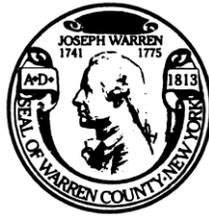


**Warren County
Floyd Bennett Memorial Airport
Glens Falls, NY**



Disadvantaged Business Enterprise (DBE) Program
49 CFR Part 26

Update: June 2017

POLICY STATEMENT

Section 26.1, 26.23

Objectives/Policy Statement

Warren County, owner of Floyd Bennett Memorial Airport, herein called "Airport" 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 Airport has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Airport has signed an assurance that it will comply with 49 CFR Part 26.

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

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities.

Ross Dubarry, Airport Manager, has been delegated as the DBE Liaison Officer. In that capacity, the Airport Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the Department of Transportation.

The Airport has disseminated this policy statement to the Warren County Board of Supervisors and all components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. Copies of this statement are available upon request at the office of the Airport Manager, and to DBE and non-DBE business communities that perform work on DOT-assisted contracts through contract documents.

Ronald Conover
Chairman, Warren County Board of Supervisors

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The Airport is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

Section 26.5 Definitions

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

Section 26.7 Non-discrimination Requirements

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

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11

We will report DBE participation to DOT/FAA as follows:

We will transmit to FAA annually on December 1, the “Uniform Report of DBE Awards or Commitments and Payments” form, found in Appendix B to this part. We will also report the DBE Contractor firms contact information either on the FAA DBE Contractor’s Form or other similar format. We began using the revised Uniform Report of DBE Awards or Commitments and Payments for reporting FY-2015 reports that were due December 1, 2015.

Bidders List: 26.11(c)

The Airport will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information in the following ways:

All bidders are required to complete the Bidder’s List Collection Form found in **Attachment 3** and submit a copy with their bid proposal, or within 5 days of the bid opening.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a) - Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

Warren County 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. Warren County shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. Warren County'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 Warren County of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance: 26.13b - Warren County will ensure that the following clause is included in each contract we sign with a contractor and each subcontract the prime contractor signs with a subcontractor:

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 Warren County 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.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

The Airport is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

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

Ross Dubarry
Airport Manager
443 Queensbury Avenue, Room 201
Queensbury, NY 12804
(518) 792-5995
(518) 792-0783 (fax)
rdubarry@warrencountydpw.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Airport complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Chairman of the Board of Supervisors concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 2** to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a support staff of one in addition to a consulting engineer 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 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) and monitors results.
6. Analyzes the Airport's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Board of Supervisors on DBE matters and achievement.
9. Determine contractor compliance with regard to good faith efforts.
10. Participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process in New York State.
12. Maintains access to the New York State Unified Certification Program (UCP) directory of certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the Airport to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the

community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

The Airport has researched the availability of DBE financial institutions in the directory of certified DBE's maintained by the New York Unified Certification Program as well as the website of the Federal Reserve Board identifying minority-owned banks. There currently are no available DBE financial institutions available. We will continue to conduct a search annually.

Section 26.29 Prompt Payment Mechanisms

The Airport has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 days from receipt of each payment you make to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 days after the subcontractor's work is satisfactorily completed. We will use the following methods to comply with this requirement:

- 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 7 days after your payment to the prime contractor.

The Airport will consider a subcontractor's work satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Airport. When the Airport 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.

The Airport will provide appropriate means to enforce the requirements of this section. Failure to comply with the terms and conditions of this provision shall constitute breach of contract. This failure to comply may result in:

- Further payments for any work performed may be withheld until corrective action is taken; and/or
- The cancelling, terminating or suspending a contract, in whole or in part.

The Airport 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 7 days from the receipt of each payment the prime contractor receives from Warren County. The prime contractor agrees further to return retainage payments to each subcontractor within 7 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of Warren County. This clause applies to both DBE and non-DBE subcontractors.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Airport or DOT. This reporting requirement extends to all subcontractors.

The Airport monitors payments throughout a project. The following forms are required throughout a project:

- Prime Contractors are required to complete the Monthly DBE Report found in **Attachment 5**. The report is required as part of the monthly payment process. A progress payment will not be processed until the report is submitted. The report confirms payments are being made to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the prime contractor's DBE Letter of Intent Form submitted at the beginning of the project.
- Prime Contractors are required to have each subcontractor, DBE and non-DBE firms, complete the Subcontractor's Prompt Payment Certification found in **Attachment 6**. The form is required monthly and is part of the monthly payment process. Any delay in the submitting the required certification will cause a delay in payments being processed.
- Prime Contractors must complete and have each DBE firm sign the Disadvantaged Business Enterprise (DBE) Participation Summary Form upon completion of the project, found in **Attachment 8**. A final payment will not be processed without the required form. The intent of this form is to confirm total payments made to DBE firms. A signature is required by each DBE firm.

Section 26.31 Directory

The Airport utilizes the State of New York Unified Certification Program DBE Directory, maintained by the State of New York Unified Certification Program. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists 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.

The UCP revises the DBE directory daily. The DBE Directory is available as follows:

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

The Directory may be found at <https://nysucp.newnycontracts.com/>.

A link to the Directory may be found in **Attachment 4**.

Section 26.33 Over-concentration

The Airport has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Airport has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The Airport 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 Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. **Attachment 7** lists the regulations, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our DBE Program.
3. We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Prime Contractors are required to complete the Monthly DBE Report found in **Attachment 5**. The report is required as part of the monthly payment process. A progress payment will not be processed until the report is submitted. The report will confirm payments are being made to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the prime contractor's DBE Letter of Intent Form submitted at the beginning of the project. In addition, Prime contractors are required to submit a Disadvantaged Business Enterprise (DBE) Participation Summary Form found in **Attachment 8**. Prime contractors are required to submit the DBE Participation Summary Form for each DBE subcontractor as part of the project closeout process. The form is signed by the DBE firm as a way to confirm the work has been completed and the firm has been paid in full.
4. We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. The Consulting Engineer will complete the certification found in **Attachment 8**. The certification will be submitted at the completion of a project along with the DBE Participation Form completed by the contractor.
5. We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

Section 26.39 Fostering small business participation.

The Airport has created a Small Business 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.

The Airport's small business program element is incorporated as **Attachment 9** to this DBE Program. We will actively implement the program elements to foster small business participation, doing so is a requirement of good faith implementation of our DBE program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

The Airport will establish an overall DBE goal covering a three-year federal fiscal year period. Three-year overall goals will be submitted if we anticipate awarding FAA funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f) the Airport will submit its Overall three-year DBE Goal to FAA by August 1 as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Non-Hub Primary	All Regions	August 1 2016 (2017/2018/2019)	August 1, 2019 (2020/2021/2022)

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Airport does not anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any of the years within the three-year reporting period, we will not develop an overall goal; however, this DBE Program will remain in effect and the Airport will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

(c) Step 1. The first step is to determine the relative availability of DBEs in the market area, "base figure". We will use DBE Directories and Census Bureau Data as a method to determine our base figure. The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on Contracts.

If we use a bidders list, we will do the following: 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, we will establish a

mechanism (documented in our goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on our DOT-assisted contracts.

Any methodology we choose will 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 our market. We understand that 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 (above), is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

26.45 (g)(1) In establishing the overall goal, the Airport will provide for consultation and publication. This includes 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 the Airport's efforts to establish a level playing field for the participation of DBEs. The consultation will 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 Airport's goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, the Airport will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on our 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 will be posted on our official internet web site. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the Airport and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1st deadline.

Our Overall Three-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT.

Section 26.45 (e) - Project Goals

If permitted or required by the FAA Administrator we will express our overall goals 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. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. 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.

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.

Section 26.45(f) - Prior Operating Administration Concurrent

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

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment 10** to this program.

Section 26.47 Failure to meet overall goals.

The Airport will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the Airport's awards and commitments shown on our 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, we will 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 our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;
- (3) The Airport will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (C) (1) and (2) of this section. We will retain a copy of this analysis and corrective actions in our records for a minimum of three years, and will make it available to the FAA upon request.

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

The Airport will meet the maximum feasible portion of its 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.

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 facilitates DBE, and other small businesses, participation;
2. Consider unbundling large contracts to make them more accessible to small businesses when possible;
3. 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 the Airport's mailing lists for bidders; ensuring dissemination to bidders on prime contracts of lists of potential subcontractors);
4. Refer DBE's to local support service programs to develop and improve long-term business management, record keeping, and financial and accounting capability for DBE's and other small businesses;
5. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
6. Provide instructions and clarification on bid specifications, general bidding requirements, and procurement policies and procedures; and
7. Discuss the DBE goal and DBE requirements at Pre-bid meetings to encourage prime contractors to solicit DBE firms in subcontracting opportunities.

The breakout of estimated race-neutral and race-conscious participation can be found in **Attachment 10** to this program.

Section 26.51(d-g) Contract Goals

The Airport will arrange 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.

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

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

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

Ross Dubarry, Airport Manager is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsible.

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

Information to be submitted (26.53(b))

In our solicitations for DOT/FAA-assisted contracts for which a contract goal has been established, we will 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) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section:
 - No later than 5 days after the bid opening as a matter of responsibility.

The required forms, Contractor's DBE Plan along with a copy of the DBE Letter of Intent form (for each DBE) can be found in **Attachment 11**.

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.

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by the Airport that it is not responsible 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: Jeffery Tennyson, Superintendent of Public Works, 4028 Main Street, Warrensburg, NY 12885, (518) 761-6556. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

We will include in each prime contract a provision stating:

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 26.53(f); and

That, unless our consent is provided under this paragraph 26.53(f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

We will require the contractor that is 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.

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.

We will 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 our prior written consent. This includes, but 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.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that we have determined 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.

Before transmitting to us 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 us, of its intent to request to terminate and/or substitute, and the reason for the request.

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

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

The Airport will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. 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 that we established for the procurement. The good faith efforts shall be documented by the contractor. If we request documentation from the contractor under this provision, the contractor shall submit the documentation to us 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.

We will 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 that we deem appropriate if the prime contractor fails to comply with the requirements of this section.

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 Warren County 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/offers, including those who qualify as a DBE. A DBE contract goal of XX percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, 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. 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; (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; and (5) 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; (6) if the contract goal is not met, evidence of good faith efforts.

The required forms, Contractor's DBE Plan along with a copy of the DBE Letter of Intent form (for each DBE), found in **Attachment 11**, will be used to collect information necessary to determine whether the bidder has satisfied these requirements.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

If the 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, we will not count the firm's participation toward any DBE goals, except as provided for in 26.87(j).

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Airport is a member of the New York State Unified Certification Program (UCP) and will rely on the certifying partners to use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will rely on the UCP to make certification decisions based on the facts as a whole.

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

New York State Department of Transportation
Contract Audit Bureau
DBE Certification
50 Wolf Road, 6th Floor
Albany, NY 12232
Telephone Number: (518) 457-3180
Fax Number: (518) 457-1675
DBECert@dot.ny.gov

The certification application forms and documentation requirements are found in **Attachment 12** to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Airport is a member of the Unified Certification Program (UCP) administered by New York State Unified Certification Program. The UCP will meet all of the requirements of this section. A copy of the signed agreement page of the membership of the UCP between the Airport and the UCP can be found in **Attachment 13**.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

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

In responding to requests for information concerning any aspect of the DBE program, the Airport will comply with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a) and New York State Freedom of Information Law (NYS Public Officers Law section 84 et. seq) which applies to “any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books,

manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes". (NYS Public Officers Law 86(4)). There is an exception to this law for records that are trade secrets and records derived from information that is part of a commercial enterprise, which if discovered would cause substantial injury to that commercial enterprise (NYS Public Officers Law 87(2)(d)).

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

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

The Airport, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 or website link
- Attachment 2 Organizational Chart (Section 26.25)
- Attachment 3 Bidder's List Collection Form (Section 26.11 (c))
- Attachment 4 DBE Directory or link to (Section 26.31)
- Attachment 5 Monthly DBE Report (Section 26.29)
- Attachment 6 Subcontractor's Prompt Payment Certification (Section 26.29)
- Attachment 7 DBE Monitoring and Enforcement Mechanisms (Section 26.37)
- Attachment 8 DBE Participation Summary Form; Written Certification (Section 26.37)
- Attachment 9 Small Business Element Program (Section 26.39)
- Attachment 10 Overall Goal Calculations (Section 26.45); Breakout of Race-Neutral & Race-Conscious Participation (Section 26.51)
- Attachment 11 Demonstration of Good Faith Efforts or Good Faith Effort Plan (Section 26.53)
- Attachment 12 DBE Certification Application Form (Section 26.61 – 26.73)
- Attachment 13 State's UCP Agreement (Section 26.81)

ATTACHMENT 1

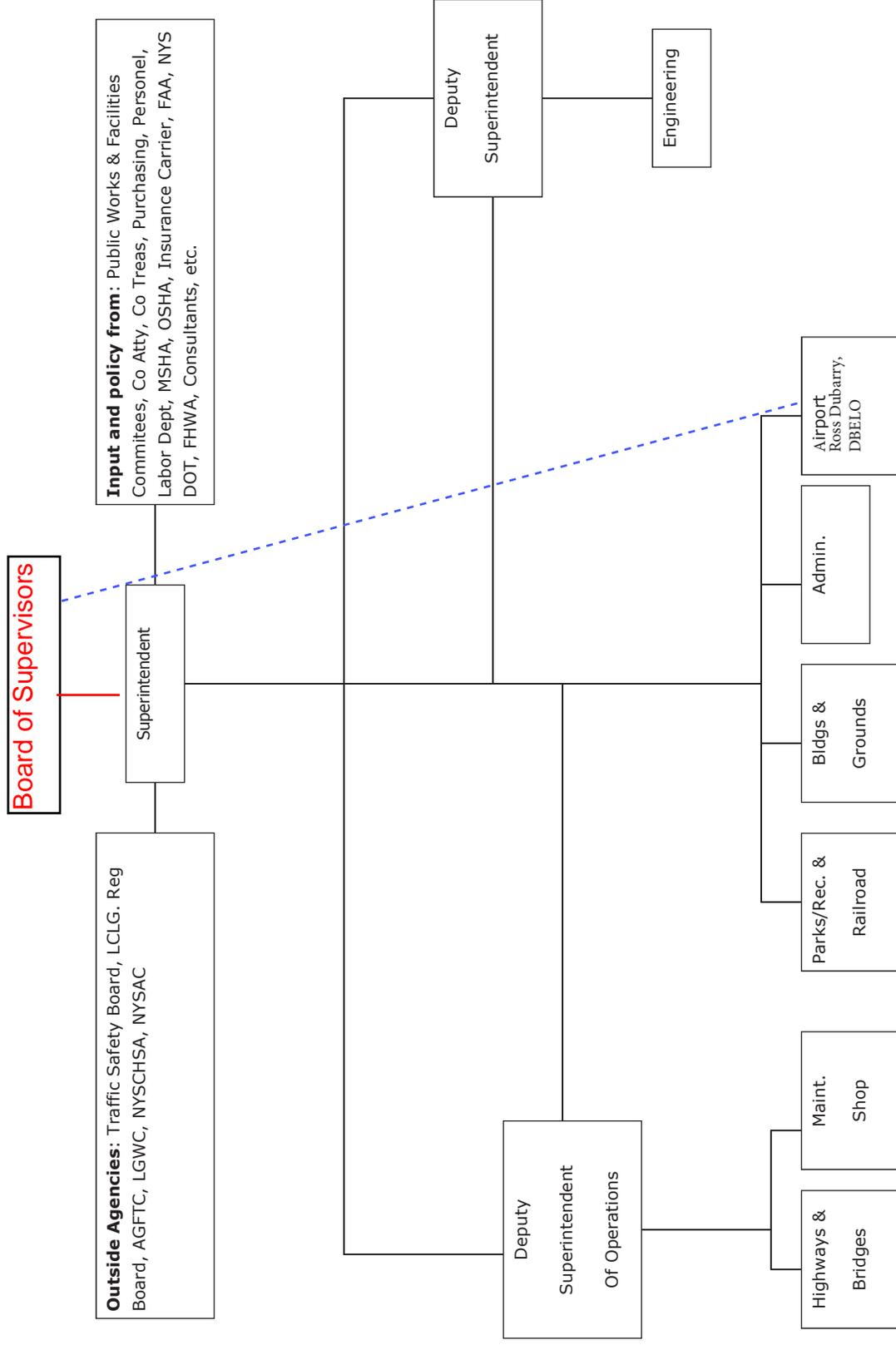
Regulations: 49 CFR Part 26, link to website

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

ATTACHMENT 2

Section 26.25: Organizational Chart

Department of Public Works (All Divisions)



ATTACHMENT 3

Section 26.11: Bidder's List Collection Form

**BIDDER'S LIST COLLECTION FORM
(Bidder's Information)**

The sponsor is required by CFR Title 49, Subtitle A, Part 26, Subpart A, Section 26.11 to collect the following information from the bidder. As such, it is the responsibility of the bidder to complete the following information as a condition of submitting a proposal for this project. The sponsor will consider incomplete information to be an irregular proposal.

