hightower Boulevard Suite 400	Pittsburgh	PA	15205
(845) 838-5311	560 Route 52 Suite 201	BEACON	NY	12508
(631) 302-9230	245 EAST 25TH STREET 16A	NEW YORK	NY	10010-
(609) 734-8405	103 COLLEGE ROAD EAST 1ST FLOOR	PRINCETON	NJ	8540
(212) 514-7531	40 BROAD ST STE 401	NEW YORK	NY	10004
(315) 963-4768	127 BLIND ST	MEXICO	NY	13114
	49 North Airmont Road Suite 100	Suffern	NY	10901
(904) 825-2715	2524 Norwich Street mail to 212 River Plantation Rd South St Augustine FL 32092	Brunswick	GA	31520
(734) 961-3204	121 Pearl Street	Ypsilanti	MI	48197
(609) 631-0808	1741 WHITEHORSE-MERCERVILLE RD	MERCERVILLE	NJ	8619
(914) 777-6404	920 LESTER AVE	MAMARONECK	NY	10543
(718) 569-0696	323 WILLIS AVE SUITE 5	MINEOLA	NY	11501-
(518) 756-9480	2154 RTE 9W P.O. Box 279	RAVENA	NY	12143
(212) 480-9262	64-09 Woodside Avenue	Woodside	NY	11377
(212) 947-5171	370 7th AVE STE 1705	NEW YORK	NY	10001
(781) 837-4091	475 SCHOOL ST Suite 11	MARSHFIELD	MA	2050
(631) 242-1746	120 Brook Avenue Unit B	Deer Park	NY	11729
(315) 469-1882	5821 BULL HILL ROAD	LAFAYETTE	NY	13084
(973) 242-2955	494 BROAD STREET 4TH FLOOR	NEWARK	NJ	7102
(631) 673-1465	P.O. Box 297	Huntington Station	NY	11746
(973) 429-3010	261 Ampere Parkway	Bloomfield	NJ	7003
(718) 658-7978	95-01 BRISBIN ST	JAMAICA	NY	11435
(585) 272-0159	700 WEST METRO PARK	ROCHESTER	NY	14623
(518) 358-9421	431 COOK RD	HOGANSBURG	NY	13655
(716) 823-9647	478 Hopkins Street	Buffalo	NY	14220
(914) 470-2358	1 CENTRAL AVENUE STE 214	TARRYTOWN	NY	10591
(818) 844-0806	130 SOUTH JACKSON ST STE 200	GLENDALE	CA	91205
	175 MAIN STREET SUITE 821	WHITE PLAINS	NY	10601
(973) 588-3123	150 RIVER ROAD BUILDING E SUITE E2	MONTVILLE	NJ	7836
(845) 778-5051	334 WALLKILL RD	WALDEN	NY	12586
(718) 228-8411	One Cross Island Plaza Suite LL2	Rosedale	NY	11422
(716) 962-4253	5617 RTE 380	SINCLAIRVILLE	NY	14782
(718) 297-0120	148 23 94TH AVENUE	JAMAICA	NY	11435-

