

**COH HAS  
DBE PROGRAM — 49 CFR PART 26**

**POLICY STATEMENT**

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

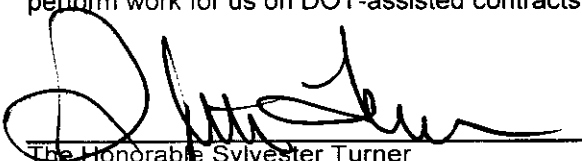
The City of Houston on behalf of the Houston Airport System (COH HAS) has established a Disadvantaged Business Enterprise (**DBE**) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR, Part 26. The COH HAS have received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the COH HAS have signed an assurance that it will comply with 49 CFR, Part 26.

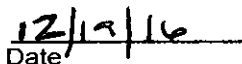
It is the policy of the COH HAS to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

Carlecia Wright, Director for the Office of Business Opportunity (OBO Director), has been delegated as the DBE Liaison Officer. In that capacity, the OBO Director is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the COH HAS in its financial assistance agreements with the Department of Transportation.

COH HAS disseminated this Policy Statement to the officials of the COH HAS and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts as part of all DOT assisted procurements.

  
 The Honorable Sylvester Turner  
 Mayor  
 City of Houston

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

### Section 26.5 Definitions

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

A link to 49 CFR Part 26 is included as **Attachment 1**.

### Section 26.7 Non-discrimination Requirements

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

### Section 26.11 Record Keeping Requirements

#### Reporting to DOT: 26.11(b)

Since the COH HAS will receive an annual grant during the reporting period of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program. We will submit an updated goal annually on August 1 if we plan to award contracts exceeding \$250,000 in FAA funds in that Federal fiscal year.

We will report DBE participation to DOT as follows:

We will transmit to FAA annually on December 1, as required the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.

The COH HAS may transmit the information using the form or electronically via DOORS <https://www.faa.gov/secure/doors/>.

#### Bidders List: 26.11(c)

The COH HAS 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 the following designated ranges of annual gross receipts of firms less than \$500,000; \$500,000 – \$1 million; \$1-2 million, \$2-\$2.4 million, and greater than \$2.4 million

We will collect this information in the following ways:

All prime contractors and subcontractors, DBEs and non-DBEs, and winners and losers of all firms that bid on federally assisted projects with COH HAS. All solicitations and contracts shall contain a clause requiring this information; or other widely disseminated request to firms quoting on subcontracts or requiring the bidder/ offeror to report the information directly to the COH HAS in a form attached hereto as **Attachment 2**, or such other methods as determined by the COH HAS necessary to collect the required bidder information.

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

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

#### Assurance: 26.13(a)

COH HAS shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The COH HAS' DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the COH HAS 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

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

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

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

The COH HAS will receive an annual grant for airport planning or development totaling \$250,000 during one or more years of the reporting period. We will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program. We will submit an updated goal on August 1 as required, if we plan to award FAA funded contracts exceeding \$250,000 annually during the reporting period..

### **Section 26.23 Policy Statement**

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

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

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

Carlecia Wright, 611 Walker Street, 7th Floor, Houston, Texas 77002, Carlecia.wright@houstontx.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the COH HAS complies with all provisions of 49 CFR Part 26 and Ordinance 99-893 and as amended. The DBELO has direct, independent access to the Mayor of the City of Houston concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 3** to this program.

The DBELO is responsible for developing, implementing, monitoring and reporting all aspects of the DBE program, in coordination with other appropriate officials. The DBELO has a staff of \_\_\_ professional employees including the City Attorney's Office and other City departments 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. Developing forms for certification applications, reporting, solicitation, bid and contract clauses
4. Works with all departments including Aviation, Public Works and Engineering to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs and SBEs 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 City of Houston's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid and pre-construction conferences/meetings.
8. Monitors contractor compliance with the City's DBE and SBE Programs;
9. Advises the Mayor, HAS CEO and governing bodies on DBE and SBE program matters and achievement.
10. Administers all aspects of the DBE and SBE certification process including on-site inspections.
11. Determine contractor compliance with good faith efforts.
12. Provides DBEs and SBEs with information and assistance in preparing bids, obtaining bonding and insurance.
13. Plans and participates in DBE and SBE training seminars.
14. Acts as liaison to the Uniform Certification Process in Texas.

15. Provides outreach to DBEs, SBEs and community organizations to advise them of opportunities.
16. Liaison to economic development organizations and agencies working in support of economic development in the minority and women business community.
17. Maintains the City of Houston's updated directory on certified DBEs and SBEs.
18. Promulgate regulations, procedures and revise as needed the DBE and SBE Programs consistent with 49 CFR Part 26 and Ordinance 99-893. Any regulations, procedures and revision are subject to review and approval of the City Attorney's Office.

#### **Section 26.27 DBE Financial Institutions**

It is the policy of the COH HAS 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.

To date we have identified the institutions attached hereto as **Attachment 4**.

#### **Section 26.29 Prompt Payment Mechanisms**

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Houston. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 the City of Houston. This clause applies to both DBE and non-DBE subcontractors.

#### **Section 26.31 Directory**

The COH HAS maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date and expiration 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 COH HAS is not static and periodically updates the DBE directory. COH HAS makes the DBE directory available at the office of the DBELO and on its website [www.houston.gov/obo](http://www.houston.gov/obo). The DBE directory link is included as **Attachment 5**.

#### **Section 26.33 Over-concentration**

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

#### **Section 26.35 Business Development Programs**

COH HAS has not established a business development program.

### Section 26.37 Monitoring and Enforcement Mechanisms

The COH HAS 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 consider similar action under our own legal authorities, including responsibility determinations in future contracts. **Attachment 6** lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This mechanism will include a written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by:

The Mayor's Office of Business Opportunity employs Contract Compliance Officers to specifically monitor the compliance of prime contractors/ vendors and DBEs with Part 26.

Prime contractors/vendors are required to submit Monthly Compliance Reports that reflect payments to all subcontractors and proof of subcontractor payments.

The Contract Compliance Officer verifies payments to the prime/vendor and all subcontractors.

The Contract Compliance Officer confirms the DBE subcontractor participation and the level of DBE participation as outlined in the Subcontractor Utilization Plan.

If it appears that the DBE participation is not consistent with the goal and/or plan, the Contract Compliance Officer contacts the prime/vendor to resolve the discrepancy.

If it is determined that a problem exist, the Contract Compliance Officer will send a monitoring letter to resolve the issue and submit a utilization plan to mitigate or bring the prime/vendor into compliance.

If necessary the Contract Compliance Officer will refer the matter to the Director of the Mayor's Office of business Opportunity and the Airport Director to facilitate a satisfactory resolution of the matter with the prime/vendor.

4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.
5. COH HAS includes in all contractual agreements a right to audit contractor/vendor records to facilitate monitoring and ensure compliance with Part 26.

**Section 26.39 Fostering small business participation.**

The COH 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.

This element has been submitted to the appropriate DOT operating administration for approval. The program element is included as **Attachment 7**. As part of this program element, the City of Houston will include the following strategies:

1. Consider a race-neutral small business set-aside for prime contracts under a stated amount consistent with state law.
2. In multi-year design-build contracts or other large contracts (e.g., for "megaprojects") the City will require the bidders on prime contracts to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
3. On prime contracts not having DBE contract goals, the City will require the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
4. Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
5. To meet the portion of our overall goal that the City projects to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

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

**Section 26.45 Overall Goals**

The COH HAS will establish 3-year overall goals if the City anticipate awarding FAA funded prime contracts exceeding \$250,000 annually within one or more of the reporting years within the 3-year goal period. Goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the COH HAS does not anticipate awarding more than \$250,000 in FAA funding annually during the 3-year reporting period, we will not develop an overall goal; however the existing DBE program will remain in effect and the COH HAS will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, "base figure". The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past

participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment 8** to this program.

In accordance with Section 26.45(f) the COH HAS will submit its overall goal to DOT on August 1 as required by the goal submittal timeline. In establishing the overall goal, the COH HAS will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the COH HAS efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the office of Business Opportunity for 30 days following the date of the notice, and informing the public that the COH HAS and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority- focus media and trade publications, websites. Normally, we will issue this notice by June 1 of the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

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

The COH HAS will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT. If the COH HAS establishes a goal on a project basis, the City will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

#### **Section 26.47 Failure to meet overall goals.**

If COH HAS awards and commitments are less than the goal for that year, we will:

1. Analyze the reasons for difference
2. Establish specific steps and milestones to fully meet the goal for the new fiscal year
3. As an Operational Evolution Partnership (OEP) Plan or primary airport we will submit, within 90 days of the end of that fiscal year, the analysis and corrective actions developed, to the appropriate FAA DBE Team

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

The breakout of estimated race-neutral and race-conscious participation can be found in **Attachment 8** to this program.

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

The COH HAS 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 total amounts of a DOT-assisted contracts.

### **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.

Carlecia Wright, OBO Director, 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. Mrs. Wright is also responsible for the responsiveness determination, i.e., if the good faith documentation was timely submitted.

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))

COH HAS treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsibility. The requirement to timely submit the good faith documentation is considered as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information within seven business days of being notified that they are the successful bidders, but before the contract is executed:

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

#### Administrative reconsideration (26.53(d))

Within ten business days of being informed by COH HAS that a determination was made that a good faith effort was not made, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Carlecia D. Wright, Director, Mayor's Office of Business Opportunity, email address [carlecia.wright@houstontx.gov](mailto:carlecia.wright@houstontx.gov). and phone number (832)

393-0615. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

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

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

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

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 five 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.

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

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the COH HAS to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 24.74 percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

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

**Section 26.55 Counting DBE Participation**

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.

## SUBPART D – CERTIFICATION STANDARDS

### Section 26.61 – 26.73 Certification Process

COH HAS will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

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

Marsha E. Murray, Assistant Director, Mayor's Office of Business Opportunity, email address [Marsha.Murphy@houstontx.gov](mailto:Marsha.Murphy@houstontx.gov) or telephone number (832) 393-0614.

Our certification application process, forms and documentation requirements are found in **Attachments 9 and 10** to this program.

## SUBPART E – CERTIFICATION PROCEDURES

### Section 26.81 Unified Certification Programs

COH HAS is the member of a Unified Certification Program (UCP) administered by Texas Department of Transportation. The UCP will meet all of the requirements of this section. A copy of the Texas UCP Agreement is included as **Attachment 11**.

### Section 26.83 Procedures for Certification Decisions

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

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

For firms that we ensure UCP have certified or reviewed and found eligible under Part 26, we will again review their eligibility every three years. These reviews will be conducted on a case by case basis based on the information and circumstances pertaining to the firm's DBE status.

#### "No Change" Affidavits and Notices of Change (26.83(j))

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

The UCP also requires all DBE owners we have certified to submit every year, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The form "no change" affidavit is attached as **Attachment 12**.

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

The UCP will notify all currently certified DBE firms of these obligations one month prior to the anniversary date of their certification. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net

worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

### **Section 26.85 Interstate Certification**

When a firm currently certified in its home state ("State A") applies to another State ("State B") for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures. We will follow the procedures defined in Section 26.85.

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

If we deny a firm's application or decertify it, it may not reapply until 12 months have passed from our action.

### **Section 26.87 Removal of a DBE's Eligibility**

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87. **Attachment 10** to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, the UCP have determined that [*name of official or office*] will serve as the decision-maker in de-certification proceedings. The UCP have established an administrative "firewall" to ensure that [*same official or office named in previous sentence*] will not have participated in any way in the de-certification proceeding against the firm (including the decision to initiate such a proceeding).

### **Section 26.89 Certification Appeals**

Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

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

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

The COH Administrative process to review certification decisions is outlined in **Attachment 10**.

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

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

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. COH HAS will comply with the provisions of Texas Government Code, Chapter 552, Texas Open Records Act and will provide access to public documents not subject to an exception under the Act.

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.

#### 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 COH HAS or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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

## ATTACHMENTS

[List and append; we recommend that a copy of Part 26 be attached to the program so that public users to whom we send copies can have it handy]

Attachment 1	Regulations: 49 CFR Part 26 or website link
Attachment 2	Bidder's List Collection Form
Attachment 3	Organizational Chart
Attachment 4	DBE Financial Institutions in COH
Attachment 5	DBE Directory Link
Attachment 6	Non-Compliance Remedies
Attachment 7	COH HAS Small Business Element
Attachment 8	DBE Goal Methodology
Attachment 9	Certification Application form (form can be found at <a href="http://osdbu.dot.gov/DBEProgram/GuidanceforDBEProgramAdministrators/index.cfm">http://osdbu.dot.gov/DBEProgram/GuidanceforDBEProgramAdministrators/index.cfm</a> )
Attachment 10	Texas Unified Certification Program Standard Operating Procedure
Attachment 11	Signed UCP Agreement Form
Attachment 12	No Change Affidavit

## ATTACHMENT 1

### Link to 49 CFR Part 26

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=46b0512f83da2f449b6664cb47a3d13b&tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=46b0512f83da2f449b6664cb47a3d13b&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)



**ATTACHMENT 2**

**Bidder's List Collection Form**

**ATTACHMENT 3**  
**Organizational Chart**

**ATTACHMENT 4**  
**DBE Financial Institutions in COH**

**ATTACHMENT 5**  
**DBE Directory Link**

[www.houston.gov/obo](http://www.houston.gov/obo)

**ATTACHMENT 6**  
**Non-Compliance Remedies**

**ATTACHMENT 7**  
**COH HAS Small Business Element**

**ATTACHMENT 8**  
**DBE Goal Methodology**

**ATTACHMENT 9**  
**Certification Application form**

Form is attached and can also be found at:

<http://osdbu.dot.gov/DBEProgram/GuidanceforDBEProgramAdministrators/index.cfm>



**ATTACHMENT 10**

**Texas Unified Certification Program Standard Operating Procedure**

**ATTACHMENT 11**  
**Signed UCP Agreement Form**

**ATTACHMENT 12**  
**No Change Affidavit**

**ATTACHMENT 1**

**Link to 49 CFR Part 26**

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=46b0512f83da2f449b6664cb47a3d13b&tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=46b0512f83da2f449b6664cb47a3d13b&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

**ATTACHMENT 2**

**Bidder's List Collection Form**

**Attachment 2**  
**Bidder's List Collection Form**  
**Information on All Firms that Provided Bids or Quotes to:**

This requirement applies to all firms, regardless of whether they are subs or primes, regardless of the gender or race of their owners, and regardless of whether they are ultimately chosen to participate in the contract. Please list below the name, address, phone number and contact person for every firm that provided you a bid or a quote on this project – even if you ultimately decided not to use the firm in preparing your final bid. This first line should be used for the prime contractor on this project. All sections must be completed to the best of your ability.

MSCAA Proj./Bid No.: \_\_\_\_\_

Name of Firm	Full Address of Firm	Point of Contact	Phone No.	DMWBE ? Y/N	Firm Age	AGRR *
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	
					Y/S	

\*

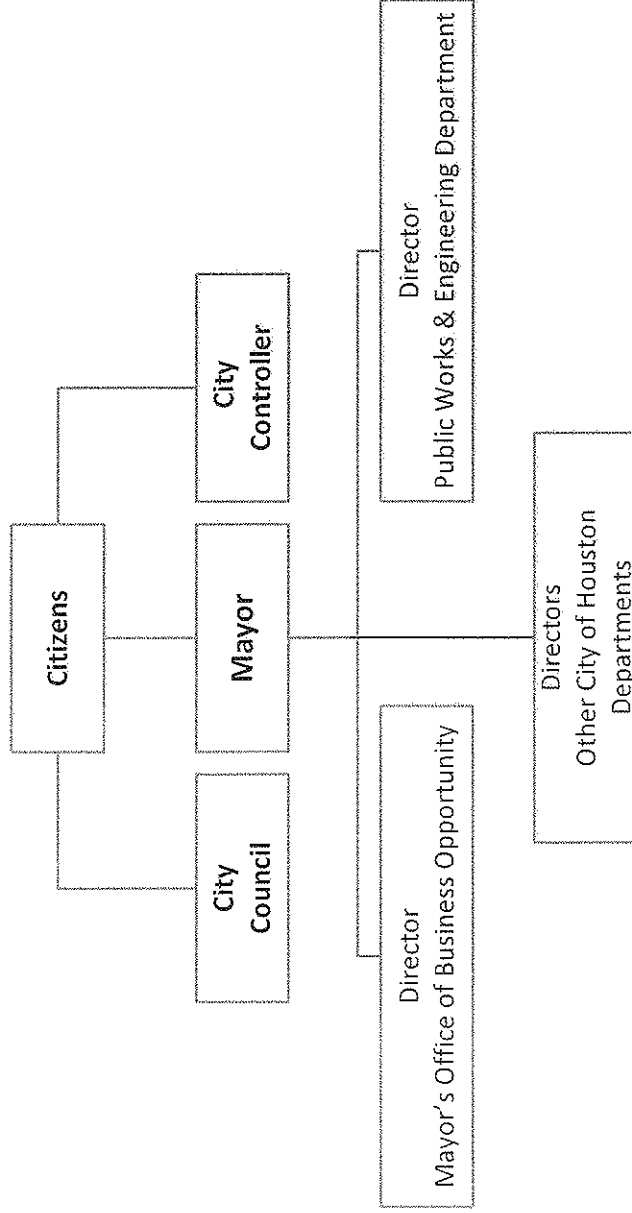
Footnote: Please enter the letter for the category that best identifies your annual gross revenue.

AGRR = Annual Gross Revenue Ranges:    A = Less than \$500,000    B = \$500,000 - \$1 Million    C = \$1 - \$2 Million    D = \$2 - \$5 Million

**ATTACHMENT 3**  
**Organizational Chart**

# ORGANIZATION CHART

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**ATTACHMENT 4**

**DBE Financial Institutions in COH**

## DBE Financial Institutions in COH

### **Accion Texas**

Shirley Brooks, Vice President  
East Texas Region Lending  
3300 Chimney Rock Suite 100a  
Houston, Texas 77056  
Ph: (888) 215-2373 ext. 1501  
Email: sbrooks@acciontexas.org

### **Amergy Bank**

Winston Labbe  
4400 Post Oak Blvd. 7th Floor  
Houston, TX 77027  
713.232.1565  
Email: Winston.labbe@amergybank.com

### **Houston Business Development Inc**

Marion Mitchell  
5330 Griggs Rd.  
Houston TX 77021  
713.845.2300  
Email: M.Mitchell@hbdinc.org

### **Wallis State Bank**

Nasr Khan  
908 Town & country Blvd. #400  
Houston, TX 77024  
281.217.1163  
Email: j.khan@wallisbank.com

**ATTACHMENT 5**  
**DBE Directory Link**

[www.houston.gov/obo](http://www.houston.gov/obo)

**ATTACHMENT 6**  
**Non-Compliance Remedies**

## **Non-Compliance Remedies**

- 18 USC Section 1001
- Chapter 15, Code of Ordinances, City of Houston, §15.16 et seq.
- 49 CFR Part 26
- 49 CFR Part 21
- Contract Provisions for Termination or Suspension of the Contract
- City Ordinance No. 99-893
- Section 520, Airport and Airway Improvement Act of 1982

**ATTACHMENT 7**

**COH HAS Small Business Element**

### SECTION III: COH HAS SMALL BUSINESS ELEMENT

#### **A. Objective (49 CFR Part 26.39)**

The City of Houston and the Houston Airport System ("COH HAS") recognizes that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses. The COH HAS seeks to implement a race neutral small business element into its current DBE policy in accordance with applicable law. The COH HAS will include this element to facilitate competition by and expand opportunities for small business enterprises ("SBE"). The COH HAS is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The COH HAS will meet its objectives using a combination of the following contract delivery methods and strategies:

1. Unbundling: COH HAS, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The COH HAS will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, COH HAS will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses. The COH HAS will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. COH HAS will appropriately document the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.

2. Outreach and technical assistance: COH HAS sponsors and participates in outreach and training opportunities for SBEs through various partnerships. COH HAS will provide education courses, seminars and workshops for small businesses to better prepare them to participate in the procurement process.

In order to foster SBE participation, the COH HAS staff shall participate in business outreach sessions conducted by local municipalities and non-profit agencies which are designed to introduce SBE and DBE businesses to the COH HAS's procurement processes and practices. COH HAS will also participate in and sponsor conferences and outreach sessions conducted by local chambers, non-profit and advocacy organizations. Additionally, COH HAS will advertise contracting opportunities through various outlets, including local newspapers, minority-based publications and trade publications as well as on its website.

As described above, COH HAS will utilize a variety of methods to facilitate small business participation. In each FAA-assisted contract, the DBELO will document the method in which the small business element will be implemented (i.e., set-aside, unbundling, micro small business program and/or outreach) and the process by which those methods were considered.

3. Set asides: Consistent with state law, City ordinances and policies, COH HAS will consider as a procurement strategy the feasibility of implementing set asides for participation by SBEs on FAA-assisted contracts. A “set-aside” is defined as reserving of a contract or a portion of a contract exclusively for participation by small businesses. Consistent with the FAA regulations, if implemented, a small business set-aside shall be open to all small businesses regardless of the owner’s gender, race or geographic location, and will be in addition to the DBE contract goals which may be required pursuant to applicable law or policy.