Airport Name: _____ AIP No. _____

Project Name: _____

Bidder's Information

Firm Name	Firm Street Address, City, State, Zip Code, Phone No.	DBE/Non DBE Status	Age of Firm	Annual Gross Receipts
	_____ _____ _____ _____ _____	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M

(This form must be completed and submitted with the Proposal.)

**BIDDER'S LIST COLLECTION FORM
(Subcontractor's Information)**

The sponsor is required by CFR Title 49, Subtitle A, Part 26, Subpart A, Section 26.11 to collect the following information from each subcontractor submitting a quote, bid or proposal to the bidder. As such, it is the responsibility of the bidder to complete the following information as a condition of submitting a proposal for this project. The sponsor will consider incomplete information to be an irregular proposal.

Please note that the information requested below must be filled out for each quote received by the bidder, regardless of DBE status. For example, if the bidder requests quotes from three contractors for electrical work, the information requested below must filled out for the three subcontractors. It is important to note that providing the information does not commit the bidder to using any one of the three subcontractors in the work.

Airport Name: _____ AIP No. _____

Project Name: _____

Subcontractor's Information

Firm Name	Firm Street Address, City, State, Zip Code, Phone No.	DBE/Non DBE Status	Age of Firm	Annual Gross Receipts
	_____ _____ _____ _____ _____	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M
	_____ _____ _____ _____ _____	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M
	_____ _____ _____ _____ _____	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M

Firm Name	Firm Street Address, City, State, Zip Code, Phone No.	DBE/Non DBE Status	Age of Firm	Annual Gross Receipts
	<hr/> <hr/> <hr/> <hr/> <hr/>	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M
	<hr/> <hr/> <hr/> <hr/> <hr/>	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M
	<hr/> <hr/> <hr/> <hr/> <hr/>	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M
	<hr/> <hr/> <hr/> <hr/> <hr/>	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1-3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 yrs.	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1-\$2M <input type="checkbox"/> \$2-\$5M <input type="checkbox"/> More than \$5M

(Copy this form and submit with your original proposal if more space is needed.)

(This form must be completed and submitted with the Proposal.)

ATTACHMENT 4

Section 26.31: State of New York Unified Certification Program
DBE Directory

<https://nysucp.newnycontracts.com/>

ATTACHMENT 5

Section 26.29 Monthly DBE Report

MONTHLY DBE REPORT

Airport Name: _____

Project Name: _____

FAA AIP Project No.: _____

Name of Contractor's Firm: _____

DBE Firm	Status This Report	Total DBE Contract Amount	Payments this Period	Previous Payments	Total DBE Payments To Date

Signature of Contractor's Representative

Date

ATTACHMENT 6

Section 26.29 Subcontractor's Prompt Payment Certification

SUBCONTRACTOR'S PROMPT PAYMENT CERTIFICATION

NOTE: Each Contractor shall provide a copy of this form to each of their Subcontractors (DBE and non-DBE) that are working on or has worked on this project. This certification applies to all tier Subcontractors. A completed copy of this form shall be submitted to the Sponsor's representative, the Prime Contractor and the Contractor you are working for at least 7 days prior to an application for payment. Any Subcontractor failing to submit a copy of this form shall be cause for the Sponsor's representative to delay the payment application. Reference Section 70-21, Item 12 for information on 49 CFR §26.29 with regard to Prompt Payment.

Should a Subcontractor indicate that they have not received payment for work they performed in which their Contractor has received payment, the Sponsor shall withhold the delinquent amount indicated unless the Contractor received written approval from the Sponsor of the Contractor's written request justifying withholding payment from the Subcontractor.

=====

Project Title: _____

Airport Name: _____

AIP No.: _____

Company Name: _____

Company Address: _____

_____ Contact Phone No.: _____

Contractor's Name you subcontract to: _____

=====

1. Have you performed work on this project within the last 30 days? Yes ___ No ___

2. Has the work you performed within the last 30 days been completed and accepted by the Engineer? Yes ___ No ___ Not sure ___

3. Have you been paid by the contractor you subcontracted with for the work you performed? Yes ___ No ___

4. Estimated value of work performed in which you did not receive payment: \$ _____

5. Have you completed all work that you are required to perform on this contact? Yes ___ No ___

Written Name of Subcontractor's Rep. _____

Signature: _____ Date: _____

ATTACHMENT 7

Section 26.37: DBE Monitoring and Enforcement Mechanisms

The Airport has a number of remedies available under New York State law to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

New York State Constitution: Article 1, Section 11, of the NYS Constitution prohibits discrimination against anyone because of race, color, creed, or religion by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision thereof. NY Executive Law Section 296 (see below) substantially extends to employment relationships the equal protection clause (Art.1, Sec.11) of the Constitution.

New York General Municipal Law: Article 5-A, Sections 103-a and 103-b, allows a municipal corporation or any public department, agency, or official to cancel or terminate any contract made with a contractor who refuses to appear before a grand jury, head of a state department, temporary state commission, or other state agency that is empowered to compel the attendance of witnesses.

New York Labor Law: Article 8, Section 220-e, provides that every contract for or on behalf of the state or a municipality for the construction, alteration, or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies shall contain provisions by which a contractor with the state or municipality agrees, among other things, that it will not discriminate in the hiring of employees (Subparagraph (a)), that there may be deducted from any amount payable to the contractor by the state or municipality under the contract a penalty of \$50 for each person for each calendar day during which such person was discriminated against or intimidated in violation of this contractual provision (Subparagraph (c)), and that moneys due or to become due under the contract may be forfeited for a second or any subsequent violation.

New York State Finance Law: Article 9, Sections 139-a Grounds for cancellation of contract by state and 139-b Disqualification to contract with state.

New York Transportation Law: The authority for the New York State Department of Transportation to establish a Disadvantaged Business Enterprise (DBE) Program is in the Surface Transportation Assistance Act of 1983, section 105(f); The Surface Transportation and Uniform Relocation and Assistance Act of 1987, section 106(c); the Intermodal Surface Transportation Efficiency Act of 1991; the Transportation Equity Act for the 21st Century; title 49 of the Code of Federal Regulations, part 26; New York Highway Law, section 85; and such other laws, rules, regulations and orders as may apply. (17 NYCRR 35.1).

Further, the policy of the NYSDOT is expressed in 17 New York Code of Rules and Regulations (NYCRR) Part 35, Section 35.2, to afford the opportunity for full participation in the free enterprise system to socially and economically disadvantaged persons for encouraging utilization of disadvantaged business enterprises in NYSDOT construction projects. Part 35, Section 35.3, adopts by reference the federal DBE regulations found in 49 Code of Federal Regulations (CFR) Part 26 (reference is made to Volume 64, Number 21 of the Federal Register, issued February 2, 1999).

New York Executive Law: Section 296 details the types of discrimination that are unlawful in New York. Sections 297 and 298 contain the review and enforcement procedures available through the Human Rights Division or the courts.

New York Highway Law: Section 85 states that the Commissioner of Transportation is authorized, empowered, and directed to perform and do such other and further acts as may be necessary to comply with federal highway aid requirements and transportation acts.

New York Civil Practice Law and Rules: These laws and rules govern the enforcement of a party's rights and obligations in state courts.

In addition, each contract for work that includes federal funding sets forth the federally required Airport Aid Contract Provisions that contain non-discrimination requirements, sanctions for non-compliance and DBE assurances. In addition, where state funding is involved, there are New York State standard provisions which include non-discrimination requirements and a restatement of the remedies available under New York Labor Law, as set forth previously in this document.

The Airport has a number of Contract remedies available to enforce DBE requirements.

- Contract Assurance 26.13b – discrimination by a contractor is considered a material breach of contract and may result in termination of the contract; withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the contractor from future bidding as non-responsible.
- Breach of Contract – Any violation or breach of terms of the contract may result in the suspension or termination of a contract, the withholding of payments until such time the contractor corrects the breach of contract.
- Sanctions for Noncompliance - In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a) Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancelling, terminating, or suspending a contract, in whole or in part.

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

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

ATTACHMENT 8

Section 26.39: DBE Participation Summary Form & Written Certification

**DISADVANTAGED BUSINESS ENTERPRISE
DBE PARTICIPATION SUMMARY**
(Submit one form for each DBE Firm.)

Airport Name _____

Contractor Name: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Firm DBE Firm: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Contact Person Name: _____ Phone: _____

DBE Certification Agency: _____ **Expiration Date:** _____

Each DBE Firm shall submit evidence (such as a photocopy) of their certification status.

**DBE Commitments/Awards
-Breakdown By
Ethnicity & Gender**

- | | |
|--|--|
| <input type="checkbox"/> Black American | <input type="checkbox"/> Asian-Pacific American |
| <input type="checkbox"/> Hispanic American | <input type="checkbox"/> Non-Minority Women |
| <input type="checkbox"/> Native American | <input type="checkbox"/> Other (i.e. not of any group listed here) |
| <input type="checkbox"/> Subcontinent Asian American | |

Classification:

- | | |
|---|--|
| <input type="checkbox"/> Prime Contractor | <input type="checkbox"/> Supplier |
| <input type="checkbox"/> Manufacturer | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Subcontractor | |

Work items performed by DBE	Description	Quantity	Amount Paid to DBE

The Contractor utilized the above-named DBE Firm for the work items described above.
The actual participation is as follows:

Total amount paid to DBE Firm: \$ _____ Percent of Contractor's total contract: _____ %

Affirmation:

The above-named DBE Firm affirms that it has performed the work items described above and has been paid the amount stated above.

By: _____
(Signature) (Title)

February 4, 2014

[Client Name and Address]

Re: [Airport Name]
[Project Name]
AIP Project No. [AIP #]
[State DOT] Project No. [State DOT #]

File: [File No.]

Dear [Client Contact]:

This letter is written certification that we have reviewed contracting records and monitored work sites for compliance with 49 CFR Part 26, in particular, the requirements of §26.37 – Monitoring and Enforcement Mechanisms.

On your behalf, we have reviewed the Contract Documents, reviewed the Pre-Bid meeting minutes, reviewed the Pre-Construction meeting minutes, reviewed the weekly progress meeting minutes, reviewed the Pre-Final Inspection minutes, reviewed the Final Inspection minutes, reviewed the Inspector's Daily Reports, reviewed the Engineer's Weekly Reports, and we were on-site daily to monitor construction activities.

We have not detected false, fraudulent, or dishonest conduct in connection with this contract.

Attached is one copy of the Disadvantaged Business Enterprise, DBE Participation Summary forms for each DBE firm.

If you have any questions, or need additional information, please do not hesitate to contact me.

Very truly yours,

C&S ENGINEERS, INC.

[Name]

[Title]

Enclosures

ATTACHMENT 9

Section 26.39: Small Business Element Program

SMALL BUSINESS ELEMENT

49 CFR PART 26.39

49 CFR Part 26.39: FOSTERING SMALL BUSINESS PARTICIPATION

A. Objective (49 CFR Part 26.39)

In accordance with 49 CFR Part 26.39, the Airport has created 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. For clarification purposes, 49 CFR Part 26.5 states, “*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).”

In compliance with 49 CFR Part 26.39, Fostering Small Business Participation, the Airport will meet its objectives using a combination of the following methods and strategies:

1. Where feasible, on FAA-assisted contracts, the Airport will establish a race-neutral small business set-aside on prime contracts less than \$250,000. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location.
2. On Prime contracts not having DBE contract goals, we will require prime contractors to provide subcontracting opportunities that small businesses, including DBEs, can reasonably perform, rather than self-performing all of the work.
3. The Airport and Consulting Engineer will encourage prime contractors to utilize BID Express – Small Business Network administered by the New York State Department of Transportation Office of Civil Rights. BID Express is a Web-based service that provides for the electronic submission of bids by contractors. The Small Business Network (SBN) is within the Bid Express Basic Service and allows prime contractors to solicit subcontractors. SBN includes a function that allows prime contractors to search for small businesses, and even allows prime contractors to filter the results for only DBE firms if desired. The Small Business Network is helpful in bringing prime contractors and small businesses, as well as DBE firms together to meet the specific requirements of a project. The SBN service also aids prime contractors by documenting Good Faith Efforts to obtain DBE participation. Subcontractors can search for quote requests by the type of materials and/or services they provide, location or by prime contractor name. Users can also filter for contracts that only include a DBE Goal if desired. This information will be provided to prime contractors. Information regarding SBN can be found on: <https://www.dot.ny.gov/main/business-center/civil-rights/bidexpress> or by e-mail at OCR-SBN@dot.state.ny.us.

The Airport will require that Prime Contractor(s) complete the attached form Entitled *Small Business Participation Plan*.

B. Definitions

1. Small Business:
A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) —

- 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;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) does not exceed the described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE in the State of New York in accordance with 49 CFR 26.

For the purposes of the small business element of the Airport's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be strongly encouraged to seek DBE certification. In addition, minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

C. Certification and Verification Procedures

The Airport will accept the following certifications for participation in the small business element of the Airport's DBE Program with applicable stipulations:

1. NYS DOT DBE Certification – DBE Certification by the NYS DOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by NYS DOT.
2. SBA (as described in 13 CFR Part 121) – will require the number of employees over the past 12 months and average annual receipts over the past three years using NAICS codes to determine if the business meets the size standards.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of average annual receipts over the past three years.

D. Implementation Schedule

The Airport will implement this small business element within three months of the FAA's approval of this document describing the element.

