



**Alaska Department of Transportation & Public Facilities
Disadvantaged Business Enterprise Program Plan**

U.S. Department of Transportation

Alaska Department of Transportation & Public Facilities, Civil Rights Office
October 4, 2024_DRAFT

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State of Alaska
Department of Transportation & Public Facilities
Disadvantaged Business Enterprise Program Policy Statement

The Disadvantaged Business Enterprise (DBE)/Small Business Enterprise (SBE) Business Development Office will assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program through activities outlined in the Statement of Work (SOW) for the DBE Support Services program and approved annually by Federal Highway Administration (FHWA).

It is the policy of The Alaska Department of Transportation and Public Facilities (Alaska DOT&PF) Civil Rights Office (CRO) to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in U.S. Department of Transportation (USDOT)-assisted contracts. It is also our policy to

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

Alaska DOT&PF has delegated a DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Alaska DOT&PF in its financial assistance agreements with the USDOT.

Alaska DOT&PF has disseminated this policy statement to all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on USDOT-assisted contracts, as well as construction contractors, by publishing this notice on our internet site at: www.dotcivilrights.alaska.gov

The Civil Rights Office (CRO) will also disseminate this policy using the following methods: announcements at the Annual DBE Conference, e-mail blasts to all DBEs and prime contractors, communications with the Associated General Contractors, Alaska Public Notices, and providing a link to the CRO website and the Transporter Newsletter.

Date: _____

Ryan Anderson, P.E.
Commissioner
Alaska Department of Transportation & Public Facilities

49 CFR Part 26.1 (Objectives)

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

49 CFR Part 26.3 (Applicability)

As a recipient of federal funds, Alaska DOT&PF is required to administer a DBE program in compliance with all laws, regulations, Executive Orders, and guidance.

49 CFR Part 26.5 (Definitions)

Alaska DOT&PF will use terms in this program that have their meanings defined in Part 26, § 26.5 which can be found here: <https://www.ecfr.gov/current/title-49/subtitle-A/part-26#26.5>. A link to the full regulation, 49 CFR part 26, can be found in Attachment 1.

49 CFR Part 26.7 (Discriminatory Actions)

Alaska DOT&PF 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, national origin, sex, or disability.

In administering its DBE program, Alaska DOT&PF 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, national origin, sex, age, or disability.

49 CFR Part 26.11 (Records Maintenance and Reporting)

In compliance with the requirements of 49 CFR Part 26.11, Alaska DOT&PF will maintain the following records and furnish reports to applicable USDOT operating administrations.

- (1) Alaska DOT&PF will submit the Uniform Report of DBE Commitments/Awards and Payments for each half of the federal fiscal year by the dates and in the format included in 49 CFR Part 26, Appendix B.
- (2) Alaska DOT&PF will provide data about its DBE program to the USDOT as directed by the Operating Administrations.
- (3) Alaska DOT&PF will obtain bidders list information as described § 26.11 (c)(2) and enter it into a system designated by the Department. The purpose of this bidders list information is to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on Alaska DOT&PF federally assisted contracts for use in helping to set overall goals, and to provide the USDOT with data for evaluating the extent to which the objectives of § 26.1 are being achieved.

Alaska DOT&PF will obtain the following bidders list information about all DBE and non-DBEs who bid as prime contractors and subcontractors on each of its federally assisted contracts:

- (i) Firm name;
- (ii) Firm address including ZIP code;
- (iii) Firm's status as a DBE or non-DBE;
- (iv) Race and gender information for the firm's majority owner;
- (v) NAICS code applicable to each scope of work the firm sought to perform in its bid;

(vi) Age of the firm; and

(vii) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million; etc.) rather than requesting an exact figure from the firm.

Alaska DOT&PF will collect the data from all bidders on its federally assisted contracts by requiring the information in § 26.11 (c)(2) to be submitted with their bids or initial responses to negotiated procurements. Alaska DOT&PF will enter this data in the USDOT designated system no later than December 1 following the fiscal year in which the relevant contract was awarded. In the case of a “design-build” contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to § 26.53(e), the data must be entered no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

For all federally assisted contracts, the Alaska DOT&PF will collect Bidders Registration forms that include all of the requirements from 49 CFR 26.11(c)(2) for all bidders each calendar year, and the list of firms with current Bidders Registration information will be posted on the Civil Rights Office website along with the forms: <https://dot.alaska.gov/cvlrts/bidreg/bidreg.cfm>

The Alaska DOT&PF will require a listing of the names of all bidders along with the bidders Vendor Registration number and applicable NAICS codes to be submitted with their bids or initial responses to negotiated procurements and DOT&PF will verify the submissions contain all required information prior to issuing contract award.

This information will tie into the information provided on the Bidders Registration form, and our contract data tracking system AASHTOWare Project will produce a Bidders List report in a spreadsheet format that meets all of the requirements in 49 CFR 26.11(c). See Attachment 3.

- (4) Alaska DOT&PF will maintain records documenting a firm’s compliance with the requirements of 49 CFR Part 26. For each certified firm, the complete application package and all affidavits of no-change, change notices, and on-site reviews will be retained indefinitely. Other DBE certifications records will be retained for 3 years. All DBE certifications records are stored in a locked, secure location maintained by the Alaska DOT&PF CRO, and access is restricted to authorized staff to ensure confidentiality.
- (5) Alaska DOT&PF will report to the USDOT Office of Civil Rights each year, the following information:
 - i. The number and percentage of in-state and out-of-state DBE certifications by gender and ethnicity (Black American, Asian-Pacific American, Native American, Hispanic American, Subcontinent-Asian Americans, and non-minority);
 - ii. The number of DBE certification applications received from in-state and out-of-state firms and the number found eligible and ineligible;
 - iii. The number of decertified firms:
 - a. Total in-state and out-of-state firms decertified;
 - b. Names of in-state and out-of-state firms decertified because SEDO exceeded the personal net worth cap;

- c. Names of in-state and out-of-state firms decertified for excess gross receipts beyond the relevant size standard.
- iv. The number of in-state and out-of-state firms summarily suspended;
- v. The number of in-state and out-of-state applications received for an individualized determination of social and economic disadvantage status;
- vi. The number of in-state and out-of-state firms certified whose owner(s) made an individualized showing of social and economic disadvantaged status.

49 CFR Part 26.13 (Assurances)

Alaska DOT&PF has signed the following assurances, applicable to all USDOT-assisted contracts and their administration.

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

Alaska DOT&PF will ensure that the following clause is placed in every USDOT-assisted contract and subcontract:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, disability, 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 USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments.*
- (2) Assessing sanctions.*
- (3) Liquidating damages.*
- (4) Disqualifying the contractor from future bidding as non-responsible.*

Alaska DOT&PF Statewide Special Provisions Section 120 implements the requirements of the DBE program. Failure to comply with the provisions of Section 120 is considered a material breach of contract, and may result in cancelation of intent to award, withholding of progress payments consistent with Subsection 109-1.06, contract termination, or other remedy as Alaska DOT&PF deems appropriate. Failure to comply with Section 120 is justification for debarment action as provided is AS 36.30.640(4).

49 CFR Part 26.15 (Exemptions and Waivers)

Alaska DOT&PF will coordinate with the applicable operating administration when requesting exemptions from any of the provisions of 49 CFR Part 26. Applications for waivers will include specific program proposals and summaries of public outreach and participation.

49 CFR Part 26.21 (DBE Program Updates)

Alaska DOT&PF required to have a DBE program meeting the requirements of this part as it will receive USDOT funding.

Alaska DOT&PF is not eligible to receive USDOT financial assistance unless USDOT has approved this DBE program and Alaska DOT&PF is in compliance with it and Part 26. Alaska DOT&PF will continue to carry out this program until all funds from USDOT financial assistance have been expended. Alaska DOT&PF does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted to the relevant operating administration for approval.

49 CFR Part 26.23 (Policy Statement)

Alaska DOT&PF has issued a Policy Statement expressing its commitment to its DBE program, stating program objectives, and outlining responsibilities for program implementation. Alaska DOT&PF has distributed its policy statement to DBE and non-DBE business communities through:

- (1) Publication on the Alaska DOT&PF CRO website.
- (2) Announcements at the Annual DBE Conference.
- (3) E-mail blasts to all DBEs, constant communication with the Associated General Contractors of Alaska, and Alaska DOT&PF senior leadership.
- (4) Alaska Public Notices.
- (5) The Transporter Newsletter.

The Policy Statement is detailed on page 3 of this document.

49 CFR Part 26.25 (DBE Liaison Officer)

Alaska DOT&PF has designated the following individual as its DBE Liaison Officer (DBELO):

Rashaud Joseph
Civil Rights Office Manager
2200 E. 42nd Avenue
Anchorage, AK 99508
(907) 269-0848
rashaud.joseph@alaska.gov

For individuals requiring TTY communications, please contact Alaska Relay at 711.

The DBELO is responsible for implementing all aspects of the DBE program and ensuring that Alaska DOT&PF complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Alaska DOT&PF Commissioner concerning DBE program matters. See the Organization Chart in Attachment 2.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of 10 to assist in the administration of the program, with duties and responsibilities that include:

- (1) Gathering and reporting statistical data and other information as required by USDOT operating administrations.