## **B. Definitions**

### 1. Small Business:

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). 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 as defined or modified by the City of Houston Mayor’s Office of Business Opportunity. In defining an SBE for the DBE program, COH HAS shall consider and evaluate in implementing the small business element if the personal net worth (“PNW”) requirement applicable to DBEs should also apply to small businesses.

### 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 PNW and does not exceed the described in 49 CFR Part 26. The current PNW cap is \$1.32 million;
- Whose average annual gross receipts, as defined by SBA regulations over the firm’s previous three fiscal years is less than \$22.41 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 by the COH OBO in accordance with 49 CFR 26.



For the purposes of the small business element of COH HAS's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

### **C. Certification and Verification Procedures**

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

1. DBE Certification – DBE Certification by the COH HAS 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 the COH OBO.

2. SBE Certification – SBE Certification by the COH HAS which stipulates that a firm has been determined to meet all the requirements in accordance with Section 3 of the Small Business Act. All certification determinations are evidenced by a letter of SBE certification issued by the COH HAS.

3. The SBE is certified by a government agency or Unified Certification Program that has a reciprocity agreement with the COH HAS and has satisfied the COH HAS that the agency has conducted a thorough and complete verification that the business does not exceed the SBA size standards.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise program will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

### **D. Implementation Schedule**

The COH HAS will approve the small business element of the Small Business Participation element of the DBE Program by March 31, 2012, and will implement it within six months of the FAA's approval of this element. Consistent with the responsibilities and duties of the Mayor's Office of Business Opportunity and the DBE regulations, any policies, programs recommendations, or procedures related to the above small business element subject to review, shall be approved by the Mayor and/or City Council and by the city attorney prior to implementation.

### **E. Assurances**

The COH HAS makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state 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 businesses 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.

**ATTACHMENT 8**  
**DBE Goal Methodology**

**City of Houston  
Affirmative Action and Contract Compliance**

**Proposed Goal for the Participation of  
Disadvantaged Business Enterprises in  
Department of Transportation Funded Contracts  
FY 2011-2013**

Pursuant to the Code of Federal Regulations, Section 49, Part 26, the City of Houston has proposed an overall goal of 24.74% for the participation of Disadvantaged Business Enterprises (DBE) in its Houston Airport System contracts that are funded by the US Department of Transportation (DOT), effective October 1, 2010 thru September 30, 2013. Of the 24.74% overall goal, it is anticipated that 1.0% can be achieved by race/gender neutral means.

**I. METHODOLOGY**

**Step 1**

In order to determine an overall goal, the following data sources were utilized:

- 2007 Harris County Business Patterns for the Houston PMSA
- City of Houston (COH) Database of certified MWDBE firms
- State of Texas – Texas Unified Certification Program (TUCP) database of certified firms
- Bidders list for Houston Airport Construction and Professional Service Contracts for the previous fiscal year.

After identifying the anticipated types of contracts that will be awarded during the upcoming fiscal year, County Business Pattern data for all firms in the Houston PMSA was identified for the appropriate contracting area. The Houston PMSA was used as the local market area, since the majority of contractors and subcontractors are located in this area. Additionally, the data provided by TUCP included firms interested in working in the Houston region, but not necessarily located within the Houston PMSA. Two sources of data were used to calculate DBE availability: The COH database of certified MWDBE firms and the TUCP database of certified DBE firms. Harris County Business Patterns for the Houston PMSA-2007 was used to calculate the number of all ready, willing and able businesses available in the City's market that perform work in the applicable NAICS codes. It should be noted that because there were TUCP businesses located outside the Houston PMSA, the difference between the TUCP data and the DBEs within the Houston PMSA was added to the County Business Pattern data for the Houston PMSA in the appropriate contracting area. (NAICS)

The initial calculation of DBE availability was weighted based on the percentage of contract dollars that would be awarded in each area. A total of eighteen (18) projects totaling over \$146,268,000 are anticipated for Federal FY2011-2013. NAICS codes corresponding to the scope of work in each project was analyzed. (See Attachment 1) **The weighted availability figure was 28.69%.**

Bidders lists obtained from contractors bidding on DBE assisted jobs in the previous years were used to assist in determining the number of ready, willing and able firms. Generic bidders lists were screened to eliminate firms listed in areas that would not be included in upcoming DOT assisted contracts. **The resulting DBE availability from the bidders list was 27.85%. (See Table 1)**

Table 1.  
Houston Airport System  
Bidders List on DBE funded Projects

Category	Total Firms	DBE Firms	%DBE
Prime Contractors	44	4	9%
Subcontractors	35	18	51.43%
Total	79	22	27.85%

To determine a base DBE availability figure, the 28.69% DBE availability figure was averaged with the 27.85% bidders' list/ready, willing, and able DBE subcontractor data, resulting in a **Step 1 DBE availability figure of 28.27%.**

## Step 2

The Step 2 analysis involved calculating the overall DBE participation for fiscal years 2006, 2007, 2008, 2009 and 2010 and then calculating the median DBE participation for all 5 years. (See Attachment 2) The DBE participation for FY 2006, 33.1%; for FY 2007, 18.1%, for FY 2008, 21.2%, for FY 2009, 18.5% and for FY 2010, 25.4% **The median of all five years is 21.2%.**

To arrive at the City's recommended overall goal, the Step 1 base figure 28.27% was averaged with the 21.20% median participation figure, resulting in 24.74%.

## II. Breakout of the Estimated Race/Gender Neutral and Race/Gender Conscious Participation

Regarding the calculation of the race/gender neutral goal, several factors were considered. They are:

- A. Past participation by DBE prime contractors.**  
No prime contractor awards to DBE firms

**B. Voluntary DBE utilization on contracts with no DBE goals.**

All Federal Funded Contract had a DBE goal.

**C. The amount by which goals were exceeded in the past.**

DBE participation for fiscal years 2006 – 2010 were reviewed to determine the extent to which overall DBE contract goals were exceeded in the past. The results are presented in the following table.

<b>Fiscal Year</b>	<b>Actual Participation</b>	<b>Differences</b>
2006	33.1%	+3.4
2007	18.1%	-.12
2008	21.2%	-2.77
2009	18.5%	-1.74
2010	25.4%	4.98
<b>Median</b>		-1.12

Therefore, based on the aforementioned information, the FY 2011 race/gender neutral goal will be 1%.

**D. Description of efforts to use race neutral means.**

Examples of our efforts to use race-neutral means include, but are not limited to, the following:

- 1) Hosting Fourth Annual Houston Airport System's Small Business Networking Opportunity Fair. Over 1000 small business owners attended this event. These events connect DBE's to airport decision makers.
- 2) Participating in Outreach Fairs with other Stakeholders that receive federal DOT funding (Port of Houston, City of Houston Housing and Community Affairs, METRO, etc.). Recipient communicated to over 10,000 current and potential DBE's.
- 3) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- 4) Providing technical assistance and other services;

- 5) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- 6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- 7) Ensuring distribution of the DBE directory through print and electronic means to the widest feasible universe of potential prime contractors; and
- 8) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.
- 9) Maintaining the Mentor-Protégé program

### **III. Public Participation**

In establishing an overall goal, the City of Houston provided time for public participation. This public participation included:

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

- a. Attachment 3a is an example of the letter sent describing inviting stakeholders to a public forum.
- b. Attachment 3b is a colorful advertisement in which we collaborated the FY'11 Stakeholders meeting with a Business Opportunity Networking Fair to reach more Stakeholders, especially potential DBE's.
- c. Attachment 4 is a list of minority, women's and general contractor groups, community organizations, and other officials or organizations to whom the attachment 3 letter was sent.
- d. Attachment 5 is the sign-in sheet of attendees to our Stakeholders meeting.
- e. Attachment 6 is the question and answer narrative recorded at one of our stakeholders meetings.

(2) A published notice announcing the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business

hours at the City Secretary's Office for 30 days following the date of the notice, and informing the public that the City of Houston and the Department will accept comments on the goals for 45 days from the date of the notice. The notice included addresses to which comments may be sent, and it was published in general circulation media and available minority-focused media and trade association publications. The notice was published in the City Secretary's Office and on the City of Houston Airport System's Website, [www.fly2houston.com](http://www.fly2houston.com). Notices were also published in the following print media:

- Houston Defender
  - Southern Chinese Daily News
  - African American News and Issue
  - Christian Monitor (Nigerian Newspaper)
  - Lasubasta- Spanish Newspaper
  - Houston Chronicle
  - I-10 Media (Electronic Minority Business Newsletter)
- a. Attachments 7A, 7B and 7C are samples of the notice of the DBE goal published in newspapers in Spanish, English and Chinese.
- b. Attachment 8 is a copy of the notice of the DBE Goal.



CITY OF HOUSTON  
HOUSTON AIRPORT SYSTEM  
LIST OF ANTICIPATED DOT ASSISTED PROJECTS (FY 11 - FY 13)

LOC	Proj No.	Phase	Description	Estimated amount
IAH	621	C	PHASE II & III EXPANSION CENTRAL PLANT	\$ 18,300,000
IAH	621	C	HVAC ELECTRONIC CONTROLS - TERM A, B, C, D & FIS	\$ 4,500,000
EFD	629	D	DESIGN - AIR TRAFFIC CONTROL TOWER	\$ 750,000
IAH	648	C	REHABILITATE TAXIWAY WA & WB (DISCRETIONARY FUND)	\$ 37,050,000
IAH	648	C	NEW ELECTRICAL VAULT AT WEST SIDE OF IAH	\$ 4,950,000
HOU	680	D	TAXIWAY M3, H2 H AND G	\$ 600,000
HOU	681	D	SHORTENING RUNWAY 17	\$ 100,000
EFD	682	D	TAXIWAY G EXTENSION TO C	\$ 200,000
IAH	676	O	NOISE MITIGATION PROGRAM	\$ 3,000,000
EFD	629	C	AIR TRAFFIC CONTROL TOWER	\$ 7,700,000
HOU	680	C	TAXIWAY M3, H2 H AND G	\$ 5,400,000
HOU	681	C	SHORTENING RUNWAY 17	\$ 900,000
IAH	646	D	RECONSTRUCT TAXIWAY SA & SB	\$ 3,000,000
EFD	682	C	TAXIWAY G EXTENSION TO C	\$ 1,800,000
IAH	676	O	NOISE MITIGATION PROGRAM	\$ 3,000,000
IAH	646	C	RECONSTRUCT TAXIWAY SA & SB	\$ 27,000,000
IAH	509	C	RELOCATE EXISTING VEHICLE SERVICE ROAD AT TAXIWAY S	\$ 518,000
IAH	509	C	EAST MID-FIELD TAXIWAY	\$ 27,500,000
				\$ 146,268,000

Houston Airport System  
 Office of Small Business Development and Contract Compliance  
 DBE Goal Calculation FY-2011-2013  
 Capacity Estimates  
 Weighted Ratio of Certified DBEs to Available Firms in Market Area

NAICS Codes	Description	Total Available Firms	COH/DOT Companies	Weight	Weighted %
237310	Paving and Painting (Airport)	244	146	0.06	3.81
238110, 238120	Concrete Construction Work	350	121	0.42	14.68
238210 & 423610	Electrical	937	124	0.20	2.66
238910, 484220	Excavation, Earthwork, Hauling	591	214	0.09	3.08
238220	Mechanical	1,320	48	0.08	0.29
236220	Structural	770	242	0.11	3.38
541330	Engineering	1,622	339	0.04	0.79
	<b>TOTAL</b>	<b>5,834</b>	<b>1,234</b>	<b>1.00</b>	<b>28.69</b>

Sources:  
 United States Census- Harris County Business Patterns for the TX Metropolitan Statistical Area-2007  
 COH DBE Directory-May 2010  
 DOT-TUCP-May 2010

**City of Houston  
Affirmative Action and Contract Compliance  
Analysis of Actual DBE Utilization  
in DOT Funded Airport Contracts**

Project Description	Prime Contractor	Final Contract Amount	Total DBE Dollars	Actual DBE %	Goals	Difference Act DBE Goal	
FY 2006	#417B, Relocation of Taxiways "Y" & "Z" @ Hobby	W.W.Webber, Inc.	\$ 18,551,047	\$ 3,238,544	17.5%	17.00%	0.50%
	#485, Miscellaneous Airfield Improvements @ Hobby	W.W.Webber, Inc.	\$ 7,404,382	\$ 1,901,577	25.7%	17.00%	8.88%
	#522 Runway 8L-26R Clearing, Grading & Drainage @ IAH	W.W.Webber, Inc.	\$ 11,681,770	\$ 2,357,927	20.2%	18.00%	2.20%
	#522D, Airfield & Ground Facility, ARFF Utilities, & Service Road @ IAH	W.W.Webber, Inc.	\$ 8,618,463	\$ 2,359,268	27.8%	19.30%	8.60%
	#522E, 8L-26R, Final Grading & Airfield Drainage @ IAH	W.W.Webber, Inc.	\$ 13,623,973	\$ 4,862,505	35.7%	19.30%	16.39%
	#522G Connector Taxiways, Bridges, & Off-site Drainage @ IAH	W.W.Webber, Inc.	\$ 46,209,290	\$ 10,389,262	22.5%	19.30%	3.20%
	#522H, North Runway 8L-26R & Parallel Taxiway @ IAH	W.W.Webber, Inc.	\$ 41,210,871	\$ 8,071,433	19.6%	19.30%	0.29%
	#522M Runway 8L-26R Midfield Grading @ Bush IAH	W.W.Webber, Inc.	\$ 2,948,495	\$ 606,800	20.6%	19.30%	1.30%
	#554 - Terminal C Southeast Ramp Upgrade & Widening @ IAH	W.W.Webber, Inc.	\$ 28,538,932	\$ 6,880,011	24.1%	18.00%	6.10%
	#555 Terminal B & C North Ramp Expansion @ Bush IAH	W.W.Webber, Inc.	\$ 14,657,494	\$ 5,600,636	18.1%	19.30%	-0.20%
	#558 Runway 15R-33L Extension & Widening @ Bush IAH	W.W.Webber, Inc.	\$ 82,159,166	\$ 16,323,372	19.9%	17.00%	2.90%
	#558A, Taxiway "SD" Bridge @ Bush IAH	W. W. Webber, Inc.	\$ 22,785,518	\$ 44,448,227	19.5%	19.30%	0.20%
	#560-New Cargo area Infrastructure @ Bush IAH	W.W.Webber, Inc.	\$ 44,951,938	\$ 7,848,128	17.5%	18.00%	-0.50%
	#568, Airfield Pavement Rehabilitation @ Ellington Field	W.W.Webber, Inc.	\$ 7,274,146	\$ 1,241,659	17.1%	19.30%	-2.20%
			\$ 350,615,481	\$ 118,173,248	33.1%		3.40%
FY 2007	#522F Runway 8L-26R New North Vault and Security fence @ IAH	PDG Electric Company	\$ 11,369,169	\$ 3,005,502	26.4%	19.30%	7.10%
	#522G Rehab. Of TAW "NA", Extend TAW "NB" & Drainage	W. W. Webber, Inc.	\$ 46,209,290	\$ 8,918,393	22.5%	19.30%	3.18%
	#522H R/W 8L-26R Reforestation, Wall, Fencing @ Access Rd @ IAH	W. W. Webber, Inc.	\$ 4,172,888	\$ 1,421,746	34.1%	19.30%	14.77%
	#542C Miscellaneous Drainage & Paving Improvements @ IAH	W. W. Webber, Inc.	\$ 12,800,363	\$ 2,573,594	20.1%	19.30%	0.80%
	#555 Term. B & C North Ramp Expansion @ IAH	W. W. Webber, Inc.	\$ 14,657,494	\$ 2,800,318	19.1%	19.30%	-0.19%
	#612B FIS/Terminal E In-line EDS Baggage Handling System @ IAH	Stewart-Mattl, Ltd.	\$ 4,447,987	\$ 676,743	15.2%	17.00%	-1.80%
	#568C Asbestos Abate/Demo, Bldg 18, 19, 20 & 21 for SMGCS @ HOU	ARC Abatement, Inc.	\$ 550,073	\$ 14,339	2.6%	24.00%	-21.38%
	#568 Airfield Pavement Rehabilitation @ EFD	W. W. Webber, Inc.	\$ 7,274,146	\$ 1,241,659	17.1%	19.30%	-2.23%
	#599 Misc. Airfield Pavement Repairs @ EFD	W. W. Webber, Inc.	\$ 4,008,989	\$ 702,531	17.5%	20.00%	-2.48%
	#603 Rehabilitation of Runway 15L-33R @ IAH	W. W. Webber, Inc.	\$ 17,916,563	\$ 3,603,997	20.1%	20.10%	0.02%
	424D-Central Plant Equipment Pre-Purchase package #1 IAH	Gowan, Inc.	\$ 18,115,484	\$ 104,751	0.6%	0.65%	-0.06%
	542C-Miscellaneous Drainage & Paving Improvements at IAH	W. W. Webber, Inc.	\$ 12,800,363	\$ 2,470,470	20.1%	19.30%	0.81%
		\$ 152,322,607	\$ 27,534,042	18.1%		-0.12%	
FY 2008	566B-SMGCS/ CIVIL SITE WORK, INSTR LANDING SYSTEM	W. W. Webber, Inc.	\$ 27,328,690	\$ 6,558,888	23.5%	24.00%	-0.55%
	612A, IN-LINE EDS BAGGAGE SYSTEM AT HOU	VanDeLande Industries, Inc.	\$ 7,425,023	\$ 854,639	11.5%	20.10%	-8.59%
	628 CONSTRUCTION OF TAXI-LANE K @ ELLINGTON	W. W. Webber, Inc.	\$ 2,764,548	\$ 544,616	20.5%	19.70%	0.82%
		\$ 37,518,262	\$ 7,958,141	21.2%		-2.77%	
FY 2009	612G, IN-LINE EDS BAGGAGE SYSTEM AT IAH	VanDeLande Industries, Inc.	\$ 4,796,554	\$ 805,274	23.5%	20.10%	3.35%
	608-Reconstruction of Runway 4-22, Storm Drainage @ EFD	VanDeLande Industries, Inc.	\$ 11,908,837	\$ 2,319,671	19.5%	20.10%	-0.63%
	612H-Terminal D Explosive Detection System Interim In-line Baggage	VanDeLande Industries, Inc.	\$ 2,862,161	\$ 499,390	18.4%	20.10%	-1.74%
		\$ 19,567,552	\$ 3,624,334	18.5%		0.33%	
FY 2010	576A-Access Control and Telecom Duct Bank @ HOU	TJ & T Enterprises	\$ 4,144,249	\$ 750,444	18.1%	19.70%	-1.59%
	619 Rehab of Runway 12R/30L and Misc Electrical Repairs	EAS Contracting LP	\$ 15,988,863	\$ 4,161,694	26.3%	20.08%	6.21%
	536H Automated People Mover Phase 3, Package 1, IAH	W. W. Webber, Inc.	\$ 2,234,006	\$ 708,202	31.7%	22.00%	9.70%
	524=Professional consulting services for drainage... @IAH	S & B Infrastructure	\$ 1,370,500	\$ 405,778	29.6%	24.00%	5.61%
		\$ 23,737,618	\$ 6,026,118	25.4%		4.98%	



## HOUSTON AIRPORT SYSTEM

Ciudad de Houston

**Aviso de meta propuesta  
para la participación de las empresas o negocios en  
desventaja en los contratos asistidos del Departamento de  
Transporte  
Octubre 1, 2010 - Septiembre 30, 2011**

Según se requiere en la sección 49 del Código de Regulaciones Federales- Parte 26, el Sistema del Aeropuerto de Houston (HAS) ha determinado una meta total propuesta de 24.74% para la participación de las empresas y negocios en desventaja (DBEs), en los contratos en que el departamento de los E.E.U.U. de Transporte (DOT) proporciona asistencia financiera.

La meta propuesta y su base están disponibles para inspección durante horas de oficina normales, en la Oficina de la Secretaria de la Ciudad, anexo al City may, nivel público, 900 Bagby, Houston, TX 77002; en la División de Cumplimiento de Contratos y Acción Afirmativa de la Oficina del Alcalde, 611 Walker, El 7 piso, Houston TX 77002; y en la Oficina de la División Cumplimiento de Contratos Desarrollo de Pequeños Negocios del Sistema del Aeropuerto de Houston camino de 18600 Lee Road, Humble, TX 77338. La ciudad ( a través de Acción Afirmativa y del Sistema del Aeropuerto de Houston) y el departamento del transporte (a través de la Administración de Aviación federal) aceptarán comentarios escritos sobre las metas hasta el 25 Julio de 2010.