(812) 487-2547	6368 Cook Road	Guilford	IN	47022
(609) 587-8670	2115 Hamilton Avenue Suite 203	HAMILITON	NJ	8619
(973) 625-3778	41 Columbus Avenue	Mount Kisco	NY	10549
(516) 285-8453	769 Elmont Road	Elmont	NY	11003
(718) 464-3979	211-12 UNION TURNPIKE	BAYSIDE	NY	11364
(631) 399-4100	142 Grandview Drive	Shirley	NY	11967
(845) 424-4067	11 BLACK DIAMOND HILL	GARRISON	NY	10524
(216) 941-4980	15520 NORWAY AVENUE	CLEVELAND	OH	44111-
(732) 591-0220	281 HIGHWAY 79-SUITE 207	MORGANVILLE	NJ	7751
(407) 657-9579	ONE PURLIEU PLACE STE 100	WINTER PARK	FL	32792
(718) 964-0006	138 LINCOLN AVENUE	BROOKLYN	NY	11208-
(212) 819-9189	7 PENN PLAZA 10	NEW YORK	NY	10001
(914) 366-0960	133 East Main Street Suite 103	Elmsford	NY	10523
(717) 964-1327	416 Pennsylvania Avenue	Mount Gretna	PA	17064
(718) 333-2521	2190 MCDONALD AVE	BROOKLYN	NY	11223
(518) 371-0822	1533 CRESCENT RD	CLIFTON PARK	NY	12065
(707) 667-1820	285 Ocean Avenue	San Francisco	CA	94112
(973) 751-2836	138 Overlook Avenue	Belleville	NJ	7109
(732) 777-0040	200 METROPLEX OFFICE PLAZA SUITE 403	EDISON	NJ	8817
(908) 754-5224	911 West Front Street	Plainfield	NJ	7063
(207) 469-3567	90 HERITAGE PARK ROAD SUITE 2	BUCKSPORT	ME	4416
(845) 306-1814	9 FAIR STREET	CARMEL	NY	10512-
(973) 313-1076	6 South Orange Avenue	South Orange	NJ	07079-
(315) 265-0712	102 COLD BROOK DRIVE	SOUTH COLTON	NY	13687
(732) 254-1266	51 WEST PROSPECT STREET 2ND FLOOR	EAST BRUNSWICK	NJ	08816-5711
	955 East 80 Street	Brooklyn	NY	11236
(212) 213-8233	162 MADISION AVENUE 6TH FLOOR	NEW YORK	NY	10016
(716) 464-1047	432 William Gaiter Parkway Suite C	Buffalo	NY	14215-2700
(718) 453-8243	442D Lorimer Street Suite 258	Brooklyn	NY	11206
(914) 668-1002	17 SOUTH MACQUESTEN PARKWAY	MOUNT VERNON	NY	10550
(212) 685-1379	110 WILLIAM STREET SUITE 3010	NEW YORK	NY	10038
(914) 835-6161	83 CALVERT ST.	HARRISON	NY	10528
(212) 222-6668	2376 SEVENTH AVENUE	NEW YORK	NY	10030-
(718) 932-9616	10 43rd Street Box #L15 Irving T. Bush B	Brooklyn	NY	11232
(203) 624-6081	152 Water Street	New Heaven	CT	6511
(973) 391-1383	240 Hillside Avenue	Hillside	NJ	7205
(877) 493-0963	305 MADISON AVENUE SUITE 449	NEW YORK	NY	10017-
(856) 461-3996	302 NEW JERSEY AVENUE	RIVERSIDE	NJ	8075
(315) 432-9826	6390 FLY RD	EAST SYRACUSE	NY	13057
	199 KNOTTY OAK DRIVE	MOUNT LAUREL	NJ	8054
(856) 829-7969	313 EAST BROAD STREET	PALMYRA	NJ	8065

(585) 223-4250	2110 SOUTH CLINTON AVENUE SUITE 1	ROCHESTER	NY	14618
(716) 854-1465	281 EXCHANGE ST.	BUFFALO	NY	14204
(718) 206-2236	147-09 88 Avenue	Jamaica	NY	11435
(516) 825-0271	97 E. Hawthorne Avenue	Valley Stream	NY	11580
(718) 398-5160	207 PARK PLACE SUITE 1RE	BROOKLYN	NY	11238-
(585) 546-5712	595 BLOSSOM RD STE 304	ROCHESTER	NY	14610
(201) 462-0660	377 ROUTE 17 SOUTH- ROOM 200	HASBROUCK HEIGHTS	NJ	7604
(585) 657-6957	7819 STATE ROUTE 5 and 20	BLOOMFIELD	NY	14469
(516) 897-0365	PO BOX 388	LONG BEACH	NY	11561
(703) 709-2535	22863 Bryant Court Suite 101	Sterling	VA	20166
	2273 THIRD AVENUE-SUITE 200	New York	NY	10035
(732) 460-0777	52 John Hay Avenue	Kearny	NJ	7032
(732) 873-1168	27 CLYDE ROAD SUITE 202	SOMERSET	NJ	08873-
(718) 948-5096	30 SAGONA COURT	STATEN ISLAND	NY	10309
(908) 276-2733	35 Munsee Drive	Cranford	NJ	7016
(212) 239-3210	241 West 30th Street Fifth Floor	New York	NY	10001
(973) 239-7240	14 Village Park Road, Inc. P.O.Box 160	Cedar Grove	NJ	7009
(585) 423-2297	214 West Main Street	Rochester	NY	14614
(317) 841-4790	7321 Shadeland Station Suite 160	Indianapolis	IN	46256
(212) 354-8521	39 BROADWAY SUITE 650	NEW YORK	NY	10006
(212) 204-7213	262 West 38th Street Suite 1102	New York	NY	10018
	150 West 28 Street Suite 605	New York	NY	10001
(716) 896-2518	260 Michigan Avenue Suite B	Buffalo	NY	14203
(718) 495-0284	49 East 89th Street	Brooklyn	NY	11236
(718) 239-9199	3205 SCHLEY AVENUE	BRONX	NY	10465
	398 Decatur Street	Brooklyn	NY	11233-
(925) 363-5511	2300 CLAYTON ROAD SUITE 1380	CONCORD	CA	94520
(716) 695-0007	59 Lynbrook Drive	Tonawanda	NY	14150
(718) 465-7718	213-19 99 Avenue	Queens Village	NY	11429
(718) 574-5102	1441 BUSHWICK AVE.	BROOKLYN	NY	11207
(718) 349-6547	73 PROVOST STREET	BROOKLYN	NY	11222
(732) 460-0777	52 John Hay Avenue	Kearny	NJ	7032
(845) 279-6838	52 STARR RIDGE RD.	BREWSTER	NY	10509
(212) 760-4259	150 WEST 30TH STREET ROOM 1200	NEW YORK	NY	10038
(718) 827-3434	2774 FULTON STREET	BROOKLYN	NY	11207
(718) 361-8405	230 Green Street	Green Point	NY	11222
(732) 739-5391	322 BEERS ST	KEYPORT	NJ	7735
(516) 625-9816	One Expressway Plaza Suite 208	Roslyn Heights	NY	11577
(800) 722-1868	3 UNICORN STREET	CHESTNUT RIDGE	NY	10952
(585) 224-9231	215 ALEXANDER STREET	ROCHESTER	NY	14607
(212) 627-3833	224 WEST 35TH STREET SUITE 1304B	NEW YORK	NY	10001