- (2) Setting overall DBE goals.
- (3) Identifying contracts and procurements so that DBE goals and race-neutral requirements are included in procurement and contracting website under the bid calendar tab.
- (4) Analyzing Alaska DOT&PF's progress toward attaining its DBE goal and identifying ways to improve progress.
- (5) Planning and participating in DBE training seminars.
- (6) Certifying DBEs according to the criteria set by USDOT, and acting as liaison to the Uniform Certification Process in Alaska.
- (7) Performing outreach to DBEs and community organizations to advise them of opportunities.
- (8) Making good faith efforts determinations.
- (9) Reviewing federal and state laws and regulations to make policy recommendations to the Commissioner of Alaska DOT&PF.
- (10) Providing Support Services to DBEs and prospective DBEs prior to, and during their participation in the program.
- (11) Assisting Alaska DOT&PF personnel, DBEs and non-DBE contractors, and other parties in resolution of DBE program-related issues.
- (12) Developing, maintaining, and implementing DBE Program Plan.
- (13) Establishing and regularly updating an online DBE directory.
- (14) Implementing a Small Business Development Program (SBDP).

49 CFR Part 26.27 (DBE Financial Institutions)

It is the policy of Alaska DOT&PF 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 USDOT-assisted contracts to make use of these institutions. A review of federal and state-chartered banks and financial institutions found there are no such banks or financial institutions in Alaska.

Additionally, the Federal Deposit Insurance Corporation (FDIC) publishes a Minority Depository Institutions (MDIs) Report that lists the current MDIs across the United States that are registered with the FDIC. Alaska DOT&PF conducted a review of the available list and found none in Alaska. Alaska DOT&PF will continue to monitor this list for Alaska based MDIs and will reach out as needed (<https://www.fdic.gov/minority-depository-institutions-program/minority-depository-institutions-list>).

On a continuing basis, at least quarterly, Alaska DOT&PF will review the availability of such financial institutions.

49 CFR Part 26.29 (Prompt Payment)

Alaska DOT&PF relies upon Alaska Statute 36.90.210 Required Contractual Terms as a basis for ensuring compliance with this part. Alaska Statute 36.90.210 states:

(a) The prime contractor and a subcontractor on a public construction or public works contract shall include in a subcontract between the prime contractor and subcontractor for the public construction or public works a clause that requires the prime contractor to pay

(1) the subcontractor for satisfactory performance under the subcontract within eight working days after receiving payment from which the subcontractor is to be paid;

(2) the subcontractor all retainage due under the subcontract within eight working days after final payment is received from the state or political subdivision or after the notice period under AS 36.25.020 (b) expires, whichever is later;

(3) the subcontractor interest on an amount that is not paid in accordance with (1) of this subsection for the period beginning on the day after the required payment date and ending on the day on which payment of the amount due is made: the interest shall be computed at an interest rate that is equal to the amount set out in AS 45.45.010 (a);

(4) interest on retainage withheld from the subcontractor at an interest rate that is equal to the amount set out in AS 45.45.010 (a).

(b) A subcontractor on a public construction or public works contract shall include in each subcontract under which a person agrees to provide the subcontractor with services, other than as an employee, or supplies to be used in the public construction or public works project a clause that requires the subcontractor to pay

(1) the person for satisfactory performance under the subcontract within eight working days after receiving payment from which the person is to be paid;

(2) the person all retainage due under the subcontract with the person within eight working days after the subcontractor receives its share of the state-held retainage from the prime contractor or another subcontractor;

(3) the person interest on an amount that is not paid in accordance with (1) of this subsection for the period beginning on the day after the required payment date and ending on the day on which payment of the amount due is made: the interest shall be computed at an interest rate that is equal to the amount set out in AS 45.45.010 (a);

(4) interest on retainage withheld from the person at an interest rate that is equal to the amount set out in AS 45.45.010 (a).

Alaska DOT&PF Standard Specifications for Highway Construction Section 108-1.01
Prosecution and Progress details the prime contractor's obligations when subcontracting a portion of the contract. Section 108-1.01(1) (c-g) state that the contractor shall ensure that for all subcontracts:

(1) The required prompt payment provisions of AS 36.90.210 are included in all subcontracts;

(2) A clause is included requiring the Contractor to pay the subcontractor for satisfactory performance according to AS 36.90.210 and within eight (8) working days after receiving payment from which the subcontractor is to be paid;

(3) A clause is included requiring the Contractor to pay the subcontractor interest, according to AS 45.45.010(a), for the period beginning the day after the required payment date and ending on the day payment of the amount due is made;

- (4) *A clause is included requiring the Contractor to pay the subcontractor all retainage due under the subcontract, within eight (8) working days after final payment is received from the Department, or after the notice period under AS 36.25.020(b) expires, whichever is later;*
- (5) *A clause is included requiring the Contractor to pay interest on retainage, according to AS 36.90.250 and AS 45.45.101(a).*

Alaska DOT&PF complies with the state requirements which also meet the federal requirements.

Alaska DOT&PF will not withhold retainage from prime contractors, and will require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by the prime contractor to the subcontractor within eight working days after final payment is received from Alaska DOT&PF.

To ensure that subcontracts comply with prompt payment requirements, Alaska DOT&PF will review 1 out of every 10 subcontracts executed on USDOT-funded prime contracts to verify that compliant prompt payment clauses are included.

Alaska DOT&PF monitors prompt payment compliance on USDOT-funded contracts by conducting Contract Compliance Reviews (CCRs). As one element of the CCR, the Alaska DOT&PF CRO contacts each DBE and non-DBE subcontractor to verify payments have been made as declared by the prime contractor. Any issues identified during the CCR are directed to the Alaska DOT&PF Regional Contract Compliance Liaison for follow up, and if necessary, enforcement action.

Failure to comply with prompt payment requirements is considered unsatisfactory performance and may result in enforcement action such as withholding of progress payments, termination of contract, suspension, or debarment.

Alaska DOT&PF may withhold part of or all of a progress payment pursuant to Alaska DOT&PF Standard Specifications for Highway Construction Section 109-1.06 to enforce prompt payment requirements. Section 109-1.06 notes:

...The contractor's failure to pay subcontractors, or subcontractor's failure to pay lower tier subcontractors, according to prompt payment provisions required under Subsection 108-1.01 is considered unsatisfactory performance... The Department will not withhold payment as retainage but may withhold payment for unsatisfactory performance...

Alaska DOT&PF may, pursuant to Alaska DOT&PF Standard Specifications for Highway Construction Section 108-1.08(9), issue a written Notice of Default to the contractor and the surety if the contractor fails to comply with applicable civil rights requirements. Failure to cure a default within the time specified in a Notice of Default authorizes Alaska DOT&PF to terminate the contract.

Any actions to suspend or debar will be made in accordance with Alaska Statute 36.30.640 Causes for Debarment or Suspension.

Alaska DOT&PF utilizes AASHTOWare software for project management. The software has the ability to track payments and to require subcontractor verification of on-time payments. As a result of the transition to hosting on ITI and upgrade to version 5.02 of the software, there will be some changes to how data may be entered by external users. To avoid frustration, we plan to delay the user set up for external users until the transition to ITI has occurred. As a result, the prompt payment module will not be up and running until late 2025. The plan will call for user set up and training after the 2025 construction

season. In the meantime, Alaska DOT&PF is testing the system through voluntary entry of data by contractors and voluntary verification by subcontractors. This will enable us to test the system in its current version before bringing all contractors onboard. We estimate that there will be more than 100 contractors to get set up. In the meantime, we will do as much monitoring as possible through the voluntary system. We believe that the strict prompt payment laws in the State of Alaska mitigates some of the risk for late payment as Alaska DOT&PF has had very few prompt payment complaints. We understand that we cannot rely on complaints to monitor prompt payment requirements. We will work with our IT and software representatives to move as quickly as possible to get this functionality of the system up and running.

In the interim, while we are working towards full implementation of the automated system, AASHTOWare will send out email verification requests to subcontractors following issuance of prime payments. On a monthly basis we will follow up with all subcontractors working on USDOT-assisted projects.

49 CFR Part 26.31 (DBE Directory)

Alaska DOT&PF publishes and maintains the AUCP directory identifying all firms eligible to participate as DBEs in the State of Alaska. The directory is an online system that permits the public to search and/or filter for DBEs by firm name, physical location, NAICS code(s), and work descriptions (categories). Alaska DOT&PF updates the directory in real time, and makes the directory available online at: <https://dot.alaska.gov/cvlrts/directory.shtml>. See Attachment 4

The AUCP DBE Directory includes the following prominently displayed disclaimer: *Inclusion in this directory does not constitute an endorsement nor guarantee of the capability, dependability, availability or bonding limit of any firm listed by the Alaska DOT&PF.*

49 CFR Part 26.33 (Over-concentration)

Alaska DOT&PF has not identified that over-concentration exists in the types of work that DBEs perform.

49 CFR Part 26.35 (Business Development Program)

The Alaska DOT&PF operates a Business Development Program (BDP) designed to support DBEs in achieving independent success. While the Alaska DOT&PF does not currently have an active Mentor-Protégé Program (MPP), it does have a robust BDP in place, in compliance with the DBE Support Services (DBE/SS) Program. The BDP collaborates with DBE firms, industry leaders, and stakeholders to expand DBE capabilities in line with Alaska's evolving economic trends.

One key element of these efforts is the annual DBE Conference, which is hosted virtually. The conference provides workshops, forums, and networking opportunities for DBEs to engage with key stakeholders and learn essential business development skills. In addition to the conference, the Alaska DOT&PF organizes at least three statewide training and networking events each year, aiming to hold one in each region when possible. These events cover topics such as Commercially Useful Function (CUF) training and business strategies aimed at ensuring DBE success.

The Alaska DOT&PF has also developed a dedicated DBE/SS page on its website, which serves as a centralized resource hub for DBEs. The DBE/SS program is designed to help certified DBE firms grow and eventually become self-sufficient by offering guidance on acquiring critical skills and identifying available resources. The goal is to help DBEs compete on an equal footing for contracts and subcontracts without relying on DBE program assistance.