E. Assurances

The Airport makes the following assurances:

1. The DBE Program, including the small business element is not prohibited by law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small business regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.

SMALL BUSINESS PARTICIPATION PLAN

Sponsor's Name:	
Airport Name:	
City, State:	
AIP Number:	
Federal Fiscal Year:	

In accordance with 49 CFR Part 26, §26.39, the following detailed list shall be completed by the Contractor for construction work items and professional services work items to be performed by all subcontractors and suppliers which will be involved in the work that qualify as a Small Business, whether registered as such, or not. The firms listed do not have to be certified DBE firms. This form shall be filled out and submitted to the Sponsor prior to the start of construction.

Small Business Firms to be Utilized (Name, Address, Phone)		Work to be Performed	Total Estimated Cost of Work
Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

ATTACHMENT 10

Section 26.45: Overall DBE Three-Year Goal Methodology
Section 26.51: Breakout of Race-Neutral & Race-Conscious Participation

*Warren County
Floyd Bennett Memorial Airport
Glens Falls, NY*



Disadvantaged Business Enterprise (DBE) Program

49 CFR Part 26

Overall DBE Three-year Goal Methodology

FY2017 – FY2019

**DBE GOAL for FY-2017/2018/2019
FLOYD BENNETT MEMORIAL AIRPORT
GLENS FALLS, NEW YORK**

Section 26.45: Overall DBE 3-Year Goal Methodology

Name of Recipient: Warren County

Goal Period: FY-2017-2018-2019 – October 1, 2016 through September 30, 2019

DOT-assisted contract amount:	FY-2017	<u>\$1,577,526</u>
	FY-2018	<u>\$4,841,496</u>
	FY-2019	<u>\$3,365,604</u>
	Total	<u>\$9,784,626</u>

Overall Three-Year Goal: 3.2%, to be accomplished through 2.4% RC and .8% RN

Total dollar amount to be expended on DBE's: \$300,931*

**Calculation based on number used in goal calculation in Step 1 \$9,404,100, which excludes projects of portions of projects where there is no possibility for DBE participation (FAA Reimbursable Agreement).*

Describe the Number and Type of Projects that the airport anticipates awarding:

Fiscal Year No. 1: Projects FY-2017

1. Runway 1-19 Extension (Final Design); FAA Reimbursable Agreement \$880,026*
3. Airfield Guidance Sign Replacement; Airfield Markings; Pavement Repairs (Construction) \$697,500

Fiscal Year No. 2: Projects FY-2018

1. Runway 1-19 Extension (Construction) & Wetland Mitigation – Phase I \$4,283,496*
2. Aircraft Apron Rehabilitation (Design) \$108,000
3. Acquire Snow Removal Equipment \$450,000

Fiscal Year No. 3: Projects FY-2019

1. Runway 1-19 Extension (Construction) & Wetland Mitigation – Phase II \$3,365,604*

**A portion of the project is not included in the goal calculation.*

Market Area:

The Airport's normal market area is primarily based on two factors: 1) where the substantial majority of all firms (DBE contractors/subcontractors and non-DBE contractors/subcontractors) are located with whom the Airport does business and 2) where the substantial majority of contracting dollars are anticipated to be spent by the Airport on USDOT assisted projects. The market area consists of the following Counties: Warren County, Albany County, and Rensselaer County. Approximately 86% of bidders over the last ten years, on similar projects, are from these counties and 80% of low bidders are from these counties.

Step 1. Analysis: Actual relative availability of DBE's

The first step in establishing an overall goal for DBE participation is to establish a Base Figure for the relative availability of DBE vendors with the Airport's overall Normal Market Area from business categories associated with the Airport's projects in Fiscal Year (FY) 2017, 2018 and 2019.

Method: Use of DBE Directories and US Census Bureau Data

The base figure of actual relative availability of DBE's is based on the total number of contractors and subcontractors located in the Market Area identified as Warren County, Albany County, and Rensselaer County. The total number of contractors and subcontractors in the Market Area for the North American Industry Classification System (NAICS) listed below were obtained from the US Census Bureau using the County Business Patterns for 2014. The total number of DBE contractors and subcontractors were obtained from the New York State Unified Certification Program (NYSUCP) Disadvantaged Business Enterprise (DBE) Directory.

Fiscal Year #1

For FY-2017, we anticipate the award of the following:

A	B	C	D	E	F	G	H	I
Project Name	Trade Description	NAICS Description	NAICS	Trade \$	Census	DBE Directory	DBE (%) (=G/F)	DBE (\$) (=ExH)
Projects #1 Runway 1-19 Extension (Design), Mitigation & Permitting	Design	Engineering Services	541330	\$751,950	118	5	4.2%	\$31,582
	Testing/Borings	Testing Laboratories	541380	\$44,550	15	0	0%	\$0
	Survey	Surveying	541370	\$18,000	18	1	5.6%	\$1,008
Total Project				\$814,500*	151	6	4.0%	\$32,590
Project #2 Airfield Guidance Sign Replacement; Pavement Repairs; Airfield Markings (Construction)	Engineering	Engineering Services	541330	\$83,000	118	5	4.2%	\$3,486
	Survey	Surveying	541370	\$9,000	18	1	5.6%	\$504
	Electrical	Electrical Contractors	238210	\$193,680	139	1	.7%	\$1,356
	Paving, Markings	Highway & Street Construction	237310	\$411,820	34	2	5.9%	\$24,297
Total Project				\$697,500	309	9	4.2%	\$29,643
Total FY-2017				\$1,512,000	460	15	4.1%	\$62,233

*The cost of the FAA Reimbursable Agreement (\$65,526) is not included in the calculation.

Fiscal Year #2

For FY-2018, we anticipate the award of the following:

A	B	C	D	E	F	G	H	I
Project Name	Trade Description	NAICS Description	NAICS	Trade \$	Census	DBE Directory	DBE (%) (=G/F)	DBE (\$) (=ExH)
Project #1 Runway 1-19 Extension (Construction) – Phase I	Inspection	Engineering Services	541330	\$374,976	118	5	4.2%	\$15,749
	Survey	Surveying	541370	\$30,240	18	1	5.6%	\$1,693
	Testing/Borings	Testing Laboratories	541380	\$15,120	15	0	0%	\$0
	Paving, Markings	Highway & Street Construction	237310	\$1,102,424	34	2	5.9%	\$65,043
	Excavation, Wetland Mitigation	Site Preparation	238910	\$1,713,600	84	1	1.2%	\$20,563
	Fencing	All other specialty trade contractors	238990	\$29,232	87	0	0%	\$0
	Electrical	Electrical Contractors	238210	\$688,792	139	1	.7%	\$4,822
	Seeding	Landscaping Services	561730	\$152,712	217	2	.9%	\$1,374
Total Project				\$4,107,096*	712	12	2.7%	\$109,244
Project #2 Snow Removal Equipment	Purchase Snow Removal Equipment	Construction Machinery Manufacturing	333120	\$450,000	6	0	0%	\$0
Total Project				\$450,000	6	0	0%	\$0
Project #3 Aircraft Apron Rehabilitation (Design)	Design	Engineering Services	541330	\$98,000	118	5	4.2%	\$4,116
	Survey	Surveying	541370	\$5,500	18	1	5.6%	\$308
	Testing/Borings	Testing Laboratories	541380	\$4,500	15	0	0%	\$0
Total Project				\$108,000	151	6	4.1%	\$4,424
Total FY-2018				\$4,665,096	869	18	2.4%	\$113,668

*The cost of the FAA Reimbursable Agreement (\$176,400) is not included in the calculation.

Fiscal Year #3

For FY-2019, we anticipate the award of the following:

A	B	C	D	E	F	G	H	I
Project Name	Trade Description	NAICS Description	NAICS	Trade \$	Census	DBE Directory	DBE (%) (=G/F)	DBE (\$) (=ExH)
Project #1 Runway 1-19 Extension (Construction) – Phase II	Inspection	Engineering Services	541330	\$294,624	118	5	4.2%	\$12,374
	Survey	Surveying	541370	\$23,760	18	1	5.6%	\$1,331
	Testing/Borings	Testing Laboratories	541380	\$11,880	15	0	0%	\$0
	Paving, Markings	Highway & Street Construction	237310	\$866,191	34	2	5.9%	\$51,105
	Excavation, Wetland Mitigation	Site Preparation	238910	\$1,346,400	84	1	1.2%	\$16,157
	Fencing	All other specialty trade contractors	238990	\$22,968	87	0	0%	\$0
	Electrical	Electrical Contractors	238210	\$541,193	139	1	.7%	\$3,788
	Seeding	Landscaping Services	561730	\$119,988	217	2	.9%	\$1,080
Total Project				\$3,227,004*	712	12	2.7%	\$85,835
Total FY-2019				\$3,227,004	712	12	2.7%	\$85,835

*The cost of the FAA Reimbursable Agreement (\$138,600) is not included in the calculation.

Step 2. Analysis: Adjustment to Step 1 base figure

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

An examination of the anticipated projects for each fiscal year, the availability of the DBE firms by trade classification and the volume of work performed by DBE firms over the years.

The data used to determine the adjustment to the base figure was the median of historical DBE accomplishments as follows:

FY	Total Grant \$ Amount	DBE Goals			Accomplishments			Type of Work
		RC	RN	Total	RC	RN	Total	
2011	\$228,000	2.9%	0%	2.9%	2.4%	0%	2.4%	Land Acquisition, Building Construction
2012	\$140,400	2.9%	0%	2.9%	2.9%	.7%	3.6%	Engineering, Land Acquisition
2013	\$1,586,244	2.9%	0%	2.9%	2.9%	.8%	3.7%	Engineering, Environmental, Tree Removal, Land Acquisition
2014	\$73,297	Goal not required; funding less than \$250,000						Snow Removal Equipment
2015	\$1,395,000	2.2%	.1	2.3%	0%	0%	0%	Engineering, Environmental, Land/Easement Acquisition
2016	\$858,600	2.2%	.1	2.3%	2.2%	1.47%	3.77%	Tree Removal, Engineering, Survey, Land/Easement Acquisition

Arranging this historical data from low to high, (2.4%, 3.6%, 3.7%, 3.77%) the median is 3.65%.

**Fiscal Year 2015 not included because the majority of the funding was for the purchase of land and/or easements.*

The proposed Overall DBE Goals are as follows:

- Fiscal Year #1 3.9% $((4.1\% + 3.65\%)/2)$
- Fiscal Year #2 3.0% $((2.4\% + 3.65\%)/2)$
- Fiscal Year #3 3.2% $((2.7\% + 3.65\%)/2)$

Our proposed overall three-year goal will be reflected as the median of the three years, 3.2%.

To arrive at an overall goal, we added our Step 1 base figure with our Step 2 adjustment figure and then took the median of the three-year calculation to arrive at an overall goal of 3.2%. We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of project work being awarded during FY-17/18/19.

Further, there are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of DBEs in Warren County, Albany County, and Rensselaer County.

The Airport's overall goal for FY 2017/2018/2019 is the following: 3.2% of the Federal financial assistance we will expend on DOT-assisted contracts.

Breakout of Estimated Race Neutral (RN) and Race Conscious (RC) Participation.

26.51(b)(1-9)

The recipient will meet the maximum feasible portion of its overall goal by using Race-Neutral means of facilitating DBE participation:

1. Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Providing technical assistance and other services upon request;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
4. Refer DBEs to local support service programs to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBE's and other small businesses;
5. Provide services to help DBE's 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;
6. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
7. Assist DBE's and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and

We estimate that in meeting its overall goal 3.2%, it will obtain .8% from Race-Neutral participation and 2.4% through Race-Conscious measures.

This breakout is based on:

As seen in Step 2 of the overall goal calculation the airport's recent history of median DBE accomplishments is 3.65% compared to the median overall DBE goal of 2.9%. The average goal was exceeded by .75%, therefore, we are applying the difference of .8% (rounded to the nearest tenth of a percent) to race-neutral participation.

We will adjust the estimated breakout of Race-Neutral and Race-Conscious DBE participation as needed to reflect actual DBE participation (see Section 26.51(f)) and track and report Race-Neutral and Race-Conscious participation separately. For reporting purposes, Race-Neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Public Participation

Consultation: Section 26.45(g)(1).

In establishing the overall goal, the Airport will provide for consultation and publication. This includes 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 the Airport's efforts to establish a level playing field for the participation of DBEs. The consultation will 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 Airport's goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

The Airport submits its overall DBE three-year goal to DOT on August 1 as required by the set schedule.

The Airport invited the NYS Department of Transportation Office of Civil Rights, NYS Empire State Development Division of Minority and Women's Business Development, Airport Minority Advisory Council, The National Minority Business Council, and Associated General Contractors of New York State LLC to consult on the goal setting process, in an effort to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Airport's efforts to establish a level playing field for the participation of DBEs. The consultation was held on February 14, 2017. No comments were received.

Following the consultation, we will publish a notice of the proposed overall goal in the Post Star and News Enterprise, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Airport for 30 days following the date of the notice, and informing the public that the Airport and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses, if any.

PUBLIC NOTICE

Floyd Bennett Memorial Airport hereby announces its fiscal year 2017, 2018 and 2019 goal of 3.2% for Disadvantaged Business Enterprise (DBE) airport construction projects. The proposed goal and rationale are available for inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at Floyd Bennett Memorial Airport, 443 Queensbury Avenue, Ste. 201, Queensbury, NY 12804 for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 45 days from the date of this publication and can be sent to the following:

Ross V. Dubarry
Airport Manager
Floyd Bennett Memorial Airport
443 Queensbury Avenue, Ste. 201
Queensbury, New York 12804

or

Alexander Horton
DBE/ACDBE Compliance Specialist
Office of Civil Rights – ACR-4
Federal Aviation Administration
15000 Aviation Boulevard
Lawndale, CA 90261
Phone: 310-725-3947
Fax: 310-725-6819
alexander.horton@faa.gov

Contract Goals

The recipient will use contract goals to meet any portion of the overall goal that the recipient 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 the recipient's overall goal that is not projected to be met through the use of Race-Neutral means.

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

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

ATTACHMENT 11

Section 26.53: Demonstration of Good Faith Efforts

CONTRACTOR'S DBE PLAN

(Submit this form and attach one DBE Letter of Intent Form for each DBE subcontractor, supplier or manufacturer.)

Airport Name: _____

Project Name: _____

FAA AIP Project No: _____

Total Awarded Contract Amount: \$ _____

Name of Bidder's Firm: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Printed name of signer: _____

Printed title of signer: _____

DBE UTILIZATION SUMMARY

	<u>DBE Contract Amount</u>	<u>DBE Value</u>	<u>Contract %</u>
DBE Prime Contractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Subcontractors	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Suppliers	\$ _____ x 0.60 =	\$ _____	_____ %
DBE Manufacturers	\$ _____ x 1.00 =	\$ _____	_____ %
* Total Proposed DBE Participation		\$ _____	_____ %
Established DBE Goal		\$ _____	_____ %

* If the total proposed DBE participation is less than the established DBE goal, Bidder must provide written documentation of the good faith efforts as required by 49 CFR Part 26.