(718) 273-9326	3365 RICHMOND TERRACE	STATEN ISLAND	NY	10303
(215) 529-0469	420 Station Road	Quakertown	PA	18951
(718) 601-7536	3109 Kingsbridge Avenue	Bronx	NY	10463
(516) 932-8520	100 Duffy Avenue	Hicksville	NY	11801
(203) 234-9154	116 WASHINGTON AVE	NORTH HAVEN	CT	6473
(716) 892-3521	602 E. Delavan Avenue	Buffalo	NY	14211
(718) 681-1043	P.O. BOX 331 WOODLAWN STATION	BRONX	NY	10470-
(718) 850-6525	95-01 Brisbin Street	Jamaica	NY	11435
(914) 771-4063	274 White Plains Road Suite 7	EASTCHESTER	NY	10709
	20 31 SEAGIRT BLVD 3A	FAR ROCKAWAY	NY	11691
(856) 751-6883	520 S. Burnt Mill Rd.	Voorhees	NJ	8043
(201) 791-4533	200 RIVERFRONT BOULEVARD	ELMWOOD PARK	NJ	07407-1033

E-mail
mbatistic@50statesengineering.com

ADENNISCONSTRUCTION@YAHOO.COM
agceng@agceng.com
ACCESSSAFETY@AOL.COM

ghouse.ismail@gmail.com

psahani@aiengineers.com
ADMIN@AIAINC.COM
akimeu@live.com
SSINC@FRONTIERNET.NET

RLEE@AMERCOM.ORG
EVELEZ@VELEZORG.COM
mail@arkayconstruction.com
admin@armand.com
rarora@aroraengineers.com
atripi@hotmail.com

VKOLENDA@ATLANTICBR.COM
vrose@auroraelectric.org
mcgillick@aol.com

BTHAYER@BTHAYERASSOCIATES.COM
BASANO11746@YAHOO.COM
BELLAMGMTGRP@OPTONLINE.NET
eoliveira678@yahoo.com
bjljea@optonline.net
blackridgeconstruction@comcast.net
BREITINC@OPTONLINE.NET
chs12@verizon.net
ROWENA@C2PM.COM
CALLAHBENUE@MSN.COM
info@capableconstructioncorp.com
mak@cardonaandsons.com
PGianatasio@CertifiedSiteSafety.com
CHENSTRUCTURE@MSN.COM
SINGALLS@CLASSICENVIRONMENTAL.COM

classicbldgmain@aol.com
msabatina@cliftonweiss.com
Mrose@coastandharbor.com

emarsh@constructioncpms.com

CONTRACTORSSUPPLY@VERIZON.NET
mclark@creeksideboundary.com

info@cpmsllc.comp
TEA@CUTTINGEDGE-GROUP.COM
CVASSOC@FRONTIERNET.NET
dbeelect@yahoo.com
achancy@dackconsulting.com

deborah@dbcnewyork.com
DELANDCONTINC@AOL.COM

KPATTERSON@DESIGNSOLUTIONSFL.C
OM
sdigeronimo@digeromimo-pc.com
dkiengineering@gmail.com or
dki123@aol.com