The DBE/SS webpage includes several valuable resources, such as:

- 50% DBE Reimbursement Program that provides financial support to DBEs
- Training resources, including Govology webinars
- Guidance on creating a Capability Statement
- Information on loan programs available to DBEs

The Alaska DOT&PF consistently updates this page to offer new opportunities and resources, helping DBEs and stakeholders further develop their businesses.

49 CFR Part 26.37 (Monitoring Program Participants)

Alaska DOT&PF has implemented appropriate monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26 by DBE program participants. Alaska DOT&PF has set forth the following mechanisms to monitor DBE program compliance:

(1) Training

The CRO provides training and/or guidance for Alaska DOT&PF and non-Alaska DOT&PF project personnel (consultants) as a means to monitor DBE program compliance. By having personnel on project sites and in procurement offices who are knowledgeable about DBE program rules, it allows Alaska DOT&PF to expand its DBE monitoring capabilities beyond the CRO. Alaska DOT&PF and non-Alaska DOT&PF project personnel are instructed, both verbally and in the Alaska DOT&PF Construction Manual, to inform the CRO of any instances of potential non-compliance with the DBE program.

The Alaska DOT&PF attends monthly meetings hosted by the Chief Engineer, Alaska DOT&PF Regional Contract Liaisons, Contracting Chiefs, Construction Group Chiefs, and Statewide Finance Manager to provide guidance on DBE program implementation. Additionally, the CRO provides DBE program on-site guidance to Alaska DOT&PF and non-Alaska DOT&PF project personnel as one component of Quality Assurance Reviews (QAR), and directly to DBE and non-DBE contractors during various events (Annual DBE Conference, Regional Training Sessions, Regional Director's Brown Bag Lunch Series, etc.).

(2) Commercially Useful Function (CUF)

To be eligible for DBE credit, a DBE must perform a CUF as defined by 49 CFR Part 26.55. Alaska DOT&PF has set forth the following process to monitor DBE performance of CUF on USDOT-funded contracts:

On-site project personnel perform CUF reviews for DBE prime contractors, subcontractors, and joint ventures as soon as a DBE begins work on a project. At least one CUF review is conducted per DBE, per construction season, and additionally as necessary. To assist in conducting CUF reviews, project personnel utilize the Form 25A-298 (CUF monitoring report) as the initial DBE on-site conference, with a final authorization of CUF compliance, form 25A-299 is completed. which can be found at https://dot.alaska.gov/cvlrts/forms.shtml#dbe_cert. Upon completion, project personnel must submit both CUF monitoring reports and any accompanying documentation (such as lease agreements, lower-tier subcontracts, photos, or additional reviewer observations) to the Alaska DOT&PF CRO for further review. The CRO will review the submittal and either request additional information or accept the CUF documentation as sufficiently documenting a firms CUF. In cases where the CRO requests additional

documentation and, in coordination with the Project Engineer, finds that a DBE is not performing a CUF, the following process will be used:

Consistent with the provisions of 49 CFR Part 26.55, before making a final determination that no CUF has been performed by a DBE, the Project Engineer will coordinate transmittal of the presumptive finding to the prime contractor, who will in-turn, notify the DBE. The contractor will provide the DBE the opportunity to provide rebuttal information, and the prime contractor shall present the information to the Project Engineer. The Project Engineer in coordination with the CRO, will make a final determination on whether the DBE is performing a CUF. Under no circumstances will the prime contractor take any action with respect to the DBE until the final determination is made. Decisions on CUF matters are subject to review by Alaska DOT&PF but are not administratively appealable to USDOT.

(3) Joint Checks

The Alaska DOT&PF CRO monitors joint check payments in conjunction with its process for monitoring CUF. All joint check arrangements will be reviewed by the CRO and approved on a case-by-case basis to ensure compliance with the requirements of 49 CFR Part 26.

(4) Monitoring Contracts

Prime contracting records are reviewed by Alaska DOT&PF Regional Construction Staff and written certification is maintained in the regional project files. Subcontracts are reviewed by the Regional Contract Compliance Liaison at a rate of 1 out of every 10 subcontracts. A written verification memo will be provided to the DBELO and maintained in the CRO project files.

Alaska DOT&PF will maintain written certification that contracting records have been reviewed and work sites have been monitored to ensure the counting of each DBE's participation is consistent with its function on the contract.

(5) Contract Compliance Reviews (CCRs)

The CCR is a systematic, objective, and comprehensive review of the employment practices of Alaska DOT&PF contractors and subcontractors. CCRs are conducted by the Alaska DOT&PF CRO to determine whether Alaska DOT&PF contractors and subcontractors are complying with their Equal Employment Opportunity (EEO) and Affirmative Action (AA) contractual obligations. These site visits provide an avenue for monitoring DBE participation and prompt payment, as discussed in Section 26.29, and consist of meeting with contractors on-site to examine their EEO objectives, reviewing files and data, conducting project worksite interviews, and preparing a final review and analysis of collected information. Review dates are coordinated with contractors and scheduled during their peak employment periods. This allows time to correct deficiencies, should any be found. In addition, the CRO will review special training provisions and assess whether contractors are meeting or exceeding the DBE goal or commitment for the project.

In agreement with FHWA, the CRO is required to perform 10 CCRs annually. The parameters for choosing the CCRs are set based on the following criteria:

- i. Largest dollar value FHWA contracts
- ii. Largest number of FHWA contracts

- iii. Contracts which are the type, size, and/or duration to provide the contractor with maximum hiring and promotional opportunities
- iv. Contractors who have past reporting data which indicates regularly underutilizing women and minorities in their workforce
- v. Contracts that contain Statewide Special Provisions Section 645, Training Program
- vi. Contractors FHWA specifically requests to have reviewed
- vii. Contractors who have complaints filed against them regarding employment practices

Contractors who were found in non-compliance during the previous construction season and working on FHWA-funded projects in the upcoming season are automatically selected for a follow-up review regardless of size, duration, etc. of the project(s) involved.

(6) Required Reporting

Alaska DOT&PF Statewide Special Provisions Section 120.3.04(4) requires that contractors on USDOT-assisted contracts report payments made to DBEs on a monthly basis beginning the first month that a DBE participates on the project through the month in which the final payment is made to the DBE. Form 25A-336 (Monthly Summary of DBE Participation) must be submitted to the Alaska DOT&PF CRO by the 15th of the month following the month in which payments were made. Upon request, contractors must submit supporting documentation such as copies of canceled checks or bank statements that identify payer, payee, and amount of transfer. This documentation provides the Alaska DOT&PF CRO with written verification of payments being made to DBE subcontractors. Instructions for acquiring, completing and submitting Form 25A-336 (Monthly Summary of DBE Participation) can be found online at <http://www.dot.state.ak.us/stwddes/dcsconst/assets/pdf/constforms/25a336.pdf>. The Alaska DOT&PF CRO monitors DBE utilization on a continual basis, using information provided by contractors on Forms 25A-336 (Monthly Summary of DBE Participation), 25A-325C (DBE Utilization Report), and 25A-326 (Prime Contractors Written DBE Commitment) to ensure that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed. Copies of these forms can be found online through the previous link.

(7) Subcontracting Practices

Alaska DOT&PF will monitor subcontracts let on USDOT-funded contracts by reviewing 1 out of every 10 subcontracts executed to ensure all required contract clauses such as those pertaining to prompt payment are included in each subcontract. The Regional Contract Compliance Liaison is responsible for reviewing subcontracts and maintaining records of those subcontracts that were reviewed.

(8) DBE Utilization

The Alaska DOT&PF CRO will audit contracting records (subcontracts, payments, commitments, CUFs) for each project on a continual basis for the duration of the project and maintain a running tally of DBE utilization. Monthly the CRO will run a report out of AASHTOWare Project that compares the DBE commitment amount to the actual payment to date to perform a running tally that provides for a frequent comparison of payments made to each listed DBE relative to the progress of work, including payments for such work to the prime contractor to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to

address to meet the contract goal pursuant to § 26.53(g). The Alaska DOT&PF will use this same report to perform a frequent comparison of cumulative DBE awards/commitments to USDOT-assisted prime contract awards to determine whether the current implementation of contract goals is projected to be sufficient to meet your annual goal.

At project closeout, the Regional Contract Compliance Liaison will request DBE clearance from the CRO. The CRO will conduct a final audit of the project, and if found compliant with the requirements of 49 CFR Part 26, will issue a written DBE clearance to the Alaska DOT&PF Regional Contract Compliance Liaison. The written DBE clearance will certify that the project has complied with DBE program requirements, and upon receipt of the DBE clearance, the Alaska DOT&PF Project Engineer may proceed with making final payment to the contractor.

(9) Monitoring of Sub-Recipients

Alaska DOT&PF coordinates with individual sub-recipients of USDOT funds to provide training and guidance on DBE program implementation. Through individual meetings as well as group events such as the Annual DBE Conference, AUCP members are informed of changes in program requirements and provided guidance on implementing the DBE program as a sub-recipient. Twice annually Alaska DOT&PF works with and provides guidance to sub-recipients to collect data relevant for completing the Uniform Report of DBE Awards or Commitments. Additionally, every three years the Alaska DOT&PF Alaska Community Transit section will conduct reviews of each sub-recipient of FTA funds to ensure that the DBE program is being administered in compliance with the requirements of 49 CFR Part 26 (reviews of USDOT sub-recipients will be conducted by the Alaska DOT&PF CRO on an as-needed basis). Questions raised during such reviews pertain to DBE participation on procurements, good faith efforts to maximize DBE opportunities on procurements, and questions relating to complaints.