Los comentarios escritos se pueden dirigir a: City of Houston, Mayor's Office of Affirmative Action and Contract Compliance, Velma Laws, Director, 611 Walker Street, 7th Floor, Houston, Texas 77002 or Federal Aviation Administration; Southwest Region Civil Rights Division; Attention: Joyce Davis; 2601 Meacham Blvd.; Fort Worth, TX 76137



City of Houston

**Notice of Proposed Goal for the Participation of Disadvantaged Business Enterprises in Department of Transportation Assisted Contracts October 1, 2010 through September 30, 2011**

As required by Section 49 Code of Federal Regulations Part 26, the Houston Airport System (HAS) has determined a proposed overall goal of 24.74% for the participation of Disadvantaged Business Enterprises (DBE) in its contracts which the US Department of Transportation (DOT) provides financial assistance.

The proposed goal and its rationale are available for inspection during normal business hours at the City Secretary's Office, City Hall Annex, Public Level, 900 Bagby, Houston, TX 77002; at the Affirmative Action and Contract Compliance Division of the Mayor's Office at 611 Walker, 7th Floor, Houston, TX 77002; and at the Houston Airport System Small Business Development and Contract Compliance Division Office, 1860 Lee Road, Humble, TX 77338. The City (through the Affirmative Action and the Houston Airport System) and the Department of Transportation (through the Federal Aviation Administration) will accept written comments on the goal through July 23, 2010.

Written comments may be directed to: City of Houston, Mayor's Office of Affirmative Action and Contract Compliance, Velma Lewis, Director, 611 Walker Street, 7th Floor, Houston, Texas 77002 or Federal Aviation Administration, Southwest Region Civil Rights Division, Attention: Janet Davis, 2601 Meacham Blvd., Fort Worth, TX 76127.



City of Houston

**Notice of Proposed Goal for the Participation of Disadvantaged Business Enterprises in Department of Transportation Assisted Contracts**

As required by Section 49 Code of Federal Regulations Part 26, the Houston Airport System (HAS) has determined a proposed overall goal of 24.74% for the participation of Disadvantaged Business Enterprises (DBE) in its contracts which the US Department of Transportation (DOT) provides financial assistance.

The proposed goal and its rationale are available for inspection during normal business hours for 30 days following the initial date of this notice at:

City Secretary's Office City Hall Annex Public Level 900 Bagby Houston, TX 77002	Affirmative Action and Contract Compliance Division of the Mayor's Office 611 Walker, 7th Floor, Houston, TX 77002
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The City (through the Affirmative Action and the Houston Airport System) and the Department of Transportation (through the Federal Aviation Administration) will accept written comments on the goal for 45 days from the initial date of this notice.

Written comments may be directed to:

City of Houston Mayor's Office of Affirmative Action and Contract Compliance Attention: Velma Lewis, Director 611 Walker Street, 7th Floor Houston, Texas 77002	Houston Airport System Office of Small Business Development and Contract Compliance Attention: J. Genevieve Harris 1860 Lee Road Humble, TX 77338	Federal Aviation Administration Attention: Janet Davis Southwest Region Civil Rights Division 2601 Meacham Blvd. Fort Worth, TX 76127
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## 休士頓市政府公告

### 關於美國聯邦運輸部幫助弱勢企業參與支持的合同項目的提議通告 從2010年10月1日到2011年9月30日

據聯邦法規 第26部分，第49項的要求，休斯敦機場系統已確定了一個目標。  
該目標旨在使得弱勢企業在美國聯邦運輸部提供經濟援助的合同項目的總體參與比例能達到24.71%。

有意者可在正常辦公時間，到以下幾個地址，查詢檢驗這一提議目標及其可行性的理論基礎。  
City Secretary's Office  
City Hall Annex, Public Level  
900 Bagby, Houston, TX 77002  
Houston Airport System  
Small Business Development  
and Contract Compliance Division Office  
18600 Lee Road, Humble, TX 77338

Affirmative Action and Contract Compliance  
Division of the Mayor's Office  
611 Walker, 7th Floor., Houston, TX 77002

休斯敦市政府，通過平等法案及休斯敦機場系統，和美國聯邦運輸部，通過聯邦航空管理局，  
在2010年7月25日截止之前同時可接受對這一提議目標的書面評論查詢。

書面評論查詢請郵寄至：

City of Houston,  
Mayor's Office of Affirmative  
Action and Contract Compliance,  
Attention: Velma Laws, Director,  
611 Walker Street, 7th Floor,  
Houston, Texas 77002

Federal Aviation Administration,  
Southwest Region Civil Rights Division,  
Attention: Joyce Davis,  
2601 Meacham Blvd.,  
Fort Worth, TX 76137

### 張貼至2010年7月10日

首次公告日：2010年6月10日

## 休士頓市政府公告

### 關於美國聯邦運輸部幫助弱勢企業參與支持的合同項目的提議通告

據聯邦法規 第26部分，第49項的要求，休斯敦機場系統已確定了一個目標。  
該目標旨在使得弱勢企業在美國聯邦運輸部提供經濟援助的合同項目的總體參與比例能達到24.71%。

有意者可在首次公告日之後30天內的正常辦公時間，到以下幾個地址，查詢檢驗這一提議目標及其  
可行性的理論基礎。

City Secretary's Office  
City Hall Annex, Public Level  
900 Bagby, Houston, TX 77002

Affirmative Action and Contract Compliance  
Division of the Mayor's Office  
611 Walker, 7th Floor., Houston, TX 77002

休士頓市政府，通過平等法案及休士頓機場系統，和美國聯邦運輸部，通過聯邦航空管理局，  
在首次公告日之後45天內，同時接受對這一提議目標的書面評論查詢。

書面評論查詢請郵寄至：

City of Houston,  
Mayor's Office of Affirmative  
Action and Contract Compliance  
Attention: Velma Laws, Director  
611 Walker Street, 7th Floor.,  
Houston, Texas 77002

Federal Aviation Administration  
Southwest Region Civil Rights Division  
Attention: Joyce Davis  
2601 Meacham Blvd.,  
Fort Worth, TX 76137

Houston Airport System  
Office of Small Business Development  
and Contract Compliance  
Attention: J. Goodwille Pierre  
18600 Lee Road, Humble, TX 77338

張貼單位  
日期  
時間



City of Houston

**Notice of Proposed Goal  
for the Participation of  
Disadvantaged Business Enterprises in  
Department of Transportation Assisted Contracts  
October 1, 2010 through September 30, 2011**

As required by Section 49 Code of Federal Regulations Part 26, the Houston Airport System (HAS) has determined a proposed overall goal of **24.74%** for the participation of Disadvantaged Business Enterprises (DBEs) in its contracts which the US Department of Transportation (DOT) provides financial assistance.

The proposed goal and its rationale are available for inspection during normal business hours at the City Secretary's Office, City Hall Annex, Public Level, 900 Bagby, Houston, TX 77002; at the Affirmative Action and Contract Compliance Division of the Mayor's Office, 611 Walker, 7<sup>th</sup> Floor, Houston, TX 77002; and at the Houston Airport System Small Business Development and Contract Compliance Division Office, 18600 Lee Road, Humble, TX 77338. The City (through the Affirmative Action and the Houston Airport System) and the Department of Transportation (through the Federal Aviation Administration) will accept written comments on the goals through July 25, 2010.

Written comments may be directed to: City of Houston, Mayor's Office of Affirmative Action and Contract Compliance, Velma Laws, Director, 611 Walker Street, 7<sup>th</sup> Floor, Houston, Texas 77002 or Federal Aviation

Attachment 8

Administration; Southwest Region Civil Rights Division; Attention:  
Joyce Davis; 2601 Meacham Blvd.; Fort Worth, TX 76137.

**Posted Until July 10, 2010**

Initial Notice Date: June 10, 2010

**City of Houston**

**Notice of Proposed Goal  
for the Participation of  
Disadvantaged Business Enterprises in  
Department of Transportation Assisted Contracts**

As required by Section 49 Code of Federal Regulations Part 26, the Houston Airport System (HAS) has determined a proposed overall goal of 24.74% for the participation of Disadvantaged Business Enterprises (DBEs) in its contracts which the US Department of Transportation (DOT) provides financial assistance.

The proposed goal and its rationale are available for inspection during normal business hours for 30 days following the initial date of this notice at:

City Secretary's Office City Hall Annex Public Level 900 Bagby Houston, TX 77002	Affirmative Action and Contract Compliance Division of the Mayor's Office 611 Walker, 7 <sup>th</sup> Floor Houston, TX 77002
--	--

The City (through the Affirmative Action and the Houston Airport System) and the Department of Transportation (through the Federal Aviation Administration) will accept written comments on the goals for 45 days from the initial date of this notice.

Written comments may be directed to:

City of Houston Mayor's Office of Affirmative Action and Contract Compliance Attention: Velma Laws, Director 611 Walker Street- 7 <sup>th</sup> Floor Houston, Texas 77002	Houston Airport System Office of Small Business Development and Contract Compliance Attention: J. Goodwillie Pierre 18600 Lee Road Humble, TX 77338	Federal Aviation Administration Attention: Joyce Davis Southwest Region Civil Rights Division 2601 Meacham Blvd. Fort Worth, TX 76137
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Posted by:  
Date:  
Time:





Ciudad de Houston

**Aviso de meta propuesta  
para la participación de las empresas o negocios en  
desventaja en los contratos asistidos del Departamento de Transporte  
Octubre 1, 2010 – Septiembre 30, 2011**

Segun se requiere en la se sección 49 del Código de Regulaciones Federales Parte 26, el Sistema del Aeropuerto de Houston (HAS) ha determinado una meta total propuesta de 24.74% para la participación de las empresas y negocios en desventaja (DBEs), en los contratos en que el departamento de los E.E.U.U. de Transporte (DOT) proporciona asistencia financiera.

La meta propuesta y su base están disponibles para inspección durante horas de oficina normales, en la Oficina de la Secretaria de la Ciudad, anexo al City may, nivel publico, 900 Bagby, Houston, TX 77002; en la División de Cumplimiento de Contratos y Acción Afirmativa de la Oficina del Alcalde, 611 Walker, El 7 piso, Houston TX 77002; y en la Oficina de la División Cumplimiento de Contratos Desarrollo de Pequeños Negocios del Sistema del Aeropuerto de Houston, camino de 18600 Lee Road, Humble, TX 77338. La ciudad (a través de Acción Afirmativa y del Sistema del Aeropuerto de Houston) y el departamento del transporte (a través de la Administración de Aviación federal) aceptaran comentarios escritos sobre las metas hasta el 25 Julio de 2010.

Los comentarios escritos se pueden dirigir a: City of Houston, Mayor's Office of Affirmative Action and Contract Compliance, Velma Laws, Director, 611 Walker Street, 7th Floor, Houston, Texas 77002 or Federal Aviation Administration; Southwest Region Civil Rights Division; Attention: Joyce Davis; 2601 Meacham Blvd.; Fort Worth, TX 76137.

**Posted Until July 10, 2010**

Initial Notice Date: June 10, 2010

**City of Houston**

**Notice of Proposed Goal  
for the Participation of  
Disadvantaged Business Enterprises in  
Department of Transportation Assisted Contracts**

As required by Section 49 Code of Federal Regulations Part 26, the Houston Airport System (HAS) has determined a proposed overall goal of 24.74% for the participation of Disadvantaged Business Enterprises (DBEs) in its contracts which the US Department of Transportation (DOT) provides financial assistance.

The proposed goal and its rationale are available for inspection during normal business hours for 30 days following the initial date of this notice at:

City Secretary's Office	Affirmative Action and
City Hall Annex	Contract Compliance
Public Level	Division of the
900 Bagby	Mayor's Office
Houston, TX 77002	611 Walker, 7 <sup>th</sup> Floor
	Houston, TX 77002

The City (through the Affirmative Action and the Houston Airport System) and the Department of Transportation (through the Federal Aviation Administration) will accept written comments on the goals for 45 days from the initial date of this notice.

Written comments may be directed to:

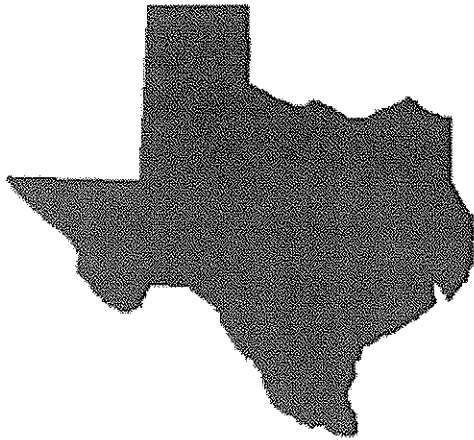
City of Houston	Houston Airport System	Federal Aviation
Mayor's Office of Affirmative	Office of Small Business	Administration
Action and Contract Compliance	Development	Attention: Joyce Davis
Attention: Velma Laws, Director	and Contract Compliance	Southwest Region Civil
611 Walker Street- 7 <sup>th</sup> Floor	Attention: J. Goodwille Pierre	Rights Division
Houston, Texas 77002	18600 Lee Road	2601 Meacham Blvd.
	Humble, TX 77338	Fort Worth, TX 76137

Posted by:  
Date:  
Time:

**ATTACHMENT 9**  
**Certification Application form**

Form is attached and can also be found at:

<http://osdbu.dot.gov/DBEProgram/GuidanceforDBEProgramAdministrators/index.cfm>



# Texas Unified Certification DBE Program



HOWDY!!!

Welcome to the Federal Disadvantaged Business Enterprise (DBE) Program from the six certifying agencies of the **Texas Unified Certification Program (TUCP)**. The TUCP follows Federal regulation 49 CFR, Part 26. The TUCP is a "**one stop**" certification process for the Texas DBE Program, established October 1, 2002.

Six agencies have agreed to perform the certification processing of DBE Program applications within the state of Texas by specific TUCP regions. The Texas Department of Transportation (TxDOT), the North Central Texas Regional Certification Agency (NCTRCA), the South Central Texas Regional Certification Agency (SCTRCA), the City of Houston, the City of Austin, and the Corpus Christi Regional Transportation Authority (CCTRCA) are responsible for DBE Program certification in the TUCP. (See Section 6 TUCP Certifying Agencies for specific regions, page 9).

## Benefits of TUCP Certification in the DBE Program:

- ♦ Registers your business in the State of Texas and lists it in the DBE Directory
- ♦ Provides the opportunity to bid statewide as a certified DBE firm on all U.S. Department of Transportation (DOT) transportation modes, including Aviation, Highways, and Public Transportation

## DBE PROGRAM APPLICATION

The DBE certification instructions and application can be found on pages 1-29. Once your firm is certified as a DBE you will be included in the TUCP Directory.

The consolidated TUCP system allows you the opportunity to bid statewide, without obtaining DBE Program certification from numerous agencies throughout the state. Firms DBE certified by TUCP agencies will be included in the TUCP's DBE Directory. The directory is on the INTERNET at:

<http://www.txdot.gov/business/tucp/default.htm>

If you have any questions about TUCP DBE Program certification, please contact the serving DBE certification agency listed on page 9.



## TEXAS UNIFIED CERTIFICATION PROGRAM DISADVANTAGED BUSINESS ENTERPRISES INSTRUCTIONS AND APPLICATION

### 1. INTRODUCTION

- A. All governmental entities in the State of Texas who receive funds from the U.S. Department of Transportation have, as part of their operating procedures, an economic program designed to increase participation of Disadvantaged Business Enterprises (DBE) in their federally assisted contracts. The authority for this program is 49 Code of Federal Regulations Part 26 (49 CFR Part 26).
- B. There are six governmental agencies (Page 9) in the State of Texas certifying DBEs capable of performing services and providing products, which can be credited toward the overall annual DBE goal for entities receiving DOT funds. Only those businesses which perform a commercially useful function can be counted toward DBE goals on federally assisted contracts.
- C. Certification must be obtained through your local certifying agency in accordance with 49 CFR Part 26 for firms wanting to perform work as a DBE on federally assisted contracts.

### 2. DEFINITIONS

- A. Affiliate - firms are affiliates of each other when, directly or indirectly, a firm or a third party (or parties) controls or has the power to control both; or there is evidence that a relationship exists between or among parties that produces an affiliation. In determining whether affiliation exists, consideration shall be given to such factors as: common ownership, common management, and contractual relationships.
- B. Commercially Useful Function (CUF) - an element of work, under a contract, that is measurable and observable and has actually been performed under standards consistent with industry practice for which a monetary sum can be assessed.
- C. Disadvantaged Business Enterprise (DBE) - a small business concern as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one or more disadvantaged individuals. Owned and controlled means a business, which is at least 51 percent owned by one or more socially and economically disadvantaged individuals. In the case of any publicly owned business, at least 51 percent of the stock must be owned by one or more socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- D. Personal Net Worth (PNW) - the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include the individual's ownership interest in an applicant or participating DBE firm or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets, held jointly, or as community property with the individual's spouse. A contingent liability does not reduce an individual's net worth.
- E. Socially and economically disadvantaged individuals - those individuals who are citizens or lawfully admitted permanent residents of the United States and who are as follows:
- (1) Women
  - (2) Black Americans - includes persons having origins in any Black racial groups of Africa.
  - (3) Hispanic Americans - includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
  - (4) Native Americans - includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
  - (5) Asian-Pacific Americans - includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marinas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong.
  - (6) Subcontinent Asian Americans - includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka.
- NOTE:** Individuals listed above in 2 through 6 as a member of a particular minority group must be recognized by their respective minority community.
- (7) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration.
  - (8) Other individuals as determined by the certifying entity to be economically and socially disadvantaged.

### 3. ELIGIBILITY STANDARDS

To determine a firm's eligibility to participate in the DBE program, the firm's business size, social and economic disadvantage, ownership and control (including independence) will be evaluated. The standards set forth in 49 CFR Part 26 will be used by the certifying entity. The following is a summary of the eligibility standards set forth in 49 CFR Part 26.

- (1) Disadvantaged status shall be determined on the basis of the individual's claim that he or she is a member of one of the groups mentioned in Section 2. e. (1)-(8) and is so regarded by that particular community. However, the certifying entity is not required to accept this claim if it determines the claim to be invalid.
- (2) Only independent businesses may be certified as a DBE. An independent business is one whose viability does not depend on its relationship with another firm or firms. The ownership and control by disadvantaged individuals shall be real, substantial, and continuing. It shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The disadvantaged individuals shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form of arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as a DBE. In determining whether a potential DBE is an independent business, the following will be considered:
  - (a) Relationships with non-DBE firms in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.
  - (b) Present or recent employer/employee relationships between the disadvantaged owner and non-DBE firms or persons associated with non-DBE firms.
  - (c) Relationships with prime contractors.
  - (d) The consistency of relationships between the potential DBE and non-DBE firms with normal industry practices.
- (3) The disadvantaged individuals shall also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy and operations. The firm shall not be subject to any formal or informal restrictions, which limit the customary discretion of the disadvantaged individual. There shall be no restrictions in by-law provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevent the disadvantaged

individual, without the cooperation or vote of any non-disadvantaged individual, from making a business decision of the firm.

- (4) Individuals who are not socially and economically disadvantaged but are involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors must not possess or exercise the power to control the firm, or be disproportionately responsible for the operations of the firm. The disadvantaged owners may delegate areas of management, policy making, or daily operations of the firm, but such delegations must be revocable and the disadvantaged owners must retain the power to hire and fire persons to whom authority has been delegated.
- (5) The disadvantaged owners must have an overall understanding of the firm's operations; along with experience, managerial, and technical competence. The disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policy-making. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.
- (6) All securities, which constitute ownership and/or control of a corporation for purposes of establishing it as a DBE, shall be held directly by disadvantaged individuals. No securities held in trust or/by any guardian for a minor shall be considered as held by disadvantaged individuals in determining the ownership or control of a corporation, except when (1) the beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual, or (2) the beneficial owner of a trust is a disadvantaged individual who rather than the trustee exercises effective control over the management, policy making, and daily operations of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.
- (7) The contributions of capital or expertise by the disadvantaged individual to acquire interest in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or its owners who are not socially and economically disadvantaged, or the mere participation as an employee rather than as a manager. If marital assets are used to acquire ownership the applicant's spouse must irrevocably renounce and transfer all rights in the ownership interest.
- (8) To be determined economically disadvantaged, the personal net worth of the individuals whose ownership and control are relied upon for DBE certification cannot exceed \$1,320,000.00.



#### 4. DENIAL OF INITIAL CERTIFICATION

When a business is denied initial certification it will receive a letter of explanation from the certifying entity of why it was denied certification. The firm may appeal to the certifying entity, in writing, for a review of their file or directly to the U.S. Department of Transportation (DOT). To appeal a decision to DOT, the business owner(s) must submit a letter giving the reason(s) he or she believes that the business should be certified. Send the letter directly to the following:

**U. S. Department of Transportation  
Departmental Office of Civil Rights  
External Policy and Program Development Division  
1200 New Jersey Avenue SE, W78-338  
Washington, DC 20590**

**NOTE:** The appeal to DOT must be filed no later than 90 days from the postmark date of the certification denial.

A business that is denied certification by a certifying entity may not reapply for at least 12 months from the date of the final decision. A copy of the decertification notice will be forwarded to the TUCP database repository. A business that appeals to the U.S. Department of Transportation cannot reapply to the certifying entity until a final decision has been rendered on the appeal or 12 months, whichever is longer:

#### 5. THIRD PARTY COMPLAINTS

Third party complaints: If any person has reason to believe that a business has been wrongly granted certification as a DBE, they may advise the certifying entity. A thorough investigation will be initiated upon receipt of a signed complaint. A complaint may also be submitted directly to the U.S. DOT.