Wdozier@dozieranddozier.com
DRM4400@aol.com
Dumont_electric@yahoo.com

icuyler@eagleveteran.com
eastwoodind@roadrunner.com
eatonelectricinc@eatonelectricinc.net

ntorres@projectspan.com
SBAYAT@ENTECH-PC.COM

VICKI@ECLIMITED.COM

info@ewfpc.com
lfield2272@aol.com
GATESROOFING@CHARTERINTERNET.
COM
RGEDEON@GEDEONGRC.COM
GTPRODUCT@AOL.COM
geomatics@verizon.net

Yona@gmcs.us.com
MADAN.GUPTA@GM2INC.COM

gdevelopment@aol.com

JAGOMEZ513@aol.com

dmalis@grandviewconstruction.com
HAFRIEDE@YAHOO.COM
HAIDERPC@AOL.COM

hna@hna1977.com

EDMITCHELL@TWCNY.RR.COM
henrymarine@si.rr.com

jhirani@hiranigroup.com

jmunir@hitech-eng.net

HRSTACHEL@HRVINC.COM

mnadasky@hveapc.com

ENGINEERING@GMAIL.COM
IFTE@IHENGINEERS.COM
ITA@BWAY.NET
INTERSTATE@TWCNY.RR.COM
jbermudez@invictuslic.com

ihltd@comcast.net

robert@jacobsendaniels.com
mail@jcms.com

JMAPRA@OPTONLINE.NET
JMCSTONECORP@AOL.COM
FRANEQUIP@AOL.COM
kbconstruction22@aol.com

RAJ.RAVILLA@KCEPC.COM
ckeville@keville.com

krissy@kndelectric.com

KOCHER-OBRIENCCI@MSN.COM
KSHAHID@KSENG.COM
KTCONSTRUCTION@OPTONLINE.NET
leslaine@comcast.net

ram@larsen-engineers.com
Lazoreconstruction@yahoo.com
linda@lcadevelopment.net
LGMCONSULTANTS@optonline.net
lkgcmc@lkgcmc.com

kimlaw@lseacorp.com
LUNAMANAGE@FRONTIERNET.NET
MMALIK@MJNET.US
none
INFO@MAGENERAL.COM

imattlin@maconsultingllc.com
maconpace@att.net

edimartino@mard.com

NICK@MASSAND.COM
MAXTEC@AOL.COM

mccormacksmith@verizon.net
ERINM@MCGUINESSUNLIMITED.COM
NNOONNAN@MCSS.COM
RADHAMEHTA@MEHTAENG.COM
MERITCONSTRUCTORS@YAHOO.COM

PEPI_BLANCO@HOTMAIL.COM
robinson.architect@verizon.net
GIATEE@MSN.COM

MPANICHELLI@MJELS.COM
mlok@mlokconsulting.com

SNAIK@NAIKINC.COM
nccgcinc@verizon.net
info@newformbuilding.com
NCASTRO@NJCASSOCIATES.COM
wparrish@noblestrategy.com
NORTHEAS@TWCNY.RR.COM
NSIDDIQUENSENGINEERS.COM

OKGPE@HOTMAIL.COM

oliversblacktop@verizon.net

optacontracting@yahoo.com
kirk.ortega@ortegagroup.c
marketing@pacogroup.com

laurie@bernsteinassociates.com

WNEAL.PHOENIX@VERIZON.NET

projectcost1@verizon.net

FRED.REDD@PMRG-INC.COM

cstreahle@promatechinc.com
PTHAYAPARAN@PRUDENTENG.COM

NANCYMYERS@QWICINC.COM

NRAVINDRA@RAVIENG.COM
oscarr51@aol.com
RCGA2000@AOL.COM
carizma12@aol.com

reid11950@aol.com
rmbdc@rmbdc.com
RML@RMLConstructioninc.com

KGilligan@RochesterRigging.com
RJG0156@aol.com
PckYip@rdmcQueen.com

Tlasnj@aol.com

SASHRAF@SAENGINEERINGWEB.COM
sagonaltd@aol.com
sales@sanzoltd.com
brian@sciengg.com
ljones@selectoflashsafety.com
ike@sheenandshine.com
wshrewsberry@shrewsusa.com
SIZHAR@SIENGINEERING.COM
rashid@siddiqui-eng.com
awilkus@siteworkscm.com