Alaska DOT&PF will monitor overall DBE utilization on a continual basis to measure progress toward the overall DBE goal during each federal fiscal year. If during any fiscal year information demonstrates that current trends make it unlikely that Alaska DOT&PF will achieve DBE awards and commitments that would be necessary to meet the overall DBE goal at the end of the fiscal year, Alaska DOT&PF will coordinate with applicable USDOT operating administrations to take additional steps to increase DBE utilization during the remainder of the fiscal year, including setting contract goals in compliance with 49 CFR Part 26.47(d).

Alaska DOT&PF will enforce DBE program compliance with legal and contract remedies available under federal, state, and local law. Enforcement mechanisms include:

Contract Remedies

Alaska DOT&PF Statewide Special Provisions Section 120 implements the requirements of the DBE program. Failure to comply with the provisions of Section 120 is considered a material breach of contract, and may result in cancelation of intent to award, withholding of progress payments consistent with Subsection 109-1.06, contract termination, or other remedy as Alaska DOT&PF deems appropriate. Failure to comply with Section 120 is justification for debarment action as provided in AS 36.30.640(4).

Legal Remedies

Alaska DOT&PF will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalty rules) provided in 49 CFR Part 26.107. Alaska DOT&PF will withhold progress payments consistent with Alaska DOT&PF Standard Specifications for Highway Construction Subsection 109-1.06.

49 CFR Part 26.39 (Small Business Enterprise Element)

Alaska DOT&PF has a Small Business Enterprise (SBE) Program that was approved July 18, 2012 through the FHWA Associate Administrator for Civil Rights encompassing FAA and FTA. See Attachment 7. The SBE program is administered under the DBE/SBE Business Development Office within the Civil Rights Office. Businesses may self-register with Alaska DOT&PF as an SBE utilizing Form 25D-6 (Bidders Registration Form) or PSA 25D-6 (Consultants Registration). If an SBE firm is awarded a USDOT-funded contract, at the time of award the firm will be required to submit the following to the Alaska DOT&PF CRO:

- (1) SBE Affidavit of Certification Eligibility
- (2) Personal Net Worth Statement
- (3) Past five years of corporate and three years of individual tax returns
- (4) If not a certified DBE, documentation that the firm is self-certified as a small business

Alaska DOT&PF implements several race-neutral initiatives to benefit DBE and non-DBE SBEs interested in participating on USDOT-funded procurements. Alaska DOT&PF, when practical, may unbundle contracts, specifying elements of a contract or subcontract to enable small businesses to bid as subcontractors or prime contractors. When determining if contracts are practical to unbundle, the following criteria will be considered:

- (1) Maintenance of project integrity and management efficiency – unbundling contracts should not disturb the overall administration and quality of the project or unreasonably increase project costs.
- (2) Number of small businesses working in the specific region – a high number of small businesses in the area can indicate the likelihood that small businesses will successfully submit a proposal or bid on the contract.
- (3) History of DBEs and small businesses submitting bids on similar types of projects – If DBEs and small businesses have a history of submitting proposals or bids on similar types of projects, past participation can indicate the probability that small businesses will successfully submit a proposal or bid on the contract.

For more information, please refer to the Alaska DOT&PF SBE Plan at http://www.dot.Alaska.gov/cvlrts/forms/SBE-FHWA-SBE_Plan.pdf.

49 CFR Part 26.43 (Set-Asides and Quotas)

Alaska DOT&PF does not use quotas in any way in the administration of its DBE program. Alaska DOT&PF does not anticipate the need for set-aside contracts to redress egregious instances of discrimination.

49 CFR Part 26.45 (Overall Goals)

Alaska DOT&PF is required to submit an overall DBE program goal to each operating administration for legal sufficiency approval by August 1, triennially. Alaska DOT&PF has established the overall goals in compliance with 49 CFR Part 26 for the following:

- FAA DBE Goal Methodology, 2023-2025, 10.56% to be met entirely through race-neutral means.
- FHWA DBE Goal Methodology, 2024-2026, 9.39% to be met entirely through race-neutral means.
- FTA DBE Goal Methodology, 2025-2027, 1.00% to be met entirely through race-neutral means.

A description of the methodologies used to calculate the overall goals, and the goal calculations can be found at <https://dot.alaska.gov/cvlrts/index.shtml>. Alaska DOT&PF will submit updated DBE goals to each operating administration by August 1 of the assigned year. See Attachment 5.

49 CFR Part 26.47 (Shortfall Analysis and Action Plan)

If the awards and commitments to DBEs at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the Alaska DOT&PF CRO will prepare and submit, within 90 days of the end of the federal fiscal year, an analysis and corrective action plan to the applicable USDOT operating administration for approval. Alaska DOT&PF will base its analysis on available evidence to identify the factors that contributed to the shortfall and will include a corrective action plan identifying the steps Alaska DOT&PF will take to address each factor.

Alaska DOT&PF will include in its shortfall analysis calculations demonstrating the actual race-neutral and race-conscious achievement versus the respective goal projections. To explore the causes of the differences between actual achievement and the goal projections, Alaska DOT&PF will consider evidence related to DBE availability, DBE utilization, and efforts made by program participants to procure DBE participation. Evidence considered in the analysis may include:

- (1) Alaska DOT&PF Bidders List records
- (2) AUCP certifications records
- (3) Plan Holder Self Registration List records
- (4) Alaska DOT&PF Subcontracting records
- (5) Evidence of efforts made by prime contractors to procure DBE participation
- (6) DBE prime and subcontractor utilization on race-conscious and race-neutral contracts

Additionally, Alaska DOT&PF will provide an analysis of the race-neutral and race-conscious measures used to meet the overall goal, and their levels of effectiveness.

Contributing factors identified in the shortfall analysis along with the review of measures used to meet the overall goal will form the basis of the corrective action plan. The corrective action plan will detail proposed changes to Alaska DOT&PF practices to take effect during the next fiscal year. The proposed changes will seek to address the causes of the shortfall by introducing new race-neutral measures, building on existing race-neutral measures, and/or using contract goals to remedy the shortfall.

49 CFR Part 26.49 How are overall goals established for transit vehicle manufacturers?

Each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 CFR 26.49. A TVM's failure to implement the DBE Program in the manner as prescribed in this section and throughout 49 CFR part 26 will be deemed as non-compliance, which will result in removal from FTA's certified TVMs list, resulting in that manufacturer becoming ineligible to bid. Only those transit vehicle

manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers (<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers>), or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.

After the contract is awarded, Alaska DOT&PF will ensure that all required post-award reporting is completed in line with FTA guidelines. Within 15 days of the contract award, the following information will be submitted:

- The name of the successful TVM
- The federal share of the contract commitment at the time of award

This reporting will be conducted via the Transit Vehicle Purchase Information Survey (<https://survey123.arcgis.com/share/c8473e8d10124b7e8914f15ec08a9202>), ensuring transparency in the vehicle procurement process. It also verifies that the awarded TVM complies with FTA regulations and that all entities involved in vehicle production or post-production retrofitting for paratransit services meet the Disadvantaged Business Enterprise (DBE) participation goals, as mandated by 49 CFR 26.11 and related provisions.

49 CFR Part 26.51 (Contract Goals)

Alaska DOT&PF operates under a race-neutral DBE program for FHWA, FAA and FTA, and does not set goals on FHWA, FAA or FTA-funded contracts.

49 CFR Part 26.53 (Good Faith Efforts)

Good Faith Effort under the Race-Neutral Program

Alaska DOT&PF currently operating under the race-neutral program.

Although evaluation of GFE for sufficiency is not a condition of award, documenting GFE is required and is necessary for the Department's and USDOT's determination of compliance with 49 CFR Part 26.

1. GFE Criteria. If the Department does not meet the overall program DBE Utilization Goal, the Department and USDOT will use the following criteria to judge whether the Department, in collaboration with our contractors, demonstrated good faith effort to meet the overall program DBE Utilization Goal.

a. Consider All Subcontractable Items. Before bid opening, seek DBE participation by considering those portions of the work or material needs consistent with the available DBEs to facilitate DBE participation.

b. Initial DBE Notification. Contact DBEs listed in the Department's Plan Holders Self Registration List for the particular project being bid at least 7 calendar days prior to bid opening to solicit their interest. Log each contact with a DBE firm on a Contact Report, Form 25A-321A.

Give DBEs at least 7 calendar days to quote. The bidder may reject DBE quotes received after the deadline. Responsive DBE quotes should be accepted unless they are determined noncompetitive. Consistently apply deadlines for quote submission and responsiveness determinations for DBEs and non-DBEs.

Methods of initial and follow up notification are:

(1) By fax with a confirmation receipt of successful transmission to the DBE's fax number listed in the DBE Directory. A fax transmission without receipt of successful transmission is unsatisfactory.

(2) By email to the DBE's email address listed in the DBE Directory, with confirmation of successful receipt. Email without confirmation of successful receipt is unsatisfactory.

(3) By telephone solicitation made to the DBE's telephone number listed in the DBE Directory, with a record of the date and time of the telephone contact. Telephone solicitation without a record of date and time is unsatisfactory.

(4) By publication, with the names and dates of each advertisement in which a request for DBE participation was placed. Attach copies of advertisements or proof of publication

Good Faith Effort under the Race-Conscious Program

Note: This section does not apply to Alaska DOT&PF's current program.

Alaska DOT&PF treats bidder/proposers' compliance with good faith efforts requirements as a matter of responsibility. Each solicitation for which a contract goal has been established will require the bidder/proposer to submit the following information on Forms 25A-325C (DBE Utilization Report) and 25A-326 (Prime Contractor's Written DBE Commitment) (the forms can be found online: www.dot.state.ak.us/cvlrts/forms.shtml) within five working days of the bid submission:

- (1) The names and addresses of DBEs that will participate on the contract.
- (2) A description of the work that each DBE will perform.
- (3) For each DBE listed as a regular dealer or distributor a preliminary counting determination will be made by the CRO to assess for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in § 26.55(e)(2)(iv)(A), (B), and (C) and (e)(3) under the contract at issue. The preliminary determination shall be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor, we will make appropriate adjustments in counting such participation toward the bidder's good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.
- (4) The dollar amount of the participation of each DBE.
- (5) Written and signed documentation of commitment to use a DBE subcontractor whose participation is submitted to meet a contract goal.
- (6) Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment.