Affirmation:

The undersigned hereby assures that the information included herein is true and correct, and that the DBE firm(s) listed on the attached DBE Letter of Intent Forms have agreed to perform a commercially useful function in the work items noted for each firm. The undersigned further understands that no changes to this plan may be made without prior approval from the Civil Rights Staff of the Federal Aviation Administration.

By: _____
(Signature of Bidder's representative)
(Title)

ATTACHMENT 12

Section 26.61 – 26.73: DBE Certification Application Form



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 (\$56.42 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) _____



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:

Table with 2 columns: Type, Dollar Value. Rows: 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 _____

Table with 3 columns: (10) Initial investment to acquire ownership interest in firm, Type, Dollar Value. Rows include Cash, Real Estate, Equipment, and 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)				Minority Owner (49% or less)			
		Name: _____	Title: _____	Percent Owned: _____		Name: _____	Title: _____	Percent Owned: _____	
Sets policy for company direction/scope of operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

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				Officer/Director/Manager/Key Personnel			
	Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____				Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____			
Sets policy for company direction/scope of operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

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:

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

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

<u>Name of Concession</u>	<u>Location</u>	<u>Type of Concession</u>	<u>Start Date of Concession</u>



AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed),
swear or affirm under penalty of law that I am
_____ (title) of the applicant firm

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

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

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

If awarded a contract, subcontract, concession lease or
sublease, I agree to promptly and directly provide the prime
contractor, if any, and the Department, recipient agency, or
federal funding agency on an ongoing basis, current, complete
and accurate information regarding (1) work performed on the
project; (2) payments; and (3) proposed changes, if any, to the
foregoing arrangements.

I agree to provide written notice to the recipient agency or
Unified Certification Program of any material change in the
information contained in the original application within 30
calendar days of such change (e.g., ownership changes,
address/telephone number, personal net worth exceeding \$1.32
million, etc.).

I acknowledge and agree that any misrepresentations in this
application or in records pertaining to a contract or subcontract
will be grounds for terminating any contract or subcontract
which may be awarded; denial or revocation of certification;
suspension and debarment; and for initiating action under
federal and/or state law concerning false statement, fraud or
other applicable offenses.

I certify that I am a socially and economically disadvantaged
individual who is an owner of the above-referenced firm seeking
certification as a Disadvantaged Business Enterprise or Airport
Concession Disadvantaged Business Enterprise. In support of my
application, I certify that I am a member of one or more of the
following groups, and that I have held myself out as a member of
the group(s): (Check all that apply):

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

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

I further certify that my personal net worth does not exceed
\$1.32 million, and that I am economically disadvantaged
because my ability to compete in the free enterprise system has
been impaired due to diminished capital and credit
opportunities as compared to others in the same or similar line
of business who are not socially and economically
disadvantaged.

I declare under penalty of perjury that the information
provided in this application and supporting documents is true
and correct.

Signature _____
(DBE/ACDBE Applicant) _____
(Date)

NOTARY CERTIFICATE



UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

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

Required Documents for All Applicants

- Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners 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

ATTACHMENT 13

Section 26.81: State's UCP Agreement

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
PROPOSAL
AND
MEMORANDUM OF UNDERSTANDING**

RECEIVED
DEPT OF TRANSPORTATION
O.E.O.D.C.
2004 JUN 29 PM 12:43

April 2004

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
PROPOSAL
AND
MEMORANDUM OF UNDERSTANDING**

Introduction

This Proposal and Memorandum of Understanding (MOU) has been developed to establish a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in New York State in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). The Certifying NYSUCP Partners are: the Metropolitan Transportation Authority (MTA), the Niagara Frontier Transportation Authority (NFTA), the New York State Department of Transportation (NYSDOT), and the Port Authority of New York & New Jersey (PANYNJ).

Background

The Certifying NYSUCP Partners held numerous meetings to discuss the requirements for developing a unified certification program and directory. Each agency discussed its current procedures, minimum requirements, limitations, and the proposed process for program approval. Several critical areas of discussion included: 1) the need for open and honest communication among and between the certifying participating agencies, 2) the need for continuous staff training and development, 3) the need for an effective and efficient internet based DBE directory and 4) the need for an effective public participation and public relations effort.

The Certifying NYSUCP Partners began the task of developing New York's UCP in 1999. The group's initial task was to determine how uniform certification would take place. It was decided that a reciprocal arrangement would be the most effective way to achieve the goals of the NYSUCP. The Certifying NYSUCP Partners agreed that reciprocity among the Certifying NYSUCP Partners would achieve the goal of the UCP in New York State. It was further agreed that the relationship would have to go beyond a mere reciprocity agreement. Each Certifying NYSUCP Partner made a commitment of sufficient resources (i.e., staff, funds, equipment) and expertise to carry out the requirements of the regulation. The Certifying NYSUCP Partners felt that this proposal would allow each agency to maintain its respective staff and resources while satisfying the needs of the NYSUCP.

Once the framework of the NYSUCP was established, the Non-Certifying Partners were identified and invited to participate in planning meetings as well as developing various aspects of the NYSUCP either through feedback or committee participation. Non-Certifying Partners include: Federal Transit Administration (FTA) grantees, Federal Aviation Administration (FAA)

grantees, Federal Highway Administration (FHWA) grantees, Metropolitan Planning Organizations (MPOs), and sub recipients of United States Department of Transportation (USDOT) funds. Committees were formed to address the following aspects of the formation and implementation of the NYSUCP: Forms and Procedures, Database/Directory, MOU, Public Participation and Training, and Executive.

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MEMORANDUM OF UNDERSTANDING

New York State Unified Certification Program

This Memorandum of Understanding (MOU) has been developed to establish a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in New York State (NYS) in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). The NYSUCP Certifying Partners are: the Metropolitan Transportation Authority (MTA), the Niagara Frontier Transportation Authority (NFTA), the New York State Department of Transportation (NYSDOT), and the Port Authority of New York & New Jersey (PANYNJ).

Introduction

Any FAA and FTA grantee expending at least \$250,000 in contracts and all other recipients and subrecipients of United States Department of Transportation (USDOT) assistance must develop a DBE program meeting the requirements of 49 CFR Part 26. Section 26.81 of this regulation requires each state to develop a UCP by March 4, 2002. In accordance with Section 26.81 (a) (1), by letter dated January 18, 2002 New York State requested an extension until September 30, 2002 to file its UCP (see Exhibit A). By letter dated March 20, 2002 the USDOT approved an extension until March 4, 2003 (see Exhibit B). The Certifying NYSUCP Partners agreed that reciprocity concerning certification decisions among the Certifying NYSUCP Partners would achieve the goal of the UCP in New York State. Each Certifying NYSUCP Partner agrees to commit sufficient resources and expertise to carry out the requirements of the regulation.

Organization

Upon the effective date of this Agreement, a designee of NYSDOT shall serve as the Interim Chairperson of the NYSUCP. Upon USDOT's approval of this MOU, a Chairperson shall be selected by unanimous vote of the Certifying NYSUCP Partners. The term of the Chairperson shall be one year. All other votes of the NYSUCP shall be by unanimous vote of the Certifying NYSUCP Partners. An agency shall not serve as Chairperson for more than two consecutive terms. In addition to the powers specifically referenced here, the Chairperson shall function as the administrative officer of the NYSUCP and will serve as its contact person. Nothing in this MOU should be construed to contravene the sovereignty of each participant.

A Certifying NYSUCP Partner may terminate its responsibilities under this Agreement and become a Non-Certifying NYSUCP Partner upon one year's prior notice to all NYSUCP Partners, unless the Certifying NYSUCP Partners agree in writing to a different notice period by unanimous vote. The remaining Certifying NYSUCP Partners shall then either renegotiate this

Agreement or agree in writing to continue operating under the terms of this Agreement.

Purpose

The objectives of the NYSUCP are as follows:

- § To follow the certification procedures and standards and the nondiscrimination requirements of 49 CFR Part 26.
- § To cooperate fully with all oversight, review, and monitoring activities of the USDOT and its operating administrations.
- § To implement USDOT directives and guidance on DBE certification matters.
- § To ensure that all certification and decertification decisions rendered by Certifying NYSUCP Partners are done so on behalf of all NYSUCP Partners with respect to participation in the USDOT DBE program. Certification decisions by the Certifying NYSUCP Partners shall be pre-certifications and shall be binding on all NYSUCP Partners.
- § To maintain a unified DBE directory containing at least the following information for each firm listed: its address, phone number, and the types of work the firm has been listed to perform as a DBE. The NYSUCP shall make the directory available to the public electronically, on the Internet, as well as in print. The NYSUCP shall periodically update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.

Definitions

§ Certifying NYSUCP Partner

A New York State recipient of USDOT funds with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Certifying NYSUCP Partner can issue or revoke DBE certifications. The Certifying NYSUCP Partners are: the MTA, the NFTA, the NYSDOT, and the PANYNJ.

§ Grantee

Any public or private entity that has received USDOT assistance.

§ Non-Certifying NYSUCP Partner

A New York State recipient of USDOT funds, sub recipient, or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Non-Certifying NYSUCP Partner can neither issue nor revoke DBE certification. See Appendices A, B and C for a listing of the Non-Certifying NYSUCP Partners.

§ NYSUCP Partner

All New York State recipients, sub recipients, or grantees participating in this MOU, including both Certifying and Non-Certifying Partners.

§ Recipient

Any public or private entity which receives direct USDOT financial assistance.

§ Subrecipient

Any public or private entity which receives USDOT financial assistance through another recipient.

NYSUCP Partners' Roles and Obligations

All Certifying NYSUCP Partners agree to maintain DBE certification application files, conduct site visits, make certification decisions and handle complaints on behalf of the NYSUCP. The Certifying NYSUCP Partners agree to use the USDOT DBE Certification Application Form.

DBE Directory and Internet Access

The DBE Directory will be located on the NYSUCP web site once it is established. In accordance with 49 CFR Part 26.31, the DBE Directory will include the following publicly available information for each firm:

- § Name, address, and telephone number of firm;
- § Contact person for firm;
- § Types of work performed by the firm with appropriate 6 digit North American Industry Classification System (NAICS) code and description.

The NYSUCP DBE Directory will contain additional information including but not limited to the following:

- § Geographic location of the firm (i.e., county);
- § Web site address of the firm;
- § E-mail address of the firm and/or contact person.

Users will be able to sort by county or type of work, either for a single county/work type or multiple counties/work types. There will be links to and from the NYSUCP Certifying Partners' respective web sites and the New York State M/WBE Directory.

DBE Directory Management

The Certifying NYSUCP Partners will select a DBE Database Manager who will manage and maintain the web site and the DBE database. When a Certifying NYSUCP Partner makes a final DBE certification approval decision, the Certifying NYSUCP Partner shall submit information for inclusion in the electronic DBE Database, directly to the DBE Database Manager. The following information shall be included, at a minimum:

- § Name, street address, P.O. Box, telephone and fax numbers, e-mail address and federal identification number of the certified DBE firm;
- § Name, sex, ethnicity, race of the owner(s) and county of origin of the DBE firm;
- § Type of work performed by the DBE firm using the NAICS adopted by the Small Business Administration (SBA) on October 1, 2000;
- § Licenses (type and number);
- § Name of Certifying NYSUCP Partner;
- § Site visit date;
- § Date of certification;
- § Annual review status.

The Certifying NYSUCP Partners shall periodically provide the DBE Database Manager with information on firms denied DBE status and pending certification review.

The DBE Database Manager will:

1. Maintain and keep the electronic DBE database current;
2. Make the electronic DBE database available to all NYSUCP Partners and other interested parties;
3. Provide printed copies of the DBE Directory upon request and at a charge to be established based on the costs of printing, shipping and handling;
4. Maintain the NYSUCP web site.

NYSUCP Program Costs and Funding

The cost of establishing the NYSUCP web site and the electronic DBE Directory will be shared equally among all NYSUCP Certifying Partners. The cost of maintaining the NYSUCP web site and the electronic DBE Directory will be shared among all NYSUCP Partners. The cost of creating and establishing the NYSUCP web site and the electronic DBE Directory will be shared equally among all NYSUCP Certifying Partners. NYSUCP Certifying Partners reserve the right to develop a methodology to ascertain maintenance and operational costs and assess costs to Non-Certifying Partners. The procedures for paying bills and obtaining reimbursement shall be determined by the NYSUCP Certifying Partners. In the event that the NYSUCP is sued, the NYSUCP Certifying Partners shall determine the method for defending such lawsuit and funding the defense and any settlement or judgment cost.

Certification Procedures and Process

In addition to the procedures below, the NYSUCP will follow all certification procedures and standards of 49 CFR Part 26, and will implement USDOT directives and guidance on DBE certification matters. The Certifying NYSUCP Partners have established and will implement a Standard Operating Procedure (SOP) to be used by the Certifying NYSUCP Partners. It may be modified as needed and as agreed upon by the Certifying NYSUCP Partners.

§ The NYSUCP will not process a firm having its principal place of business outside of New York State for NYSUCP DBE certification, unless the firm is certified by the UCP in the state in which the firm maintains its principal place of business.

§ Any firm that is certified by the SBA must independently apply for DBE status with the NYSUCP. We will accept the SBA's determination of socially disadvantaged status; however, SBA firms will be required to demonstrate economic disadvantage eligibility and must undergo a site visit.

§ The NYSUCP will utilize a the USDOT DBE Certification Application Form and other related certification documents issued or approved by USDOT to facilitate "one-stop shopping" for applicants.

Industry or Market Concessions

The Certifying NYSUCP Partner to which the application is made will ascertain the geographical area of the applicant firm and its primary work type or industry. The Certifying NYSUCP Partners may forward the application to the most appropriate Certifying NYSUCP Partner in accordance with the firm's geographical area and/or primary work type or industry. The receiving Certifying NYSUCP Partner may accept the referral or reject it. In the event that the referral is rejected, the Certifying NYSUCP Partners will decide which Certifying NYSUCP Partner should process the certification.

Transition of Currently Certified DBEs

Each Certifying NYSUCP Partner shall electronically submit its current DBE Directory to the DBE Database Manager for inclusion in the NYSUCP DBE Directory. Each Certifying NYSUCP Partner shall attest to the fact that each DBE firm submitted has been certified under the provisions of 49 CFR Part 26. The Certifying NYSUCP Partners shall meet to review the listing of currently certified DBE firms and determine the appropriate Certifying NYSUCP Partner for future review of each DBE. A protocol will be developed that will include but not be limited to a review of the: geographical area, primary work type/industry and the date of the

earliest certification approval (the latter applies to those firms that are certified with more than one Certifying NYSUCP Partner. Upon determination of the appropriate Certifying NYSUCP Partner, the Partner with custody of the affected DBE certification files shall forward them to the newly assigned Partner, who shall assume custody and responsibility for the files. In the event of a disagreement concerning the appropriate Certifying NYSUCP Partner, the remaining Certifying NYSUCP Partners will decide.

Firms that have never obtained, or were denied or lost DBE status with one Certifying NYSUCP Partner but are certified with another Certifying NYSUCP Partner will undergo further review as follows:

§ For each affected firm, the Certifying NYSUCP Partners will compare records and submit a summary and recommendation to the other Partners, who will either uphold or overturn the recommendation.

§ If the Certifying NYSUCP Partners are unable to agree upon a recommendation, the other Partners will review all records for the affected firm and render a determination. (Note that consensus is not the objective in this situation. One Partner may institute a challenge to the firm's certification at this point.)