SRYCE@SLRContracting.com

solco346@aol.com
SPIRALCONTRACT@AOL.COM

ken.rice@summitcm.com
MAGGY9999@roadrunner.com
tntind@att.net

tjpiping@aol.com
takbeerent@verizon.net
tlasnj@aol.com

tcollins@terrybergendorffcollins.com
kdarch@McKissack.com
TLHCO@AOL.COM

totalmbe@verizon.net
REALGEM65@AOL.COM

d-vap@dyconsultants.com
SDHAWAN@UNICORNCONSTRUCTION.COM
info@unioncitycontractors.com

WWANG@URBANTECHUSA.COM

rajkverma@aol.com
linda@vibranalysisinc.com
dquigley@viassociates.com
SNIRSH@VNENGINEERS.COM

WCRPLBG@AOL.COM

WINDHAMCONSTRUCT@HOTMAIL.COM

windsore@aol.com
jbochienski@wjlequities.com
sdavid@worldwidesafetyny.com

wyee@y-eng.com
PYU@YU-ASSOCIATES.COM

Attachment 9

See: Paragraph 26.29, attached
Contractor's Labor & Material Affidavit

Section 26.29 Prompt Payment Mechanisms

Prompt Payment: 26.29(a)

The Town of Huntington will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Town of Huntington. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 shown following written approval of the Town of Huntington. This clause applies to both DBE and non-DBE subcontracts. Non-compliance with this policy will be considered a violation of the contract and will be referred to the Town Attorney's office for remedy up to the possibility of termination of the contract.

Retainage: 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Town of Huntington. This clause applies to both DBE and non-DBE subcontracts. Non-compliance with this policy will be considered a violation of the contract and will be referred to the Town Attorney's office for remedy up to the possibility of termination of the contract.

Monitoring and Enforcement: 26.29(d)

The Town of Huntington has established a prompt payment mechanism through contract language which is implemented by the Department of Audit and Control which monitors the execution of the process to assure that prompt payment is made and return of retainage is in fact occurring. Any failure to adhere to such guidelines would be enforced by the Office of the Town of Attorney, at the request of the Department of Audit and Control, which has a number of enforcement actions and/or procedures which may be taken, which would be implemented in any given situation as the facts may warrant. In addition to the usual enforcement actions, the Town Board has appointed a Board of Responsibility, which is customarily chaired by the Town Attorney or his or her designee, with the participation of the Director of the Purchasing Department and other Department Directors, to bring contractors whose practices may fail to comply with applicable contract terms before that Board to answer allegations of non-compliance, affording the contractor due process and an opportunity to be heard. The failure of a contractor to address perceived deficiencies may result in a recommendation to the Town Board of the recommended action in the event that the non-compliance is not remedied. Remedies may include a declaration that a contract is in breach and the rights thereunder are deemed forfeited; the withholding of final payment until proof that subcontractors have been paid is submitted, etc.

CONTRACTOR'S LABOR & MATERIAL AFFIDAVIT

Before final acceptance will be made of the contract, and the release of any retainages, the following affidavit must be executed and transmitted to OWNER.

STATE OF NEW YORK)
ss:
COUNTY OF SUFFOLK)

_____, being duly sworn, deposes and says that he/she is _____.
(Name) (Officer)

of _____ which company has a contract with TOWN OF HUNTINGTON,
(Corporation)

bearing date _____ covering _____, _____
(Date of Contract) (Project Number) (Description of Project)

_____

Deponent further swears that the said _____ has paid in full for all labor and
(Corporation)

materials supplied by _____ to _____
(Corporation) (Owner)

in connection with said contract.

This affidavit is made for the purpose of inducing the TOWN OF HUNTINGTON to make a payment under the terms of its contract relying on the truth of the statements contained herein.

Dated _____ _____
(Officer)

Subscribed and sworn to before me

this _____ day of _____, 20 ___.

_____
Notary Public

Attachment 10

*Newspaper and Media Communications**

Newspapers:

The Long Islander

The Northport Observes

El Diaro

Minority Commerce Weekly

La Tribuna Hispana USA

The Haitian Times

Korea Times NY

Other Media:

Town of Huntington official website: *www.HuntingtonNY. gov*

Renaissance Downtowns website: *SourcetheStation.com*

* A good faith effort will be made to publish notices in a representative sample from the above list or from similar publications serving the community.