If a contract goal is not met, evidence of good faith efforts will be evaluated. Bidders may only clarify efforts taken before bid opening and may not supplement with new efforts or additional DBE participation. Criteria considered when evaluating good faith efforts for sufficiency may vary but will include consideration of prime contractor outreach to DBEs registered as interested, mandatory contacts on the Alaska DOT&PF Plan Holders Self Registration List. Additional considerations may include:

- (1) Seeking DBE participation by considering those portions of the work or material needs consistent with DBE availability.

- (2) Contacting DBEs listed as voluntary contacts on the Alaska DOT&PF Plan Holders Self Registration List.
- (3) Providing DBEs with adequate time (at least seven calendar days) to quote.
- (4) Consistent application of deadlines for quote submission and responsiveness determinations for DBEs and non-DBEs.
- (5) Providing assistance to DBEs, including:
 - i. Information about bonding or insurance required by the bidder.
 - ii. Information about securing equipment, supplies, materials, or business development related assistance or services.
 - iii. Adequate information about the requirements of the contract regarding the specific item of work or service sought from the DBE.

All efforts to contact DBEs must be recorded separately on Form 25A-321A (Contact Report) (forms are available for download at <http://www.dot.state.ak.us/stwddes/dcsconst/assets/pdf/constcontforms/25a321a.pdf>) and provide details regarding initial and follow-up contacts, and the result of those contacts (did the DBE provide an acceptable sub-bid?). Bidders must include evidence supporting a determination not to use a DBE subcontractor, including DBE and non-DBE quotes. More examples of good faith efforts may be found in Appendix A to 49 CFR Part 26.

In cases where a procurement method is Design/Build, Construction Manager-at-Risk, or other innovative contracting practice with minimal-project details at time of letting, the Alaska DOT&PF may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance Plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information listed above this section that applies to design-bid-build contracts. To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amount) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, the Alaska DOT&PF will provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. The Alaska DOT&PF and the design-builder may agree to make written revisions of the OEPP throughout the life of the project, e.g., replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, if the design-builder continues to use good faith efforts to meet the goal.

The Alaska DOT&PF CRO will evaluate good faith efforts and generate written determinations of sufficiency or insufficiency-based evidence submitted. The following Alaska DOT&PF personnel are responsible for determining whether a bidder who has not met a contract goal has documented sufficient GFE to be regarded as responsive. These positions are also responsible for determining a prime contractor's GFE on replacement of a DBE firm:

Contract Compliance Officer
DBE Program Manager
PO Box 196900
Anchorage, AK 99519-6900
(907) 269-0851 / 1-800-770-6236 (within Alaska)

For individuals requiring TTY communications, please contact Alaska Relay at 711.

Within (3) working days of being informed by Alaska DOT&PF that it is not responsive because it has not documented sufficient GFE, a bidder may request administrative reconsideration. The bidder will make this request in writing to the following reconsideration official:

Barbie Tanner
Regional Contracting Chief
2301 Peger Rd.
Fairbanks, AK 99709
(907) 451-3057
barbara.tanner@alaska.gov

For individuals requiring TTY communications, please contact Alaska Relay at 711.

The reconsideration official shall remain impartial and may not have assisted in the original determination by the CRO of the bidder's insufficient good faith efforts.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or arguments concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with the reconsideration official to discuss the issue. Alaska DOT&PF will send the bidder a written decision on the 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 subject to an administrative appeal to USDOT.

Alaska DOT&PF will ensure that all information is complete, accurate and adequately documents the bidder/proposer's good faith efforts before Alaska DOT&PF commits to the performance of the contract by the bidder/proposer.

49 CFR Part 26.53(f) (Termination/Replacement/Substitution of a DBE)

Contractors shall submit to the Alaska DOT&PF Project Engineer a written request to replace or substitute a DBE who fails or refuses to execute a written subcontract or who is terminated under Alaska DOT&PF Statewide Special Provisions Section 120-3.03(3). Contractors shall not terminate a DBE without good cause and the prior written consent of the Alaska DOT&PF Project Engineer. Good cause may include:

DBE defaults on their obligation for any reason.

The DBE 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 to perform its work on the subcontract results from the bad faith or discriminatory action of the contractor.

- (1) The DBE fails or refuses to meet the contractor's reasonable, nondiscriminatory bond requirements.
- (2) The DBE becomes bankrupt, insolvent, or exhibits credit unworthiness.
- (3) The DBE is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215, and 1200 or applicable state law.
- (4) The Project Engineer determines the DBE is not a responsible contractor.
- (5) The DBE voluntarily withdraws from the project and provides a written notice of its withdrawal.
- (6) The DBE is ineligible to receive DBE credit for the type of work required.

- (7) A DBE owner dies or becomes disabled with the result that the DBE is unable to complete its work.
- (8) Other documented good cause that the Project Engineer determines, compels the termination of the DBE, provided that good cause does not exist if the contractor seeks to terminate a DBE it relied upon to obtain the contract so that the contractor can self-perform the work for which the DBE was engaged or so that the contractor can substitute another DBE or non-DBE after contract award.

Contractors must give written notice to DBEs of their intent to request to terminate and/or substitute, and the reason for the request. The request to terminate and/or substitute must be submitted to the Project Engineer. Contractors must give the DBE 5 working days to respond to the written notice. Any response from the DBE must be submitted to the Project Engineer.

49 CFR Part 26.53(g) (Good Faith Efforts to Replace Lost DBE Participation)

Alaska DOT&PF will require the prime contractor to provide copies of new or amended subcontracts, or documentation of good faith efforts to replace lost DBE participation to the extent required to meet the DBE goal. If the contractor fails or refuses to comply in the time specified by the Project Engineer, the Project Engineer will withhold progress payments consistent with Alaska DOT&PF Standard Specifications for Highway Construction subsection 109-1.06. If the contractor still fails to comply, the contracting officer may initiate a termination for default proceeding.

If a contractor cannot obtain replacement DBE participation, the DBE goal will not be adjusted and the contractor will be required to submit, within 7 days, documentation of good faith efforts to replace the lost DBE participation to the extent required to meet the DBE goal. The Project Engineer, in coordination with the Alaska DOT&PF CRO, may consider the following criteria as satisfying the portion of DBE participation that cannot be replaced:

- (1) The Contractor was not at fault or negligent and that the circumstances surrounding the replacement or substitution were beyond the control of the Contractor.
- (2) The Contractor is unable to find replacement DBE participation at the same level of DBE commitment and has adequately performed and documented GFE. Considerations for GFE sufficiency determinations in these instances may include contacting other DBEs certified to perform the same work, or efforts to create additional opportunities for DBEs.
- (3) It is too late in the project to provide any real subcontracting opportunities for DBEs.

If the Alaska DOT&PF Project Engineer and CRO determine that additional DBE participation is not available, the DBE may be replaced or substituted with a non-DBE, or the contractor may self-perform the work.

49 CFR Part 26.53(i) (DBE Prime Contractors)

Alaska DOT&PF will apply its contract goal and good faith efforts requirements in the case of DBE prime contractors. In determining whether a DBE bidder or offeror has met a contract goal, Alaska DOT&PF will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

49 CFR Part 26.53(j) (Furnishing of Requested Documents)

Alaska DOT&PF will require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts consistent with Alaska DOT&PF Statewide Special Provisions Section 120-5.1.

49 CFR Part 26.55 (Counting)

The Alaska DOT&PF CRO is tasked with tracking and reporting DBE participation on USDOT-funded contracts. Only the value of the work actually performed by a DBE's own force is counted toward DBE goals, including the costs of supplies, materials, and equipment leased by the DBE (with the exception of supplies or equipment a DBE subcontractor purchases or leases from a prime contractor or its affiliate). Fees or commissions charged by a DBE firm for providing bona fide services such as consultant work are counted toward DBE goals provided that the fees are reasonable and not excessive compared to fees customarily allowed for similar services. Work subcontracted to non-DBE lower-tier subcontractors by DBE subcontractors is not counted toward DBE goals. Additionally, DBEs must be performing a commercially useful function in order for their work to be credited toward overall and contract goals. Commercially useful function will be determined on a contract-by-contract basis and will be based on the procedures outlined in the Section 26.37 of this program plan.

Alaska DOT&PF has established procedures for counting DBE participation and crediting that participation toward overall and contract goals. Alaska DOT&PF tracks DBE subcontractor utilization on construction contracts by requiring prime contractors to report all payments made to DBE subcontractors on a monthly basis to the Alaska DOT&PF CRO utilizing Form 25A-336 (Monthly Summary of DBE Participation). Prime contractors are required to complete Form 25A-336 (Monthly Summary of DBE Participation) in a way that ensures DBE credit is accurately calculated and captured and are also required to submit copies of checks and/or bank statements upon request for verification purposes. Form 25A-336 (Monthly Summary of DBE Participation) provides for prime contractors to report whether payments to DBEs are credited at 100% or 60% [of payment]. Alaska DOT&PF will credit commitments/awards and payments made to DBEs toward DBE goals as follows:

- (1) 100% credit will be given for commercially useful function work performed by a DBE's own force in an Alaska DOT&PF NAICS code for which the DBE is certified.
- (2) 100% credit will be given for the costs of materials or supplies procured from a DBE manufacturer.
- (3) 60% credit will be given for the costs of materials or supplies procured from a DBE acting as a regular dealer.
- (4) 40% credit will be given for the costs of materials or supplies procured from a DBE acting as a distributor.
- (5) Purchases of materials, supplies, or services from DBEs who are neither manufacturer, regular dealers, or distributors will receive credit for the entire amount of fees or commissions charged, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. Credit given for expenditures to firms acting as brokers will be calculated on a contract-by-contract basis based on observations made by Alaska DOT&PF project personnel and information provided by contractors on Form 25A-336 (Monthly Summary of DBE Participation).