§ The Certifying NYSUCP Partners reserve the right to request additional information from the affected firm in order to render a recommendation or determination.

§ If a decision is made to remove the firm's status, the steps for decertification as outlined in 49 CFR Part 26.87 and in the NYSUCP SOP will be followed.

The Certifying NYSUCP Partners will establish a procedure for resolving conflicts among the Certifying NYSUCP Partners regarding the DBE status of a specific firm.

Quality Assurance (New Certifications)

The NYSUCP SOP has been created to ensure consistent application of UCP program requirements among the Certifying NYSUCP Partners. There will be periodic training of certification staff in order to maintain consistency in application of policy and the rendering of certification determinations.

Annual Review

As a condition of continued certification, DBEs are required to submit on an annual basis, all supporting documentation as required in 49 CFR Part 26 and the NYSUCP SOP. Failure to submit the required documentation may result in implementation of certification removal as outlined in 49 CFR Part 26.87 and the NYSUCP SOP.

Third Party Challenges

In compliance with the regulation, the Certifying NYSUCP Partners will develop a procedure for receiving and handling written complaints alleging the ineligibility of a currently certified firm.

Agency Compliance

§ All Certifying NYSUCP Partners must have an approved DBE Program.

§ All decisions related to eligibility and certification must comply with 49 CFR Part 26.

If any Certifying NYSUCP Partner believes that another Certifying NYSUCP Partner has not complied with the requirements of 49 CFR Part 26, the Partner may make a written complaint to the NYSUCP Chairperson. The Chairperson shall submit the complaint to the remaining Certifying NYSUCP Partners, which will determine the complaint. If the remaining Certifying NYSUCP Partners render a finding in favor of the complainant, they will determine what remedial action, if any, should be taken. The remedial action may take the form of one of the following:

§ Written Findings - The NYSUCP Chairperson acting in conjunction with and on behalf of the NYSUCP will issue a formal written determination to the affected Certifying NYSUCP Partner. The NYSUCP Chairperson shall be responsible for sending written findings to appropriate entities.

§ Monitoring & Concurrence - The NYSUCP Chairperson may issue a formal written determination as set out above, as well as provide a procedural review and concurrence process. The agency in question will be required to obtain NYSUCP concurrence in certification determinations for a specific period of time. Depending upon the circumstances, the Certifying NYSUCP Partners may elect to “pair” the agency with another Certifying NYSUCP Partner for monitoring purposes and to require concurrence by a vote of the Certifying NYSUCP Partners as set forth above for all future certification determinations.

§ Non-Compliance - The NYSUCP Chairperson acting in conjunction with and on behalf of the NYSUCP may find that a NYSUCP Certifying Partner is not acting in good faith and determine that the NYSUCP will not accept firms certified by that Partner until the required changes are implemented. In this situation, the pending applications will be divided amongst the other Certifying NYSUCP Partners for processing until the affected Partner is found to be in compliance. A fee of \$1,000 per application will be assessed against the affected Partner.

The Certifying NYSUCP Partners shall determine when corrective action has been satisfactorily completed. The NYSUCP Chairperson acting in conjunction with and on behalf of the NYSUCP

will issue formal written notification stating the effective date of reinstatement. The Chairperson shall be responsible for sending this written notification to appropriate entities.

Training and Resources

The Certifying NYSUCP Partners will conduct periodic training. The Certifying NYSUCP Partners will equally share the responsibility for training, including costs.

Regional UCP

This Agreement does not create a Regional UCP and is intended to be limited to the State of New York. The signature of any party that does business in more than one state does not create a Regional UCP with such other states.

Implementation Schedule

The Certifying NYSUCP Partners held public briefing sessions throughout the State during September and October 2002 regarding the proposed NYSUCP, its goals and rationale. The Certifying NYSUCP Partners invited DBE and non-DBE firms, as well as community organizations to the briefings. Notification of the public meetings and the NYSUCP occurred in a variety of ways, including but not limited to the following: press releases, a page on the NYSDOT web site, and a direct mailing to individual DBE firms, professional associations, community based organizations, etc. Having considered information set forth at the briefings and in accordance with regulations promulgated by the USDOT at 49 CFR Part 26, the MOU was submitted to the Non-Certifying NYSUCP Partners, USDOT modal agencies, and the Certifying NYSUCP Partners' respective counsels for review and comment in September 2002. Once changes were made based on comments received, the MOU was forwarded to all Partners for signature in February 2003.

The Certifying NYSUCP Partners will adopt an implementation schedule for staff training and the unified DBE directory (see Exhibit D). The Certifying NYSUCP Partners will fully implement the NYSUCP within 18 months of approval of this MOU by the USDOT.

Changes to the NYSUCP based upon direction from the USDOT will be implemented within 6 months of receiving such direction.

Changes to the MOU

Changes to the MOU shall be made in writing and by unanimous vote of the Certifying NYSUCP Partners. FTA and FAA will be contacted periodically to ascertain current qualifying

grantees. Newly qualified grantees will then be added to the appropriate Appendix; signatures will be obtained and forwarded to USDOT.

Effective Date

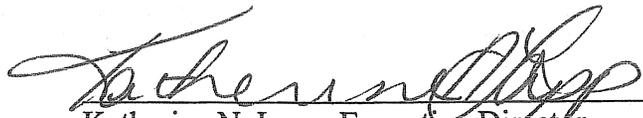
The effective date of this Agreement is the latest date upon which a Certifying NYSUCP Partner executes the Agreement.

Summary

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

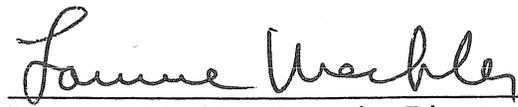
EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

NYSUCP CERTIFYING PARTNERS



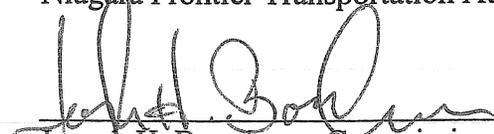
Katherine N. Lapp, Executive Director
Metropolitan Transportation Authority

6/4/04
Date



Lawrence Meckler, Executive Director
Niagara Frontier Transportation Authority

April 16, 2004
Date



Joseph H. Boardman, Commissioner
New York State Department of Transportation

5/26/04
Date



Joseph J. Seymour, Executive Director
Port Authority of New York & New Jersey

6/24/04
Date

APPENDIX A

**METROPOLITAN PLANNING ORGANIZATIONS AND
NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT)
SUBRECIPIENTS* OF
UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) FUNDS**

Adirondack Glens Falls Transportation Council
Binghamton Metropolitan Transportation Study
Capital District Transportation Committee
Elmira Chemung Transportation Council
Genesee Transportation Council
Greater Buffalo Niagara Regional Transportation Council
Herkimer Oneida County Transportation Study
Ithaca Tompkins County Transportation Council
Newburgh Orange County Transportation Council
New York Metropolitan Transportation Council
Poughkeepsie Dutchess County Transportation Council
Syracuse Metropolitan Transportation Council
New York City Department of Design and Construction*
New York City Department of Transportation*
New York State Thruway Authority*

NOTE: This list does not include those municipalities that are not regular NYSDOT subrecipients of USDOT funds. The NYSDOT, as the oversight agency to those municipalities, will ensure that those municipalities will comply with all provisions of the NYSUCP.

APPENDIX B

FEDERAL TRANSIT ADMINISTRATION (FTA) GRANTEES

Capital District Transportation Authority

Central New York Regional Transportation

Chemung County Transit System

City of Long Beach

City of Poughkeepsie

County of Broome

County of Dutchess

County of Nassau

County of Oneida

County of Putnam

County of Rockland

County of Suffolk

County of Ulster

Greater Glens Falls Transit System

New York State Energy Research and Development Authority

Rochester-Genesee Regional Transportation Authority

Tompkins Consolidated Area Transit

Westchester County Department of Transportation

APPENDIX C

FEDERAL AVIATION ADMINISTRATION (FAA) FUNDED AIRPORTS AND GRANTEES (Corresponding Grantees are listed in parentheses after each facility)

Adirondack Regional Airport (Town of Harrietstown)

Akron Airport (Christian Airmen, Inc.)

Albany County Airport (Albany County Airport Authority)

Binghamton Regional Airport/Edward A. Link Field (County of Broome)

Brick Yard Road Airport (Ontario County Industrial Development Agency)

Brookhaven Airport (Town of Brookhaven)

Buffalo Niagara International Airport (Niagara Frontier Transportation Authority)

Chautauqua County - Jamestown Airport (County of Chautauqua)

Clinton County Airport (County of Clinton)

Columbia County Airport (County of Columbia)

Cortland County Airport/Chase Field (County of Cortland)

Dansville Municipal Airport (Town of North Dansville)

Dutchess County Airport (Dutchess County)

East 34th Street Heliport (City of New York, Dept. of Business Services)

East Hampton Airport (Town of East Hampton)

Elizabeth Field (Town of Southhold)

Elmira/Corning Regional Airport (County of Chemung)

Finger Lakes Regional Airport (County of Seneca)

Floyd D. Bennett Airport (County of Warren)

Francis Grabeski Airport (County of Suffolk)

Fulton County Airport (County of Fulton)

Genesee County Airport (County of Genesee)

Greater Rochester International Airport (County of Monroe)

Hamilton Municipal Airport (Village of Hamilton)

Hornell Municipal Airport (City of Hornell)

JFK International Airport (Port Authority of New York & New Jersey)

Joseph Y. Resnick Airport (Town of Wawarsing)

Kingston Airpark (Kingston Airpark, Inc.)

LaGuardia Airport (Port Authority of New York & New Jersey)

Lake Placid Airport (Town of North Elba)

Lancaster Airport (Lancaster Airport, Inc.)

Largedale Airport (Big Fella Enterprises, Inc.)

LeRoy Airport (LeRoy Aviation Services, Inc.)

Long Island/MacArthur Airport (Town of Islip)

Lt. Warren Eaton Chenango County Airport (County of Chenango)

Malone Airport (Town of Malone)

Massena International Airport (Town of Massena)

Montauk Airport (Montauk Airport, Inc.)

Niagara Falls International Airport (Niagara Frontier Transportation Authority)

Ogdensburg International Airport (Ogdensburg Bridge & Port Authority)

Olean Municipal Airport (City of Olean)

Oneida County Airport (County of Oneida)

Oneonta Municipal Airport (City of Oneonta)

Orange County Airport (County of Orange)

Oswego County Airport (County of Oswego)

Perry-Warsaw Municipal Airport (Town of Perry)

Plattsburgh International Airport (County of Clinton)

Potsdam Municipal Airport (Village of Potsdam)

Randall Airport (Aerodrome Development Corp.)

Republic Airport (New York State Department of Transportation)

Saratoga County Airport (County of Saratoga)

Schenectady County Airport (County of Schenectady)

Sidney Municipal Airport (Village of Sidney)

Sky Acres Airport (Sky Acres Enterprises, Inc.)

Stewart International Airport (National Express Corp.)

Sullivan County Airport (County of Sullivan)

Syracuse-Hancock International Airport (City of Syracuse)

Ticonderoga Municipal Airport (Town of Ticonderoga)

Tompkins County Airport (County of Tompkins)

Tri-Cities Airport (Village of Endicott)

Watertown International Airport (City of Watertown)

Wellsville Municipal Airport (Town of Wellsville)

Westchester County Airport (County of Westchester)

Whitford Airport (LDW Properties, Inc.)

Williamson-Sodus Airport (Williamson Flying Club, Inc.)

Wurtsboro-Sullivan County Airport (Wurtsboro Flight Services, Inc.)

Yates County Airport (County of Yates)

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Ronelle M. [Signature]
for

4/15/04
Date

Chemungo County, St Warren E. Eaton Airport
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

T. Wemshall
for

5/14/04
Date

NYCDOT
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Perry B. D'Amico III Pres.
for

4/13/04
Date

Montauk Airport, Inc.
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

PC Hutchins -
for

4/26/04
Date

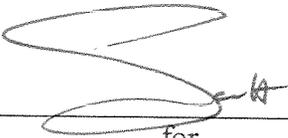
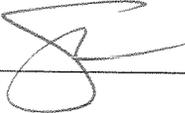
VILLAGE OF HAMILTON
Agency

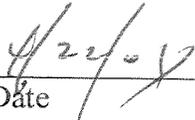
NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

APPROVED AS
TO FORM
COUNTY ATTORNEY


for 


Date

Cortland County
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Dennis Mahan
for

5/6/04
Date

Town of North Danville
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Chris C. Humphrey
for Town Supervisor
Town of Perry

5/14/04
Date

Perry - Warsaw Airport
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Stephen T. Cook
for

5/17/04
Date

Massena International Airport, Town of Massena
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Cynthia J. Ruiz
for

5/17/04
Date

Ulster County Area Transit
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Frank Koblish
for

May 19, 2004
Date

Central N.Y. Regional Transportation Authority
Agency

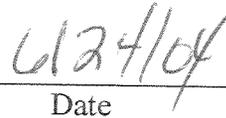
NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



JACQUELINE KIPPOLA
RISK MANAGER
COUNTY OF TOMPKINS



Date

Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Stephen B Bland
for

6/1/04
Date

Capital District Transportation Authority
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Jerry L. Miller
for
TOWN SUPERVISOR

4/23/04
Date

TOWN OF HARRIETSTOWN
Agency
Adirondack Regional Airport

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.


for

4/26/04
Date

Agency
COUNTY OF SUFFOLK

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Schenectady County Airport
for

04/14/2004
Date

John S. Israel Airport Commissioner
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Town of Ticonderoga
for

4/12/04
Date

Robert C. DeLuca / Treasurer
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

James Blawie
for

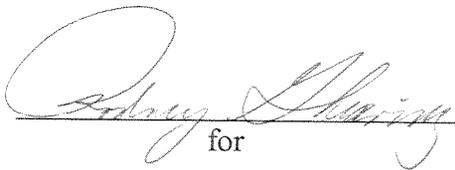
4/15/04
Date

Village of Sidney
Agency

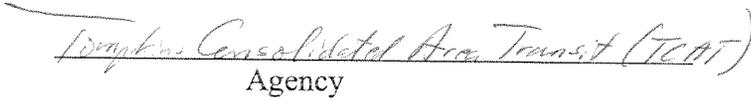
NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.


_____ for

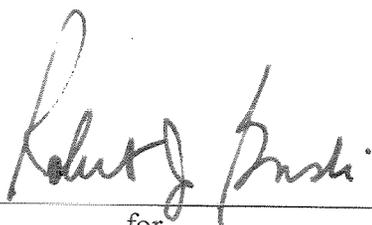

_____ Date


_____ Agency

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



for
Robert J. Bondi
County Executive

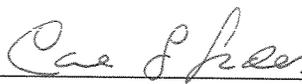


Date

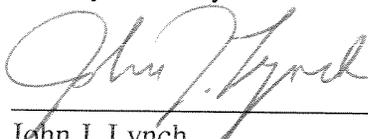
Putnam County

Agency

READ AND APPROVED BY:

 Date: 4/20/04

Carl F. Lodes
County Attorney

 Date: 4/13/04

John J. Lynch
Director of Planning

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Arac VanKuboy
for

4/15/04
Date

County Executive of Rockland
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Serald Sumars

for

4.15.04

Date

Columbia County

Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Michael J. Jankowski
for

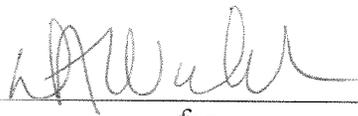
4/19/04
Date

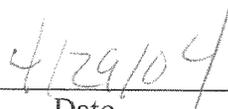
Ontario County Ind. Dev. Agency
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.