If you are a Woman, Black American, Hispanic American, Native American, Asian Pacific American, or Subcontinent Asian American, you are presumed to be socially and economically disadvantaged. Other persons knowing of your actual social and economic condition, living standards, success in business, and other factors have the right to challenge your recognition and certification as a DBE. If your status is challenged, you will be given every opportunity to offer a defense. The challenge will be fully investigated, heard, and a final determination made.

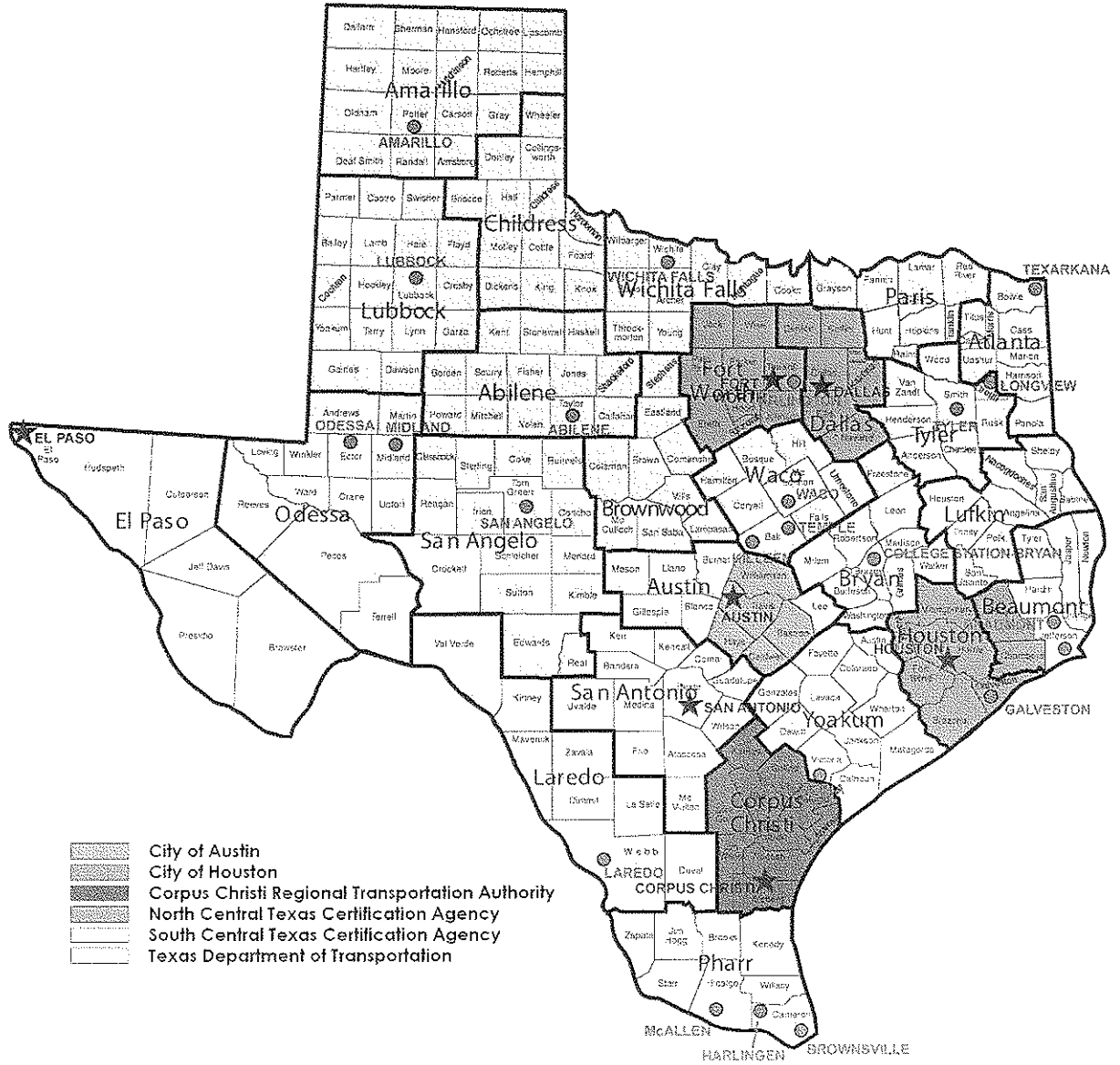
## 6. INSTRUCTIONS

- A. All businesses and trucking firms seeking to be certified as a DBE must complete the entire application. All questions must be answered and all information requested must be submitted. The applications must be legible, complete, signed, dated, and notarized to be accepted for review. Failure to provide the requested documents with the application will delay processing of your application.
- B. The certifying entity will evaluate the information contained in the application, along with the facts learned during the on-site review to determine if the business meets the eligibility standards to be certified as a DBE.
- C. Applicant will be notified of the certifying entity decision by letter. If the firm is certified as a DBE, the business will be added to the TUCP directory. The directory will show the name of the business, address, telephone number, and categories of work. A business may ask for expanded work capabilities as it acquires experience in new areas.

Remember - the application must be complete, every question answered, and the application must be either typed or printed clearly in ink. All affidavits must be notarized and all requested documents submitted; otherwise, the application will be delayed in its processing. Use additional sheets as necessary and reference the specific item(s) you are addressing.

A business must be functional and operating before applying for certification. It must possess the resources to perform the work in which it is requesting to be certified. By submitting this application and the accompanying information, the firm is authenticating the veracity and accuracy of the statements made in the application.

### Texas Unified Certification Program - Certifying Entities Regional Map



## 7. TUCP CERTIFYING AGENCIES

Completed applications should be returned to the certifying agency that will service the Texas county in which their home or corporate headquarters is located. Select the appropriate address below:

City of Austin, Small and Minority Business  
Resources Department  
4201 Ed Bluestein  
P.O. Box 1088  
Austin, TX 78767-2516  
Tel: (512) 974-7645  
Fax: (512) 974-7609  
E-mail: dsmbrcertification@ci.austin.tx.us

Bastrop  
Caldwell  
Hays  
Travis  
Williamson

City of Houston, Office of Affirmative Action  
and Contract Compliance  
611 Walker, 7th Floor  
Houston, TX 77002  
Tel: (713) 837-9015  
Fax: (713) 837-9055  
E-mail: mail@cityofhouston.net

Brazoria  
Chambers  
Fort Bend  
Galveston

Harris  
Liberty  
Montgomery  
Waller

Corpus Christi Regional Transportation  
Authority (CCRTA)  
5658 Bear Lane  
Corpus Christi, TX 78405  
Tel: (361) 289-2712 or (361) 289-2600 ext. 0  
Fax: (361) 289-0605  
E-mail: mail@ccrta.org

Aransas  
Bee  
Goliad  
Jim Wells  
Karnes

Kleberg  
Live Oak  
Nueces  
Refugio  
San Patricio

North Central Texas Regional Certification  
Agency (NCTRCA)  
624 Six Flags Drive, Suite 100  
Arlington, TX 76011  
Tel: (817) 640-0606  
Fax: (817) 640-6315  
E-mail: mail@nctrca.org

Collin	Hood	Parker
Dallas	Jack	Rockwall
Denton	Johnson	Somervell
Ellis	Kaufman	Tarrant
Erath	Navarro	Wise
	Palo Pinto	

South Central Texas Regional Certification  
Agency (SCTRCA)  
3201 Cherry Ridge St., Suite C-319  
San Antonio, TX 78230  
Tel: (210) 227-4722  
Fax: (210) 227-5712  
E-mail: info@sctrca.org

Atascosa	Kendall
Bandera	Kerr
Bexar	McMullen
Comal	Medina
Frio	Uvalde
Guadalupe	Wilson

Texas Department of Transportation (TxDOT),  
Office of Civil Rights  
125 E. 11th Street  
Austin, TX 78701-2483  
Tel: (866) 480-2518  
Fax: (512) 486-5509  
E-mail: OCR\_TUCPdata@txdot.gov

ALL other remaining counties

### Privacy Statement

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

**INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
PROGRAM UNIFORM CERTIFICATION APPLICATION**

**NOTE:** If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

**Section 1: CERTIFICATION INFORMATION**

**A. Prior/Other Certifications**

Check the appropriate box indicating for which program your firm is currently certified. If you are already certified as a DBE, indicate in the appropriate box the name of the certifying agency that has previously certified your firm, and also indicate whether your firm has undergone an onsite visit. If your firm has already undergone an onsite visit/review, indicate the most recent date of that review and the state UCP that conducted the review.

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

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

Indicate whether your firm or any of the persons listed has ever withdrawn an application for a DBE program or an SBA 8(a) or SDB program, or whether any have ever been denied certification, decertified, debarred, suspended, or had bidding privileges denied or restricted by any state or local agency or Federal entity. If your answer is yes, indicate the date of such action, identify the name of the agency, and explain fully the nature of the action in the space provided.

**Section 2: GENERAL INFORMATION**

**A. Contact Information**

- (1) State the name and title of the person who will serve as your firm's primary contact under this application.
- (2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) State the primary phone number of your firm.
- (4) State a secondary phone number, if any.
- (5) State your firm's fax number, if any.
- (6) State your firm's or your contact person's email address.
- (7) State your firm's website address, if any.
- (8) State the street address of your firm (i.e., the physical location of its offices - not a post office box address).
- (9) State the mailing address of your firm, if it is different from your firm's street address.

**B. Business Profile**

- (1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.
- (2) State the Federal Tax ID number of your firm as provided on your firm's filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.
- (3) State the date on which your firm was officially established, as stated in your firm's Articles of Incorporation or charter.
- (4) State the date on which you and/or each other owner took ownership of the firm.
- (5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (6) Check the appropriate box that indicates whether your firm is "for profit."

**NOTE:** If you checked "No," then you do NOT qualify for the DBE program and therefore do not need to complete the rest of this application. The DBE program requires all participating firms be for-profit enterprises.

- (7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm's Articles of Incorporation or charter. If you checked "Other," briefly explain in the space provided.
- (8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked "Yes," specify which and briefly explain the circumstances in the space provided.
- (9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.
- (10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm's filed tax returns.

**C. Relationships with Other Businesses**

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.
- (2) Check the appropriate box that indicates whether at present, or at any time in the past:
  - (a) Your firm has been a subsidiary of any other firm;
  - (b) Your firm consisted of a partnership in which one or more of the partners are other firms;
  - (c) Your firm has owned any percentage of any other firm; and
  - (d) Your firm has had any subsidiaries of its own.
- (3) If you answered "Yes" to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.
- (4) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.

**D. Immediate Family Member Businesses**

Check the appropriate box that indicates whether any of your immediate family members own or manage another company. An "immediate family member" is any person who is your father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law. If you answered "Yes," provide the name of each relative, your relationship to them, the name of the company they own or manage, the type of business, and whether they own or manage the company.

**Section 3: OWNERSHIP**

**Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each additional owner):**

**A. Background Information**

- (1) Give the name of the owner.
- (2) State his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) State his/her home (street) address.
- (5) Check the appropriate box that indicates this owner's gender.

- (6) Check the appropriate box that indicates this owner's ethnicity (check all that apply). If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen.
- (8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or lawfully admitted permanent resident and meets the program's other qualifying requirements.

**B. Ownership Interest**

- (1) State the number of years during which this owner has been an owner of your firm.
- (2) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.
- (3) State the percentage of total ownership control of your firm that this owner possesses.
- (4) State the familial relationship of this owner to each other owner of your firm.
- (5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.
- (6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's function or title held in that business.
- (7) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business and this owner's function or title held in that business. Briefly describe the nature of the business relationship in the space provided.

**C. Disadvantaged Status**

**NOTE: You only need to complete this section for each owner that is applying for DBE qualification (i.e., for each owner who is claiming to be "socially and economically disadvantaged" and whose ownership interest is to be counted toward the control and 51% ownership requirements of the DBE program)**

- (1) Indicate in the space provided the total Personal Net Worth (PNW) of each owner who is applying for DBE qualification. Use the PNW calculator form at the end of this application to compute each owner's PNW.
- (2) Check the appropriate box that indicates whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered "Yes," briefly explain the nature, history, purpose, and current value of the trust(s).

**Section 4: CONTROL**

**A. Identify your firm's Officers and Board of Directors:**

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer of your firm.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.

- (3) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

**B. Identify your firm's management personnel (by name, title, ethnicity, and gender) who control your firm in the following areas:**

- (1) Making financial decisions on your firm's behalf, including the acquisition of lines of credit, surety bonds, supplies, etc.;
  - (2) Estimating and bidding, including calculation of cost estimates, bid preparation and submission;
  - (3) Negotiating and contract execution, including participation in any of your firm's negotiations and executing contracts on your firm's behalf;
  - (4) Hiring and/or firing of management personnel, including interviewing and conducting performance evaluations;
  - (5) Field/Production operations supervision, including site supervision, scheduling, project management services, etc.;
  - (6) Office management;
  - (7) Marketing and sales;
  - (8) Purchasing of major equipment;
  - (9) Signing company checks (for any purpose); and
  - (10) Conducting any other financial transactions on your firm's behalf not otherwise listed.
- (11) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.

**C. Indicate your firm's inventory in the following categories:**

- (1) **Equipment**  
State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.
- (2) **Vehicles**  
State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.
- (3) **Office Space**  
State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.
- (4) **Storage Space**  
State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.

**D. Does your firm rely on any other firm for management functions or employee payroll?**

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," briefly explain the nature of that reliance and the extent to which the other firm carries out such functions.

**E. Financial Information**

**(1) Banking Information**

- (a) State the name of your firm's bank.
- (b) State the main phone number of your firm's bank branch.
- (c) State the address of your firm's bank branch.

**(2) Bonding Information**

- (a) State your firm's Binder Number.
- (b) State the name of your firm's bond agent and/or broker.
- (c) State your agent's/broker's phone number.
- (d) State your agent's/broker's address.
- (e) State your firm's bonding limits (in dollars), specifying both the Aggregate and Project Limits.

**F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms securing the loan, if other than the listed owner:**

State the name and address of each source, the name of the person securing the loan, the original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm.

**G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years:**

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

**H. List current licenses/permits held by any owner or employee of your firm.**

List the name of each person in your firm who holds a professional license or permit, the type of license or permit, the expiration date of the permit or license, and the license/permit number and issuing State of the license or permit.

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

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

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

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

**AFFIDAVIT & SIGNATURE**

Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

## *Uniform Certification Application*

### ROADMAP FOR APPLICANTS

**1. Should I apply?**

- ♦ Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
- ♦ Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
- ♦ Is your firm a small business that meets the Small Business Administration's (SBA's) size standard and does not exceed \$22.41 million in gross annual receipts?
- ♦ Is your firm organized as a for-profit business?

☞ If you answered "Yes" to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.

**2. Is there an easier way to apply?**

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

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

**3. Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.**

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

- ♦ U.S. DOT - <http://osdbuweb.dot.gov/DBEProgram/index.cfm> (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
- ♦ SBA - <http://www.census.gov/eos/www/naics/> (provides a listing of NAICS codes) and <http://www.sba.gov/size/indextableofsize.html> (provides a listing of NAICS codes)
- ♦ 49 CFR Part 26 (the rules and regulations governing the DBE program)

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



**Section 1: CERTIFICATION INFORMATION**

**A. Prior/Other Certifications**

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

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

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

Yes, on \_\_\_/\_\_\_/\_\_\_  No

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

**Section 2: GENERAL INFORMATION**

**A. Contact Information**

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

**B. Business Profile**

(1) Describe the primary activities of your firm:		(2) Federal Tax ID#:
(3) This firm was established on	(4) I/We have owned this firm since:	
(5) Method of acquisition (check all that apply): <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other (explain)		
(6) Is your firm "for profit"? <input type="checkbox"/> Yes <input type="checkbox"/> No	Ⓢ <b>STOP!</b> If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.	

<p>(7) Type of firm (check all that apply):</p> <p><input type="checkbox"/> Sole Proprietorship</p> <p><input type="checkbox"/> Partnership</p> <p><input type="checkbox"/> Corporation</p> <p><input type="checkbox"/> Limited Liability Partnership</p> <p><input type="checkbox"/> Limited Liability Corporation</p> <p><input type="checkbox"/> Joint Venture</p> <p><input type="checkbox"/> Other, Describe:</p>											
<p>(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, explain:</p>											
(9) Number of employees: Full-time	Part-time	Total									
<p>(10) Specify the gross receipts of the firm for the last 3 years:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="width: 20%;">Year</td> <td style="width: 20%;">Total receipts \$</td> </tr> <tr> <td></td> <td>Year</td> <td>Total receipts \$</td> </tr> <tr> <td></td> <td>Year</td> <td>Total receipts \$</td> </tr> </table>				Year	Total receipts \$		Year	Total receipts \$		Year	Total receipts \$
	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?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, identify: Other Firm's name:</p> <p>Explain nature of shared facilities:</p>													
(2) At present, or at any time in the past, has your firm:	(a) been a subsidiary of any other firm? <input type="checkbox"/> Yes <input type="checkbox"/> No												
	(b) consisted of a partnership in which one or more of the partners are other firms? <input type="checkbox"/> Yes <input type="checkbox"/> No												
	(c) owned any percentage of any other firm? <input type="checkbox"/> Yes <input type="checkbox"/> No												
	(d) had any subsidiaries? <input type="checkbox"/> Yes <input type="checkbox"/> No												
<p>(3) Has any other firm had an ownership interest in your firm at present or at any time in the past? <input type="checkbox"/> Yes <input type="checkbox"/> 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 (attach extra sheets, if needed):</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%; text-align: left;">Name</th> <th style="width: 30%; text-align: left;">Address</th> <th style="width: 40%; text-align: left;">Type of Business</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>		Name	Address	Type of Business	1. _____	_____	_____	2. _____	_____	_____	3. _____	_____	_____
Name	Address	Type of Business											
1. _____	_____	_____											
2. _____	_____	_____											
3. _____	_____	_____											

**D. Immediate Family Member Businesses**

<p>Do any of your immediate family members own or manage another company? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, then list (attach extra sheets, if needed):</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%; text-align: left;">Name</th> <th style="width: 20%; text-align: left;">Relationship</th> <th style="width: 25%; text-align: left;">Company</th> <th style="width: 20%; text-align: left;">Type of Business</th> <th style="width: 20%; text-align: left;">Own or Manage?</th> </tr> </thead> <tbody> <tr> <td>1. _____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>2. _____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </tbody> </table>					Name	Relationship	Company	Type of Business	Own or Manage?	1. _____	_____	_____	_____	_____	2. _____	_____	_____	_____	_____
Name	Relationship	Company	Type of Business	Own or Manage?															
1. _____	_____	_____	_____	_____															
2. _____	_____	_____	_____	_____															

**Section 3: OWNERSHIP**

Identify all individuals or holding companies with any ownership interest in your firm providing the information requested below (If more than one owner, *attach separate sheets for each additional owner*);

**A. Background Information**

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

**B. Ownership Interest**

(1) Number of years as owner:	(2) Initial Investment to acquire ownership interest in firm:	<u>Type</u>	<u>Dollar Value</u>
(3) Percentage owned:		Cash	\$
(4) Familial relationship to other owners:		Real Estate	\$
		Equipment	\$
		Other	\$
(5) Shares of Stock: <u>Number:</u> <u>Percentage:</u> <u>Class:</u> <u>Date Acquired:</u> <u>Method Acquired:</u>			
(6) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, identify: Name of Business:		Function/Title:	
(7) Does this owner own or work for any other firm(s) that has a relationship with this firm ( <i>e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.</i> )? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, identify: Name of Business:		Function/Title:	
Nature of Business Relationship:			

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

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

**Section 4: CONTROL**

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

(1) Officers of the Company					
	Name	Title	Date Appointed	Ethnicity	Gender
	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(2) Board of Directors					
	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify for each: Person: _____ Title: _____ Business: _____ Function: _____					
(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify for each: Firm Name: _____ Person: _____ Nature of Business Relationship: _____					

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

	Name	Title	Ethnicity	Gender
(1) Financial Decisions <i>(responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)</i>	(a)			
	(b)			
(2) Estimating and bidding	(a)			
	(b)			
(3) Negotiating and Contract Execution	(a)			
	(b)			
(4) Hiring/firing of management personnel	(a)			
	(b)			
(5) Field/Production Operations Supervisor	(a)			
	(b)			
(6) Office management	(a)			
	(b)			
(7) Marketing/Sales	(a)			
	(b)			
(8) Purchasing of major equipment	(a)			
	(b)			
(9) Authorized to Sign Company Checks (for any purpose)	(a)			
	(b)			
(10) Authorized to make Financial Transactions	(a)			
	(b)			

(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?  
 Yes  No  
 If Yes, identify for each: Person: Title:  
 Business: Function:

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?  Yes  No  
 If Yes, identify for each: Firm Name: Person:  
 Nature of Business Relationship:

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

<b>(1) Equipment</b>			
Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			
<b>(2) Vehicles</b>			
Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			
<b>(3) Office Space</b>			
Street Address	Owned or Leased?	Current Value of Property or Lease	
(a)			
(b)			
<b>(4) Storage Space</b>			
Street Address	Owned or Leased?	Current Value of Property or Lease	
(a)			
(b)			

**D. Does your firm rely on any other firm for management functions or employee payroll?  Yes  No If yes, explain:**

**E. Financial Information**

**(1) Banking Information:**

(a) Name of bank: (b) Phone No:  
 (c) Address of bank: City: State: Zip:

<b>(2) Bonding Information:</b> If you have bonding capacity, identify:		(a) Binder No:
(b) Name of agent/broker:		(c) Phone No:
(d) Address of agent/broker:	City:	State: Zip:
(e) Bonding limit: Aggregate limit \$		Project limit \$

**F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:**

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

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

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

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

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

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

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

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

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

**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 \_\_\_\_\_, swear or affirm under penalty of law that I am  
(full name printed)

\_\_\_\_\_ of applicant firm \_\_\_\_\_ and that  
(title) (firm name)

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

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

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

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

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

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

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

- Women
- 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 \$1,320,000, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

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

Executed on \_\_\_\_\_  
(Date)

Signature \_\_\_\_\_  
(DBE Applicant)

Date \_\_\_\_\_ State of \_\_\_\_\_ County of \_\_\_\_\_

Before me, a notary public, on this day personally appeared \_\_\_\_\_,  
known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn,  
declared that the statements therein contained are true and correct.