- (6) When a DBE performs as a joint venture, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces will be counted toward DBE goals. Calculations for joint venture credit will be based on observations by Alaska DOT&PF project personnel and submitted with Form 25A-298 (CUF Monitoring Report).
- (7) Alaska DOT&PF will credit 100% of the total value committed/awarded/paid to DBE trucking firms for transportation services it provides on a contract using trucks it owns, insures, and operates using drivers it employs.
- (8) DBEs may lease trucks without drivers from non-DBE truck leasing companies and use their own employees as drivers to receive 100% credit. Copies of lease agreements must be submitted to the Alaska DOT&PF CRO along with Form 25A-298 (CUF Monitoring Report) attesting whether or not the leased trucks display the name and identification number of the DBE.
- (9) Alaska DOT&PF will credit 10% of the total value committed/awarded/paid to DBE firms that are Trucking Brokers and coordinate the delivery of materials or supplies required on a job site. The Alaska DOT&PF has decided to increase this from 5% to 10% as a result of the increase costs for insurance and payroll in the trucking brokerage industry.
- (10) No DBE credit will be counted toward any DBE goals if a DBE is not certified at the time of contract execution.
- (11) Payments made to DBEs during the execution of a contract after they cease to be certified will not be counted toward the overall DBE goal.
- (12) Amounts awarded or committed to DBE subcontractors will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount has actually been paid to the DBE and reported to the Alaska DOT&PF CRO on Form 25A-336 (Monthly Summary of DBE Participation).

49 CFR Part 26.61 (Burdens of Proof)

In determining whether to certify a firm as eligible to participate as a DBE, the AUCP will apply the certification standards Subpart D of Part 26 and will consider all the information in the record, viewed as a whole. The firm seeking certification has the burden of demonstrating to the AUCP by a preponderance of the evidence that it meets the requirements of Subpart D Part 26 concerning social disadvantage and economic disadvantage, business size, ownership and control.

49 CFR Part 26.63 General certification rules

Alaska DOT&PF is the only certifying member of the AUCP. Alaska DOT&PF 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. Alaska DOT&PF makes all certification decisions based on the facts as a whole. Detailed certification processes are described in the AUCP agreement. The full UCP agreement can be found at: <https://dot.alaska.gov/cvlrts/forms/aucp-agreement.pdf>. See Attachment 6. The applicant firm must be organized for-profit and engaged in business activities to be eligible as DBE.

The DBE certification by the AUCP does not constitute an endorsement nor warranty of capability, dependability, availability, or suitability of any DBE firm. The AUCP will determine eligibility based on

the evidence it has at the time of its decision, and not on the basis of historical or outdated information, giving full effect to the “curative measures” of this part.

If the applicant firm provides a false statement or material omission made in connection to obtain or maintain DBE certification, it is sufficient cause for denial of certification, decertification, or suspension or debarment proceedings, and may subject the person or entity making the false statement to any and all civil and criminal penalties available under federal and state law.

A firm that is owned by Indian Tribes or Native Hawaiian Organization may be eligible for certification if it meets all other certification requirement in this part. Such firm must meet size standards of 49 CFR 26.65 and must be controlled by socially and economically disadvantaged individual as provided in 49 CFR 26.71.

Under the special rules, the AUCP must certify the ANC-owned firms as a DBE if they meet all of the following requirements:

The Settlement Common Stock of the underlying ANC and other stock of the ANC held by holders of the Settlement Common Stock and by Natives and descendants of Natives represents a majority of both the total equity of the ANC and the total voting power of the corporation for purposes of electing directors;

The shares of stock or other units of common ownership interest in the subsidiary, joint venture, or partnership entity held by the ANC and by holders of its Settlement Common Stock represent a majority of both the total equity of the entity and the total voting power of the entity for the purpose of electing directors, the general partner, or principal officers; and

The subsidiary, joint venture, or partnership entity has been certified by the Small Business Administration under the 8(a) or small disadvantaged business (SDB) program.

For ANC-owned firm that self-certify under the SBA’s SDB program, the AUCP will advise ANC firm to first obtain a size determination from the SBA that it meets the applicable size standard from the SDB program before applying for DBE certification. The SBA size determination information may be found here: <https://dot.alaska.gov/cvlrts/pdfs/SBA-Size-Determination-Contact-Alaska.pdf>

The AUCP will obtain from the ANC-owned firm documentation sufficient to demonstrate that the entity meets the three requirements referenced above. Additionally, the AUCP will obtain sufficient information about the ANC firm to administer the DBE Program (e.g., information that would appear in a UCP directory). The ANC-owned application can be found here: <https://dot.alaska.gov/cvlrts/pdfs/Application-Packet-for-ANC.pdf>

The ANC-owned firm may be certified in as many NAICS codes as are applicable to the type of work they perform.

If an ANC-related firm does not meet all the conditions referenced above, then it must meet the same requirements as firms owned by Indian Tribes or Native Hawaiian Organization in order to be certified.

49 CFR Part 26.65 (Size Standards)

The AUCP reviews documents from the following list, to determine that the five year average gross receipts of the applicant’s firm does not exceed the SBA business size standard(s) found in 13 CFR part 121 and even the three year average gross receipts of the applicant firm does not exceed the DBE statutory cap posted at <https://www.transportation.gov/DBEsizestandards>.

Even if a firm is a small business under the SBA business size standard(s), it is ineligible to perform DBE work on FHWA or FTA assisted contracts if its affiliated annual gross receipts, as defined in 13 CFR 121.104, averaged over the firm's previous three fiscal years exceed \$30.72 million (as of March 1, 2024). The USDOT will adjust this amount annually and post the adjusted amount on its website available at <https://www.transportation.gov/DBEsizestandards>.

- (1) Federal tax returns
- (2) Audited financial statements
- (3) Year-end balance sheet and income statements (profit and loss)
- (4) CPA signed attestation of correctness and completeness
- (5) Schedule K-1 and other similar documentation

Affiliates are considered by including the owner's interest in the affiliate and adding it to the total three year and five-year average gross receipts of the firm. An example is provided below.

Three year and five-year average annual gross receipts calculation:

	DBE Firm	Affiliated Firm			Total	
2024	\$ 1,000,000	\$ 5,000			\$ 1,005,000	
2023	\$ 600,000	\$ 5,000			\$ 605,000	
2022	\$ 200,000	\$ 4,000			\$ 204,000	
2021	\$ 300,000	\$ 3,000			\$ 303,000	
2020	\$ 200,000	\$ 2,000			\$ 202,000	
	3 Year Total	\$ 1,814,000	÷ 3	=	\$ 604,667	3 Year Avg Receipts (DOT Size Cap)
	5 Year Total	\$ 2,319,000	÷ 5	=	\$ 463,800	5 Year Avg Receipts (SBA NAICS Code Size Cap)

Gross revenues for last three years (calculate average):

NAICS Code Size Cap Calculation					DOT Size Cap Calculation				
DBE Firm		Affiliated Firm			DBE Firm		Affiliated Firm		
2022	\$ 4,138,092	\$ 21,640			2022	\$ 4,138,092	\$ 21,640		
2021	\$ 5,514,102	\$ 423,390			2021	\$ 5,514,102	\$ 423,390		
2020	\$ 4,576,790	\$ 255,130			2020	\$ 4,576,790	\$ 255,130		
2019	\$ 6,540,513	\$ 206,880			Total	\$ 14,228,984	\$ 700,160	÷ 3	= \$ 4,976,381
2018	\$ 1,433,943	\$ 75,000							
Total	\$ 22,203,440	\$ 982,040	÷ 5	=	\$ 4,637,096				

49 CFR Part 26.67 (Determinations Concerning Social and Economic Disadvantage)

The AUCP will rebuttably presume that the members of the designated groups found in 49 CFR 26.5 and 26.67 are socially and/or economically disadvantaged. This means that do not have the burden of proving to the AUCP that they are socially and/or economically disadvantaged. Owners for which disadvantaged status is relied upon must provide a signed Declaration of Eligibility, which declares that the owner is a member of one or more of the designated groups. As required in 49 CFR Part 26.67(a)(2), an owner claiming Native American group membership must provide proof of enrollment in a federally or State recognized Indian Tribe. An owner claiming Native Hawaiians or Alaska Native group must submit documentation legally recognized under State or Federal law attesting to the individual's status as a member of that group.

The AUCP reviews documents from the following list if the applicant's presumption of disadvantage has been rebutted, or if the AUCP has a well-founded reason to question the individual's claim of membership in that group:

- (1) Birth certificate
- (2) Naturalization papers
- (3) Certificate of Degree of Indian Blood or Certificate of Degree of Alaska Native Blood (CDIB), blood quantum letter from the tribe
- (4) Indian tribal roll
- (5) Tribal voter's registration certificate
- (6) History of individual having held themselves to be a member of the minority group
- (7) Proof of membership and interaction in recognized minority organizations
- (8) Minority status
- (9) Federal Register (Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs)

If the applicant firm disagrees with the AUCPs determinations regarding group membership, they make an administrative appeal directly to the USDOT per the procedures outlined in 49 CFR Part 26.89

Individuals who are not presumed to be socially and/or economically disadvantaged have the burden of proving that they are socially and economically disadvantaged based on 49 CFR Part 26.67(d). The applicant is asked to provide Personal Narrative (PN) with specific acts or omissions by others, which impeded their progress or success in education, employment, and/or business, including obtaining financing on terms available to similarly situated, non-disadvantaged

49 CFR Part 26.68 (Personal Net Worth)

If the owner's PNW is determined to exceed the DBE program's limit posted on <https://www.transportation.gov/DBEPNW>, then the socially disadvantaged owner shall not be deemed to be economically disadvantaged. The Applicant may rebut the decision by appealing in writing directly to the U.S. Department of Transportation (USDOT) within 45 days from the date of the determination letter. The appeal letter should state the Applicant's rationale for challenging the determination and should address or refute each of the specific reasons that are outlined in the determination letter.