_____ for 
David A. Wickerham, Co. Administrator


_____ Date

_____ County of Saratoga
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

James V. Dolaway
for/
James V. Dolaway, Supervisor
for

May 07, 2004
Date

Town of Wawarsing
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Jerry D. Cummings
for Akron Airport

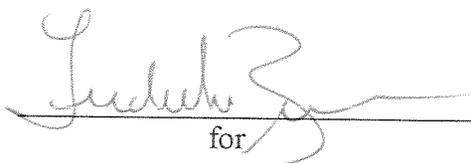
5-5-04
Date

CHRISTIAN ARMEN, INC.
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



for

5-12-04

Date

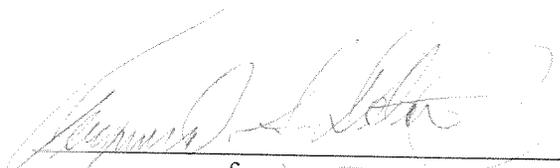
Kingston-Ulster Airport, Inc.

Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



for Le Roy Airport

4/14/04

Date

Le Roy Aviation Services Inc.

Agency

**LeRoy Aviation Services, Inc.
253 Westminster Rd.
Rochester, NY 14607-9229
TEL 585-844-8017
FAX 585-844-8017**

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

X *[Signature]* X 4/27/04
for Penn Yan - Yates County Airport Date

Yates County
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Thomas M. BELES President



for Bflo. LANCASTER AIRPORT Date

5-3-04

AKA LANCASTER AIRPORT
Agency

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Walt Esham
for
Bisfell's Enlargement
Ledge Dale Airport
Agency

5/17/04
Date

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Charles Allegretti
for President and COO

5/17/04
Date

Stewart International Airport (National Express Corp.)
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Mark W. Thorne
County ^{for} Executive

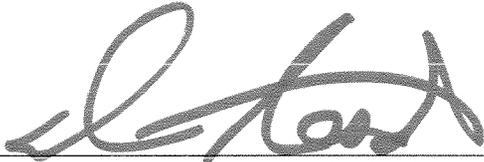
5/14/04
Date

Chautauque County
Agency

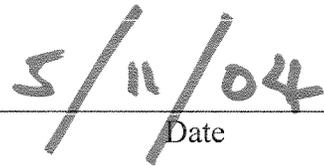
NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



Mark R. Aesch, CEO



Date

Rochester Genesee Regional Transportation Authority

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

John A. Donnell
for

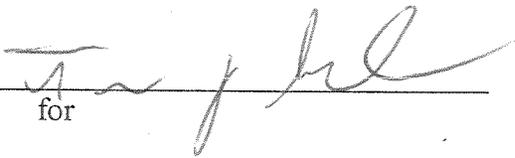
5/20/04
Date

Albany County Airport Authority
Agency

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.


_____ for


_____ Date

Chemung County Transit System
Agency

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.


_____ for _____ Date 5-01-04

City of Hornell
_____ Agency

SWORN TO ME THIS 1ST DAY OF JUNE 2004

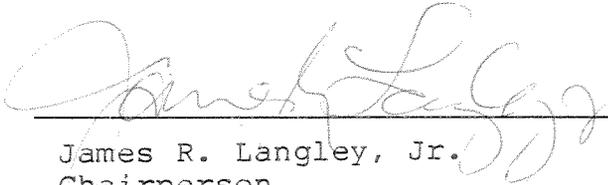


MARGARET T. LYNCH
Notary Public, State of New York
Steuben County, No. 01LY6060554
My Commission Expires June 25, 20 07

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



James R. Langley, Jr.
Chairperson

6/23/04
Date

Clinton County Legislature
Agency
County of Clinton

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

WESTCHESTER COUNTY
for

7-13-04
Date

DEPARTMENT OF TRANSPORTATION
Agency


LAWRENCE C. SALLEY
COMMISSIONER OF TRANSPORTATION

APPROVED AS TO FORM.

David L. Huttera
Sr. Asst. COUNTY ATTORNEY

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Frank R. Stiggen

for

7/28/2007

Date

Town of Islip

Agency

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.



Mayor for City of Poughkeepsie

April 20, 2004
Date

CITY OF POUGHKEEPSIE
Agency

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Matthew J. Driscoll, Mayor



for

7-1-04

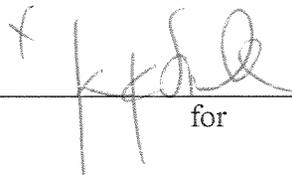
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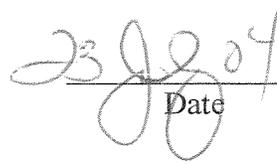
City of Syracuse - Department of Aviation
Agency

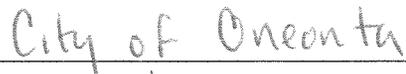
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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

* 
_____ for


_____ Date


_____ Agency

NYSUCP NON-CERTIFYING PARTNER

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EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Mary Pat Hancock
for

June 23, 2004
Date

Genesee County
Agency

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
STANDARD OPERATING PROCEDURE**

I. INTRODUCTION

A Disadvantaged Business Enterprise (DBE) Unified Certification Program (NYSUCP) has been established in New York State (NYS) in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). Pursuant to a Memorandum of Understanding (MOU) signed by all recipients required to participate in the NYS NYSUCP, the Metropolitan Transportation Authority (MTA), the Niagara Frontier Transportation Authority (NFTA), the New York State Department of Transportation (NYSDOT) and the Port Authority of New York & New Jersey (PANYNJ) have been designated as Certifying Partners for the NYSUCP.

Each of the Certifying Partners is required to administer a DBE certification program in accordance with 49 CFR Part 26. As part of the NYSUCP, Certifying Partners will make certification decisions on behalf of all U.S. Department of Transportation (USDOT) recipients and sub recipients in New York State with respect to participation in the USDOT DBE Program. Certification decisions by the NYSUCP shall be binding on all USDOT recipients and sub recipients within New York State.

A thorough certification process ensures that the DBE program benefits only bona fide disadvantaged businesses. In order to ensure consistent application and interpretation of the regulatory requirements for DBE certification and consistent certification determinations, all Certifying Partners will use the New York State Unified Certification Program Standard Operating Procedure (NYSUCP SOP).

The NYSUCP SOP sets forth the standards and procedures to be utilized by the all Certifying Partners when making determinations of DBE certification eligibility.

The policies and procedures outlined herein are consistent with the USDOT regulations codified at 49 CFR Part 26.

II. DEFINITIONS

Burden of Proof

Measure of persuasion that is required to convince someone that an alleged fact is true.

Certification

A finding, after a certification eligibility review by a Certifying NYSUCP Partner, that a business meets the certification eligibility requirements and is a bona fide Disadvantaged Business Enterprise.

Certification Interview

Face-to-face meeting between owner(s) qualifying applicant firm for DBE certification and Certifying NYSUCP Partner representative, as part of the certification eligibility review process.

Certifying NYSUCP Partner

A New York State recipient of USDOT funds with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Certifying NYSUCP Partner can issue or revoke DBE certifications.

Clear and Convincing Evidence

A standard of proof, which should leave no reasonable doubt in the mind of the trier of the facts concerning the truth of the matters in issue.

Decertification or Removal of Certification

A finding that there is reasonable cause for a determination that a currently certified DBE no longer meets the eligibility criteria.

Decision Memorandum

Written document prepared by Certifying NYSUCP Partner detailing certification determination rendered.

Denial of Certification

A finding that a business is not a bona fide DBE. A business that has been denied DBE certification cannot reapply for DBE certification for one year from the date of denial.

Grantee

Any public or private entity that has applied for USDOT assistance.

Ineligibility

A finding that a business does not meet the required eligibility thresholds. A business that has been determined to be ineligible cannot reapply for DBE certification for one year from the date of the determination.

Non-Certifying NYSUCP Partner

A New York State recipient of USDOT funds, sub recipient, or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Non-Certifying NYSUCP Partner can neither issue nor revoke DBE certification. See Appendices A, B and C to the MOU for a listing of the Non-Certifying NYSUCP Partners.

NYSUCP Hearing Panel

A group that reviews the requests for reconsideration that are filed by DBE firms to the NYSUCP regarding the proposed removal of their status. The group will consist of all of the Certifying Partners except for the Certifying Partner that is responsible for the proposed removal of DBE certification.

NYSUCP Partner

All New York State recipients, sub recipients, or grantees participating in this MOU, including both Certifying and Non-Certifying Partners.

Preponderance of Evidence

A standard of proof which is met when the evidence on a fact indicates that it is “more likely than not” true.

Recipient

Any public or private entity which receives direct USDOT financial assistance.

Reconsideration

Applicant’s request for review of the certification decision rendered by Certifying NYSUCP Partner.

Rejection of Application

Non-acceptance of an application for DBE certification because the application is: incomplete; i.e., lacking required signatures; lacking required notarizations; lacking required or requested basic and support documentation; the firm lacks home state DBE certification (if an out-of-state firm); the firm lacks authority to do business in New York State; the firm has no business activity; or, the socially and economically disadvantaged owner(s) lack a required New York State license. A rejected application may be re-submitted at any time after correction of the deficiency.

Sub recipient

Any public or private entity, which receives USDOT financial assistance through another recipient. This excludes third party contracts.

Withdrawal of Application

An applicant request to the Certifying NYSUCP Partner to cease the certification review process. The request must be made in writing. An applicant that has withdrawn its application may re-apply at any time.

III. DBE CERTIFICATION: REGULATORY REQUIREMENTS

Eligibility standards for certification as a DBE and participation in the NYSUCP are governed by federal regulations set forth at 49 CFR Part 26. Only those firms who can demonstrate that they meet the requirements for certification will be granted DBE certification by the NYSUCP.

IV. CERTIFICATION APPLICATION PROCESS

Application for DBE Certification – New Applicants

With the exception of SBA 8[a] Small Business Development and SDB Small Disadvantaged Business programs certified firms, all applicants requesting initial DBE certification must complete and submit a certification application package to one of the NYSUCP Certifying Partners.

The NYSUCP will accept a copy of a firm's application package that was submitted to the SBA and a copy of their certification letter. The NYSUCP will accept the SBA's determination of socially disadvantaged status; however, SBA firms will be required to demonstrate economic disadvantage eligibility and must undergo a site visit.

If a firm has previously filed for, and been denied, DBE certification with a NYSUCP Certifying Partner other than the one with which it is filing the application with, that application may be forwarded to the original reviewing NYSUCP Certifying Partner.

Dependent upon the service provided by the firm and/or its location, an application for DBE certification may be transferred and processed by a NYSUCP Certifying Partner other than the one with which the application was filed.

With the exception of SBA 8[a] and SDB certified firms, a complete certification application package consists of the following:

- USDOT Uniform Application
- SBA Personal Financial Statement for each qualifying socially and economically disadvantaged owner
- Required basic and support documentation as determined by business structure

The verification page of the USDOT Uniform Application and the SBA Personal Financial Statement must all be signed and notarized.

Immediately upon receipt, the application package will be reviewed for completeness. Specifically, the USDOT Uniform Application and SBA Personal Financial Statement are reviewed for original signatures and notarization, and a determination as to whether the basic required supporting documents have been submitted.

The application is reviewed to ascertain the firm's service area(s). Service area is important in determining whether the Certifying Partner in receipt of the application will process it or transfer it to another Certifying Partner.

If the application is essentially complete, it is accepted, logged into the NYSUCP Certifying Partner's vendor base and assigned to certification staff. The firm's

information is transmitted to the NYSUCP Database Manager and logged in as a pending application.

If the application is incomplete, it is returned to the applicant with a letter advising as to the reason for rejection. Incomplete applications may be rejected for:

- lack of home state certification
- lack of signature
- lack of notarization of applicant signature
- incomplete submission of required basic and support documentation
- lack of authorization to do business in New York State
- lack of required New York State license(s) or other credential(s) by the socially and economically disadvantaged owner(s) in the area(s) of business for which certification is being sought
- no business activity

Applications will be accepted from out-of-state firms only if they are DBE certified in their home state by an agency utilizing 49 CFR Part 26.

Certification Review Process

There are three phases in the certification review process:

- Desk Audit
- Interview of the socially and economically disadvantaged owner(s) of the firm.
- On-Site Interview

A Certifying Partner, at its option, may conduct the interview as a separate meeting at its offices, or in conjunction with the on-site interview.

1. Desk Audit

The certification staff will thoroughly review the application package to determine whether all required support documentation has been submitted, and to determine whether any additional information will be requested. Care should be taken to ensure that any requested documentation/information is actually pertinent to the certification review. The certification staff must be mindful that all applications are to be processed within 90 days of receipt of a complete application.

If additional information is required, the certification staff will prepare and send a letter to the applicant firm requesting the information. The letter will include a date for the submission of the additional information and advise the applicant that failure to respond may result in the return of their application. In making a determination as to when the additional information must be submitted, certification staff must allow sufficient time between receipt of the information and conducting the Eligibility Review Meeting/On-Site Review to thoroughly review the requested information.

The certification staff will organize and assemble the applicant information in a business file and file appropriately, insuring confidentiality of the information.

The certification staff will monitor the receipt of the requested information. If the applicant firm fails to submit the requested additional information, a second and final request shall be made. The certification staff will prepare a letter advising the firm that it is a second request and further advising the firm that failure to respond in a timely fashion will be considered failure to cooperate, and will be considered as a reason for denial of DBE certification. The second request will be forwarded to the firm via certified mail. In the event that the firm does not respond to the second request, the application will be processed for denial of certification and all certification processing activity will cease.

Upon receipt of the requested additional information, the certification staff will review it and make a determination as to the completeness of the certification file. An external report (e.g., Dunn and Bradstreet, Lexus/Nexus, etc.) will be requested for the firm, all known affiliates, and other parties.

The certification staff will make a determination regarding the firm's compliance with each of the regulatory threshold requirements:

- size standard
- social disadvantage
- economic disadvantage
- citizenship/lawfully admitted permanent resident

In making a determination of size standard, certification staff must reference and adhere to §26.65 of the regulations.

In making a determination of social and economic disadvantage, certification staff must reference and adhere to §26.63 and §26.67 of the regulations.

In making a determination of citizenship, certification staff must reference §26.67 of the regulation. Each individual qualifying the firm for DBE certification must demonstrate that he/she is a citizen of the United States or a lawfully admitted permanent resident. Each individual must submit acceptable documentation as proof of citizenship or permanent resident status.

If the applicant firm fails to meet any one of the threshold requirements for DBE certification, the firm is ineligible for DBE certification. If any of the socially and economically disadvantaged owner(s) fail to meet any one of the threshold requirements for DBE certification, and this causes the socially and economically disadvantaged ownership to fall below 51%, the firm is ineligible for DBE certification. The firm will be processed as an ineligible firm and will be notified, by letter, of the determination.