(Seal)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration



Texas Unified Certification Program  
Supplemental Information Form

Proof of Group Membership:

In addition to the documents listed in the application checklist, please provide one of the following:

(Note - the item you provide should demonstrate proof of your membership in a disadvantaged group.)

Select One:

- Birth Certificate
- Passport
- Tribal Roll Card
- Tribal Voter Registration Certificate
- Naturalization Papers

**Note - You may be requested to provide additional documentation if the information is insufficient to prove disadvantaged group membership.**

## PERSONAL NET WORTH STATEMENT

Complete a form for: (1) each socially disadvantaged proprietor, or (2) each socially disadvantaged limited and general partner whose combined interest total 51% or more, or (3) each socially disadvantaged stockholder owning 51% or more of voting stock. An individual's personal net worth includes only his or her share of the assets held jointly or as community property with the individual's spouse.

Name:	Date:
Residence Address:	Residence Phone:
City, State & Zip Code:	
Business Name:	Residence Phone:

### PERSONAL FINANCIAL STATEMENT

As of \_\_\_/\_\_\_/\_\_\_ . In determining net worth, EXCLUDE individual ownership interest in the applicant business and personal residence. If married use only 1/2 of marital assets. Round all numbers to the nearest dollar.

ASSETS	LIABILITIES
Cash on hand and in bank \$ _____	Accounts Payable \$ _____
Savings Accounts \$ _____	Notes Payable to Banks and Others \$ _____ (Complete Section 1)
IRA or Other Retirement Account \$ _____	Installment Account (Auto) \$ _____
Accounts and Notes Receivable \$ _____	Installment Account (Other) \$ _____
Life Insurance - Cash Surrender Value Only \$ _____ (Complete Section 7)	Loan on Life Insurance \$ _____
Stocks and Bonds \$ _____ (Complete Section 2)	Mortgages on Real Estate [Except for personal residence] \$ _____ (Complete Section 3)
Real Estate [Except for personal residence] \$ _____ (Complete Section 3)	Unpaid Taxes \$ _____ (Complete Section 5)
Automobile(s) - Present Value \$ _____	Other Liabilities \$ _____ (Complete Section 6)
Other Personal Property \$ _____ (Complete Section 4)	<b>Total Liabilities</b> \$ _____
Other Assets \$ _____ (Complete Section 4)	<b>Net Worth</b> \$ _____ <b>(Total Assets minus Total Liabilities)</b>
<b>Total Assets</b> \$ _____	
Other Source of Income:	Other Contingent Liabilities:
Salary/Commissions \$ _____	As Endorser or Co-worker \$ _____
Net Investment Income \$ _____	Legal Claims and/or Judgments \$ _____

**Section 1. Notes payable to Bank and Others (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)**

Name and Address of Note Holders	Original Balance	Current Balance	Payment Amount	Frequency (weekly, monthly, etc.)	How Secured or Endorsed; Type of Collateral

**Section 2. Stocks and Bonds. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.) NOTE: Must be within five (5) days of statement date.**

Number of Shares	Original Balance	Cost	Market Value Quotation or Exchange	Date of Quotation or Exchange	Total Value

**Section 3. Real Estate Owned. (Do not include your personal residence. List each parcel separately. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)**

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

Section 4. Other Personal Property and Other Assets. (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment, and if delinquent, describe.)

Section 5. Unpaid Taxes. (Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

Section 6. Other Liabilities (Describe in detail).

Section 7. Life Insurance Held. (Give face amount and cash surrender value of policies - name of insurance company and beneficiaries.)

Section 8. Transfer of Assets.

Have you, the individual claiming disadvantaged status, transferred any assets within two (2) years, in full or in part, to a spouse or any other person or entity, including a trust?  Yes  No

If yes, provide the following information as an attachment: the date of transfer, to whom the assets were transferred, amount paid for the assets, the market value of the assets at the time of transfer.

NOTE: Individuals may exclude assets transferred to an immediate family member that are consistent with the customary recognition of special occasions and may also exclude any transfers to an immediate family member for educational, medical, or essential support purposes.

Please provide copies of complete personal income tax returns, including all schedules, W-2s, and 1099 forms. 49 CFR Part 26 and federal law classify all information submitted with this form as confidential. This form or its information cannot be released to any person, governmental or commercial entity without the written permission of the person submitting the information.

**PERSONAL NET WORTH AFFIDAVIT**

The undersigned swear/affirm that the foregoing information and statements are true and correct, including all material and information necessary to identify and explain the financial net worth of

\_\_\_\_\_  
(Name of Individual)

Further, the undersigned agrees to permit the TUCP and/or U.S. Department of Transportation (DOT) as part of this certification process to interview owners, principals, officers, and employees; and to audit or examine books, records, and files of the above named individual.

If at any time the TUCP or DOT has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, your file may be referred to the General Counsel of DOT. The General Counsel may initiate debarment procedures in accordance with 41 CFR 1-1.604 and 12-1.062 and/or refer the matter to the Department of Justice under U.S.C. 1001, as the General Counsel deems appropriate.

*NOTE: Under Title 18 U.S.C. Section 1001 and Title 15 U.S.C. Section 645, any person who misrepresents a firm's status as a small disadvantaged business concern; or makes false statements in order to influence the certification process in any way; or to obtain a government contract, shall be subject to fines of up to \$500,000 and imprisonment of up to 10 years, or both.*

The burden of proving the financial net worth is the individual's. The Agency reserves the right to request any additional information deemed necessary to determine if an individual is economically disadvantaged. Failure to provide requested information within the time specified is grounds for termination of the process.

\_\_\_\_\_  
Name Signature

\_\_\_\_\_  
Title Date

Date \_\_\_\_\_ State of \_\_\_\_\_ County of \_\_\_\_\_

On this day before me appeared (name) \_\_\_\_\_ with proper identification, who being duly sworn, did execute the foregoing affidavit and did aver that he or she was properly authorized to execute this affidavit and did so as his or her free act/deed.

(Seal)

\_\_\_\_\_  
Notary Public Commission Expiration

## AFFIDAVIT OF MANAGERIAL TECHNICAL COMPETENCE

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

Special qualification in the work areas requested in DBE Application:

Professional licenses held: \_\_\_\_\_

Union/professional association membership: \_\_\_\_\_

Education/Technical training: \_\_\_\_\_

School	Dates	# of hrs.	Degree	Field
--------	-------	-----------	--------	-------

Position with applicant firm: \_\_\_\_\_

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

Dates employed: From: \_\_\_\_\_ To: \_\_\_\_\_ Hours per week: \_\_\_\_\_

Duties and responsibilities:

Previous employment: (list most recent employment first, may continue on back of page)

Firm: \_\_\_\_\_

Type of business: \_\_\_\_\_ Location: \_\_\_\_\_

Dates employed: From: \_\_\_\_\_ To: \_\_\_\_\_ Hours per week: \_\_\_\_\_

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

Number of persons supervised: \_\_\_\_\_ Type of employees: \_\_\_\_\_

Duties and responsibilities:

Knowledge, skills and abilities:

Hiring: \_\_\_\_\_

Contracting: \_\_\_\_\_

Purchasing: \_\_\_\_\_

Technical competence related to firm's operations:

Please identify the areas (Districts) of Texas in which your firm is ready, willing and able (based on employees and equipment) to work on TxDOT contracts. For some contracts requiring large staff and/or equipment, such as highway construction projects, keep in mind that you must either transport your equipment from your home office to the project site (or arrange for lease/rental of equipment and delivery to the project site) and secure lodging facilities for your employees.

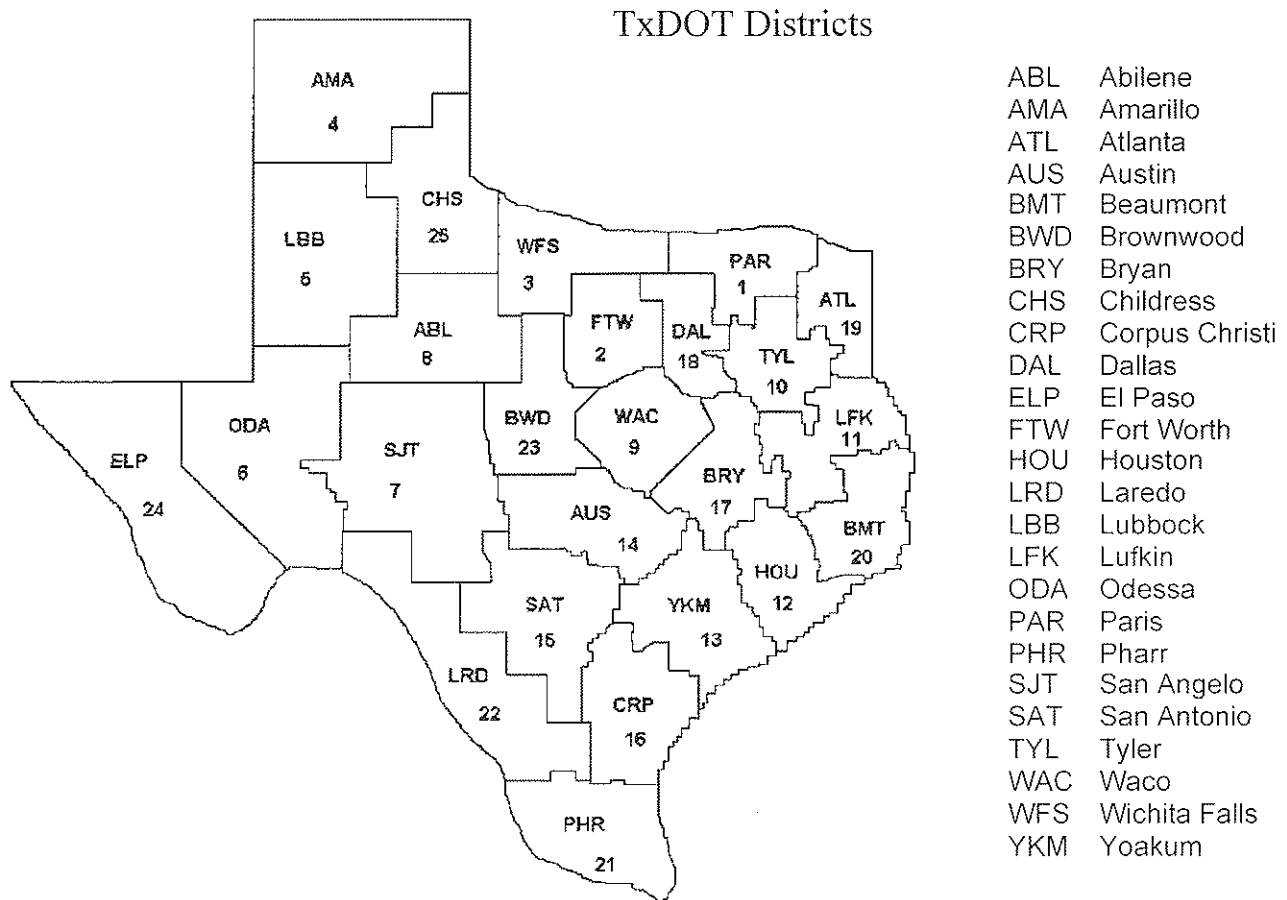
**For example:** If your office is in Beaumont, TX and you indicate that you can work in all 25 Districts, then be prepared to perform highway project work with your equipment and employees in Amarillo, El Paso, Laredo, Texarkana and all other TxDOT districts.

I am willing to work on TxDOT projects in the following Districts. (Select at least ONE, or up to TEN preferred work area(s), unless Statewide is preferred)

Preferred Work Area(s)

Statewide Work Area (**ALL 25 Districts**)

- |   |   |   |  |   |
|---|---|---|--|---|
| <input type="checkbox"/> Abilene (8)      | <input type="checkbox"/> Amarillo (4)   | <input type="checkbox"/> Atlanta (19)   | <input type="checkbox"/> Austin (14)         | <input type="checkbox"/> Beaumont (20)  |
| <input type="checkbox"/> Brownwood (23)   | <input type="checkbox"/> Bryan (17)     | <input type="checkbox"/> Childress (25) | <input type="checkbox"/> Corpus Christi (16) | <input type="checkbox"/> Dallas (18)    |
| <input type="checkbox"/> El Paso (24)     | <input type="checkbox"/> Fort Worth (2) | <input type="checkbox"/> Houston (12)   | <input type="checkbox"/> Laredo (22)         | <input type="checkbox"/> Lubbock (5)    |
| <input type="checkbox"/> Lufkin (11)      | <input type="checkbox"/> Odessa (6)     | <input type="checkbox"/> Paris (1)      | <input type="checkbox"/> Pharr (21)          | <input type="checkbox"/> San Angelo (7) |
| <input type="checkbox"/> San Antonio (15) | <input type="checkbox"/> Tyler (10)     | <input type="checkbox"/> Waco (9)       | <input type="checkbox"/> Wichita Falls (3)   | <input type="checkbox"/> Yoakum (13)    |



## NATURE OF BUSINESS

Check the type of work that makes up 75 percent or more of the dollar volume of work done by your business. Should your firm's type not be listed below, indicate service provided and percent of dollar value.

- Asphalt** - includes seal coats and surface treatments, limestone rock asphalt, cold-mix asphaltic concrete pavement, hot mix asphaltic concrete pavement, etc.
- Concrete Paving and Incidentals** - includes jointed concrete pavement and continuously reinforced concrete pavement
- Earthwork, Base and Subbase** - includes preparing ROW, clearing, removing old concrete, roadway and channel excavation, embankments, subbase courses, base courses, etc.
- Fencing** - includes wire, chain link and metal beam guard fence, metal bridge railing, etc.
- Hauling** - includes hauling of base material, gravel, sand, hot mix, etc.
- Illumination** - includes placement of conduit and wire, poles, roadway and bridge lights, etc.
- Landscaping** - includes roadside planting, erosion control, sodding, seeding, etc.
- Major Structures** - includes structural excavation, drill shafts, piling, concrete for columns, bents, abutments, slabs, structural steel, rebar, etc.
- Material Suppliers** - suppliers of construction materials kept in inventory for public sale (60% credit). Manufacturers and suppliers (100% credit).
- Minor Structures and Miscellaneous Concrete** - includes CGM and RC pipe, inlets, manholes, sewers, box culverts, sidewalks, driveways, riprap, curb and gutter, concrete bridge railing, concrete median barrier, etc.
- Painting** - includes painting of structural steel and concrete structures
- Professional Services** - includes consulting engineers, architects, and surveyors
- Rest Areas** - includes steel, masonry or wood fabrication and erection, electrical wiring, plumbing, etc.
- Traffic Control Devices** - includes traffic signals, signs, barricades, pavement markers, buttons, edge lines, striping, etc.
- Underground and Utility Work** - includes PVC pipe, underground conduit, utility telephone lines, etc.
- Miscellaneous.** Please specify. \_\_\_\_\_
- Banks owned and controlled by disadvantaged individuals.**
- Aviation.** Please specify. \_\_\_\_\_
- Public Transportation.** Please specify. \_\_\_\_\_



**DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST**

**In order to complete your application for DBE certification, you must attach copies of all of the following documents as they apply to you and your firm.**

**All Applicants**

- Work experience resumes (include places of ownership/employment with corresponding dates), for all owners and officers of your firm
- Personal Financial Statement (form available with this application)
- Personal tax returns for the past three years, if applicable, for each owner claiming disadvantaged status
- Your firm's tax returns (gross receipts) and all related schedules for the past three years
- Documented proof of contributions used to acquire ownership for each owner (e.g., *both sides of cancelled checks*)
- Your firm's signed loan agreements, security agreements, and bonding forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- List of equipment leased and signed lease agreements
- List of construction equipment and/or vehicles owned and titles/proof of ownership
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past two years
- Year-end balance sheets and income statements for the past three years (*or life of firm, if less than three years*); a new business must provide a current balance sheet
- All relevant licenses, license renewal forms, permits, and haul authority forms
- DBE and SBA 8(a) or SDB certifications, denials, and/or decertifications, if applicable
- Bank authorization and signatory cards
- Schedule of salaries (or other compensation or remuneration) paid to all officers, managers, owners, and/or directors of the firm
- Trust agreements held by any owner claiming disadvantaged status, if any

**Partnership or Joint Venture**

- Original and any amended Partnership or Joint Venture Agreements

**Corporation or LLC**

- Official Articles of Incorporation (*signed by the state official*)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement
- Minutes of all stockholders and board of directors meetings
- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

**Trucking Company**

- Documented proof of ownership of the company
- Insurance agreements for each truck owned or operated by your firm
- Title(s) and registration certificate(s) for each truck owned or operated by your firm
- List of U.S. DOT numbers for each truck owned or operated by your firm

**Regular Dealer**

- Proof of warehouse ownership or lease
- List of product lines carried
- List of distribution equipment owned and/or leased

**NOTE:** The specific state UCP to which you are applying may have additional required documents that you must also supply with your application. Contact the appropriate certifying agency to which you are applying to find out if more is required.