The AUCP reviews the PNW for accuracy and then analyzes it for completeness. The information reported on the PNW is verified by comparing it with the information reported on the personal federal tax returns, Ingens report (Alaska's public information), and any supporting documents that are voluntarily provided by the applicant.

The AUCP reviews documents from the following list to determine the applicant's PNW:

- (1) Bank statement
- (2) Brokerage statement
- (3) Retirement statement
- (4) Bank loan statement
- (5) Personal Federal tax returns for the three most recent years
- (6) Documented proof of transfers of assets over the past 2 years
- (7) Divorce decree
- (8) Estate settlement

ASSETS

- (1) Cash and Cash Equivalents: bank statements, Schedule B (Parts A and C)

- (2) Investment Accounts and Individual Securities: brokerage statement
- (3) Assets held in Trust: secure trust agreement; confirm trust activity on Schedule E, bank statement
- (4) Personal Property and Other Assets:
- (5) Business in Other Businesses: tax returns,
- (6) Value of Ownership interest in Real Estate Excluding Primary Residence: fair market value of real estate (source of valuation) – monthly statement, municipality property tax document, deed
- (7) Life insurance (Cash Surrender Value)
- (8) Amounts Owed to You: Loan Note, Promissory Note
- (9) Assets Transferred to Related parties the Past Two Years: Bank Statement, legal document i.e. Title, Deed of Trust, etc.

LIABILITIES

- (1) Loan on life insurance: secure loan documents
- (2) Mortgage on Real Estate other than primary Residence: mortgage statement
- (3) Notes & accounts payable: promissory note or a statement from a financial institution
- (4) Other Liabilities: obligation on a contract
- (5) Unpaid taxes: reportable for past due taxes for previously closed tax periods

GROSS INCOME

- (1) The average gross income of the owner(s) over the last three years does not exceed \$350,000.00
- (2) Determine whether the income was unusual and not likely to occur in the future.
- (3) Determine whether the earnings were offset by losses
- (4) Determine whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm
- (5) Review other evidence that income is not indicative of lack of economic disadvantage and the total fair market value of the owner's assets exceed \$6 million

49 CFR Part 26.69 (Determinations Concerning Ownership)

The AUCP reviews and analyzes documents from the following list to determine the ownership of a firm:

- (1) Articles of Incorporation (Corporation)
- (2) By-laws and amendments (Corporation)
- (3) Stock certificates and stock transfer ledger (Corporation)
- (4) Shareholder agreements (Corporation)
- (5) Minutes of the most recent stockholders and Board of Directors meetings (Corporation)
- (6) Bank resolution and bank signature cards
- (7) Partnership agreements (Partnership)
- (8) Official Certificate of Formation (LLC)
- (9) Real and substantial contribution commensurate with ownership
- (10) Property titles or lease agreements
- (11) Operating agreement (LLC)
- (12) Loan agreements

49 CFR Part 26.71 (Determinations Concerning Control)

The AUCP reviews and analyzes documents from the following list to determine the control of a firm:

- (1) Disadvantaged owner(s) control of the Board of Directors
- (2) Disadvantaged owner(s) holding highest office in the firm
- (3) Minutes of all Board of Directors meetings noting election of officers and delegations of authority
- (4) Third party agreements
- (5) Documented restrictions on ownership control
- (6) Bidding documents recently submitted identifying the project and the contractor
- (7) Resume of applicant, non-disadvantaged owners, other key personnel
- (8) Bylaws, operating agreement, partnership agreement
- (9) Professional license, if applicable
- (10) Qualification Statement
- (11) Section 4 of application
- (12) Scope of Work on a contract

All DBE firms may have a State of Alaska professional license and/or certification before DBE certification can be granted for the regulated business activity in Alaska. The following are examples of regulated professions:

- (1) Construction Contractor – Alaska General or Specialty Contractor License
- (2) Architectural and Related Services – Alaska Architect License
- (3) Electrical – Alaska Electrical Administrator
- (4) Engineering and Related Services – Alaska Civil Engineer License
- (5) Landscape Architect – Alaska Landscape Architect License
- (6) Storm Water Pollution Prevention Plan (SWPPP) – Alaska Certified Erosion & Sediment Control Lead (AK-CESCL) Certificate
- (7) Traffic Maintenance - ATSSA (Traffic Control Supervisor, American Traffic Safety Services Association) or IMSA (Work zone Safety Specialist, International Municipal signal Association)
- (8) Mechanical HVAC – Alaska Mechanical Administrator License

The AUCP reviews and analyzes the business profile, disadvantaged owner(s) resume, non-disadvantaged owner(s) resume, key personnel resume, qualification statement, contracts, professional licenses and/or certificates if applicable, and the NAICS codes description printed from census.gov. We also consider the onsite visit interview. For professions that are licensed by the State of Alaska, Department of Commerce, Corporations, Business, & Professional Licensing division, a professional license is required in order for the firm to be certified in the corresponding NAICS Code.

49 CFR Part 26.73 (NAICS Codes)

The AUCP will grant certification to a firm only for the most specific types of work in which the socially and economically disadvantaged owner(s) have the ability to control. The AUCP will assign the NAICS code that fully, clearly, or sufficiently narrowly describes the type(s) of work the firm can perform. Additionally, the AUCP uses Work Category Codes to help in further describing the work a firm has the ability to perform. The AUCP will review the following documents to assist in assigning the NAICS code/Work Category Code:

- (1) Resume
- (2) Appendix A and B (On-Site Representative Designation form)
- (3) Qualification statement
- (4) Professional license/certificate
- (5) Business profile
- (6) Work Category List
- (7) NAICS Code Form
- (8) Copy of contracts
- (9) Invoices

- (10) Billings statement
- (11) Tax returns
- (12) Onsite Report

If the firm request additional NAICS and/or Work Category Code, they must submit their request in writing and provide documentation to prove that the disadvantaged owner has the expertise in those NAICS codes. The request will be assigned to a certification specialist who will contact the firm if additional information is needed and/or a site visit needs to be scheduled.

49 CFR Part 26.81 (Alaska Unified Certifications Program)

The AUCP was approved by the USDOT May 8, 2003, and currently has 22 members.

Alaska Department of Transportation and Public Facilities	Alaska Industrial Development and Export Authority	Alaska Railroad Corporation	Alyeska Pipeline Service Company
The Municipality of Anchorage	Center for Community, Inc. (Sitka AK)	Central Area Rural Transit System, Inc.	Cook Inlet Tribal Council
The City of Fairbanks	Inter-Island Ferry Authority	The City and Borough of Juneau	The City of Kodiak
The Matanuska-Susitna Borough	The City of Nenana	The City of North Pole	The North Slope Borough
The North Star Borough	The City of Palmer	The City and Borough of Sitka	The City of Skagway
The City of Wasilla	The City of Kenai Airport		

Alaska DOT&PF serves as the single location for certifying DBEs.

49 CFR Part 26.83 (Certifications Procedures)

(1) Assigning Applications

The AUCP does not assign applications to AUCP entities, the AUCP processes all applications in house.

(2) On-Site Visits

Onsite visits are performed, virtually or in person, during the initial certification process. Onsite visits are performed if the AUCP believes it is appropriate in light of changed circumstances.

(3) Certifications Decisions

The Certification Specialist has the authority to certify the firm without the approval by the Contract Compliance & DBE Certification Officer. The Certification Specialist’s adverse action, such as a denial, must be approved by the Contract Compliance & DBE Certification Officer

(4) Fees

The AUCP does not charge a fee for certification.

(5) Application Review Timeline

The AUCP must advise each applicant within 30 days from receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required. Decisions on applications must occur within 90 days of receiving all of the information required. We may extend this time period once, for no more than an additional 30 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

(6) Removal of DBE eligibility

The procedures in 26.87 are followed to remove a DBE's eligibility.

(7) Notices of Change

Firms must notify the AUCP in writing within 30 days of any change in circumstances affecting the firm's ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.

Approximately thirty (30) days before the annual anniversary of your certification date, the AUCP provides the firm with a DOE and supporting documents. These documents can be faxed, mailed, or emailed to the AUCP.

(8) Supporting Documentation

The supporting documents required with the annual DOE are a business contact form and the audited financial statements, a CPA's signed attestation of correctness and completeness, or all income-related portions of one or more (when there are affiliates) signed Federal income tax returns as filed. Our process does not include terms like 'expiration' or re-certification'.

49 CFR Part 26.85 (Interstate Certification)

The AUCP will accept a DBE's certification from its jurisdiction of original certification (JOC) and apply interstate reciprocity to firms seeking DBE Certification in Alaska. Certification is dependent on a review of the current home state certification in accordance with 49 CFR 26.85. The AUCP Interstate Application packet can be found here: <https://dot.alaska.gov/cvlrts/forms/Interstate-DBE-Certification-Packet.pdf>

49 CFR Part 26.86 (Denials of Initial Requests for Certification)

The AUCP will notify the applicant firm by email. The notification includes the regulations, dateline, and where to send the appeal letter. The firm may reapply after a year. The applicant firm may withdraw any time before the AUCP makes the determination. If the applicant firm withdraws its application before the AUCP makes a determination, then it may reapply any time. The AUCP posts denial information on DOCR's web-based database. We do not post the withdrawn application on the DOCR's web-based database.