The firm may appeal the determination of ineligibility to the U.S. Department of Transportation in accordance with the procedures set forth in §26.89.

If the firm has met the threshold requirements, the certification staff will, upon a thorough and careful review of the complete file, prepare a list of firm specific questions to be answered by the owner(s) of the firm. These questions should be in addition to the standard questions asked of every firm and should address the particulars and unique facts of the applicant firm and its owners.

In preparing firm specific questions, certification staff should be sufficiently knowledgeable of the business area in which the firm is seeking certification, anticipating issues which will require close examination. The certification staff should have knowledge of the capitalization requirements, licensing, technical expertise, and staffing and industry practices. In the event that certification staff is unfamiliar with the requirements for the applicant business, technical assistance should be obtained from technical personnel within the agency or from another NYSUCP Certifying Partner.

Prior to conducting the certification interview meeting/on-site interview, certification staff will contact initial applicant references in order to obtain the most objective responses from the submitted references. At least two, but preferably three, references should be contacted. References may be contacted by telephone or in writing. Both intra-agency and interagency inquiries may be made as well; interagency inquiries will be limited to other government agencies.

Once the applicant file is complete and the questions have been prepared, certification staff must schedule a face-to-face interview with the owner(s) at a time convenient for all participants.

2. Interview

A face-to-face interview must be held with the socially and economically disadvantaged owner(s) of the applicant firm for DBE certification and the certification staff or designees. It provides an opportunity to obtain information, ask questions and clarify inconsistencies, if any.

A Certifying Partner, at its option, may conduct the interview as a separate meeting at its offices, or in conjunction with the on-site review meeting.

The face-to-face interview provides an opportunity for certification staff to:

- assess an applicant's eligibility as a bona fide DBE in accordance with certification eligibility criteria as set forth in the regulations;
- establish that socially and economically disadvantaged individuals "own" the applicant business;

- establish that socially and economically disadvantaged owner(s) have the requisite knowledge, experience and expertise to control the business
- clear up any existing questions and clarify inconsistencies.

It is also an opportunity for the socially and economically disadvantaged owner(s) to ask questions and provide any additional information they deem relevant to the review of their firm.

The interview may be tape recorded or recorded by a court stenographer. The resulting tape or transcript will be made part of the applicant's file.

All socially and economically disadvantaged owner(s) qualifying the applicant firm for DBE certification must attend the interview meeting/on-site interview.

The interview commences with certification staff or designees reading a prepared opening statement into the record. The statement identifies the interview participants, the purpose of the meeting and establishes the parameters under which it will be conducted.

Legal counsel, et al to the applicant firm may be present with the firm's owner(s) during the interview; however, all questions should be directed to the owner.

At the onset of the meeting, the socially and economically disadvantaged owner(s) are provided with the opportunity to review the previously submitted USDOT Uniform Application for content and accuracy. If there are any changes to the document, the owner(s) are to be provided with the opportunity to make the necessary changes. The owner(s) are to be instructed to indicate the changes verbally as well as to make, initial and date such changes on the documents.

After the review of the USDOT Uniform Application by the owner(s) is completed, certification staff or designees will proceed with asking the standard and firm specific prepared questions.

In responding to the prepared and firm specific questions, the owner(s) will provide information that will generate follow-up and additional questions. Certification staff or designees must thoroughly explore all issues relating to compliance with certification eligibility criteria.

Additional information/documentation, which may substantiate statements made during the interview, should be formally requested. A complete list of the requested information/documentation should be confirmed in writing, with a specific date for submission.

Prior to terminating the interview, the socially and economically disadvantaged owner(s) should be provided with the opportunity to ask questions and/or make a statement.

The interview is concluded with a prepared statement read by certification staff or designees. The socially and economically disadvantaged owner(s) are to be advised that the right is reserved to request any additional information or call them back for another meeting, should it be necessary. The owner(s) should be further advised that any determination rendered regarding the eligibility of their firm for DBE certification would be effective for all participants in the NYSUCP.

3. On-Site Review

An on-site review of the applicant firm must be made in accordance with §26.83(c) (1) of the regulations.

The purpose of the on-site review is to verify the firm's location, personnel and operations; to substantiate information/documentation contained in the applicant file; to substantiate information provided during the interview meeting/on-site interview and to review business and financial records.

Certification staff or designees must schedule an on-site interview with the socially and economically disadvantaged owner(s) at a time that is mutually convenient, and confirm the date and time of the meeting. The firm must be advised that failure to participate in an on-site review will be considered failure to cooperate, and will be considered as a reason for denial of DBE certification. The on-site interview must take place at the firm's principal place of business. Additionally, an on-site visit must be performed at a job site if there is such a site on which the firm is working at the time of the eligibility review.

When scheduling an on-site review, certification staff or designees should advise the firm's owner(s) as to which records will require review. If information is located at several different locations, the firm's owner(s) should be advised to have all necessary information available at the on-site review.

Certification staff or designees should also advise the firm's owner(s) that photographs may be taken and that the review may be tape recorded. Should the owner(s) refuse to be tape recorded, the review must be conducted with two staff persons present.

Information obtained during the on-site review must be compiled in a separate comprehensive written report. The on-site review report is made a part of the certification file and incorporated accordingly.

If the on-site review is conducted in conjunction with the interview, certification staff or designees must ask the standard and firm specific interview questions, in addition to addressing the areas set forth below.

Depending upon the location of the firm, a Certifying Partner may request another Certifying Partner to conduct the on-site review. In such instances, a written request

must be made to, and issues of concern identified for, the Certifying Partner conducting the on-site review. The Certifying Partner conducting the on-site review will be responsible for preparing the on-site review report.

In lieu of conducting an on-site review for a firm outside of New York State, a Certifying Partner may utilize an on-site review report from a DOT recipient certifying in accordance with 49 CFR Part 26.

An applicant's failure to permit an on-site review will be grounds for denial of DBE certification for failure to cooperate.

At the very least, the following information should be received and reviewed no later than the on-site review:

Cash Receipts and Disbursements

- Check for entries in the cash receipts journal, which disclose initial capital contributions.
- Verify operational expenditures in the cash disbursements journal. Note questionable/exceptional/unusual entries and the frequency or consistency of such expenditures.
- Note payments to and from shareholders, directors, officers and key employee in the cash disbursements journal.
- Note payments to similar businesses for possible broker activity or evidence of conduit activity.
- Cross reference cash disbursements with cancelled checks.

Bank Statements and Cancelled Checks

- Verify initial capitalization of firm with the first bank statement, if available.
- Verify and document signature authority and consistency in which DBE owner v. non-DBE owner(s)/offices sign checks.
- Verify payments to shareholders, key employees and consultants.
- Pay particular attention to the "memo" section of checks.

Bank Statements and Cancelled Checks

- Determine if there are any additional checking accounts not disclosed prior to the visit. If so, note the authorized signatories.
- Cross reference payments to and from clients, suppliers, consultants, etc.

Payroll

- Determine who is on the firm's payroll.
- Determine if the owner is receiving compensation in accordance with his/her ownership interest.
- Determine who receives bonus payments and amounts.
- Compare W-2's and 1099's to payroll register, to extent possible, for key employees.

- Pay attention to any “memo” notations on any payroll checks.

Invoices and Receipts

- Check telephone bills to determine if they are addressed to the DBE firm.
- Review invoices to substantiate method and source of payment.
- Check invoices for suggestion of brokering activity or reliance on non-DBE firms.
- Examine invoices for resolution of regular dealer issues (freight charges).

Contract Files

- Determine who executes contracts on behalf of the firm.
- Verify the services provided by the applicant firm and the terms and conditions of the provision of their services.
- Verify consistency in which firm does business with a particular firm and whether any issues of dependency.

Inventory and Equipment

- Identify nature and use of equipment possessed by firm.
- Verify ownership of equipment with invoices.
- If equipment lease, review equipment lease agreements.
- Identify inventory maintained by firm.
- Determine whether lack of inventory suggests broker or conduit activity.
- If regular dealer, verify inventory, warehouse facility, transportation equipment, etc.
- Determine if firm’s name on vehicles (trucks).

Bonding and Insurance

- Determine who is guaranteeing/financing bonding.
- Is bond commensurate with size of firm?
- Are insurance documents in the name of the firm?
- Verify types of insurance maintained by firm.
- Does firm carry Key Man Insurance? If so, for whom?

Corporate Kit or Business Organization Documents

- Cross reference documents in corporate kit with original submission.
- Review all minutes and entries for voting, control, attendance, etc.

Corporate Kit or Business Organization Documents

- Review stock transfer ledger.
- Review cancelled/voided stock certificates and note reasons for cancellations.
- Review non-issued stock certificates to determine if there is numerical continuity.
- Verify corporate seal.
- Review by-laws for revisions since original submission of documents

Union Agreements

- Determine which unions the firm has agreements with.

- Determine who executes the agreements on behalf of the firm.
- Determine who is authorized to negotiate union contracts.
- Determine if the union affiliation is commensurate with the type of business the firm engages in.
- Determine if union agreements are current. Review union stamps or union cards.
- Cross reference checks with union benefit payments.

Employment Agreements

- Determine the existence of any Employment Agreements for owner(s) or key personnel.
- Review terms of Employment Agreements for possible conflict with qualifying owner's ability to control operations of firm.

Physical Characteristics of Office/Building Location

- Determine if the firm has identifying signs outside or inside of the building/office.
- Determine if DBE owner has own office.
- Request a tour of facilities and observe equipment on premises.
- Ask questions regarding operation of equipment.
- Determine if office space shared with other companies, and if so, the nature of the business of the other companies.
- Determine if equipment, supplies, etc. shared with other companies.
- If shared facilities, equipment, verify arrangement for sharing.
- Determine if owner(s) are operating other related or unrelated businesses from the location. If so, identify the business and its owner(s).

The NYSUCP Certifying Partners reserve the right to conduct an on-site review of a certified DBE at any time. Any of the following may require an on-site review of a certified DBE to be conducted promptly upon notification to the NYSUCP Certifying Partner:

- A request by the DBE to be listed for additional work types
- A change in ownership that affects the control of the DBE
- A change in the location of the DBE

The NYSUCP Certifying Partners may conduct an on-site review of a certified DBE six (6) years after the last on-site review was conducted, subject to consideration of the following criteria:

- The DBE had obtained \$\$\$ of work from NYSUCP Partners
- Complaints or allegations of fraud had been made concerning the DBE

4. Internal Management Review Process

Decision Memorandum: Certification staff will prepare a written certification determination recommending that the firm be certified or denied DBE certification. The

certification determination is the final product of all information, which has been reviewed, and is an evaluation of the firm's compliance with the certification eligibility standards set forth in the regulations. The written determination must be sufficiently comprehensive to persuade an objective party as to the merits of the recommendation.

Management Review: The certification determination must be submitted to the supervisor responsible for certification review. The complete file must accompany the submission of the certification. The supervisor responsible for certification review must provide written concurrence with the recommendation before a letter can be forwarded to the firm's owner(s).

Notice to NYSUCP Certifying Partners: Notice will be provided to the Certifying Partners of the intent to grant or deny the applicant firm DBE certification. If there are no objections from the Certifying Partners as to the intent to grant or deny the applicant firm DBE certification, the appropriate letter will be sent to the qualifying owner.

Notification to Applicant of Certification Determination: The applicant firm will receive notification, in writing, from the Certifying Partner, of the NYSUCP certification determination.

If a firm is granted DBE certification by the NYSUCP, it shall remain certified for a period of at least three years, unless and until its certification has been removed in accordance with procedures set forth in §26.87.

If a firm is denied DBE certification by the NYSUCP, it shall be provided a written explanation of the reasons for denial, specifically referencing the evidence in the record that supports each reason for the denial.

The applicant, upon written request to the Certifying Partner, will make all documents and information used to render a determination of denial available for inspection.

Certification Appeal:

A firm denied DBE certification may appeal the denial of DBE certification to the United States Department of Transportation (USDOT) in accordance with §26.89 of the regulation. Such appeal must be filed within 90 days of the date of the determination letter.

Pending a determination by USDOT, the decision rendered by the Certifying Partner remains in effect for the NYSUCP. Upon notification by USDOT, the NYSUCP Certifying Partner will forward a copy of the complete administrative record for review.

All appeal decisions rendered by USDOT are administratively final and are not subject to petitions for reconsideration.

A firm that is denied DBE certification may not again apply for certification with the NYSUCP for a period of one year.

If a firm denied DBE certification chooses to again apply for DBE certification, the application must be submitted to the Certifying Partner who rendered the original denial of DBE certification.

Notification to Database Manager: The NYSUCP Database Manager will receive written notification of the certification determination rendered by the NYSUCP Certifying Partner.

Annual Review of DBE Certification

Annual Submission Requirement: A certified DBE firm must submit annually, on the anniversary of their DBE certification, a No Change Affidavit, an SBA Personal Financial Statement, and supporting documentation including but not limited to personal and business tax returns, vehicle registrations, etc. A No Change Affidavit is a sworn affidavit affirming that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership or control requirements of the regulation, or any material change in the information provided in its application for DBE certification, along with supporting documentation.

The certified firm will not be required to submit a new USDOT Uniform Application or undergo an on-site review.

A certified DBE firm has an affirmative responsibility to notify the Certifying Partner of the NYSUCP, in writing, of any change in circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of the regulation, or any material change in the information provided in its application for DBE certification. Such notice must be within thirty (30) days of the change taking place.

Notice of Annual Submission Requirement: Each firm will be notified by the Certifying Partner, at least 30 days in advance of its anniversary date, of the annual submission requirement and will be provided with the necessary affidavits.

A firm failing to comply with the annual submission requirement will be notified, in writing, 30 days from the date that the submission was due, of the NYSUCP's intent to revoke their DBE certification in accordance with §26.87 of the regulation.

A firm failing to comply with the annual submission requirement will have its certification removed.

Decision Memorandum: Certification staff will prepare a written certification determination recommending that the firm's DBE certification be continued or that certification be removed in accordance with procedures in §26.87 of the regulations.

Management Review: The certification determination must be submitted to the supervisor responsible for certification review. The complete file must accompany the submission of the certification. The supervisor responsible for certification review must provide written concurrence with the recommendation for continued certification or removal of certification before a letter can be forwarded to the firm's owner(s).

Notice to NYSUCP Certifying Partners: Notice will be provided to the Certifying Partners of the intent to continue the firm's DBE certification or to remove certification, in accordance with regulatory procedures. If there are no objections from the Certifying Partners as to the intent to continue or remove DBE certification, the appropriate letter will be sent to the qualifying owner.

Notification to Applicant of Certification Determination: The applicant firm will receive notification, in writing, from the Certifying Partner, of the NYSUCP's determination to continue the firm's DBE certification or, of its intent to remove the firm's DBE certification.

If a firm is granted continued DBE certification by the NYSUCP, it must continue to comply with annual submission and notification requirements.

If a determination has been made to remove a firm's DBE certification for failure to submit required documentation or exceeding Personal Net Worth thresholds, there will be no reconsideration to the NYSUCP after removal of DBE certification. The NYSUCP Certifying Partners will follow procedures consistent with §26.87 when removing DBE certification eligibility.