**Texas Unified Certification Program (TUCP) Participating Entities**  
**DBE certifications through the TUCP are valid at the following entities:**

**Airports:**

Abilene Regional Airport  
Austin-Bergstrom International Airport  
Corpus Christi International Airport  
Dallas-Fort Worth International Airport  
Del Rio International Airport  
Easterwood Field (Texas A & M)  
Gregg County Airport – Longview  
Houston Airport System  
Killeen Municipal Airport  
Lubbock Preston Smith International Airport

McAllen Miller International Airport  
Midland International Airport  
San Angelo Regional Airport/Matthis Field  
San Antonio International Airport  
Southeast Texas Regional Airport  
Tyler Pounds Regional Airport  
Valley International Airport (Harlingen)  
Victoria Regional Airport  
Waco Regional Airport  
Wichita Falls Municipal Airport

**Cities:**

City of Amarillo  
City of Arlington  
City of Austin  
City of Brownsville  
City of Corpus Christi  
City of Dallas  
City of Denton  
City of Desoto

City of El Paso  
City of Ft. Worth  
City of Garland  
City of Grand Prairie  
City of Houston  
City of Lewisville  
City of Longview  
City of McAllen

City of Mesquite  
City of Plano  
City of Round Rock  
City of San Antonio  
City of Texarkana  
City of Wichita Falls

**Transit:**

Beaumont Municipal Transit  
Brownsville Urban System  
Capital Metropolitan Transportation Authority - Austin  
Central Texas Council of Governments (CTCOG) - Transit - Belton  
City of Galveston - Island Transit  
Corpus Christi Regional Transportation Authority (CCRTA)  
Dallas Area Rapid Transit (DART)  
Fort Worth Transportation Authority  
Golden Crescent RPC - Transit - Victoria  
Hill Country Transit District - San Saba  
Lower Rio Grande Valley Development Council - Transit - McAllen  
Lubbock Citybus System  
Metropolitan Transit Authority of Houston  
Texoma Council of Governments - Transit - Sherman  
The Mass Transit Department of the City of El Paso (Sun Metro)  
VIA Metropolitan Transit Authority - San Antonio  
Waco Transit System

**Other:**

North Central Texas Regional Cert. Agency (NCTRCA) - Arlington  
South Central Texas Regional Cert. Agency (SCTRCA) - San Antonio  
Austin Water & Wastewater Utility  
Bexar County  
City Public Service - San Antonio  
Dallas Community College District  
Dallas County  
Dallas Metrocare Services  
Dallas Public Schools

Edwards Aquifer Authority  
Fort Bend County  
Fort Worth Housing Authority  
Fort Worth Public Schools  
Houston-Galveston Area Council  
MHMR of Tarrant County  
San Antonio Housing Authority  
San Antonio Water System

**ATTACHMENT 10**

**Texas Unified Certification Program Standard Operating Procedure**

## TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	DEFINITIONS .....	1
	A. Burden of Proof.....	1
	B. DBE Certification.....	1
	C. Certification Interview.....	1
	D. Decertification .....	2
	E. Decision Memorandum .....	2
	F. Denial of Certification.....	2
	G. Executive Committee .....	2
	H. Grantee .....	2
	I. Non-certifying TUCP Partner.....	2
	J. TUCP Certifying Partner.....	2
	K. TUCP Partner.....	2
	L. Preponderance of Evidence .....	2
	M. Recipient.....	2
	N. Sub-recipient.....	2
	O. Withdrawal of Application .....	2
III.	CERTIFICATION PROCEDURES .....	3
	A. Application for DBE Certification .....	3
	B. Application for Airport DBE.....	3
	C. Application for Interstate DBE .....	3
	1. TUCP DBE Application Completed .....	3
	2. Notices or Correspondence .....	3
	3. Submit Affidavit .....	3
	a) Affidavit must affirm.....	3
	b) On-site report.....	3
	4. Airport DBE Application Processed.....	3
	5. Completed Package.....	4
	a) USDOT uniform certification application and affidavit .....	4
	b) Personal financial statement.....	4
	c) Basic and support documentation .....	4
	D. Intake .....	4
	1. Application Package Receipt.....	4
	2. Application Package Review .....	4
	3. Eligible for DBE Certification .....	4
	E. Desk Audit.....	4
	1. Organize and Assemble by Processing Staff .....	4
	2. Review by Processing Staff .....	4
	3. Additional Information Required.....	4
	4. Monitor by Processing Staff .....	5
	5. Familial.....	5

F.	Threshold Requirements .....	5
1.	Determination Size Standard .....	5
a)	Size standard .....	5
b)	Social disadvantage .....	5
c)	Economic disadvantage .....	5
d)	Irrevocable separation of property .....	5
2.	Failure to Meet Requirement .....	5
3.	Review of Completed Files .....	5
a)	Specific question preparation .....	6
b)	Citizenship .....	6
c)	Schedule face-to-face .....	6
G.	On-site Review .....	6
1.	On-site Review Purpose .....	6
2.	Information to be Received (if applicable) .....	6
a)	Cash receipts and disbursements .....	6
(1)	Check for entries .....	6
(2)	Verify operational expenditures .....	6
(3)	Note payments .....	6
(4)	Note payments to similar businesses .....	6
(5)	Cross reference .....	6
b)	Bank statements and cancelled checks .....	7
(1)	Verify initial capitalization .....	7
(2)	Verify and document signature authority .....	7
(3)	Verify payments .....	7
(4)	Memo section of checks .....	7
(5)	Additional checking accounts .....	7
(6)	Cross reference payments .....	7
c)	Payroll .....	7
(1)	Determine firm's payroll .....	7
(2)	Determine owner's compensation .....	7
(3)	Determine who's receiving bonuses .....	7
(4)	Compare W-2's and 1099's .....	7
(5)	Memo notations of payroll checks .....	7
d)	Invoices and receipts .....	7
(1)	Check telephone bills .....	7
(2)	Review invoices .....	7
(3)	Check invoices .....	7
(4)	Examine invoices .....	7
e)	Contract files .....	7
(1)	Determine who executes contracts .....	7
(2)	Verify services provided .....	7
(3)	Verify consistency .....	8
f)	Inventory and Equipment .....	8
(1)	Identify nature and use .....	8
(2)	Verify ownership .....	8
(3)	If leased - review .....	8

	(4)	Identify inventory .....	8
	(5)	Determine lack of inventory .....	8
	(6)	If regular dealer .....	9
	(7)	Determine name on vehicle .....	9
g)		Bonding and Insurance .....	8
	(1)	Determine who's guaranteeing/financing .....	8
	(2)	Bond commensurate .....	8
	(3)	Insurance documents .....	8
	(4)	Verify insurance types .....	8
	(5)	Carry key man insurance .....	8
h)		Corporate kit or business organization documents .....	8
	(1)	Cross reference documents .....	8
	(2)	Review all minutes .....	8
i)		Corporate kit or business organization documents .....	8
	(1)	Review stock transfer .....	8
	(2)	Review cancelled/voided stock certificates .....	8
	(3)	Review non-issued stock certificates .....	8
	(4)	Verify corporate seal .....	8
	(5)	Review by-laws .....	8
j)		Employment agreements .....	8
	(1)	Determine existence employment agreements .....	9
	(2)	Review terms employment agreements .....	9
k)		Physical characteristics of office/building location .....	9
	(1)	Determine identify signs .....	9
	(2)	Determine has own office .....	9
	(3)	Request tour of facilities .....	9
	(4)	Ask operation questions .....	9
	(5)	Determine shared office space .....	9
	(6)	Determine shared equipment .....	9
	(7)	Verify shared arrangements (if applicable) .....	9
	(8)	Determine operation of other businesses .....	9
l)		Familial-marital relationships .....	9
	(1)	Separate comprehensive written report .....	9
	(2)	Request for other certifying partner .....	9
	(3)	On-site visit job-site .....	9
H.		Application Withdrawals .....	9
	1.	Failure to Permit On-site .....	9
	2.	Withdraw Certification Application .....	10
	3.	Written Request to Cease Review .....	10
	4.	Decertified Applicant Period of One Year .....	10
I.		Certification Determination and Recommendation .....	10
	1.	Decision Memorandum .....	10
	2.	Management Review .....	10
J.		DBE Certification and Annual Certification Renewal .....	10
	1.	Written Notification .....	10
	2.	Length of Certification .....	10

3.	Change of Circumstance.....	10
4.	No Change Affidavit .....	11
	a) Thirty days advance notification .....	11
	b) Written notification.....	11
	c) Failure to comply.....	11
	d) Update information forty-five days.....	11
	e) Certification reviews .....	11
K.	Initial Denial of DBE Certification .....	11
	1. Written Notification .....	11
	2. Written Explanation .....	11
	3. Documents and Information .....	12
	4. Re-submittal Period One year .....	12
	5. Appeal of Denial.....	12
	6. Denial Hearings.....	12
L.	Removal of DBE Eligibility (Decertification).....	12
	1. Eligibility Removal Procedures.....	12
	a) Ineligibility complaints .....	12
	b) Recipient initiated proceedings .....	12
	c) DOT directive to initiate proceedings .....	12
	d) Notification of reasonable cause .....	12
	e) DBE decertification reasons.....	13
	(1) business changed .....	13
	(2) no longer business entity.....	13
	(3) falsified sworn statement.....	13
	(4) fails to notify .....	13
	(5) no longer meets standards.....	13
	(6) attempt to evade or subvert.....	13
	f) TUCP removal.....	13
	g) Re-apply period of one year.....	13
M.	Appeal Process .....	13
	1. Initial denials .....	13
	a) denial appeal §26.89.....	13
	b) pending determination.....	13
	c) USDOT decisions.....	13
	d) re-apply period of one year .....	14
	e) written notification database manager.....	14
	2. Removal of certification .....	14
	a) 49 CFR Part 26 written rebuttal.....	14
	b) informal hearing requested .....	14
	c) maintain record of hearing .....	14
	d) separation of functions .....	14
	e) USDOT appeals .....	14
	f) pending determination.....	14
	g) USDOT notification .....	14
	h) USDOT written notification .....	14

i)	USDOT policy .....	14
j)	USDOT decisions.....	15
3.	Decertification Procedures .....	15
a)	Section 26.87 .....	15
b)	Section 26.109 (b).....	15
c)	Firm Challenges .....	15
d)	TUCP Certifying Partner Investigates .....	15
e)	Another Certifying Partners.....	15
f)	Consensus Reached.....	15
g)	TUCP Certifying Partner Notifications .....	15
4.	Removing DBE Eligibility.....	15
a)	Ineligibility Complaints.....	15
b)	Recipient Initiated Proceedings.....	16
c)	DOT Directive to Initiate Proceeding.....	16
d)	Reasonable Cause.....	16
e)	Complainant Notification .....	16
f)	Written Notification .....	16
g)	Request to Appeal.....	16
h)	USDOT Notification.....	16
5.	Agency Compliance .....	17
a)	TUCP Certifying Partner Non-compliance.....	17
b)	Executive Committee .....	17
c)	FHWA Submittal for Disagreement .....	17
d)	Executive Committee Reviews.....	17
e)	TUCP Certifying Partners Agreement .....	17
f)	TUCP Certifying Partners Agreement to TxDOT.....	17
(1)	name, address and telephone number.....	17
(2)	contact person.....	17
(3)	work performed types .....	17
(4)	geographic location .....	17
(5)	website address .....	17
(6)	fax number and e-mail address.....	17
(7)	annual review date .....	17
(8)	gender and ethnicity .....	17
g)	TUCP partner review agreement.....	17
IV.	EXHIBIT A .....	18
V.	EXHIBIT B .....	19



# TEXAS UNIFIED CERTIFICATION PROGRAM STANDARD OPERATING PROCEDURE

## I. INTRODUCTION

A Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) has been established in the State of Texas in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). Pursuant to a Memorandum of Agreement (MOA) signed by all recipients required to participate in the TUCP, the Texas Department of Transportation (TXDOT), City of Houston, City of Austin, Corpus Christi Regional Transportation Authority (CCRTA), North Central Texas Regional Certification Agency (NCTRCA), and South Central Texas Regional Certification Agency (SCTRCA) are Certifying Partners for the TUCP. The cost of creating and establishing the TUCP web site and the electronic DBE Directory will be the responsibility of TxDOT. The TUCP reserves the right to develop a methodology to ascertain maintenance and operational costs. Any changes to the web site or Directory that results in costs to the Certifying and Non-Certifying Partners will be reviewed and approved by the TUCP recipients before the changes are implemented.

Each of the Certifying Partners is required to administer a DBE certification program in accordance with 49 CFR Parts 26 and 23. As part of the TUCP, Certifying Partners will make certification decisions on behalf of all USDOT recipients, sub recipients and grantees in Texas with respect to participation in the USDOT DBE Program. Certification decisions by the TUCP shall be binding on all USDOT recipients, sub recipients and grantees within Texas.

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, a Standard Operating Procedure (SOP) will be used by all Certifying Partners.

The Standard Operating Procedure sets forth the process to be utilized by the Certifying Partners when making determinations of DBE certification eligibility.

The procedures outlined herein are consistent with the U.S. Department of Transportation regulations codified at 49 CFR Part 26.

## II. DEFINITIONS

- A. **BURDEN OF PROOF:** Measure of persuasion that is required to convince someone that an alleged fact is true.
- B. **DBE CERTIFICATION:** A finding, after a certification eligibility review by a Certifying TUCP Partner that a business meets the certification eligibility requirements and is a bona fide Disadvantaged Business Enterprise in accordance with 49 CFR Parts 26 and 23.
- C. **CERTIFICATION INTERVIEW:** Face-to-face meeting between the applicant firms qualifying owner(s) for DBE certification and the Certifying Partner.

- D. DECERTIFICATION: The removal of certification based on a determination that a currently certified DBE no longer meets the eligibility criteria and is given due process under 49 CFR Part 26.
- E. DECISION MEMORANDUM: Written document prepared by Certifying TUCP Partner detailing certification determination rendered.
- F. DENIAL OF CERTIFICATION: A finding that a business is not a bona fide Disadvantaged Business Enterprise. A business that has been denied DBE certification or declared ineligible cannot again reapply for DBE certification for one year (12 months) from the date of denial.
- G. EXECUTIVE COMMITTEE: A group consisting of representatives from each of the TUCP Certifying Partner agencies, who shall be designated by the signatories to the Memorandum of Agreement for the Unified Certification Program.
- H. GRANTEE: Any public entity that has received USDOT assistance.
- I. NON-CERTIFYING TUCP PARTNER: A State of Texas recipient, sub-recipient, or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Non-Certifying TUCP partner can neither issue nor revoke DBE certification.
- J. TUCP CERTIFYING PARTNER: A State of Texas federal aid recipient with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. This includes those entities, North Central Texas Regional Certification Agency and South Central Texas Regional Certification Agency, who are not recipients, but were formed as domestic non-profit organizations for the purposes of performing certifications on behalf of recipients. A Certifying Partner can issue or revoke DBE certification. The TUCP Certifying Partners are the Texas Department of Transportation (TXDOT), Corpus Christi Regional Transportation Authority (CCRTA), North Central Texas Regional Certification Agency (NCTRCA), South Central Texas Regional Certification Agency (SCTRCA), City of Austin, and the City of Houston.
- K. TUCP PARTNER: All Texas State federal-aid recipients, both Certifying and Non-Certifying, participating in the TUCP.
- L. 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.
- M. RECIPIENT: Any public entity, which receives direct USDOT financial assistance.
- N. SUB RECIPIENT: Any public entity that receives USDOT financial assistance through another recipient.
- O. WITHDRAWAL OF APPLICATION: An applicant's written request to the Certifying TUCP Partner to cease the certification review process. An applicant that has withdrawn its application cannot again reapply for DBE certification for twelve (12) months from the date of the withdrawal.

### III. CERTIFICATION PROCEDURES

- A. APPLICATION FOR DBE CERTIFICATION: All applicants requesting initial DBE certification must complete and submit a complete certification application package to one of the TUCP Certifying Partners. The Certifying Partner will review the application to ascertain the geographical area of the applicant firm and/or its primary work type or industry, and take the appropriate action to either process the application or forward the application within three (3) to five (5) business days to the appropriate TUCP certifying partner.
- B. APPLICATION FOR AIRPORT DBE: An airport DBE application shall be processed by the receiving TUCP Partner. The firm is an applicant interested in airport DBE certification, the TUCP certifying partner agrees to forward the application to the appropriate TUCP agency for processing within three (3) to five (5) business days.
- C. APPLICATION FOR INTERSTATE DBE: An interstate DBE application shall be forwarded to TxDOT for processing within three (3) to five (5) business days and notify the applicant of such in writing of the application transfer within three (3) to five (5) business days. The TUCP partners have agreed to process interstate applications in accordance with 26.85 Sec. C, as such a DBE interstate applicant will be required to:
  - 1. Complete a TUCP DBE Application, submit all supporting documents and any other information submitted to the home state or any other state related to the firm's certification. This includes affidavits of no change as referenced in CFR §26.83(j) and any notices of changes as referenced in CFR §26.83(i) that you has been submitted to the home state, as well as any correspondence submitted to other UCPS.
  - 2. Provide any notices or correspondence of have been denied certification in another state or appealed a certification decision with USDOT as referenced in CFR §26.89.
  - 3. Submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.
    - a) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to the home state.
    - b) If the on-site report from the home state is more than three years old, the applicant must also submit an affidavit affirming that the facts in the on-site report remain true and correct.
  - 4. Airport DBE applications will be processed by the receiving TUCP entity by identified territories as referenced on page 6 of the MOA.

5. A complete package consists of the following:
  - a) USDOT Uniform Certification Application and Affidavit
  - b) Personal Financial Statement for each qualifying socially and economically disadvantaged owner.
  - c) Required basic and support documentation as determined by business structure and in accordance with 49 CFR Parts 26 and 23.

D. INTAKE

1. Immediately upon receipt of the application package it is reviewed for completeness of form. Specifically, the Affidavit of Certification and Personal Financial Statement are reviewed for original signatures and notarization, and to determine whether the basic required supporting documents have been submitted.
2. The application is reviewed to ascertain the firm's line of work and services provided. Type of business service is necessary in determining whether the Certifying Partner in receipt of the application will process the application or transfer it to another Certifying Partner within five (5) days of receipt of the application.
3. Firms that are highway construction only maybe forwarded to TxDOT for processing within five (5) days of receipt of the application.
4. Only firms organized for profit are eligible for DBE certification.

E. DESK AUDIT

1. The processing staff will organize and assemble the applicant information in a business file. The processing staff must be mindful that all applications are to be processed within ninety (90) days of receipt of a complete application.
2. The processing staff will thoroughly review the application package to determine whether all required supporting documentation has been submitted, and to determine if additional information will be requested. Care should be taken to ensure that any requested documentation/information is actually pertinent to the certification review.
3. If additional information is required, the processing staff will prepare a letter to the applicant firm requesting additional information. The letter will include a due date for submission of the additional information and advise the applicant that failure to respond will administratively close the application. In establishing a due date, processing staff must allow sufficient time no less than fifteen (15) business days and no more than thirty (30) days for the applicant to provide the requested information and shall identify the specific days in the entities internal SOP.

4. The processing staff will monitor the timely receipt of the requested information. Upon receipt of the additional information, the processing staff will review it and make a determination as to the completeness of the certification file. Processing staff are required to obtain information from the Texas State Comptroller/Texas Secretary of State for "standing" of the applicant business and all known affiliates.
5. Familial- marital relationships (see page 9).

#### F. THRESHOLD REQUIREMENTS

1. The processing staff will make a determination on each of the threshold requirements.
  - a) Size standard: In making a determination of size standard, processing staff must reference and adhere to §26.65 and 23.33 of the regulations.
  - b) Social disadvantage: In making a determination of social disadvantage, processing staff must reference and adhere to §26.63 and §26.67 of the regulations.
  - c) Economic disadvantage: In making a determination of economic disadvantage processing staff must reference and adhere to §26.67 and 23.35 of the regulations.
  - d) Irrevocable separation of property: When marital assets held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, you must deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest. A copy of the document legally transferring and renouncing the other spouse's rights must have been filed in the proper court. The document must clearly show receipt by the court.
2. Failure to Meet Requirement: If the applicant firm or its qualifying owners fail to meet any one of the threshold requirements for DBE certification, the firm is to be deemed ineligible for DBE certification. The firm may appeal the denial determination to the U.S. Department of Transportation in accordance with the procedures set forth in §26.89.
3. Review of Completed Files: If the firm meets the threshold requirements, the processing staff will, upon a thorough and careful review of the complete file, prepare a list of firm specific questions to be answered by the qualifying owners 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.

- a) In preparing firm specific questions, processing staff should be sufficiently knowledgeable of the business area in which the firm is seeking certification, anticipating issues, which will require close examination. The processing staff should have knowledge of the capitalization requirements, licensing, technical expertise, staffing, and industry practices. In the event that processing staff is unfamiliar with the requirements for the applicant business, technical assistance should be obtained from technical personnel within the agency.
- b) Citizenship: 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 as referenced in CFR 26.67(a) and indicated in the TUCP Supplemental Information Form.
- c) Once the applicant file is complete and the questions have been prepared, processing staff must schedule a face-to-face certification on-site review meeting with the qualifying owners at a time convenient for all participants.

#### G. ON-SITE REVIEW

1. 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 and to review business and financial records. The on-site review is the second phase of the certification review process and will also be conducted on certified firms every three years. An on-site review of the applicant firm and an interview of the socially and economically disadvantaged principals of the firm must be made in accordance with §26.83(c) (1) of the regulations.
2. The following information, if applicable, should be received and reviewed no later than the on-site review:
  - a) Cash receipts and disbursements
    - (1) Check for entries in the cash receipts journal, which disclose initial capital contributions.
    - (2) Verify operational expenditures in the cash disbursements journal. Note questionable/exceptional/unusual entries and the frequency or consistency of such expenditures.
    - (3) Note payments to and from shareholders, directors, officers and key employees in the cash disbursements journal.
    - (4) Note payments to similar businesses for possible broker activity or evidence of conduit activity.
    - (5) Cross reference cash disbursements with cancelled checks.

- b) Bank statements and cancelled checks
  - (1) Verify initial capitalization of firm with the first bank statement, if available.
  - (2) Verify and document signature authority and consistency in which DBE owner versus non-DBE owner(s)/offices sign checks.
  - (3) Verify payments to shareholders, key employees and consultants.
  - (4) Pay particular attention to the "memo" section of checks.
  - (5) Determine if there are any additional checking accounts not disclosed prior to the visit. If so, note the authorized signatories.
  - (6) Cross reference payments to and from clients, suppliers, consultants, etc.
- c) Payroll
  - (1) Determine who is on the firm's payroll.
  - (2) Determine if the owner is receiving compensation in accordance with his/her ownership interest.
  - (3) Determine who receives bonus payments and amounts.
  - (4) Compare W-2's and 1099's to payroll register, to extent possible, for key employees.
  - (5) Pay attention to any "memo" notations on any payroll checks.
- d) Invoices and receipts
  - (1) Check telephone bills to determine if they are addressed to the DBE firm.
  - (2) Review invoices to substantiate method and source of payment.
  - (3) Check invoices for suggestion of brokering activity or reliance on non-DBE firms.
  - (4) Examine invoices for resolution of regular dealer issues (freight charges).
- e) Contract files
  - (1) Determine who executes contracts on behalf of the firm.
  - (2) Verify the services provided by the applicant firm and the terms and conditions of the provision of their services.