49 CFR Part 26.87 (Removing DBE Eligibility)

Any person may file a written complaint alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. Anonymous complaints are not accepted. In a timely fashion, the AUCP must review the records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the

firm or conduct any other investigation that you deem necessary. The Certification Specialist and/or Officer may conduct an onsite review on an unannounced basis at the firm's office and job sites. If we determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, we must provide written notice to the firm that we propose to find the firm ineligible, setting forth the reasons for the determination. If we determine that such reasonable cause does not exist, we must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons must specifically reference the evidence in the record on which each reason is based.

The AUCP will send a certified letter of the Notice of Intent (NOI) to remove DBE eligibility. The DBE has 15 days, from the date the NOI was sent, to submit a request for an informal hearing or present information and arguments in writing without going to a hearing. If we do not hear from the DBE, our office will send a certified letter to notify the firm that they have been decertified. The firm can file an appeal, in writing, to the USDOT within 45 days of the date of the final decision from the AUCP. The AUCP will include the regulations and the address for the DBE to file an appeal

The informal hearing will be presided by a neutral third party, such as a Civil Rights Manager from another state. The AUCP records the informal hearing and creates an audio transcript. The DBE remains certified until, and unless, it is decertified through the due process set forth in section 26.87

49 CFR Part 26.88 (Summary Suspensions of Certification)

The AUCP immediately suspends the firm's certification when the disadvantaged owner(s), whose ownership and control is relied upon for DBE certification, perishes or is incarcerated, when there is clear and credible evidence of the DBE's or its SEDO's involvement in fraud or other serious criminal activity, and if OA with oversight so directs. The AUCP notifies the DBE by email of its summary suspension notice (SSN) on a business day during regular business hours. The SSN, regardless of type, must demand that the DBE show cause why it should remain certified and provide the time and date of a virtual show-cause hearing at which the firm may present information and arguments concerning why the certifier should lift the suspension. The SSN must also advise that the DBE may provide written information and arguments in lieu of or in addition to attending the hearing.

The hearing date will be on a business day that is at least 15 but not more than 25 days after the date of the notice. The DBE may respond in writing in lieu of or in addition to attending the hearing; however, it will have waived its right to a hearing if it does not confirm its attendance within 10 days of the notice and will have forfeited its certification if it does not acknowledge the notice within 15 days. The show-cause hearing will be conducted as a video conference on a standard commercial platform that the DBE may readily access at no cost. The DBE may provide information and arguments concerning its continuing eligibility until the 15th day following the suspension notice or the day of the hearing, if any, whichever is later. The DBE must email any written response it provides. Email submissions correctly addressed are effective when sent. The certifier may permit additional submissions after the hearing, as long as the extension ends on a business day that is not more than 30 days after the notice.

The DBE remains suspended during the proceedings described in this section but in no case for more than 30 days. If the certifier has not lifted the suspension or provided a rule-compliant NOD by 4:30 p.m. on the 30th day, then the AUCP will lift the suspension and amend applicable DBE lists and databases by 12 p.m. the following business day.

49 CFR Part 26.91 (USDOT Certifications Appeals)

The AUCP adheres to the USDOT certification appeal decisions.

49 CFR Part 26.109 (Confidentiality, Cooperation, and Intimidation or Retaliation)

The AUCP only releases the record to the DBE. We release the records to the USDOT when the DBE files an appeal. We release the records to the decision maker during an informal hearing. We release the on-site review report to other UCPs. The PNW files are stored in locked cabinet drawers.

Attachments

- Attachment 1 Regulations: Link to 49 CFR Part 26 (eCFR)
- Attachment 2 Organizational Chart
- Attachment 3 Bidders List Collection Form
- Attachment 4 Link to UCP Directory of Certified Firms
- Attachment 5 Overall Goal
- Attachment 6 Alaska's UCP Agreement
- Attachment 7 Small Business Element Program

Attachment 1

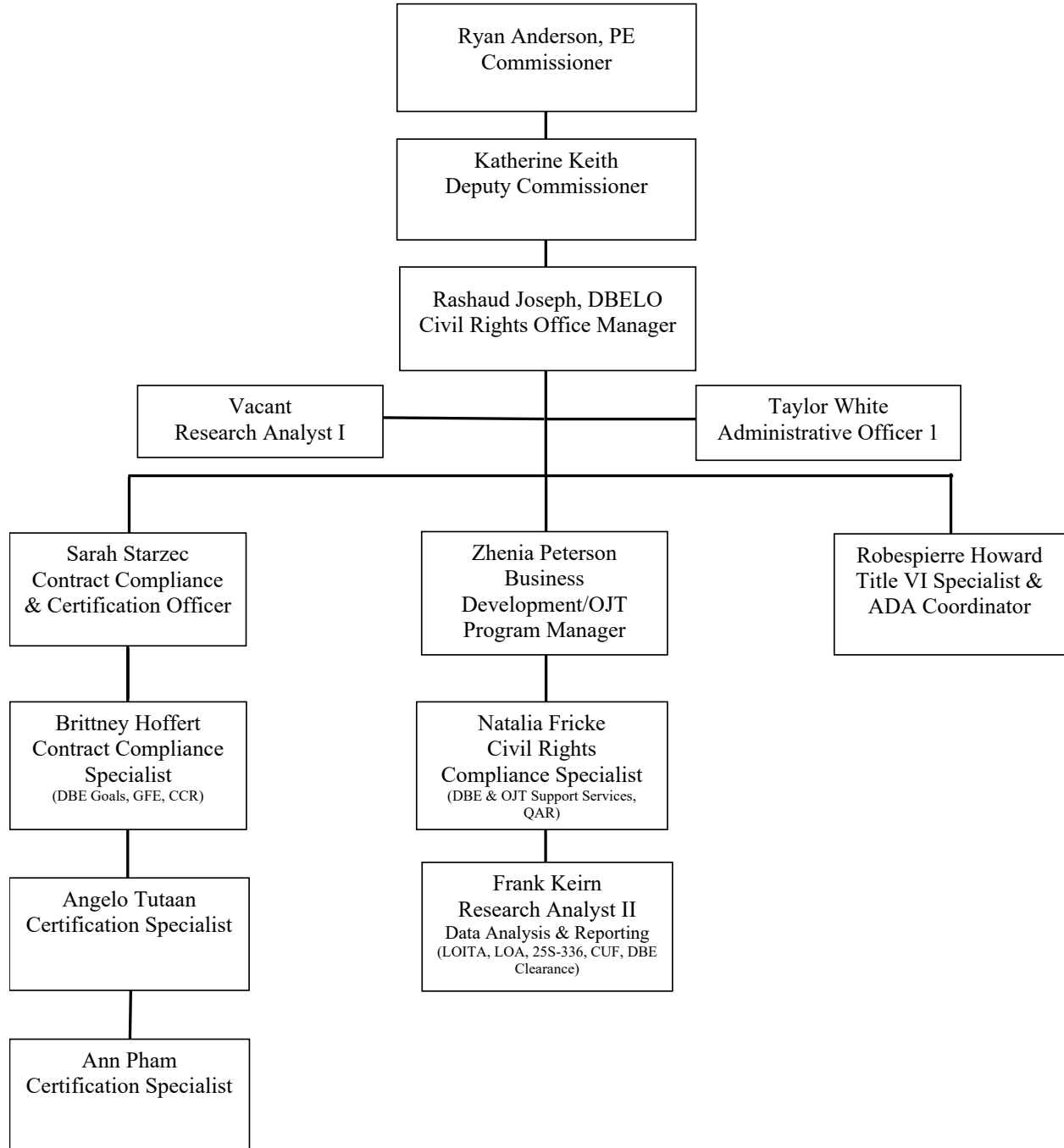
Regulations: Link to 49 CFR Part 26 (eCFR)

DBE program regulations are codified in Title 49 of the Code of Federal Regulations, Part 26. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

Attachment 2
Organizational Chart

**Civil Rights Office
Organization Chart**



Attachment 3

Bidders List Collection Form

This form is required to be submitted with the bid/proposal. The form must include information for every sub-bidder that provided a verbal or written quote to the bidder for this project.

Proposal ID	Bidder	Federal Project Number(s)	Proposal Description	Firm ID	Firm Name	Addresses	Phone #	Email	DBE (y/n)	Race	Gender	Date Established	Annual Gross Receipts	NAICS Code
													\$5,000,000-\$9,999,999 \$10,000,000-\$16,999,999 >\$17,000,000	
													\$5,000,000-\$9,999,999 \$10,000,000-\$16,999,999 >\$17,000,000	
													\$5,000,000-\$9,999,999 \$10,000,000-\$16,999,999 >\$17,000,000	
													\$5,000,000-\$9,999,999 \$10,000,000-\$16,999,999 >\$17,000,000	

Attachment 4

Link to UCP Directory of Certified Firms

The Alaska UCP DBE/ACDBE Directory can be found at:

<https://dot.alaska.gov/cvlrts/directory.shtml>

Attachment 5
Overall Goal Methodology

Alaska DOT Goal Methodologies can be found at:

<https://dot.alaska.gov/cvlrts/>

Attachment 6 Alaska's UCP Agreement

The state of Alaska's UCP Agreement can be found at:

<https://dot.alaska.gov/cvlrts/forms/aucp-agreement.pdf>

Attachment 7 Small Business Element Program

The Alaska DOT & PF Small Business element Can be found at:

https://dot.alaska.gov/cvlrts/forms/SBE-FHWA-SBE_Plan.pdf