Notification to Database Manager: The NYSUCP Database Manager will receive written notification of the certification determination rendered by the NYSUCP Certifying Partner.

Reconsideration:

Reconsideration will be given to a DBE firm if a determination has been made to propose to remove a firm's DBE certification for any of the following reasons:

- The business has changed to the extent that it is no longer owned or controlled by socially and economically disadvantaged individual(s).
- The DBE firm is no longer an ongoing business entity.
- The socially and economically disadvantaged owner(s) falsify a sworn statement.
- The DBE fails to notify the Certifying NYSUCP Partner, within 30 days, of changes in ownership, control, independence or status as an ongoing concern.
- A determination by the Certifying Partner that the firm no longer meets certification eligibility standards.
- The DBE exhibits a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirement of the regulations.

Exceeding the Personal Net Worth or size standards is not subject to reconsideration.

Any firm that was certified under 49 CFR Part 26 and has had their certification removed may file a written rebuttal with the NYSUCP or appear in person.

All requests for an informal hearing must be filed with the Certifying Partner responsible for the removal of DBE certification. The firm will have the opportunity to present information in person or file a written rebuttal with the NYSUCP.

Upon receipt of the request for reconsideration, the Certifying Partner will forward a copy of the file and a written response to the request to the NYSUCP Hearing Panel within a reasonable time, not to exceed 15 days. The Certifying Partner responsible for the proposed removal of DBE certification will not participate in the final determination.

Any firm not wishing to file a request for reconsideration with the NYSUCP may appeal directly to the United States Department of Transportation (USDOT) such appeal must be filed within 90 days of the date of the determination letter.

Pending a determination by USDOT, the decision rendered by the Certifying Partner remains in effect for the NYSUCP.

All appeal decisions rendered by USDOT are administratively final and are not subject to petitions for reconsideration.

Renewal of DBE Certification

A firm that is certified as a Disadvantaged Business Enterprise (DBE) under 49 CFR Part 26 is certified by the NYSUCP for a period of not less than three (3) years.

Once certified, a firm remains certified unless and until its certification is removed through the procedures for DBE eligibility removal outlined at §26.87.

A firm that has been certified as a Disadvantaged Business Enterprise (DBE) under federal regulations must submit, every year on the anniversary of their certification, an Affidavit of No Change from the socially and economically disadvantaged owners affirming whether there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership or control requirements for DBE certification. If there have been changes, the socially and economically owner must identify the changes and provide all documentation supporting the changes.

Firms reaching the end of their initial three (3) year certification period must submit the following information for certification renewal:

- Renewal application and required supporting documentation

- SBA Personal Financial Statement
- Personal Income Tax Returns*
- Business Tax Returns*
- Any other documents deemed necessary (i.e., licenses, vehicle registrations, insurance cards, etc.)

*If an extension was filed for the prior year, two (2) years may be requested.

Upon receipt of the above, the information must be reviewed to determine continued compliance with the certification eligibility criteria. A written evaluation of the firm's compliance with eligibility criteria must be prepared. In the event the firm continues to meet the eligibility criteria, the firm will be sent a Certification Renewal letter, providing the firm with certification for an additional three years. In the event that the firm no longer meets the eligibility criteria for certification, proceedings for the removal of eligibility will be commenced under §26.87.

If a firm does not provide the above listed information in a timely manner, the firm may be deemed as failing to cooperate under §26.109(c), and, proceedings for the removal of eligibility may be commenced in accordance with §26.87.

The minimum process to be followed for certification removal under §26.87 is as follows:

- Provide written notice to the firm of proposal to remove certification eligibility, setting forth, in detail, the reasons for the proposal to remove certification eligibility.
- Provide the firm with an opportunity to respond in person, by participation in an informal hearing, or in writing, to the reasons for the proposal to remove its eligibility,
- If the firm elects to participate in an informal hearing, the agency bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of 49 CFR Part 26.
- A complete record of the hearing must be maintained, and the original record of the hearing must be retained by the agency.
- If the firm elects to present information and arguments in writing, without going to a hearing, the agency bears the same burden of proof that it would have during an informal hearing.
- The firm must be provided with a written notice of the decision regarding removal of eligibility.

Third Party Challenge

NYSUCP Certifying Partners shall accept written complaints from any person, including Non-Certifying Partners, USDOT, and/or a Certifying Partner, alleging that a currently certified DBE firm is ineligible.

The complainant must state the specific reasons for the challenge and submit any documentation in support of the complaint. The complainant's identity shall be protected as provided for in §26.109(b).

The challenged firm shall be notified, in writing, by the original Certifying Partner, of the challenge, the basis for the challenge and the relevant regulations.

The Certifying Partner responsible for the original certification shall thoroughly investigate the complaint within a reasonable time, not to exceed 60 days.

The Certifying Partner shall notify the challenged firm, in writing, by certified mail, of the preliminary findings.

If reasonable cause to remove DBE certification eligibility is found, the original Certifying Partner will notify the complainant of the specific grounds for removal and will inform the firm of its right to appeal request the preliminary findings to the NYSUCP.

The NYSUCP will be the hearing board for all challenges to certified firms. The Certifying Partner conducting the investigation and making the preliminary determination for eligibility removal will not serve as a voting member on the hearing board for the firm in question.

The challenged firm may request reconsideration, in writing, of the intent to remove certification eligibility, within 15 days of the date of the notice.

The request for reconsideration must be made to the investigating NYSUCP Certifying Partner and must state if the firm wishes to file a written defense or appear in person for a hearing.

The investigating NYSUCP Certifying Partner must notify the NYSUCP Hearing Panel within five [5] days of receipt of the request for reconsideration from the challenged firm.

In the event that a firm requests the opportunity to appear before the NYSUCP Hearing Panel, the request for reconsideration must state whether the firm will be represented by counsel.

If the challenged firm requests reconsideration in person, the chair of the NYSUCP Hearing Panel will contact the firm and the members of the NYSUCP Hearing Panel to set a date.

USDOT may notify the NYSUCP of reasonable cause to find a certified DBE firm to be ineligible. In such cases, the NYSUCP shall without delay begin a proceeding to determine whether the firm's eligibility should be removed, as provided in Section 26.87.



**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM (DBE)
49 C.F.R. PART 26
NEW YORK STATE
UNIFORM CERTIFICATION RENEWAL APPLICATION**

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, taken enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

SECTION 1: CERTIFICATION RENEWAL INFORMATION

A. Prior/Other Certification

Is your firm currently certified for any of the following programs? <i>(If Yes, check appropriate box(es))</i>	<input type="checkbox"/> 9 Yes <input type="checkbox"/> 9 8(a) <input type="checkbox"/> 9 SDB	Has your firm been 8(a) or SDB certified since it was last certified?
	<input type="checkbox"/> 9 No	IF YES, PLEASE INCLUDE A COPY OF YOUR FIRM'S 8(A) OR SDB LETTER.

B. Prior/Other Applications and Privileges

Has your firm (under any name) or any of its owners, Board of Directors, officers, or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?

9 "Yes, on: ___ / ___ / ___ 9 No

If "Yes," identify the State and the name of the state, local, or Federal agency and explain nature of the action:

Empty space for providing details of actions taken.

SECTION 2: GENERAL INFORMATION

A. Contract Information

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

B. Business Profile

(1) Describe the primary activities of your firm:	(2) Firm's Federal Tax ID (if any):
(3) Number of Employees: Full-time ___ Part-Time ___ Total ___	
(4) Specify the gross receipts of the firm for the last three (3) years: Year: _____ Total receipts: \$ Year: _____ Total receipts: \$ Year: _____ Total receipts: \$	

C. Relationships with Other Businesses

<p>(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity? 9 Yes 9 No</p> <p>If "Yes," identify: Other firm's name: Explain nature of shared facilities:</p>														
<p>(2) At present, is your firm:</p>	<p>(a) a subsidiary of any other firm? 9 Yes 9 No</p>													
	<p>(b) a partnership in which one or more of the partners are other firms? 9 Yes 9 No</p>													
	<p>(c) own any percentage of any other firm? 9 Yes 9 No</p>													
	<p>(d) has any subsidiaries? 9 Yes 9 No</p>													
<p>(3) Does any other firm have an ownership interest in your firm at present? 9 Yes 9 No</p>														
<p>(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or(3), identify the following for each (<i>attach extra sheets, if needed</i>):</p> <table border="1"> <thead> <tr> <th><u>Name</u></th> <th><u>Address</u></th> <th><u>Type of Business</u></th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> </tr> </tbody> </table>			<u>Name</u>	<u>Address</u>	<u>Type of Business</u>	1.			2.			3.		
<u>Name</u>	<u>Address</u>	<u>Type of Business</u>												
1.														
2.														
3.														

SECTION 3: OWNERSHIP

IDENTIFY ALL INDIVIDUALS OR HOLDING COMPANIES WITH ANY OWNERSHIP INTEREST IN YOUR FIRM, PROVIDING THE INFORMATION REQUESTED BELOW (IF YOUR FIRM HAS MORE THAN ONE OWNER, PROVIDE COMPLETED COPIES OF THIS SECTION FOR EACH ADDITIONAL OWNER):

A. Ownership Interest
 Do any owners or officers of the applicant firm have an affiliation with (i.e., own, manage, supervise, control, or work for) any other firm(s)? 9 No 9 Yes *If yes, please complete the following for each individual. [Attach additional sheets if more than one owner is applying.]*

1. Name of Individual: _____
 Title/Position in applicant: _____ Ownership % in applicant firm: ____%
 Shares of Stock in applicant firm: _____ Number _____ Class _____ Date Acquired ____/____/____
 Method of Acquisition [cash, gift, etc.] _____

A) Name of affiliate firm: _____
 Nature of affiliation: _____ Function/Title in affiliate firm: _____

B) Name of affiliate firm: _____
 Nature of affiliate firm: _____ Function/Title in affiliate firm: _____

C) Nature of the business relationship: _____

B. Disadvantaged Status - NOTE: Complete this section only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).

(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? (Use and attach the Personal Net Worth Statement Form at the end of this application; attach additional sheets if more than one owner is applying.)

(2) Has/have any trust(s) been created for the benefit of this disadvantaged owner(s)?
 Yes No If yes, explain (attach additional sheets if needed).

SECTION 4: CONTROL

COMPLETE THIS SECTION ONLY IF THERE HAVE BEEN CHANGES SINCE YOUR FIRM WAS LAST CERTIFIED.

Have there been any changes in the managerial and/or operational control of the firm since it was last certified?
 Yes No
 If "Yes," complete all of the following questions. If "No," please skip questions 1 and 2 and proceed to questions 3 and 4 of this Section.

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

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers					
	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

	Name	Title	Date Appointed	Ethnicity	Gender
(2) Board					
	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(3) Do any of the firm's owners and/or Board of Directors perform a management or supervisory function for any other business? 9 Yes [attach additional sheets if necessary] 9 No

If "Yes," identify for each: Person: _____

Title: _____

Business: _____ Function: _____

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B. Identify your firm's management personnel who control your firm in the following areas (if more than two persons, attach a separate sheet):

	Name	Title	Ethnicity	Gender
(1) Financial decisions responsibility for acquisition of lines of credit, surety, etc.)	a.			
	b.			
(2) Estimating & bidding.	a.			
	b.			
(3) Negotiating & Contract Execution.	a.			
	b.			
(4) Hiring/firing of Management personnel.	a.			
	b.			
(5) Field/production operations./supervisor	a.			
	b.			
(6) Office management.	a.			
	b.			
(7) Marketing/Sales.	a.			
	b.			
(8) Purchasing of major Equipment.	a.			
	b.			
(9) Authorized to sign company checks (for any Purpose.	a.			
	b.			
(10) Authorized to make Financial transactions.	a.			
	b.			
<p>(11) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? 9 Yes 9 No</p> <p>If "Yes," identify for each: Person: _____ Title: _____ Business Name: _____ Function: _____</p>				
<p>(12) Do any of the person(s) listed in (1) - (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? 9 Yes 9 No</p> <p><u>Attach additional sheets if more than one person:</u></p> <p>If "Yes," identify for each: Firm Name: _____ Person: _____ Nature of the business relationship: _____</p>				

C. Indicate your firm's major equipment and/or vehicles owned or leased by your firm (*attach additional sheets, if necessary*):

(1) Major Equipment			
Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			
(2) Vehicles			
Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			

(c)			
-----	--	--	--

D. Does your firm rely on any other firm for management functions or employee payroll? 9 Yes 9 No

IF "YES," EXPLAIN AND INCLUDE A COPY OF THE MOST CURRENT AGREEMENT.

(COMPLETE ONLY IF THIS WAS CHANGED SINCE THE FIRM WAS LAST CERTIFIED.)

1. Banking Information:
 (a.) Name of Bank _____
 (b.) Address: _____ State: _____ Zip: _____
 (c.) City: _____
 (d.) Telephone No.: () _____

E. Financial Information COMPLETE ONLY IF THIS IS A CHANGE SINCE THE FIRM WAS LAST CERTIFIED

2. Bonding Information: If you have bonding capacity, please identify:
 (a.) Binder No.: _____
 (b.) Name of Agent/Broker: _____
 (c.) Address: _____
 (d.) City: _____ State: _____ Zip: _____
 (e.) Telephone No.: () _____
 (f.) Bonding Limit:
 1. Aggregate limit: \$ _____ Project Limit: \$ _____

F. List current licenses/permits held by any owner and/or employee of your firm: (e.g., contractor, engineer, architect, etc.)(attach additional sheets, if necessary)

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

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years (attach additional sheets, if necessary):

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

H. List the three largest contracts completed by your firm within the last three years, if any:

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

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

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

EMK DOC: [A:\WORDPERFECT VERSION OF UCP RENEWAL APP.wpd]
COMPLETION DATE: JAN. 2, 04 LAST REVISED: JANUARY 8, 2004
DRAFT #8

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
IMPLEMENTATION PLAN**

The following are the implementation schedules for staff training and the unified DBE directory, respectively. The completion of the first step of each schedule will occur upon USDOT's approval of the NYSUCP. The time frame with regard to the completion of each subsequent step is in relation to the prior step. The Certifying NYSUCP Partners intend to pursue development of the staff training activities and the unified DBE directory while the NYSUCP is under review by USDOT.

TRAINING:

<u>STEP</u>	<u>ACTION</u>	<u>TIMEFRAME</u>
1	Develop and Finalize Training Modules for Manual: Eligibility Criteria, Forms and Procedures, On-Site Review, Personal Net Worth Analysis, Internet based system (DBE online directory).	60 days
2	Recruit instructors and determine locations for training workshops	30 days
3	Schedule joint training sessions	10 days
4	Conduct initial training	150 days

DATABASE MANAGEMENT:

<u>STEP</u>	<u>ACTION</u>	<u>TIMEFRAME</u>
1	Develop and complete parameters for Unified DBE Directory	90 days
2	Compare UCP partners' databases	30 days
3	Purge duplicate DBEs	45 days
4	Develop common database	90 days
5	Develop procedures for electronic submission of DBE firms for inclusion in Unified DBE Directory	45 days
6	Develop and issue press release on public access to online DBE Directory (information will be maintained in NYS DOT's website)	10 days