- (3) Verify consistency in which firm does business with a particular firm and whether any issues of dependency.
- f) Inventory and equipment
  - (1) Identify nature and use of equipment possessed by firm.
  - (2) Verify ownership of equipment with invoices.
  - (3) If equipment is leased, review equipment lease agreements.
  - (4) Identify inventory maintained by firm.
  - (5) Determine whether lack of inventory suggests broker or conduit activity.
  - (6) If regular dealer, verify inventory, warehouse facility, transportation equipment, etc.
  - (7) Determine if firm's name on vehicles (trucks).
- g) Bonding and insurance
  - (1) Determine who is guaranteeing/financing bonding.
  - (2) Is bond commensurate with size of firm?
  - (3) Are insurance documents in the name of the firm?
  - (4) Verify types of insurance maintained by firm.
  - (5) Does firm carry Key Man Insurance (life insurance on key person in business, should be owner-business is beneficiary)? If so, for whom?
- h) Corporate kit or business organization documents
  - (1) Cross reference documents in corporate kit with original submission.
  - (2) Review all minutes and entries for voting, control, attendance, etc.
- i) Corporate kit or business organization documents
  - (1) Review stock transfer ledger.
  - (2) Review cancelled/voided stock certificates and note reasons for cancellations.
  - (3) Review non-issued stock certificates to determine if there is numerical continuity.
  - (4) Verify corporate seal.
  - (5) Review by-laws for revisions since original submission of documents.
- j) Employment agreements



- (1) Determine the existence of any Employment Agreements for owner(s) or key personnel.
  - (2) Review terms of Employment Agreements for possible conflict with qualifying owner's ability to control operations of firm.
- k) Physical characteristics of office/building location
- (1) Determine if the firm has identifying signs outside or inside of the building/office.
  - (2) Determine if DBE owner has own office.
  - (3) Request a tour of facilities and observe equipment on premises.
  - (4) Ask questions regarding operation of equipment.
  - (5) Determine if office space shared with other companies, and if so, the nature of the business of the other companies.
  - (6) Determine if equipment, supplies, etc. is shared with other companies.
  - (7) If shared facilities, equipment, verify arrangement for sharing.
  - (8) Determine if owner(s) are operating other related or unrelated businesses from the location. If so, identify the business and its owners.
- l) Familial-marital relationships between owners and employees that is pertinent to ownership and control of the company.
- (1) 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.
  - (2) 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 the Certifying Partner conducting the review with issues of concern identified. The Certifying Partner conducting the on-site review will be responsible for preparing the on-site review report.
  - (3) An on-site visit to the job-site must be conducted if at the time of the on-site, the applicant firm is working.

#### H. APPLICATION WITHDRAWALS

1. An applicant's failure to permit an on-site review shall be grounds for denial of DBE certification for failure to cooperate. The firm will be denied certification and cannot reapply for twelve 12 months. The firm

may appeal the denial determination to U.S. DOT in accordance with the procedures set forth in §26.89.

2. An applicant can withdraw the certification application prior to the certification determination and can reapply at any time in accordance with the procedures set forth in §26.83.
3. An applicant's written request to the Certifying TUCP Partner to cease the certification review process. A new applicant that has withdrawn its application, prior submitting a complete DBE application (Desk Audit Checklist) and prior to an On-site Eligibility Review, cannot again reapply for DBE certification for six (6) months from the date of the withdrawal. Any application withdrawn after an On-site Eligibility Review is conducted must wait for a period of one year (12 months) from the date of withdrawal, to reapply.
4. A firm decertified for cause may not apply again for DBE certification with the TUCP for a period of one year (12 months). A firm that is decertified for not submitting an Annual Affidavit (failure to cooperate clause) may reapply for DBE certification after a six (6) month waiting period from the date of decertification.

#### I. CERTIFICATION DETERMINATION AND RECOMMENDATION

1. Decision Memorandum: The certification recommendation 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 recommendation must be sufficiently comprehensive to persuade an objective party of the merits of the recommendation.
2. Management Review: The certification recommendation must be submitted to the supervisor responsible for certification review. The complete file must accompany the submission of the certification recommendation. The supervisor responsible for the certification review must provide written concurrence with the recommendation for certification or denial of certification before a letter can be forwarded to the firm's owners.

#### J. DBE CERTIFICATION AND ANNUAL CERTIFICATION RENEWAL

1. Written Notification: A firm will be notified in writing by the TUCP Certifying Partner that it has been granted DBE certification.
2. Length of Certification: Once a firm is certified as a DBE by the TUCP, it shall remain certified, unless and until its certification has been removed in accordance with procedures set forth in 49 CFR §26.87.
3. Change of Circumstance: A certified DBE firm has an affirmative responsibility to notify the TUCP Certifying Partner in writing, of any change in circumstances affecting 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 made within thirty (30) days of the change-taking place.

4. No Change Affidavit: A certified DBE firm must submit annually, on the anniversary of DBE certification, a No Change Affidavit. A No Change Affidavit is a sworn affidavit affirming that there have been no changes in the firm's circumstances affecting its size, disadvantaged status, ownership or the control requirements of the regulation, or any material change in the information provided in its application for DBE certification, including the support documentation.
  - a) Each firm will be notified by the TUCP Certifying Partner at least thirty (30) days in advance of its anniversary date, of the annual submission requirement and will be provided with the necessary affidavits to complete and return.
  - b) A firm failing to comply with the annual submission requirement will be notified in writing thirty (30) days from the date that the submission was due, of the TUCP's intent to decertify the DBE in accordance with §26.87 of the regulation.
  - c) A firm failing to comply with the annual submission requirement will be decertified under the procedures of §26.87.
  - d) The TUCP Certifying Partner shall submit to TxDOT DBE annual update information forty-five (45) days prior to the DBE anniversary date to be included in the TUCP Directory.
  - e) Certification reviews: Per 49 CFR Part 26.83 (h) each TUCP Member has the option of conducting on-site reviews of any firm at any time or if any changes occur in operational control, management or ownership. Firms that have not shown any changes in the Annual Update Affidavit or no other information received indicating changes have occurred, then those corporations or partnerships will be reviewed every five (5) years and sole proprietorships reviewed every ten (10) years. More frequent reviews will be based on risk and the DBE firm's contracting success on TxDOT/TUCP contracts with DBE goals. Firms that have numerous contracting activities will be given priority over those DBE firms that have few or no contracts or subcontracts on TxDOT/TUCP projects.

#### K. INITIAL DENIAL OF DBE CERTIFICATION

1. A firm will be notified in writing by the Certifying Partner that it has been denied DBE certification by the TUCP.
2. The firm will be provided with a written explanation of the reasons for denial, specifically referencing the evidence in the record that supports each reason for the denial.

3. All documents and information used to render a determination of denial will be made available for inspection by the applicant, upon written request to the Certifying Partner.
4. A firm that is denied DBE certification may not again apply for certification with the TUCP for a period of one year (12 months).
5. A firm denied DBE certification may appeal the denial of DBE certification to the USDOT in accordance with §26.89 of the regulation.
6. Coordination of Denial Hearings and request for certification appeals, hearings and or meetings shall be coordinated and administratively handled the certifying TUCP Partner.

L. REMOVAL OF DBE ELIGIBILITY (DECERTIFICATION)

1. The TUCP members agree to follow the eligibility removal procedures set forth in 49 CFR §26.87 including:
  - a) Ineligibility complaints: Any person, including another TUCP member, may file a written complaint TUCP certifying partner alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible.
  - b) Recipient initiated proceedings: If a direct recipient of federal funds determines that there is reasonable cause to believe that a currently certified firm is ineligible based on notification by that DBE firm of a change in its circumstances or any other information that becomes available, they must provide written notice to the firm that it proposes to find them ineligible for the DBE program setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.
  - c) DOT directive to initiate proceeding: If the concerned operating administration (FHWA, FTA, FAA) determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.
  - d) When a firm is notified that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, it will be provided the opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

- e) A DBE firm whose eligibility has been removed (decertified) for any of the following reasons will be afforded an Appeal Process as stated in Section J(2):
  - (1) The business has changed to the extent that it is no longer owned or controlled by socially and economically disadvantaged individual(s).
  - (2) The DBE firm is no longer an ongoing business entity.
  - (3) The socially and economically disadvantaged owners falsified a sworn statement. This action may also result in more punitive action such as debarment.
  - (4) The DBE fails to notify the TUCP Certifying Partner, within 30 days, of changes in ownership, control, independence or status as an ongoing concern.
  - (5) A determination by the TUCP Certifying Partner that the firm no longer meets certification eligibility standards.
  - (6) The DBE exhibits a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirement of the regulations. This action may also result in more punitive action such as debarment.
- f) Decertified firms shall be removed from the TUCP directory.
- g) A firm decertified for cause may not apply again for DBE certification with the TUCP for a period of one year (12 months). A firm that is decertified for not submitting an Annual Affidavit (failure to cooperate clause) may reapply for DBE certification after a six (6) month waiting period from the date of decertification.

#### M. APPEAL PROCESS

##### 1. Initial Denials

- a) 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 ninety (90) days of the date of the determination letter.
- b) Pending a determination by USDOT, the decision rendered by the Certifying Partner remains in effect for the TUCP. Upon notification by USDOT, the TUCP Certifying Partner will forward a copy of the complete administrative record for review within fifteen (15) business days.
- c) All appeal decisions rendered by USDOT are administratively final and are not subject to petitions for reconsideration.

- d) A firm that is denied DBE certification may not again apply for certification with the TUCP for a period of one year (12 months).
- e) The Database Manager will receive written notification of the certification determination rendered by the TUCP Certifying Partner.

## 2. REMOVAL OF CERTIFICATION

- a) Any firm that was certified under 49 CFR Part 26 and has had their certification removed may file a written rebuttal or appear in person at an informal hearing.
- b) All requests for an informal hearing must be filed with the TUCP Certifying Partner responsible for the removal of DBE certification. The firm will have the opportunity to present information in person or in writing to the certifying TUCP Partner and all aspects of the hearing shall be coordinated by the TUCP certifying partner.
- c) The TUCP Certifying Partner must maintain a complete record of the hearing, by a means acceptable under State law for the retention of a verbatim record of an Administrative Hearing.
- d) Separations of Functions: The TUCP Certifying Partner must ensure that the decision in a proceeding to remove a firm's eligibility (decertification) is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.
- e) Any firm may appeal directly to the United States Department of Transportation (USDOT). Such appeal must be filed within 90 days of the date of the denial letter from the Certifying Partner.
- f) Pending a determination by the USDOT, the decision rendered by the TUCP Certifying Partner remains in effect for the TUCP.
- g) Upon notification by USDOT, the TUCP Certifying Partner will forward a copy of the complete administrative record for review. USDOT will make a determination based solely on the administrative record.
- h) USDOT will provide written notice of its decision to the TUCP and the appellant.
- i) It is the policy of USDOT to make its determination within 180 days of receiving the complete administrative record. If a determination is not made within this period, USDOT will provide written notice to the parties explaining the reason for the delay and a date by which the appeal decision will be made.

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

3. Decertification Procedures

- a) In compliance with §26.87 the TUCP Certifying Partners shall accept written complaints from any person, including Non-Certifying Partners, USDOT, and or a TUCP Certifying Partner alleging that a currently certified DBE firm is ineligible.
- b) The complainant must state the specific reasons for the challenge and submit documentation in support of the complaint. The complainant's identity shall be protected as provided for in §26.109 (b).
- c) The challenged firm shall be notified, in writing, by the original TUCP Certifying Partner within five (5) business days of the challenge, the basis for the challenge and the relevant regulations.
- d) The TUCP Certifying Partner responsible for the original certification shall thoroughly investigate the complaint within a reasonable time not to exceed sixty (60) days.
- e) A TUCP Certifying Partner may accompany and or conduct an investigation when a complaint is filed by another certifying partner. The TUCP Partner who receives the certification challenge has fifteen (15) days to respond in writing indicating the certification decision or indicate wishes for the challenger to proceed with the eligibility review. In cases where another TUCP 3<sup>rd</sup> Party has conducted the eligibility review, that TUCP Partner shall be responsible for all administrative procedures associated with the decertification process.
- f) When TUCP Certifying Partners can not reach a consensus regarding the eligibility of a DBE certification as a result of an investigation, the information will be forwarded to an independent certifying partner or to FHWA-Texas Division for a final determination.
- g) The TUCP Certifying Partner shall notify the challenged firm in writing via certified mail of the preliminary findings of the complaint.

4. Removing DBE Eligibility: The TUCP members agree to follow the eligibility removal procedures set forth in 49 CFR 26.87 including:

- a) Ineligibility complaints: Any person, including another TUCP member, may file a written complaint to a TUCP certifying partner alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible.

- b) Recipient initiated proceedings: If a direct recipient of federal funds determines that there is reasonable cause to believe that a currently certified firm is ineligible based on notification that a DBE firm has had a change in its circumstances or any other information that becomes available, they must provide written notice to the firm that it proposes to find them ineligible for the DBE program setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.
- c) DOT directive to initiate proceeding: If the concerned operating administration (FHWA, FTA, FAA) determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.
- d) When a firm is notified that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, it will be provided the opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.
- e) If reasonable cause to remove DBE certification eligibility is found, the original Certifying Partner will notify the complainant and DBE firm of the specific grounds for removal and will inform the DBE firm of its right to an informal hearing to address the preliminary findings.
- f) The challenged firm may request reconsideration in writing, of the intent to remove certification eligibility, within fifteen (15) days of the date of the notice.
- g) The request for an appeal must be made to the investigating TUCP Certifying Partner and must indicate whether the firm wishes to file a written appeal or appear in person for a hearing to be conducted by the certifying entity.
- h) USDOT may also notify the TUCP of reasonable cause to find a certified DBE firm to be ineligible. In such cases, the TUCP shall without delay begin a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.



5. Agency Compliance

- a) If any TUCP Certifying Partner has reason to believe that another TUCP Certifying Partner is not in compliance with the requirements of 49 CFR 26, Subpart E, they should bring the matter to the attention of the TUCP Executive Committee for review and issue a Corrective Action Plan (CAP) giving the TUCP Partner 90 days to correct findings.
- b) If the Executive Committee finds that the CAP has not been resolved then a majority vote by the Executive Committee recommending removal of the TUCP Partner shall be taken and if agreed will be forwarded to FHWA.
- c) If there is a disagreement by a single member of the TUCP regarding the recommendation, that entity may make a separate notification to FHWA as a single entity and notify the partners of such in writing.
- d) The TUCP Executive Committee will be responsible for reviewing any compliance matters that pertain to the requirements of 49 CFR Part 26 Subpart E. If the TUCP Certifying Partner raising a compliance matter is not satisfied with the action taken by the TUCP Executive Committee to resolve the matter, they may make a written complaint to the appropriate USDOT Intermodal Agency, e.g., FTA, FAA, FHWA etc.
- e) TUCP Certifying partners agree to comply with coordination procedures and timeliness of forwarding information and completing request with in fifteen (15) business days.
- f) TUCP Certifying partners agree to forward to TxDOT the following information by the tenth (10) of each month:
  - (1) Name, address and telephone number of firm
  - (2) Contact person
  - (3) Types of work performed by the firm with appropriate six (6) digit NAICS code and description
  - (4) Geographic Location of the Firm (i.e., county)
  - (5) Website Address of the Firm
  - (6) Fax Number & E-Mail Address of the Firm
  - (7) Annual Review Date
  - (8) Gender and Ethnicity
- g) TUCP Certifying partners agree to participate in TUCP Partner Reviews to assure the quality and consistency of TUCP certification procedures. FHWA will take lead on the TUCP Partner reviews and identify a TUCP Partner to assist with the peer review.



## EXHIBIT A

### TEXAS UNIFIED CERTIFICATION PROGRAM DBE INTERSTATE CERTIFICATION CHECKLIST

*Applicant Firm from State A must provide the following information:*

- Complete copy of application form, all supporting documents, and any other information that was submitted to State A or any other State related to firm's certification.

*Includes, but is not limited to:*

- Affidavits of no change
  - Any notices of change that have been submitted to State A
  - Any correspondence with State A's UCP or any other recipient concerning the Firm's application or status as a DBE firm
- Notices or correspondence from states other than State A relating to status as a DBE applicant or DBE certification in those states.

*Example:*

- Certification denials
  - Decertification actions
- Discloser of any DOT certification appeals with copy of the letter of appeal and DOTs response.
- An affidavit sworn to by the Firm's owners or an unsworn declaration executed under penalty of perjury of the laws of the United States.

*Affidavit must adhere to the following:*

- a. Affidavit must affirm that firm has submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by 26.85 (c)(1), is an identical copy of the information submitted to State A
- b. If the on-site report from State A supporting firm's DBE certification in State A is more than three years old, as of the date of firm's application to State B the affidavit also affirms that the facts in the on-site report remain true and correct.

EXHIBIT B



TEXAS UNIFIED CERTIFICATION PROGRAM (TUCP)  
INTERSTATE DISADVANTAGED BUSINESS ENTERPRISE (DBE) AFFIDAVIT

Name of Firm \_\_\_\_\_

I affirm, as evidenced by my signature below, I have provided all information required by 49 CFR 26.85(c) to **TUCP Agency** for inspection and review to determine eligibility for the Texas Unified Certification Program (TUCP).

I affirm the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to \_\_\_\_\_ (home state agency).

I further affirm all information and statements I have provided are true and correct. I understand all documents may be subject to review at any time by representatives of the TUCP. If such a request is made, I understand these documents must be provided within 10 business days.

\_\_\_\_\_  
Printed Name of Eligible Applicant

\_\_\_\_\_  
Signature of Eligible Applicant

Subscribed and sworn to before me, the undersigned notary public, on this date:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public's Signature/ Seal

*The Texas Unified Certification Program (TUCP) consists of six (6) certifying agencies and adheres to the Department of Transportation DBE standards set forth in 49 CFR Part 26 and Part 23. The following entities are members of the Texas Unified Certification Program (TUCP): City of Austin, City of Houston, Corpus Christi Regional Transportation Agency; North Central Texas Regional Certification Agency; South Central Texas Regional Certification Agency; and the Texas Department of Transportation, Office of Civil Rights. DBE certification is valid at any Texas entity that receives U.S. Department of Transportation (DOT) funds and has a DBE Program*

**ATTACHMENT 11**  
**Signed UCP Agreement Form**

**TEXAS**

**MEMORANDUM OF AGREEMENT**

*for a*

**DISADVANTAGED BUSINESS  
UNIFIED CERTIFICATION PROGRAM**

**U.S. DEPARTMENT OF TRANSPORTATION PARTNERS**



**Texas Department of Transportation  
City of Houston  
City of Austin**

**Corpus Christi Regional Transportation Agency  
North Central Texas Regional Certification Agency  
South Central Texas Regional Certification Agency**

## **TABLE OF CONTENTS**

I. <u>UNIFIED CERTIFICATION PROGRAM</u> .....	1
A. Definitions.....	1
1. TUCP Certifying Partner.....	1
2. Non-certifying TUCP Partner.....	1
3. Recipient .....	1-2
4. Sub-recipient .....	2
5. Grantee .....	2
B. Organization .....	2
C. Purpose .....	2
II. <u>TUCP PROGRAM DESCRIPTION</u> .....	3
A. Partners' Roles, Responsibilities & Obligations.....	3
B. DBE Directory Management.....	4
C. DBE Directory & Internet Access .....	5
III. <u>TUCP PROGRAM COSTS AND FUNDING</u> .....	5
A. Training and Resources .....	5
IV. <u>CERTIFICATION PROCEDURES AND PROCESS</u> .....	6
A. Geographic & Industry Considerations.....	6
B. Quality Assurance (New Certifications).....	7
C. Annual Review Process .....	7
D. Decertification Procedures .....	7
E. Appeals Process and Procedures.....	7
F. Staff Training.....	8
G. Unified DBE Directory .....	8
V. <u>CHANGES TO THE MOA</u> .....	8
VII. <u>SUMMARY</u> .....	9
VIII. <u>TUCP CERTIFYING PARTNERS</u> .....	10

**STATE OF TEXAS**  
**MEMORANDUM OF AGREEMENT**

**I UNIFIED CERTIFICATION PROGRAM**

This Memorandum of Agreement (MOA) establishes a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in the State of Texas in accordance with Title 49 Parts 26 and 23 of the Code of Federal Regulations (49 CFR Parts 26 and 23). The TUCP Certifying Partners are the Texas Department of Transportation (TxDOT), City of Houston, City of Austin, Corpus Christi Regional Transportation Authority (CCRTA), North Central Texas Regional Certification Agency (NCTRCA), and South Central Texas Regional Certification Agency (SCTRCA). Each Certifying Partner in Texas is required to administer a DBE Certification Program in accordance with 49 CFR Part 26 and Part 26.81. Each TUCP Certifying Partner agrees to commit sufficient resources and expertise to carry out the requirements of 49 CFR Part 26.

**A. Definitions**

1. TUCP Certifying Partner

A State of Texas recipient with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. This includes those entities, North Central Texas Regional Certification Agency and South Central Texas Regional Certification Agency, who are not recipients, but were formed as domestic non-profit organizations for the purposes of performing certifications on behalf of recipients and can issue or revoke DBE certifications.

2. Non-certifying TUCP Partner

A State of Texas recipient, sub-recipient or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency or via a TxDOT Letter of Agreement an entity that agrees to utilize the DBEs listed in TUCP Directory for purposes of their program for certification and or compliance purposes. A Non-Certifying Partner can neither issue nor revoke DBE certification.

3. Recipient

Any public entity which receives direct USDOT financial assistance.

#### 4. Sub-recipient

Any public entity receiving USDOT financial assistance through another recipient.

#### 5. Grantee

Any public entity that has received USDOT assistance.

### **B. Organization**

The TUCP shall establish an Executive Committee consisting of representatives from each of the Certifying Partner agencies, who shall be designated by the signatories to this MOA Agreement. The Executive committee will also be responsible for resolving any conflicts between certification actions between its members. The Standard Operating Procedures of the TUCP Section III-Agency Compliance, outlines the process for dealing with matters regarding the compliance with certification requirements. Nothing in this agreement should be construed to contravene the sovereignty of each participant. The contact person for the TUCP is the Texas Department of Transportation, DBE/HUB/SBE Section.

A Certifying TUCP Partner may terminate its responsibilities under this Agreement and become a Non-Certifying TUCP Partner upon a six month notice to all TUCP Partners.

### **C. Purpose**

The objectives of the Texas UCP are as follows:

- To follow the certification procedures and standards and the non-discrimination requirements of 49 CFR Parts 26 and 23.
- To cooperate fully with all oversight, review and monitoring activities of the United States Department of Transportation (USDOT) and its operating administrations.
- Directives and guidance on DBE certification matters.
- To make all certification and decertification decisions on behalf of all TUCP Partners with respect to participation in the U.S. DOT DBE Program. Certification decisions by the TUCP shall be binding on all TUCP Certifying Partners.



- To provide a single DBE certification that will be honored by all TUCP Partners.
- To maintain a unified DBE directory containing at least the following information for each firm listed: address, phone number and approved NAICS codes. The TUCP shall make the directory available to the public electronically on the Internet as well as in print. TxDOT shall update the electronic version of the directory by including additions, deletions and other changes upon notification by the DBE and/or Certifying Partner.
- The TUCP Partners will commit adequate resources and expertise to carry out this agreement. The partners will continue to individually bear the costs of training staff, certifying firms and sharing DBE files, i.e. postage and copying costs. Travel to and from meetings will be the responsibility of individual partners.

## **II TUCP PROGRAM DESCRIPTION**

### **A. Partners' Roles, Responsibilities & Obligations**

All TUCP Partners agree to maintain DBE certification application files, conduct site visits, make certification decisions and handle appeals and complaints. The Certifying TUCP Partners agree to utilize the USDOT Uniform Certification Application and Affidavit.

- All decisions related to eligibility and certification must comply with 49 CFR Parts 26 and 23.
- The TUCP Certifying Partners who are recipients or sub-recipients of federal funds must have an approved DBE Program. Additionally, each Certifying Partner must have clearly defined and written processes and procedures related to the administration of its DBE Program and certification decisions.
- Each TUCP Certifying Partner must adhere to the processes and procedures as set forth in the Standard Operating Procedures.
- If a TUCP certifying partner is no longer able or willing to uphold procedures outlined in this MOA and in the TUCP SOP, then that partner shall notify each partner in writing and submit to TxDOT all certification files within 30 days to maintain proper certification coordination.
- TUCP certifying partners agree to assist and comply with FHWA in conducting partner reviews outlined in the TUCP SOP.

- Any request received by a TUCP Partner by organizations and entities to become certifying members of the TUCP will be forwarded to each TUCP Partner for review. The TUCP Certifying partners will make a recommendation and forward the request to USDOT for review and a recommendation.

**B. DBE Directory Management:**

TxDOT has agreed to manage the TUCP Directory and shall designate a Database Manager as agreed by signature of this MOA. Upon approval of a firm for DBE certification by the UCP Certifying Partners, the originating Certifying Partner shall submit the firm's information for inclusion in the electronic database directly to the DBE Database Manager. This information shall include at a minimum:

- Name, Street Address, P.O. Box, City, County, State, Telephone and Fax Number, E-mail address and Federal Tax Identification Number/SSN;
- Name, Sex, Ethnicity, Race and Country of Origin of qualifying DBE owner(s);
- Type of work performed by the DBE using the North American Industry Classification System (NAICS) adopted by the SBA on October 1, 2000, as amended;
- Original Certification Date;
- Name of TUCP Certifying Partner;
- Annual Review Date;

The DBE Database Manager shall assume the following responsibilities:

- Input all data and make any corrections, additions and/or deletions upon receipt of information from the Certifying TUCP Partners;
- Maintain and keep the electronic DBE database current;
- Make the electronic DBE database available to all TUCP Partners and other interested parties;
- Maintain the TUCP Website.

### **C. DBE Directory & Internet Access**

The DBE Directory will be located on the TUCP website. In accordance with 49 CFR Part 26.31 and 23.31(b), the DBE Directory will include the following minimum information for each firm:

- Name, address and telephone number of firm;
- Contact person
- Types of work performed by the firm with appropriate six (3) digit NAICS code and description.

The TUCP DBE Directory may contain additional information, including but not limited to the following:

- Geographic Location of the Firm (i.e., county)
- Website Address of the Firm
- Fax Number & E-Mail Address of the Firm
- Annual Review Date
- Gender and Ethnicity

Each TUCP Partner by signature of this agreement agrees to submit the above information.

### **III TUCP PROGRAM COSTS AND FUNDING**

The cost of creating and establishing the TUCP website and the electronic DBE Directory will be the responsibility of the Texas Department of Transportation. Each TUCP Partner has agreed to coordinate responding to information request or open records request for certification list or copies of the data base as appropriate.

#### **A. Training and Resources**

The TUCP Partners will conduct ongoing in-service training. The TUCP Partners will agree to rotate the duties of hosting, planning and conducting training sessions amongst the TUCP Partners.

#### **IV CERTIFICATION PROCEDURES AND PROCESS**

In addition to the following procedures, the TUCP will follow all certification procedures and standards of 49 CFR Part 26, and will implement USDOT directives and guidance concerning DBE certification matters. A Standard Operating Procedure (SOP) has been developed and will be utilized by all Certifying TUCP Partners. The SOP may be modified as needed and agreed upon by majority consensus of the Certifying TUCP Partners. If consensus can not be reached, the issue will be forwarded to FHWA – Texas Division for further guidance.

- The TUCP will utilize the USDOT approved Uniform Certification Application and other related certification documents to facilitate “one-stop shopping” for applicants.

##### **A. Geographic & Industry Considerations**

The TUCP Certifying Partners have agreed to perform the certification process for DBE program applicants within the State of Texas by geographical location and by industry. If a DBE applicant/firm works only in the highway construction industry, TxDOT agrees to process the application and/or have certification responsibility for the DBE firm. Therefore, the certifying TUCP partner to whom application is made will ascertain the geographical area of the applicant firm and/or its primary work type or industry, and take the appropriate action to either process the application or forward the application within three to five business days to the appropriate TUCP certifying partner. If a firm is an applicant interested in airport DBE certification, the TUCP certifying partner agrees to forward the application to the appropriate TUCP agency based on geographical location or process within three to five business days.

**City of Austin:** Geographical: Bastrop, Caldwell, Hays, Travis and Williamson

**City of Houston:** Geographical: Counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

**Corpus Christi Regional Transportation Authority:** Geographical: Counties of Aransas, Bee, Goliad, Jim Wells, Karnes, Kleberg, Live Oak, Nueces, Refugio, and San Patricio.

**North Central Texas Regional Certification Agency:** Geographical: Counties of Collin, Dallas, Denton, Ellis, Erath, Hood, Jack, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

**South Central Texas Regional Certification Agency:** Geographical: Counties of Atascosa, Bandera, Bexar, Comal, Frio, Guadalupe, Kendall, Kerr, McMullen, Medina, and Wilson.

**Texas Department of Transportation:** Geographical: All other remaining counties in Texas. All heavy highway construction categories indicating TxDOT only.

**B. Quality Assurance (New Certifications)**

The SOP has been created to ensure consistent application of UCP program requirements among the Certifying TUCP Partners. Uniform documents have been developed for use by the Certifying TUCP Partners so that consistent information is obtained and used in certification determinations. At a minimum, there will be annual training of certification staff in order to maintain consistency in determinations.

**C. Annual Review Process**

By signature of this agreement, DBEs certification updates will be conducted annually using the TUCP Annual Update "No Change" Affidavit as required in the SOP and following procedures outlined in 49 CFR Part 26.87. The TUCP Partner has agreed to conduct annual reviews of certified DBEs, conduct a DBE on-site review every three years in conjunction with the DBE firm's submittal of the Annual Update Affidavit per 49 CFR Part 26.83(h) or every five (5) years for corporations and partnerships and ten (10) years for sole proprietorships.

**D. Decertification Procedures**

The TUCP Partner agrees to process decertifications in compliance to 49 CFR Part 26.87. Provisions exist in the TUCP Standard Operating Procedure for the Certifying TUCP Partners to accept written complaints from a third party alleging the ineligibility of a currently certified firm. The TUCP SOP outlines how those complaints will be coordinated by the receiving partner.

**E. Appeals Process and Procedures**

An appeals procedure has been established as part of the TUCP SOP for appeals of denial of original certification, and decertification that provides due process to the affected firm in accordance with 49 CFR Part 26.

- Denials of Original Certifications and Decertification: The DBE applicant has the opportunity to appeal to USDOT in accordance with 49 CFR Part 26.89. Firms that are decertified will have due process in accordance with 49 CFR Part 26.87.

## **F. Staff Training**

Each TUCP Partner agrees to:

- Participate in annual staff training; assist with the development and coordination of training modules that support the SOP.
- Recruit instructors and determine locations for training workshops.
- Schedule joint training sessions.
- Conduct staff training to assure that all staff are knowledgeable of certification regulations and procedures as updates and changes are made to the regulations.

## **G. Unified DBE Directory**

By signature of this MOA the TUCP Partners agrees to:

- Develop and complete parameters for Unified DBE Directory.
- Compare UCP Certifying Partners databases.
- Remove duplicate DBE firms.
- Develop common databases however nothing in this agreement excludes the certifying partners from creating and maintaining separate databases for other programmatic needs.
- Develop procedures for electronic submission of DBE firms for inclusion in the Unified DBE Directory.
- Develop and issue press release on public access to online DBE Directory (information will be maintained on TXDOT Website).

## **V. CHANGES TO THE MOA**

This MOA can be amended by approval of the majority of the TUCP Partners. Changes to this MOA shall require a majority agreement by the TUCP Certifying Partners. In cases where there is not a majority agreement, the issue will be forwarded to USDOT for resolution and the partners agree to execute the decision of USDOT by signature of this MOA.

**VI. SUMMARY**

As a result of the requirements set forth in 49 CFR Parts 26 and 23, we the undersigned, agree to participate in the STATE OF TEXAS'S Unified Certification Program in accordance with the provisions of this MOA and agree to abide by its contents

EXECUTED AND DELIVERED by and between the TUCP Partners as of the effective date of this MOA.

TUCP CERTIFYING PARTNERS

City of Austin Ann D. Price for Veronica Business Law February 17, 2012  
Name Ann Price Title Certification  
Agency City of Austin Division Manager

City of Houston Carlene D. Wright February 17, 2012  
Name Carlene D. Wright Title Director, DBED  
Agency City of Houston - Mayor's Office of Business Opportunity

Corpus Christi Regional Transportation Authority Joe G. Evered February 17, 2012  
Name Joe G. Evered Title MANAGING DIRECTOR OF  
Agency ADMINISTRATION

North Central Texas Regional Certification Agency Sheena Moram February 17, 2012  
Name Sheena Moram Title Agency Director  
Agency

South Central Texas Regional Certification Agency Blaine R. Mitchell February 17, 2012  
Name Blaine R. Mitchell Title Executive Director  
Agency

Texas Department of Transportation DL February 17, 2012  
Name DL Title DBE/Minority BE Program  
Agency Director



**ATTACHMENT 12**  
**No Change Affidavit**



**CITY OF HOUSTON**  
MAYOR'S OFFICE  
*of*  
**BUSINESS OPPORTUNITY**

Minority/Women/Small/Persons with Disabilities Business Enterprises and Disadvantaged Business Enterprise Programs

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No Change Affidavit

1. Name of Firm: \_\_\_\_\_
  2. Owners Full Name: \_\_\_\_\_ Owners Social Security Number: \_\_\_\_\_
  3. Name all other owners: \_\_\_\_\_
  4. Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_
  5. Business Address: \_\_\_\_\_  
Street Number City State Zip Code
  6. Mailing Address: \_\_\_\_\_  
Street Number City State Zip Code
  7. Please submit a letter to our office on any changes in your company's capability.
  8. Has the legal structure, ownership, management, or control of your company changed since your last certification? YES  NO   
If yes, please explain.  
\_\_\_\_\_
  9. List the number of employees: Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ Contract \_\_\_\_\_
  10. Do any of the owners own or share in the management of another firm(s)? Please provide the name of the firm(s) and your ownership percentages.  
\_\_\_\_\_  
\_\_\_\_\_
- Note: If you are updating your firm's DBE Certification, please provide a completed Personal Financial Statement for all disadvantaged owners.
11. Company Income Tax Identification Number: \_\_\_\_\_
  12. E-mail Address: \_\_\_\_\_ Internet Web Page/URL Address: \_\_\_\_\_
  13. Is there a licenses/certification required to operate your business? YES  NO   
If yes, please include a copy.
  14. Have you included your Income Tax Forms from the previous year? YES  NO

State Certification (HUB) Requirements

1. If you are interested in becoming a HUB, please check the appropriate response, thus authorizing the release of information by our office.      YES     NO
  
2. Check the appropriate:      U.S. Citizen (Born or Naturalized) \_\_\_\_\_      Resident Alien \_\_\_\_\_
  
3. Location of company headquarters (City and State) \_\_\_\_\_
  
4. Is the applicant a veteran?      Yes \_\_\_\_\_      No \_\_\_\_\_      If yes, list the conflict served. \_\_\_\_\_

## Affidavit

I hereby declare and affirm that I am the owner of \_\_\_\_\_ whose address is \_\_\_\_\_  
(Name of Firm)

\_\_\_\_\_. I declare and affirm that there have been  
(Street, City, State and Zip Code)

no changes in the circumstances of \_\_\_\_\_ affecting its ability to meet the size,

disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with \_\_\_\_\_ application for certification, except  
(Name of Affiant/Owner)

for any changes about which you have provided written notice to the City of Houston under 26.83 (I).

\_\_\_\_\_ meets Small Business Administration (SBA) criteria for being a small  
(Name of Firm)

business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed the size standard for my classification.

We require that you submit with this affidavit documentation of the firm's size and gross receipts in the form of the previous year's personal and business Income Tax Returns. Applicants applying for DBE Certification must complete the personal financial statement included with the affidavit.

I do solemnly declare and affirm under the penalty of perjury that the contents of the foregoing document are true and correct, and that I am the owner of the above company.

\_\_\_\_\_  
(Date) (Affiant/Owner)  
State of \_\_\_\_\_ County of \_\_\_\_\_ City of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, known to me to be the person described in the foregoing Affidavit and stated on his/her oath that he/she is over 18 years of age, of sound mind, capable of making this Affidavit, and has personal knowledge to facts states in it and that he/she executed the same in the capacity therein states and for the purpose therein contained.

I witness thereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary Public) (Seal)

My commission expires: \_\_\_\_\_

**\*\*\*Please return this original form, retaining a copy for your records.\*\*\***

### PERSONAL NET WORTH STATEMENT

Complete a form for: (1) each socially disadvantaged proprietor, or (2) each socially disadvantaged limited and general partner whose combined interest total 51% or more, or (3) each socially disadvantaged stockholder owning 51% or more of voting stock. An individual's personal net worth includes only his or her share of the assets held jointly or as community property with the individual's spouse.

Name:	Date:
Residence Address:	Residence Phone:
City, State & Zip Code:	
Business Name:	Residence Phone:

**PERSONAL FINANCIAL STATEMENT**

As of \_\_\_/\_\_\_/\_\_\_ . In determining net worth, EXCLUDE individual ownership interest in the applicant business and personal residence. If married use only 1/2 of marital assets. Round all numbers to the nearest dollar.

ASSETS	LIABILITIES
Cash on hand and in bank \$ _____	Accounts Payable \$ _____
Savings Accounts \$ _____	Notes Payable to Banks and Others \$ _____ (Complete Section 1)
IRA or Other Retirement Account \$ _____	Installment Account (Auto) \$ _____
Accounts and Notes Receivable \$ _____	Installment Account (Other) \$ _____
Life Insurance - Cash Surrender Value Only \$ _____ (Complete Section 7)	Loan on Life Insurance \$ _____
Stocks and Bonds \$ _____ (Complete Section 2)	Mortgages on Real Estate [Except for personal residence] \$ _____ (Complete Section 3)
Real Estate [Except for personal residence] \$ _____ (Complete Section 3)	Unpaid Taxes \$ _____ (Complete Section 5)
Automobile(s) - Present Value \$ _____	Other Liabilities \$ _____ (Complete Section 6)
Other Personal Property \$ _____ (Complete Section 4)	<b>Total Liabilities</b> \$ _____
Other Assets \$ _____ (Complete Section 4)	
<b>Total Assets</b> \$ _____	<b>Net Worth</b> \$ _____ <b>(Total Assets minus Total Liabilities)</b>
Other Source of Income:	Other Contingent Liabilities:
Salary/Commissions \$ _____	As Endorser or Co-worker \$ _____
Net Investment Income \$ _____	Legal Claims and/or Judgments \$ _____

**Section 1. Notes payable to Bank and Others (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)**

Name and Address of Note Holders	Original Balance	Current Balance	Payment Amount	Frequency (weekly, monthly, etc.)	How Secured or Endorsed; Type of Collateral

**Section 2. Stocks and Bonds. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.) NOTE: Must be within five (5) days of statement date.**

Number of Shares	Original Balance	Cost	Market Value Quotation or Exchange	Date of Quotation or Exchange	Total Value

**Section 3. Real Estate Owned. (Do not include your personal residence. List each parcel separately. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)**

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

Section 4. Other Personal Property and Other Assets. (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment, and if delinquent, describe.)

Section 5. Unpaid Taxes. (Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

Section 6. Other Liabilities (Describe in detail).

Section 7. Life Insurance Held. (Give face amount and cash surrender value of policies - name of insurance company and beneficiaries.)

Section 8. Transfer of Assets.

Have you, the individual claiming disadvantaged status, transferred any assets within two (2) years, in full or in part, to a spouse or any other person or entity, including a trust?  Yes  No

If yes, provide the following information as an attachment: the date of transfer, to whom the assets were transferred, amount paid for the assets, the market value of the assets at the time of transfer.

NOTE: Individuals may exclude assets transferred to an immediate family member that are consistent with the customary recognition of special occasions and may also exclude any transfers to an immediate family member for educational, medical, or essential support purposes.

Please provide copies of complete personal income tax returns, including all schedules, W-2s, and 1099 forms. 49 CFR Part 26 and federal law classify all information submitted with this form as confidential. This form or its information cannot be released to any person, governmental or commercial entity without the written permission of the person submitting the information.

**PERSONAL NET WORTH AFFIDAVIT**

The undersigned swear/affirm that the foregoing information and statements are true and correct, including all material and information necessary to identify and explain the financial net worth of

\_\_\_\_\_  
(Name of Individual)

Further, the undersigned agrees to permit the TUCP and/or U.S. Department of Transportation (DOT) as part of this certification process to interview owners, principals, officers, and employees; and to audit or examine books, records, and files of the above named individual.

If at any time the TUCP or DOT has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, your file may be referred to the General Counsel of DOT. The General Counsel may initiate debarment procedures in accordance with 41 CFR 1-1.604 and 12-1.062 and/or refer the matter to the Department of Justice under U.S.C. 1001, as the General Counsel deems appropriate.

*NOTE: Under Title 18 U.S.C. Section 1001 and Title 15 U.S.C. Section 645, any person who misrepresents a firm's status as a small disadvantaged business concern; or makes false statements in order to influence the certification process in any way; or to obtain a government contract, shall be subject to fines of up to \$500,000 and imprisonment of up to 10 years, or both.*

The burden of proving the financial net worth is the individual's. The Agency reserves the right to request any additional information deemed necessary to determine if an individual is economically disadvantaged. Failure to provide requested information within the time specified is grounds for termination of the process.

\_\_\_\_\_  
Name Signature

\_\_\_\_\_  
Title Date

Date \_\_\_\_\_ State of \_\_\_\_\_ County of \_\_\_\_\_

On this day before me appeared (name) \_\_\_\_\_ with proper identification, who being duly sworn, did execute the foregoing affidavit and did aver that he or she was properly authorized to execute this affidavit and did so as his or her free act/deed.

(Seal)

\_\_\_\_\_  
Notary Public Commission Expiration